

PLANNING STATEMENT

BLACKTHRON FARM, CULVERSTONE GREEN

AUGUST 2025

ESQUIRE DEVELOPMENTS



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DEVELOPMENTS

Esquire Developments
Studio 3 The Old Laundry
Green Street Green Road
Longfield, DA2 8EB

Tel: 01474 706 184
e-mail: awilford@esquiredevelopments.com

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1.0

INTRODUCTION

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1.1 This Planning Statement has been prepared by Esquire Developments Limited (the Applicant) in support of an Outline planning application submitted in respect of 'Blackthorn Farm, Culverstone Green' (hereafter referred to as the Site), as shown on the Site Location Plan (Drawing No. 23557B/01 - **Appendix A**). The Site is located within the administrative area of Gravesham Borough Council (GBC) and Meopham Parish Council.

1.2 The application seeks Outline planning permission for:

'Outline planning application for up to 100No. residential dwellings (including affordable housing), with all matter reserved except for access. Creation of a new access from A227/South Street'

i) Preparation and Submission of Supporting Documents

1.3 In order to prepare a comprehensive and thorough assessment to support the planning application, a number of specialist technical advisors and consultants have been appointed.

1.4 The following reports have been prepared (Table 1.1) in support of the application.

Table 1.1 – Planning Application Reports

Report	Consultant
Planning Statement (including SCI)	Esquire Developments
Design and Access Statement	Clague
Archaeological Desk Based Assessment	HCUK
Outline Ecological Impact Assessment	EPR
Flood Risk Assessment and Drainage Strategy	Ardent
Transport Assessment	DHA Transport
Interim Travel Plan	DHA Transport
Landscape and Visual Impact Assessment and Green Belt Assessment	Stantec
Phase 1 Preliminary Risk Assessment	IDOM
Arboricultural Impact Assessment	Down to Earth
Ari Quality Assessment	SLR Consulting
Noise Assessment	SLR Consulting

1.5 The Application is supported by a number of plans and drawings which identify the current and proposed use of the Site as detailed in Table 1.2.

Table 1.2 – Application Drawing Schedule

Drawing Title	Drawing No
Site Location Plan	23557B/01
Existing Buildings	23557B/05
Parameter Plan	23357B/12
Illustrative Site Layout	23357B/11
Illustrative Landscape Masterplan	33310179 1-LN-LP-07 Rev B
Access Design	H01-P1
Drainage Strategy Layout	2500770-ACE-XX-XX-DR-C-0001 P2

1.6 Pre-application meetings and advice has been sought from GBC and KCC Highways in respect of the proposed development.

ii) Scope and Purpose of the Planning Statement

1.7 The purpose of this Planning Statement is to detail the development proposals, identify the planning merits of the application against adopted and emerging policy guidance and best practice, and to identify any other material considerations in order to undertake the planning balance.

1.8 The Planning Statement therefore:

i) Describes the Site and the surrounding area, including Planning History;
ii) Describes the proposed development;
iii) Identifies the relevant Planning Policy Framework by reviewing the relevant National and Local planning policy and guidance;
iv) Provides a Statement of Pre-Application Engagement; and
v) Provides a planning analysis of matters relating to the Development against the key material considerations.

1.9 The Planning Statement concludes that the proposed scheme is considered to be suitable development and will assist in meeting both general and specific housing needs which are currently not being met. There are no adverse impacts that would significantly and demonstrably outweigh the benefits when taken against the policies in the NPPF. The scheme therefore accords with Para 11d(ii) of the NPPF and planning permission should be granted without delay.

iii) About Esquire Developments

1.10 Esquire Developments is a multi-award-winning SME Housebuilder based in Longfield, Kent. Founded in 2011, we have quickly established ourselves through the delivery of high quality bespoke residential developments in Kent.

1.11 Esquire Developments have adopted a tailored approach to its developments adapting designs and layouts to reflect local characteristics and respect local community's needs. This is through expert local knowledge and understanding of a place, but also positively engaging with the local community allowing for a focussed approach to planning, design, and greater understanding of the needs of the local community.

1.12 Each development is bespoke, and we do not have fixed house types. This allows us to be totally flexible when it comes to choosing the right mix and design of each home. This is reflected in the high-quality architecture and use of materials, but also quality of open spaces and the environment in which each development sits within.

1.13 Esquire Developments also delivers commercial buildings such as office space and children's nurseries to complement developments where local demand identifies such a need. This means our developments can meet a local community's needs in a number of ways, whether that is for people to live, work and play.

1.14 As an SME Housebuilder building approximately 120-150 dwellings per year, we can expediently deliver a high-quality product that brings variation and choice to the market and complement volume housebuilders. The Government

1.15 We have also committed to proactively addressing the Climate Change Emergency through delivering 'all electric' developments and seeking to achieve at least a 50% carbon reduction in our homes based against current Building Regulations. This is achieved through a fabric first approach (thicker insulation and cavity walls and greater efficiency windows etc) as well as the use of Air Source Heat Pumps (i.e. no gas boilers). Electric Vehicle Charging points are fitted as standard on all dwellings.

v) Small and Medium Enterprise Housebuilders

1.16 The Ministry of Housing, Communities and Local Government published a Housing Reform Working Paper (28 May 2025) which announces further measures to support SMEs, recognising that the

planning system needs to ensure that smaller housebuilders are able play a crucial role in the journey to get Britain building.

1.17 The applicant, being a local SME, strikes a chord with the Governments direction of seeking to support SMEs and help deliver choice, through high quality developments.

1.18 The content of the Housing Reform Working Paper is discussed in further detail in Section 4.

2.0

SITE LOCATION AND DESCRIPTION

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i) The Site

2.1 The Site is situated to the north of the village of Culverstone Green and extends to approximately 5.4ha. The Site comprises three parcels of land currently in equestrian use and is separated by linear hedgerows and well-established tree belts. The existing farm buildings of Blackthorn Farm are located toward the southern part of the Site.

2.2 The Site is irregular in shape and well enclosed by boundary vegetation. The western boundary fronts the A227 from where the Site is currently accessed. The A227 is a main road that runs north/south between the M20 and M2 motorways. A number of large detached residential plots front the A227 adjoining and opposite the western part of the Site.

2.3 The Site is located outside the existing village limits, as defined by the Gravesham Borough Core Strategy, and is wholly within the Green Belt. Existing boundary vegetation, including mature hedgerows and trees enclose the Site, ensuring it is relatively well contained from the surrounding area.

2.4 To the north of the Site lies a series of smaller properties and a scrap yard that fronts Heron Hill, a small rural lane.

2.5 Beyond the eastern and southern boundaries lies a mix of residential properties and dense and extensive woodland planting, separating the Site from the more sporadic residential development within the Culverstone Valley beyond this.

2.6 The Site is located within walking distance of the village centre of Culverstone Green, which consists of a number of services and facilities, namely, a convenience store, primary school, nursery, petrol station and playing fields. Within the neighbouring Vigo Village, there are a number of additional services and facilities, namely, a pub, rugby club, takeaway restaurants and hairdressers.

2.7 The Site is located wholly within the Green Belt. There are no other national designations affecting the Site such as Ancient Woodland etc. The Site is not located within a Conservation Area and there are no statutory or locally listed buildings on the Site. The Site is located within Flood Zone 1 and therefore is at low risk of flooding. There are no TPOs on or adjacent to the Site.

2.8 The Site was previously submitted to the Gravesham Regulation 18 Consultation in July 2018, and Regulation 18b Consultation of the Part 1 Local Plan Core Strategy Partial Review and Site Allocations Consultation in December 2020.

ii) Relevant Planning History

2.9 There is no relevant planning history for the Site.

3.0

PROPOSED DEVELOPMENT

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3.1 The application description of development is as follows:

'Outline planning application for up to 100No. residential dwellings (including affordable housing), with all matters reserved except for access. Creation of a new access from the A227/South Street'

3.2 The application proposals have been informed by pre-application engagement with GBC Planning Officers. Full details of community engagement are included within the Statement of Community Involvement section (Section 5).

i) Residential Development

3.3 The proposed development provides for up to 100No. residential dwellings, comprising a range of 1-4 bed properties. The properties will come forward as a mix of apartments, semi-detached and detached properties, all 2-storey in height.

3.4 Whilst the layout is only illustrative in nature it demonstrates how the Site could deliver 100No. dwellings. The density across the site is 18.5 dwellings per hectare, reflecting the Site's village characteristics and surrounding uses as well as taking into consideration open spaces, topography, biodiversity net gain and high-quality design.

3.5 The indicative housing mix is as follows:

Table 3.1: Indicative Housing Mix

Dwelling	Number
1 bed	17
2 bed	21
3 bed	54
4 bed	8
Total	**100**

3.6 It is proposed that 50% of the dwellings will be Affordable housing in accordance with national guidance relating to Grey Belt schemes and the 'Golden Rules'.

ii) Access and Parking

a) Vehicular Access

3.7 Primary vehicular access to the Site will be achieved via a new priority junction off the A227 South Street, with a 6.0m carriageway width, reducing to 5.5m internally. The existing access at the south-western corner of the Site will be stopped up.

3.8 To inform the access design, an Automatic Traffic Count (ATC) survey was undertaken on the A227 South Street in proximity to the proposed Site access for the seven-day period commencing Saturday 8th March 2025. This survey recorded 85th percentile vehicle speeds of 39.1mph northbound and 37.8mph southbound. The recorded 85th percentile vehicle speeds equate to visibility splay requirements of 2.4 x 75m southbound and 2.4 x 79m northbound of the access.

3.9 An emergency access will also be provided off A227 South Street. The emergency access will measure 3.7m in width, be installed with a collapsible bollard, and be utilised as a pedestrian / cycle access.

B) Pedestrian Access

3.10 Primary pedestrian access to the site will be achievable via the vehicular access. 2.0m wide footways will be installed on both sides of the access, tying into the existing provision on the A227 South Street. An uncontrolled pedestrian crossing with a dropped kerb and tactile paving will be provided at the site access junction to enable pedestrians to cross

c) Parking

3.11 As this application is in Outline, final parking numbers will be subject to a future Reserved Matters application. However, the Illustrative Site Layout Parking plan demonstrates that parking can be provided in accordance with the standards currently adopted by GBC; the Kent and Medway Structure Plan: Supplementary Planning Guidance 4 (SPG4) and with reference to the recently adopted KCC Parking Standards 2025.

3.12 In total 194 allocated parking spaces are proposed. Vehicle parking has been provided with reference to the latest KCC standards and in accordance with SPG4, in the form of private driveways and parking courtyards. The one-bedroom houses have been provided with one allocated space, the two and three-bedroom dwellings have been provided with two allocated spaces and the four-bedroom dwellings will be provided with three allocated spaces. Whilst SPG4 doesn't include a requirement for visitor spaces, KCC's updated standards do include visitor standards and as such 22 visitor parking spaces have been indicated, provided at a ratio of just over 0.2 spaces per dwelling.

3.13 Cycle parking will be provided at a rate of 1 space per bedroom and each dwelling will be provided with one Electric Vehicle (EV) charging facility, in line with the standards set out within the Building Regulations Part S.

ii) Design Principles

3.14 The Design and Access Statement (DAS) sets out the design principles and concepts that have been applied to the proposed development and the steps taken to appraise the context of the proposed development and how the design of the development that context into account. The DAS also considers the approach to access and how relevant Local Plan policies have been taken into account.

3.15 The development proposals are landscape led, demonstrating a cohesive green infrastructure framework responding to the existing context of the Site. The proposals and are considered to be in accordance with the principles set out in the Gravesham, Design Code and seeks to deliver a layout and dwelling sizes that reflect the local area.

3.16 The illustrative layout is formed around an access from A227 South Street with a series of shared surface lanes. The layout implements techniques in wayfinding and placemaking, exploiting key views from and within the Site. Prominent dwellings at key points have been made features throughout with the use of active facades and materials.

3.17 Existing vegetation along the Site's boundaries is retained where possible and supplemented with additional planting. Substantial areas of open space (over 2ha) are proposed, incorporating walking routes, children's play area and SuDs. The eastern area of open space incorporates a 15m offset from the Ancient Woodland and creates a natural transition to the surrounding landscape. A landscape buffer has been retained to the south to ensure the existing tree belt is protected and providing the opportunity for further tree planting.

iii) Drainage

3.18 The drainage strategy is based on the disposal of surface water to deep bore soakaways via detention basins. The maximum attenuation requirement will be governed by the infiltration rate and the rainfall with a climate change allowance of 45%. In order to maintain the surface water runoff within the site the infiltration basin is proposed with a depth of 1.65m, with a freeboard of 400mm.

3.1 It is proposed that the foul water from the development will be discharge to a pumping station, prior to discharging into the existing Southern Water public sewer in the main highway.

iv) Landscape and Ecology

3.2 The proposed development provides for substantial areas of landscaping, open space and ecology.

3.3 Based on the habitats and ecological features identified within/adjacent to the Site, it is proposed that a number of further surveys will be required including bats and Great Crested Newts, reptiles, birds, Hazel Dormouse and badgers. Mitigation measures will be implemented where necessary.

3.4 The Parameter Plan and Illustrative Landscape Masterplan identify that the proposals will retain and strengthen where possible the existing hedgerows, scrub and mature trees along the Site boundaries. The eastern part of the Site is being retained and enhanced for landscape and biodiversity enhancement. This area will include SuDs, a children's play area, amenity grassland, walking route and landscape buffers. A central area of open space is proposed at the heart of the residential area creating a focal point within the scheme.

3.5 The open space areas will be managed in the long-term vis a management company and will remain outside of private ownership of the proposed dwellings. There is an opportunity to create log piles and wildlife habitats from tree felled to improve biodiversity on-site.

3.6 The Illustrative Landscape Masterplan identifies substantial new native species trees, hedgerow and wildflower rich grassland. A coherent hierarchy of street trees is proposed across the internal road network to support character and enclosure. Species selection will reflect Site conditions and climate resilience, contributing to a green and legible setting throughout the development.

3.7 The reinforcement of the existing permitter vegetation will reinforce the Site boundaries and enhance visual containment integrating the development with neighbouring residential and wooded area.

3.8 The Landscape approach seeks a number of broad aims, namely:

- To create an attractive setting for the Proposed Development;
- To assimilate the introduced built forms into the surrounding landscape to minimise adverse effects on landscape character and visual amenity;
- To integrate newly introduced built forms sympathetically into the landscape and settlement character of Culverstone Green; and
- To enhance and extent the existing landscape framework where this assists with improving the quality and character of the local area, with reference to published landscape character assessments and management plans.

4.0

PLANNING POLICY CONTEXT

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i) Introduction

4.1 The following section of this Statement identifies the most relevant planning policy and guidance at the National and Local level. Only policies relevant to the consideration of this application are included. The proposals are assessed against the relevant policy and guidance on a topic basis in Section 6.

4.2 Section 38(6) of the Planning and Compulsory Purchase Act (2004) states that the determination of planning applications must be made in accordance with the Development Plan unless material considerations indicate otherwise.

4.3 The Development Plan for the Site comprises the following:

- Gravesham Local Plan Core Strategy (2014)
- Gravesham Local Plan First Review (1994) - saved policies
- Kent County Council Minerals and Waste Local Plan 2013-30 (2020)

4.4 Other material considerations relevant to this application include the following documents:

- National Planning Policy Framework (2024);
- National Planning Practice Guidance (2016 and as amended);
- Kent Design Guide
- KCC Parking Standards

4.5 The Gravesham Borough Council (GBC) Core Strategy was adopted in 2014. However, a shortfall of sites against the housing requirement was recognised at the Examination and was only found 'sound' on the basis an early review of housing needs was undertaken. This included a commitment to undertake a review of Green Belt boundaries.

4.6 Consultation on the Regulation 18 Local Plan Core Strategy Partial Review was carried out between April and July 2018. The Regulation 18b consultation on the Part 1 Local Plan Core Strategy Partial Review and Site Allocations Consultation was carried out in between October and December 2020.

4.7 Progress on the emerging Local Plan Core Strategy Partial Review has continued to be delayed and the timetable set reported to Cabinet in January 2023 has also slipped. There is currently no indication as to when the Regulation 19 Local Plan Core Strategy Partial Review will be published for consultation.

4.8 The NPPF (2024) published changes to the Standard Method Calculation and the five year housing requirement for Gravesham is 3,360 dwellings. This equates to 672 dwellings per annum. GBC cannot currently demonstrate a Five Year Housing Land Supply, with only 3 years' worth of deliverable housing supply as of June 2024, according to the Five-Year Land Supply Statement 2024 –2029 (February 2025). This represents a shortfall of 1,603 dwellings over the 5 year period.

4.7 The latest confirmed Housing Delivery Test (HDT) confirmed that against a need of 1,789 dwellings only 1,056 were delivered resulting in a HDT measurement of 59% (as confirmed by MHCLG in December 2024). There is persistent under-delivery which has resulted in a significant shortfall of housing within the Borough.

4.8 The Local Plan policies relevant to the determination of this application (other than the 'saved' polices) are therefore considered to be out of date and, as a result, the so called 'tilted balance' applies to the determination of this planning application as explained in more detail in the following Section.

ii) National Planning Policy

National Planning Policy Framework (December 2024)

4.9 At the national level, the revised version of the National Planning Policy Framework ('NPPF') was published in December 2024. It provides the national planning policy context for the preparation of Development Plans and the determination of planning applications and states that the purpose of the planning system is to contribute to the achievement of sustainable development.

4.10 The NPPF sets out the Government's approach for delivering the homes, infrastructure and places that are needed whilst both protecting and enhancing the natural and historic environment.

4.11 NPPF paragraph 2 confirms that the NPPF is a material consideration in planning decisions. Planning applications should be determined in accordance with the development plan, unless material considerations indicate otherwise.

4.12 The NPPF directs that Councils should approach decision making in a 'positive way' (NPPF paragraph 39). Councils should therefore work positively with applicants to find solutions and to deliver sustainable developments that secure improvements to the economic, social and environmental conditions of an area.

Achieving Sustainable Development

4.13 Paragraph 8 of the NPPF identifies three overarching objectives to be pursued through the planning system in order to achieve sustainable development: an economic, social and environmental objective. The NPPF recognises that these objectives are not criteria against which every decision can or should be judged but planning decisions should guide development towards sustainable solutions whilst taking account of local circumstances, including the character, needs and opportunities of each area.

4.14 Paragraph 10 of the NPPF states that '*so that sustainable development is pursued in a positive way, at the heart of the Framework is a presumption in favour of sustainable development'*.

4.15 Paragraph 11 sets out how, for plans and decisions, the presumption in favour of sustainable development should be approached. For decision making this means:

> **c) approving development proposals that accord with an up-to-date development plan without delay; or**
>
> **d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date[8], granting permission unless:**
>
> i. **the application of policies in this Framework that protect areas or assets of particular importance[7] provides a strong reason for refusing the development proposed; or**
> ii. **any adverse impacts of doing so would significantly and demonstrable outweigh the benefits, when assessed against the policies in this 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[9].**

Decision Making

4.16 Paragraph 39 seeks that Local Planning Authorities should approach decisions on proposed development in a positive and creative way and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible.

4.17 Para 40 advises early engagement has significant potential to improve the efficiency and effectiveness of the planning application system.

4.18 Paragraphs 48-51 address determining planning applications and that decisions should be made as quickly as possible. Para 48 advises that LPAs may give weight to relevant emerging plans according

to their stage of preparation (the more advanced the greater weight), the extent to which there are unresolved objections and the degree of consistency of the relevant policies in the emerging plan to the framework.

Delivering a Sufficient Supply of Homes

4.19 Paragraph 61 recognises the Government's objective of 'significantly boosting the supply of homes' considering 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 planning permission is developed without delay'*.

4.20 Paragraph 63 advises the size, type and tenure of housing required for different groups in the community, should be assessed and reflected in planning policy. Paragraph 64 provides that where a need for affordable housing is identified, planning policies should specify the type of affordable housing required and expect it to be met on-site unless:

a) off site provision or appropriate financial contribution in lieu can be robustly justified; and

b) The agreed approach contributes to the objective of creating mixed and balanced communities.

4.21 Paragraph 63 recognises the important contribution of small and medium sized sites can make to meet the housing requirement of an area, which are often built out relatively quickly. These sites are essential for Small and Medium Enterprise housebuilders to deliver new homes. To promote the development of as good mix of sites, LPAs should undertake a number of actions, including identify at least 10% of their housing requirement on site no larger than 1ha.

4.22 Paragraph 78 seeks to ensure that Local Planning authorities identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing. The supply should include a buffer of either 5%, 10% or 20% depending on local circumstances.

4.23 Paragraph 79 seeks to maintain supply of housing by seeking to monitor sites that have planning permission. Where housing delivery falls below 95% an Action Plan should be prepared. Footnote 8 confirms that if delivery falls below 75% the presumption in favour of sustainable development as well as a 20% buffer is applied.

4.24 Paragraph 81 seeks to support delivery, including that planning permissions are implemented in a timely manner by way of a planning conditions that seeks a start on site within a timescale that is shorter than the relevant default period.

Promoting Healthy and Safe Communities

4.25 The NPPF identifies the role planning has in facilitating social interaction and creating healthy, inclusive and safe places. To achieve this, paragraph 96, amongst other matters, seeks to promote development which promote social interaction and enable and support healthy lifestyles.

Promoting Sustainable Transport

4.26 Paragraph 110 acknowledges that significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes. This can help to reduce congestion and emissions and improve air quality and public health. However, opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and this should be taken into account in both plan-making and decision-making (linked with para 83).

4.27 When determining local parking requirements for residential developments, para 112 sets out that Councils should consider the accessibility, type, mix and use of a development, availability of public transport, local car ownership levels and overall need to reduce vehicle emissions.

Making Effective Use of Land

4.28 Paragraph 124 states that planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, whilst safeguarding and improving the environment and ensuring safe and healthy living conditions.

4.29 Paragraph 125 states that planning policies and decisions should give substantial weight to the value of using suitable brownfield land within settlements for homes and other identified needs, proposals for which should be approved unless substantial harm would be caused, and support appropriate opportunities to remediate despoiled, degraded, derelict, contaminated or unstable land.

4.30 Paragraph 129 confirms that development should be supported where it makes efficient use of land taking into account matters include the need for different types of housing and other forms of development, local market conditions and viability, the desirability of maintaining an area's prevailing character and setting and the importance of securing well-designed, attractive and health places.

Achieving Well-Designed Places

4.31 Paragraph 131 states that;

> **'The creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities'**

4.32 Paragraph 135 requires developments to function well and add to the quality of an area; establish a strong sense of place; optimise the potential of a Site; respond to local character and history; create a safe and accessible environment; and be visually attractive and include appropriate landscaping

4.33 Paragraph 136 identifies that trees make an important contribution to the character and quality of urban environments and can help mitigate climate change. Paragraph 132 advises that 'Design quality should be considered throughout the evolution and assessment of individual proposals. Early discussion between applicants, the local planning authority and local community about the design and style of emerging schemes is important for clarifying expectations and reconciling local and commercial interests'.

4.34 Para 139 is clear that:

> **Development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design, taking into account any local design guidance and supplementary planning documents such as design guides and codes. Conversely, significant weight should be given to:**
>
> **a) development which reflects local design policies and government guidance on design, taking into account any local design guidance and supplementary planning documents such as design guides and codes; and/or**
>
> **b) outstanding or innovative designs which promote high levels of sustainability, or help raise the standard of design more generally in an area, so long as they fit in with the overall form and layout of their surroundings**

<u>Protecting Green Belt Land</u>

4.35 Chapter 13 confirms that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. Green Belt series five purposes:

> **a) To check the unrestricted sprawl of large built-up areas;**

b) To prevent neighbouring towns merging into one another;
c) To assist in safeguarding the countryside from encroachment;
d) To preserve the setting and special character of historic towns; and
e) To assist in urban regeneration, by encouraging the recycling of derelict and other urban land.

4.36 Paragraph 145 indicates that once established, Green Belt boundaries should only be altered through the preparation/updating of Local Plans, where exceptional circumstances are fully evidenced and justified.

4.37 Paragraph 153 directs that local planning authorities should ensure substantial weight is given to any harm to the Green Belt, including harm to its openness. Footnote 55 confirms the exception to this is in the case of previously developed or grey belt land, where development is not inappropriate. Paragraph 153 goes on to confirm 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 by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.**

4.38 'Grey Belt' is defined in Annex 2: Glossary (Page 72) as:

> **Grey belt: For the purposes of plan-making and decision-making, 'grey belt' is defined as land in the Green Belt comprising previously developed land and/or any other land that, in either case, does not strongly contribute to any of purposes (a), (b), or (d) in paragraph 143. 'Grey belt' 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 refusing or restricting development**

4.39 Paragraph 154 sets out a number of exceptions where development in the Green Belt will not be considered inappropriate.

4.40 Paragraph 155 confirms that the development of homes, commercial and other development in the Green Belt should also not be regarded as inappropriate where all the following apply:

> **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 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 paragraphs 156-157 below.**

4.41 Paragraph 156 sets out the requirements of the 'Golden Rules' and confirms major development involving the provision of housing on land released from the Green Belt through plan preparation or review, or on sites in the green Belt subject to a planning application should meet these requirements:

> **a. affordable housing which reflects either: (i) development plan policies produced in accordance with paragraphs 67-68 of this Framework; or (ii) until such policies are in place, the policy set out in paragraph 157 below;**
> **b. necessary improvements to local or national infrastructure; and**
> **c. the provision of new, or improvements to existing, green spaces that are accessible to the public. 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.**

4.42 Paragraph 157 confirms that until local plan policies are updated in line with the NPPF an affordable housing contribution of 15 percentage points above the highest existing affordable housing requirements will be required to satisfy the Golden Rules (subject to a cap of 50%). In the absence of an adopted policy requirement 50% will apply by default. The use of site-specific viability assessment for land within or released from the Green Belt should be subject to the approach set out in the PPG.

4.43 Paragraph 158 confirms that:

> **A development which complies with the Golden Rules should be given significant weight in favour of the grant of planning permission.**

4.44 Paragraph 159 requires improvements to green spaces required as part of the Golden Rules to contribute positively to the landscape setting of the development, support nature recovery and meet local standards for green space provision where these exist. Where no locally specific standards exist, development proposals should meet national standards.

Meeting the Challenge of Climate Change, Flooding and Coastal Change

4.45 Paragraph 161 confirms the planning system should support the transition to net zero by 2050 and take full account of all climate impacts including overheating, water scarcity, storm and flood risks and coastal change. Amongst other things, it seeks to contribute to radical reductions in greenhouse gas emissions and support renewable and low carbon energy and associated infrastructure.

4.46 Paragraph 163 outlines that the need to mitigate and adapt to climate change should be considered in preparing and assessing planning applications, taking in account the full range of potential climate change impacts.

4.47 Paragraph 171 confirms a sequential risk-based approach should be taken to individual applications in areas known to be at risk now or in future from any form of flooding. Paragraph 174 requires the sequential test to steer new development to the areas of lowest risk of flooding from any source. Development should not be allocated or permitted if there are reasonable alternative sites available with a lower risk of flooding.

4.48 Paragraph 181 requires Local Planning Authorities to ensue that flood risk is not increased elsewhere and Paragraph 182 outlines the need to incorporate sustainable drainage system to control flow rates and reduce volumes of runoff which are proportionate to the nature and scale of the proposal. These should provide multifunctional benefits wherever possible through facilitating improvements in water quality and biodiversity, as well as benefits for amenity.

Conserving and Enhancing the Natural Environment

4.49 Paragraph 187 confirms that impacts on biodiversity should be minimised, and net gains provided through development. Paragraph 193 indicates that opportunities to improve biodiversity in and around development should be integrated as part of their design, especially where this can secure measurable net gains for biodiversity or enhance public access to nature where this is appropriate.

Conserving and Enhancing the Historic Environment

4.50 Chapter 16 provides for a positive strategy for the conservation of the historic environment, including heritage assets which should be conserved in a manner appropriate to their significance.

iii) National Planning Practice Guidance

4.51 The Planning Practice Guidance (PPG, first published 29 November 2016) builds on the principles within the NPPF and provides further detailed technical guidance, to complement the NPPF, on aspects such as design, flood risk, advertisements among other planning and environmental topic areas. Some relevant sections of the Guidance which relate to the planning application are listed below.

4.52 **Design** - Reference ID: 26-001-20191001 outlines that well-designed places can be achieved by taking a proactive and collaborative approach at all stages of the planning process, from policy and plan formulation through to the determination of planning applications and the post approval stage. It refers to the National Design Guide and that good design is set out under the following 10 characteristics:

- context
- identity
- built form
- movement
- nature
- public spaces
- uses
- homes and buildings
- resources
- lifespan

4.54 The development proposals fully accord with the above guidance by implementing a design that is sympathetic and in-keeping with the surrounding land uses, therefore respecting the local distinctiveness.

4.55 **Housing Supply and Delivery** - Reference ID: 68-001-20241212 identifies the standard method for calculating local housing need provides a minimum number of homes to be planned for. Authorities should use the standard method as the starting point when preparing the housing requirement in their plan, unless exceptional circumstances justify an alternative approach.

4.56 Reference ID: 68-005-20190722 confirms that where a local plan has not been adopted in the last 5 years or the strategic housing policies have been reviewed and do not require updating, that the 5 year supply will be measures against the areas local housing need using the standard method.

4.57 Reference ID: 68-008-20190722 confirms that In decision-taking, if an authority cannot demonstrate a 5 year housing land supply, including any appropriate buffer, the presumption in favour of

sustainable development will apply, as set out in paragraph 11d of the National Planning Policy Framework.

4.58 Reference ID: 68-022-20190722 confirms that to ensure a realistic prospect of delivery, an appropriate buffer should be applied of either 5%, 10% or 20% in the first 5 years (including any shortfall (i.e. the Sedgefield method). The appropriate buffer is calculated by:

- 5% - the minimum buffer for all authorities, necessary to ensure choice and competition in the market, where they are not seeking to demonstrate a 5-year housing land supply;
- 10% - the buffer for authorities seeking to 'confirm' 5 year housing land supply for a year, through a recently adopted plan or subsequent annual position statement (as set out in paragraph 74 of the National Planning Policy Framework), unless they have to apply a 20% buffer (as below); and
- 20% - the buffer for authorities where delivery of housing taken as a whole over the previous 3 years, has fallen below 85% of the requirement, as set out in the last published Housing Delivery Test results.

4.59 Reference ID: 68-036-20190722 sets out the method for calculating the Housing Delivery Test. Reference ID: 68-042-20190722 sets out the requirements and actions based on the results of the Housing Delivery test. Depending on the level of delivery, the following is applied:

- the authority should publish an action plan if housing delivery falls below 95%;
- a 20% buffer on the local planning authority's 5-year land supply if housing delivery falls below 85%; and
- application of the presumption in favour of sustainable development if housing delivery falls below 75%, subject to the transitional arrangements set out in paragraph 215 of the Framework.

iv) Green Belt Guidance

4.60 In February 2025 the Ministry of Housing, Communities and Local Government (MHCLG) published updated Green Belt guidance, reflecting the revised version of the NPPF (2024).

4.61 The guidance provides further detail with regards to assessing the contribution of Green Belt land against the purposes of the Green Belt and whether release would fundamentally undermine the remaining Green Belt in the plan area. It also sets out guidance for considering proposals on potential grey belt land, identifying sustainable locations when considering the release of development of Green Belt land and the contribution of major housing development to accessible green space. Updated guidance is also provided regarding how to consider the potential impact of development on the openness of the Green Belt.

4.62 The guidance confirms that where grey belt land is identified, it does not automatically follow that it should be allocated for development, released from the Green Belt or approved for development in all circumstances. Consideration of the Green Belt purposes is one consideration, decisions about Green Belt land should be informed by overall application of the relevant policies in the NPPF.

4.63 Reference ID: 64-001-20250225 confirms that authorities are required to identify whether land is grey belt for the purpose of considering planning applications on Green Belt land and states that:

> **Where land is identified as grey belt land, any proposed development of that land should be considered against paragraph 155 of the NPPF, which sets out the conditions in which development would not be inappropriate on grey belt land.**

4.64 Reference ID: 64-002-20250225 requires authorities to produce a Green Belt Assessment to identify Green Belt land. Reference ID: 64-003-20250225 sets out the steps to be followed by authorities when undertaking this assessment and provides guidance for each step.

4.65 Reference ID: 64-005-20250225 confirms how the contribution land makes to the relevant Green Belt purposes should be assessed. It sets out the illustrative features that would be present if a site made a 'strong', moderated' or 'weak or none' contribution to Purposes (a), (b) and (c).

4.66 With regards to Footnote 7, Reference ID: 64-006-20250225 confirms that in accordance with the NPPF, grey belt excludes land where the application of polices relating to the areas or assets in footnote 7 (other than Green Bely) would provide a strong reason for refusing or restricting development.

4.67 Reference ID: 64-007-20250225 confirms that once the above assessment has been undertaken and it is concluded that the assessment area does not strongly contribute to any one of the relevant purposes and the application of policies relating to Footnote 7 areas or assets does not provide a strong reason for refusing or restricting development.

4.68 Reference ID: 64-008-20250225 requires Green Belt assessments to consider the extent to which the release or development of Green Belt land would affect the ability of the remaining Green Belt across the plan area from serving all 5 of the Purposes in a meaningful way.

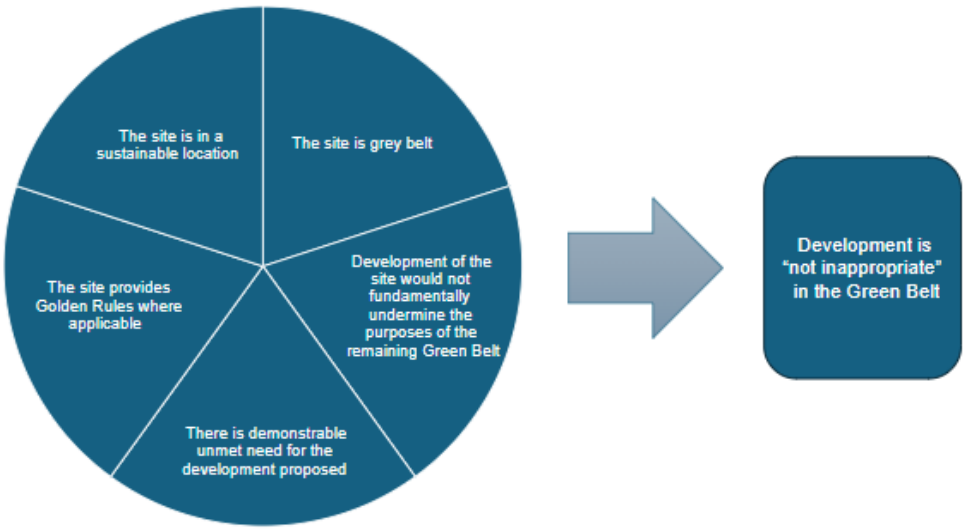
4.69 Reference ID: 64-009-20250225 states that an assessment of the Green Belt (alongside other considerations) will inform the determination of planning applications. Where grey belt sites are not identified in existing plans or Green Belt assessment, it is expected that authorities should consider evidence on:

- **whether the site strongly contributes to the Green Belt purposes a, b or d; and**

- **whether the application of policies to areas and assets of particular importance identified in footnote 7 to the NPPF (other than Green Belt) provide a strong reason to restrict development; and**
- **whether development of the site would fundamentally undermine the purposes of the remaining Green Belt across the plan area, as set out in national policy and this guidance.**

4.70 Reference ID: 64-010-20250225 confirms that where a site is judged to be grey belt, wider consideration will still be relevant including determining whether the development would not be inappropriate development in the Green Belt, as set out in paragraph 155 of the NPPF. The guidance then goes onto confirm the following:

> **Where a development is not inappropriate in the Green Belt, this does not itself remove the land from the Green Belt nor require development proposals to be approved. In accordance with section 38(6) of the Planning and Compulsory Purchase Act 2004, wider policies and considerations apply, including those in the area's adopted Plan, and in the NPPF read as a whole.**



4.71 Reference ID: 64-011-20230225 confirms that when making decisions regarding planning applications on grey belt land, authorities should ensure that the development would be in a sustainable location. For the purpose of these decisions, where grey belt land is not in a location that is or can be made sustainable, development on this land is inappropriate. Decisions on sustainability should be determined in light of local context and site or development specific considerations. Opportunities to maximise sustainable transport solutions should be considered in accordance with paragraphs 110 and 115 of the NPPF.

4.72 Reference ID: 64-012-20250225 refers to the Golden Rules, specifically with regards to accessible green space and sets out a number od contributions which should be considered.

4.73 Reference ID: 64-014-20250225 conforms how harm to the openness of the Green Belt is considered if a development is not inappropriate development in the Green Belt:

> **Footnote 55 to the NPPF sets out that if development is considered to be not inappropriate development on previously developed land or grey belt, then this is excluded from the policy requirement to give substantial weight to any harm to the Green Belt, including to its openness.**

4.74 The guidance confirms that this is consistent with rulings from the courts, where development (of any kind, now including grey belt or PDL) is not considered to be inappropriate in the Green Belt and the tests of impacts to openness or to Green Belt purposes are addressed and that therefore a proposal does not have to be justified by "very special circumstances".

v) Viability Guidance

4.75 Viability Guidance provided by MHCLG and updated in line with the revised NPPF (2024) provides guidance on the 'Golden Rules' for Green Belt development. It confirms that where development takes place on land situated in, or released from, the Green Belt and is subject to the 'Golden Rules' set out in paragraph 156 of the National Planning Policy Framework, site specific viability assessment should not be undertaken or taken into account for the purpose of reducing developer contributions, including affordable housing (Reference ID: 10-029-20241212)

4.76 The guidance confirms that prior to development plan policies being updated in accordance with paragraph 67 of the NPPF, the affordable housing contributions are subject to an overall cap of 50%. The highest existing affordable housing requirement means the highest requirement an authority can seek in line with its existing policy.

vi) Gravesham Local Plan Core Strategy (September 2014)

4.77 The Gravesham Local Plan Core Strategy was adopted over 10 years ago in September 2014.

4.78 The policies relevant to the proposed development are as follows:

4.79 **Policy CS01: Sustainable Development –** confirms that planning applications that accord with the policies in the development plan will be approved without delay, unless material considerations indicate otherwise. When considering development proposals, the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework and in this Core Strategy.

4.80 Where there are no policies relevant to the application or relevant policies are out of date at the time of making the decision then the Council will grant permission unless material considerations indicate otherwise.

4.81 **Policy CS02: Scale and Distribution** of Development - Culverstone Green is classified as a Third Tier Settlement within the Settlement Hierarchy. Policy CS02 indicates that the development strategy is to retain and improve the existing stock of housing and suitable employment land and to make provision for the borough's objectively assessed need for at least 6,170 new dwellings.

4.82 In the rural area, development will be supported within those rural settlements inset from the Green Belt and defined on the Policies Map. Development outside those settlements, including affordable housing and proposals to maintain and diversify the rural economy, will be supported where it is compatible with national policies for protecting the Green Belt and policies in the plan.

4.83 **Policy CS10: Physical and Social Infrastructure -** Where new development leads to the need for new or improved physical or social infrastructure, developers will be required to provide or contribute towards this subject to viability considerations. Such infrastructure will be put in place in a timely manner to support new development. All new development should make the most efficient use of new and existing infrastructure.

4.84 **Policy CS11: Transport** - New developments should mitigate their impact on the highway and public transport networks as required. As appropriate, transport assessments and travel plans should be provided and implemented to ensure the delivery of travel choice and sustainable opportunities for travel.

4.85 Sufficient parking in new development will be provided in accordance with adopted parking standards which will reflect the availability of alternative means of transport and accessibility to services and facilities.

4.86 The Council will support proposals which improve public transport provision and facilities in the Borough.

4.87 **Policy CS12: Green Infrastructure** - A multifunctional linked network of green spaces, footpaths, cycle routes and wildlife stepping stones and corridors will be created, protected, enhanced and maintained.

4.88 There will be no net loss of biodiversity in the Borough, and opportunities to enhance, restore, re-create and maintain habitats will be sought, in particular within the Biodiversity Opportunity Areas shown on the Strategic Green Infrastructure Network map and within new development.

4.89 The overall landscape character and valued landscapes will be conserved, restored and enhanced.

4.90 **Policy CS13: Green Space, Sport and Recreation** - The Council will seek to make adequate provision for and to protect and enhance the quantity, quality and accessibility of green space, playing pitches and other sports facilities, in accordance with an adequate, up to date and relevant evidence base.

4.91 **Policy CS14: Housing Type and Size** – new developments will be expected to provide a range of dwelling types and sizes taking into account the existing character of the area and evidence of local need to create sustainable and balanced communities.

4.92 **Policy CS15: Housing Density** – site will be delivered at a variety of densities, depending on their location and accessibility to public transport. All new housing will be developed at a density that is consistent with achieving good design and does not compromise the distinctive character of the area in which it is situated. In the rural area new residential development will be expected to achieve a minimum density of 30 dwellings per hectare.

4.93 **Policy CA16: Affordable Housing** – on all new developments of 3 dwellings or more or on sites of 0.1 hectares of more in the rural area 35% affordable housing will, be required.

4.94 An affordable housing mix of 70% affordable rented and social rented accommodation and 30% intermediate housing will be required.

4.95 Policy CS18: Climate Change - The Council will seek to minimise the impact of drainage from new development on waste water systems. In particular, the Council will require that surface water run-off from all new development has, as a minimum, no greater adverse impact than the existing use and require the use of Sustainable Drainage Systems.

4.96 The Council will seek to manage the supply of water in the Borough and reduce the impact of new development on the supply of potable water as much as possible. Require all new homes limit water use to 105 litres per person per day.

4.97 **Policy CS19: Design and Development Principles -** New development will be visually attractive, fit for purpose and locally distinctive. It will conserve and enhance the character of the local built, historic and natural environment, integrate well with the surrounding local area and meet anti- crime standards. The design and construction of new development will incorporate sustainable construction standards and techniques, be adaptable to reflect changing lifestyles, and be resilient to the effects of climate change. A number of criteria are set out within the policy.

iv) Saved Policies in the Gravesham Local Plan First Review 1994

4.98 The relevant polices saved policies contained in the Gravesham Local Plan First Review 1994 are set out below:

- P3 - Vehicle Parking Standards
- T1 – Impact of Development on the Highway Network
- T5 - New Access onto the Highway Network
- TC7 – Other Archaeological Sites
- LT6 – Additional Open Space in New Housing Developments

v) Supplementary Planning Guidance and Other Documents

4.99 A number of Supplementary Planning Guidance (SPG) documents have been adopted which elaborate on saved policies in the Local Plan First Review and Core Strategy. The following are relevant to this development:

- Design for Gravesham – Design Code SPD
- Residential Layout Guidelines SPG2
- KCC Parking Standards SPG 4
- KCC Guide to Development Contributions and the Provision of Community Infrastructure (2007)

vi) Emerging Local Plan

4.100 The Council is currently in the early stages of preparing the Local Plan Core Strategy Review. The Regulation 18 Part 1 consultation took place in 2018 and The Regulation 18b consultation was published in December 2020 (Part 2).

4.101 A revised Local Development Scheme was published in March 2025. The LDS indicates that consultation on the Regulation 19 Local Plan Core Strategy Partial Review will take place in July 2025, with the Plan submitted for Examination in December 2025. Adoption of the Local Plan Review is expected December 2026. As the target for publication of the Regulation 19 Plan has passed, it can be expected that the remainder of the timetable will be delayed.

vii) Kent Minerals and Waste Local Plan 2013-30 (as amended by Early Partial Review 2020)

4.102 The Kent Minerals and Waste Local Plan 2013 - 2030 (KMWLP) was adopted in July 2016 and sets out the vision and strategy for waste management and mineral provision up until the year 2030. It also contains a number of development management policies for evaluating minerals and waste planning applications. The KMWLP underwent an Early Partial Review on several policies over 2016 - 2020. In September 2020, the KMWLP as amended was adopted. The site is not identified as an

area which is impacted by mineral safeguarding zones therefore this plan is not considered any further.

viii) Support for Small and Medium Housebuilders (SMEs)

4.103 There has been a substantial and conscious recognition from Central Government in respect of seeking to support existing SMEs and in seeking to encourage more SME Housebuilders into the market. The Role of SMEs and the challenges they face has been set out in **Appendix B** of this statement. Appendix B sets out the attempts that Government has made to help diversify the market, recognising the positive role SMEs can play in helping offer choice and delivery in the housing market. Appendix B identifies the declining role SMEs have had in the housing market, how the planning system is skewed against them (in a plan making sense) and how, firstly through the amendments to the NPPF (para. 73) and more recently through the House of Lords Built Environment Committee 'Meeting Housing Demand' report recommendations.

4.104 The Ministry of Housing, Communities and Local Government published a Housing Reform Working Paper (28 May 2025) which announces further measures to support SMEs. The paper intends to amend site thresholds and simplify planning requirements for small housing sites. The paper states that the planning process has become disproportionate for SME housebuilders in bringing forward sites for development and that today's national policy and regulations only differentiate between minor applications (under 10 units), and major applications (10 or more). The paper adds that this creates additional risk and uncertainty for SMEs, alongside upfront costs and delays to the process, which can be harder for smaller housebuilders to absorb.

4.105 The paper states that the planning process has become disproportionate for Small and Medium Enterprise (SME) housebuilders in bringing forward sites for development and that today's national policy and regulations only differentiate between minor applications (under 10 units), and major applications (10 or more). The paper adds that this creates additional risk and uncertainty for SMEs, alongside upfront costs and delays to the process, which can be harder for smaller housebuilders to absorb.

4.106 The announcement by Angela Rayner, deputy prime minister and housing secretary, said:

> **"Smaller housebuilders must be the bedrock of our Plan for Change to build 1.5 million homes and fix the housing crisis we've inherited – and get working people on the housing ladder."**
>
> **"For decades the status quo has failed them and it's time to level the playing field."**

> **"Today we're taking urgent action to make the system simpler, fairer and more cost effective, so smaller housebuilders can play a crucial role in our journey to get Britain building."**

4.107 This significant change to the planning system which focuses heavily on support SME Housebuilders who have faced difficulties for decades being disproportionately affected by policy.

4.108 The applicant, being a local SME, strikes a chord with the Governments direction of seeking to support SMEs and help deliver choice, through high quality developments. Whilst it is acknowledged that this application is for major development, it is proposed to be delivered by a local SME Housebuilder, who is passionate about the delivery of high quality, sustainable new homes, making a significant contribution to GBC's housing supply.

5.0

STATEMENT OF COMMUNITY INVOLVEMENT

ESQUIRE
DEVELOPMENTS

5.1 The Planning and Compulsory Purchase Act 2004 came into force in September 2004. One of the central purposes of the Act was to improve community involvement in the planning process. The Government has made it clear in the guidance accompanying the legislation that developers should be encouraged to undertake public consultation.

5.2 Esquire Developments is committed to community consultation which is enshrined within the NPPF (2024) Paras 40-43. Para 40 outlines the importance of public consultation and states that: *"Early engagement has significant potential to improve the efficiency and effectiveness of the planning application system for all parties. Good quality pre-application discussion enables better coordination between public and private resources and improved outcomes for the community."*

5.3 The Planning Practice Guidance (PPG) offers further guidance in respect of pre-application consultation, with Reference ID: 20-001-20190315 encouraging engagement with the community where it will add value to the process and the outcome of planning applications.

5.4 The Council adopted a Statement of Community Involvement in 2019, which Esquire Developments has sought to adhere to. The Statement of Community Involvement seeks to ensure active, meaningful and continued involvement of everyone including local communities and stakeholders in the planning systems. It outlines the Council's standards for community involvement in the planning system.

i) Pre-Application and Community Engagement

5.5 As part of the preparation of the planning application, Esquire Developments has undertaken a programme of pre-application and community engagement. These measures have been used in shaping the final proposals.

5.6 The following Section details the pre-application engagement that has taken place including:

- Pre-Application engagement with Gravesham planning department;
- Pre-application engagement with KCC Highways;
- Pre-application meeting with Meopham Parish Council: and
- Public Consultation in the form of a Public Exhibition

Pre-Application Engagement with Gravesham Planning Department

5.7 A pre-application meeting was held between Esquire Developments and GBC on the 20th January 2025. A written response was received on the 26th February 2025.

5.8 The response confirms that the site consists of a detached bungalow located to the south of the site and the remainder is equestrian use and is therefore considered as previously developed land.

5.9 The response provides an assessment of the Site and the proposed development in relation to Green Belt/Grey Belt. The assessment confirms that the Site does not meet any of the exceptions set out in Paragraph 154 of the NPPF other than potentially (f) subject to being able to demonstrate that the proposals are for 'limited' affordable housing for local community needs.

5.10 The response then goes on to address the matter of Grey Belt and assesses the proposed development against the criteria set out in Paragraph 155 of the NPPF.

(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

5.11 The response concludes that the Site does strongly contribute to purposes (a), (b) or (d) of Paragraph 143 of the NPPF (2024) nor would it affect areas or assets contained within Footnote 7 (other than Green Belt). The response concludes that **the Site is considered to be Grey Belt land**.

(b) There is a demonstrable unmet need for the type of development proposed

5.12 The response confirms that GBC cannot demonstrate a 5 Year Housing Land Supply and housing delivery is substantially below that required by the HDT. Officers consider that a net increase of 100 residential units would offer a significant contribution towards meeting local housing needs and this should be afforded **significant weight in support** of the application.

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

5.13 The response indicates that a forthcoming planning application will need to be demonstrate that the site is in a sustainable location.

(d) Where applicable the development proposed meets the 'Golden Rules requirements set out Paragraphs 156-157

5.14 The response confirms that the proposed development must meet the Golden Rules.

5.15 Officers then go on to address other matters including landscape character, design, highways. A summary of the comments is provided below:

- The proposed development will replace open grazing fields with a large residential development and as such there would be harm to the landscape character area. The proposals must demonstrate how the relevant local and national policy will be complied with.
- Officers acknowledge the application will be in Outline however observed that overall the illustrative layout creates a good sense of space with natural surveillance, with areas of soft

landscaping. The properties and parking layout do not appear cramped or dominated by parking dominated.

- Any forthcoming submission will need to include in the supporting statement, how the development would accord with all the local and national policies in design terms and how it would relate well to the existing area and would add to the over quality of the area.
- Consideration should be given to the Design for Gravesham Design Code (2024) and Planning Guidance on Waste Collection Requirements (2019).
- Window to window relationship between proposed dwellings and existing dwellings needs to be considered and the minimum distances should be met to protect occupier amenity.
- The commercial uses to the north of the site should be considered to ensure there is no determinantal impact on future occupants.
- It will need to be demonstrated that the proposal addresses paragraph 155 of the NPPF in relation to sustainability and the parking provisions accord with the standards.
- Further details regarding the areas of open space, landscaping details and tree protection information should be provided.
- 10% Biodiversity Net Gain must be delivered via onsite biodiversity gains, registered offsite biodiversity gains or statutory biodiversity credits.

Pre-Application Engagement with Meopham Parish Council

5.16 A meeting was held with Meopham Parish Council on the 7th February 2025. The meeting included a presentation of the initial plans to the Parish Council, discussion regarding the Grey Belt case and the timing of the submission of the application prior to new Local Plan in light of the continued delays. It was agreed that the Parish would be kept informed throughout the process of the application.

Public Exhibition

5.17 A Public Exhibition was held to present the emerging proposals to the local community. An invitation was sent to each property in Culverstone Green (approx. 1,154 residences). The leaflet (**Appendix C**) provided details of the exhibition, including how to comment on the proposals.

5.18 The public exhibition was held on the 26th March 2025 (1pm – 7.30pm) at Vigo Rugby Club, Harvel Road, Meopham (the Culverstone Green Community Hall was contacted in the first instance, but they could not accommodate the exhibition).

5.19 Approximately 100 individuals attended the exhibition, representing circa 1% turnout of those who received an invite (of the 1,154 leaflets directly canvassed – albeit the event was advertised further afield online also).

5.20 A copy of the exhibition boards is available at **Appendix D.** A copy was also made available on the Esquire Consultation website (https://www.consult-esquire.com/) with a comment box requesting feedback. A dedicated email address was also set up to receive comments (culverstonegreen@esquiredevelopments.com). The consultation feedback from was available to fill in on the day of the event with 5 questions. A copy of this form is available at **Appendix E.** The deadline for response was the 7th April 2025, however the website and email address have remained live to date.

5.21 A total of 55 responses were received to the consultation representing a 55% response rate of those that attended the exhibition. Of the responses received 20 were collected as paper feedback forms on the day of the exhibition, 31 were submitted through the consultation website, 1 via post and 2 via email.

5.22 The responses received have been reviews and analysed and are summarised as follows:

Topic	Summary of Comments	Response
Principle of Development and Housing Mix	• Object to the development of this site • Need for housing which must be located somewhere • Other suitable sites • Brownfield sites within Gravesend should be built on first • The proposals look considered and attractive • Positive if technical matters are dealt with • Positive to see a mix of housing sizes • The houses will not be affordable for local people	The proposals include a range of 1-5 bed properties including 50% affordable housing. The mix of dwellings has been market led with the accommodation providing unit types to meet local needs. There are homes that are attractive as starter homes, for downsizers and for larger families.
Highways	• Highways concerns • Lack of public transport • Concerns re traffic on the A227/Wrotham Road and additional traffic movements proposed. • A227/Wrotham road is dangerous • Impact of additional cars on air quality	A Transport Statement has been provided with this application that confirms the forecasted trip rates and sets out that the proposed development will have a negligible impact on the surrounding highway network.

Topic	Summary of Comments	Response
	• Lack of parking proposed • Access is not safe	A Road Safety Audit of the proposed access design has been undertaken. All matters raised have been fully addressed and therefore the access is confirmed to be safe and suitable.
Lack of Infrastructure	• Insufficient parking at the local Costcutter • No capacity at local school • No capacity at GPs • Public services already stretched	A S106 Agreement will be entered into to mitigate the impact of the development on local infrastructure. The parking arrangements at Costcutter have been reviewed by DHA Transport to understand whether there are any options for increasing the number of parking spaces. However, it was determined that there are no viable options without the need for significant highways works including narrowing of the A227 and removal of the right-turn lane. This would be highly undesirable given the level of traffic on the road. However, there are existing areas of unrestricted parking within a short walk of the store which can be utilised when the Costcutter car park is at capacity. In discussions with the 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 100 dwellings would result in the requirement for an additional 28 primary school places and 20 secondary school places.

Topic	Summary of Comments	Response
		There is presently 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. 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. 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.
Green Belt	• Green Belt must be protected. • Site is not considered to be Grey Belt • Proposal contradicts the principles of the Green Belt • Provides a buffer between the villages of Culverstone and Meopham.	This Planning Statement provides a full assessment of the Site against national Green Belt policy and confirms that the Site is Grey Belt land. The proposed development complies with Paragraph 155 of the NPPF and is therefore not considered

Topic	Summary of Comments	Response
	• Green Belt plays a crucial role in tackling climate change and flooding	inappropriate development in the Green Belt.
Biodiversity	• Impact on wildlife • The ecology proposals are well planned	A full suite of Ecology surveys will be submitted in support of the application. The proposals have sought to minimise impacts on biodiversity and subject to the implementation of appropriate avoidance, mitigation and compensation measures, it is considered unlikely that the proposals will result in any significant harm.

6.0

PLANNING ANALYSIS

ESQUIRE
DEVELOPMENTS

6.1 This section of the statement sets out of an assessment of the proposed development against the relevant planning policy and guidance. A topic-based approach is taken in respect of the prevailing planning considerations, with due regards to the National and Local planning policies detailed in Section 4 of this Statement.

6.2 In compiling this application submission, it has been possible to identify the following over-arching planning considerations:

i) Principle of Development:
   a) Green Belt
   b) Harm to the Green Belt
   c) Very Special Circumstances
   d) Suitability and Accessibility of the Site
   e) Definition of Sustainable Development
ii) Residential Development:
iii) Landscape Impact and Open Space:
iv) Transport and Traffic:
v) Flooding and Drainage:
vi) Ecology:
vii) Arboriculture:
viii) Archaeology:
ix) Contamination:
x) Section 106 Heads of Terms.

i) Principle of Development

6.3 Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. Paragraph 10 retains the presumption in favour of sustainable development at the heart of the Framework. Paragraph 11d) continues to require that planning permission be granted where there are no relevant development plan polices or the policies most important to determining the application are out of date.

6.4 The GBC Core Strategy was adopted in 2014. However, a shortfall of sites against the housing requirement was recognised at the Examination and the Plan was only found 'sound' on the basis an early review of housing needs was undertaken. This included a commitment to undertake a review of Green Belt boundaries.

6.5 Progress on the emerging Local Plan Core Strategy Partial Review has continued to be delayed. The Local Development Scheme (February 2025) indicates that the Regulation 19 Local Plan will be published for consultation in July 2025, with Examination in July 2026 and adoption in December

2026. The Regulation 19 Plan was not published for consultation in July 2025 and therefore it is likely that the LDS timetable will continue to be delayed as a result.

6.6 The NPPF (2024) published changes to the Standard Method Calculation and the five year housing requirement for Gravesham is 3,360 dwellings. This equates to 672 dwellings per annum. GBC cannot currently demonstrate a Five Year Housing Land Supply, with only 3 years' worth of deliverable housing supply according to the Five-Year Land Supply Statement 2024 –2029 (February 2025). This represents a shortfall of 1,603 dwellings over the 5-year period.

6.7 The latest confirmed Housing Delivery Test (HDT) confirmed that against a need of 1,789 dwellings only 1,056 were delivered resulting in a HDT measurement of 59% (as confirmed by MHCLG in December 2024). There is persistent under-delivery which has resulted in a significant shortfall of housing within the Borough.

6.8 Paragraph 11 of the NPPF (2024) states that planning permission should be granted unless either Limb i) or ii) is triggered. Limb i) directs that if the application of policies in the NPPF that protect areas or assets of particular importance (Footnote 7) provides a "strong" reason for refusing the development, planning permission should not be granted.

a) Green Belt

6.9 This Site is located wholly within the Green Belt, as identified on the Local Plan Proposals May (1998). It is therefore necessary to assess whether, in accordance with Paragraph 11(d)(i), the Green Belt *"provides a strong reason for refusing the development proposed"*.

6.10 Paragraph 153 of the NPPF (2024) requires local planning authorities to give substantial weight to harm to the Green Belt, including harm to its openness. Footnote 55 clarifies that this is other than in the case of development on previously development or grey belt land, where development is not inappropriate.

6.11 Inappropriate development in the Green Belt is harmful by definition, except in very special circumstances. Paragraph 154 and 155 set out a number of exceptions to this. The proposed development does not meet any of the exceptions listed in Paragraph 154 but does accord with the criteria set out in Paragraph 155.

Appropriate Development

6.12 The publication of the revised NPPF in December 2024 introduced the new concept of "Grey Belt" at Paragraph 155. This confirms that the development of homes, commercial and other development in the Green Belt should not be regarded as inappropriate where all of the following apply:

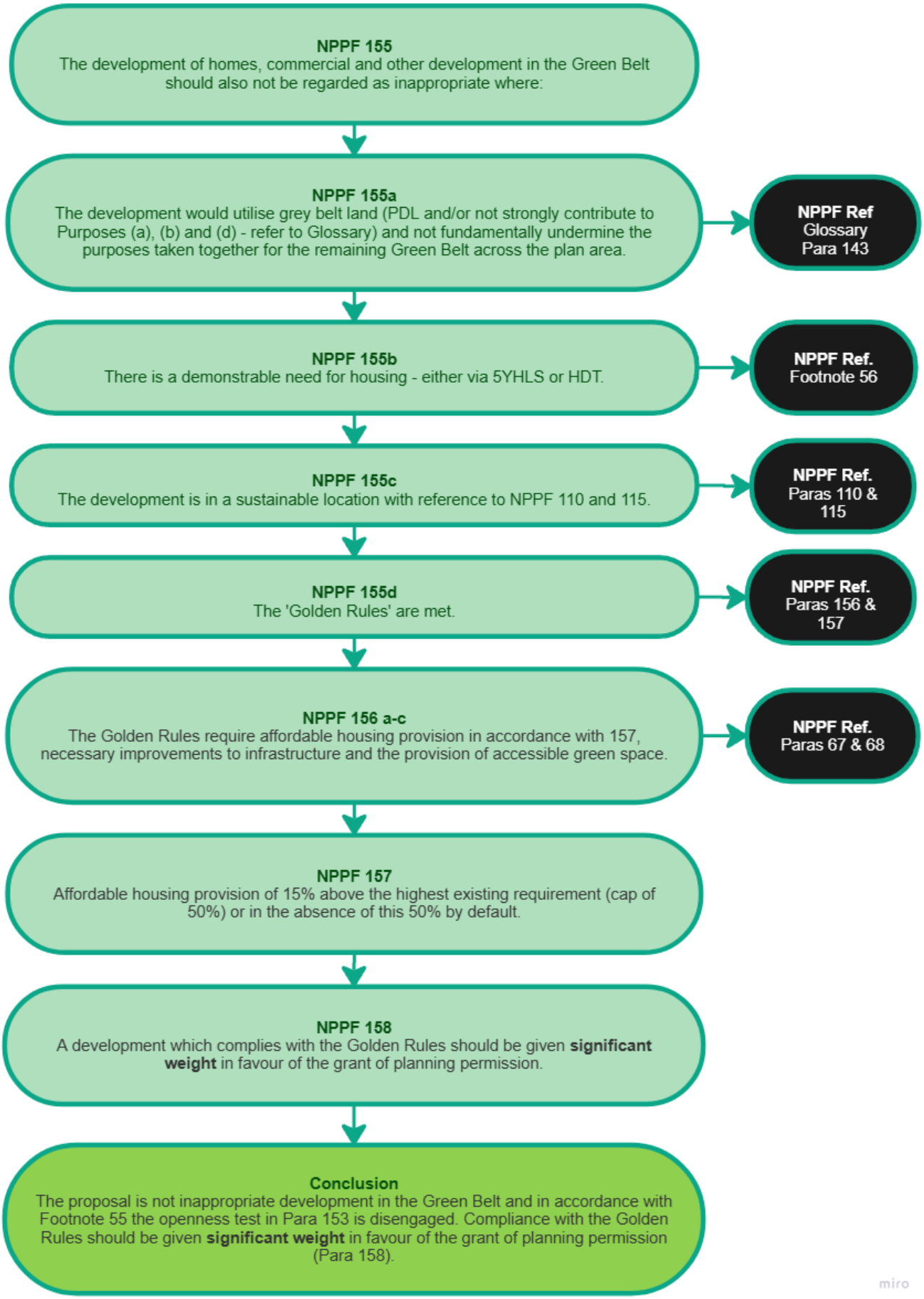
a. The development would utilise grey belt land and would not fundamentally undermine the purposes (taken together) of the remaining Green Belt across the area of the plan;

b. There is 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 paragraphs 156-157 below.

6.13 The flow chart below illustrates the steps required to determine whether a site is appropriate development in the Green Belt in relation to the relevant paragraphs of the NPPF.


NPPF 155
The development of homes, commercial and other development in the Green Belt should also not be regarded as inappropriate where:
NPPF 155a
The development would utilise grey belt land (PDL and/or not strongly contribute to Purposes (a), (b) and (d) - refer to Glossary) and not fundamentally undermine the purposes taken together for the remaining Green Belt across the plan area.
NPPF Ref Glossary Para 143
NPPF 155b
There is a demonstrable need for housing - either via 5YHLS or HDT.
NPPF Ref. Footnote 56
NPPF 155c
The development is in a sustainable location with reference to NPPF 110 and 115.
NPPF Ref. Paras 110 & 115
NPPF 155d
The 'Golden Rules' are met.
NPPF Ref. Paras 156 & 157
NPPF 156 a-c
The Golden Rules require affordable housing provision in accordance with 157, necessary improvements to infrastructure and the provision of accessible green space.
NPPF Ref. Paras 67 & 68
NPPF 157
Affordable housing provision of 15% above the highest existing requirement (cap of 50%) or in the absence of this 50% by default.
NPPF 158
A development which complies with the Golden Rules should be given significant weight in favour of the grant of planning permission.
Conclusion
The proposal is not inappropriate development in the Green Belt and in accordance with Footnote 55 the openness test in Para 153 is disengaged. Compliance with the Golden Rules should be given significant weight in favour of the grant of planning permission (Para 158).
miro

6.14 Following publication of the NPPF in December 2024, a number of planning applications have been approved either locally or at Appeal on the basis the sites constitute Grey Belt land.

6.15 One of the most proactive authorities in this regard is Basildon Borough Council with 5no. planning applications on Green Belt sites being reported to Planning Committee with a recommendation for approval. All 5no. sites have been concluded by Officer's to be appropriate development on Grey Belt land.

1. **24/00762/OUT** – Land West of Laindon Road, Billericay – Outline planning application for up to 250 homes (Committee 8th January 2025).
2. **23/01551/OUT** - Land to the South of Wash Road, Laindon – Hybrid planning application for up to 400 residential dwellings and a community facility (Committee 12th January 2025).
3. **19/01725/OUT** – Land North of London Road, Billericay – Outline application for up to 480 new homes (Committee 26th February 2025).
4. **24/01098/OUT** – Land West of Castledon Road, Wickford – Outline application for up to 97 new homes (Committee 12th March 2025)
5. **5/2022/2736/LSM** – Land at Round House Farm – Outline application for up to 155 new homes (Committee – 19th March 2025)

6.16 Each of the Committee Reports provides a detailed assessment of each site and the proposed development against the relevant paragraphs of the NPPF with regards to Grey Belt. All 5no. follow the same structure with regards to the assessment, which follows the steps outlined in the flow chart above. This structure also closely mirrors that of the Inspector for the Land off Chapel Lane Appeal (APP/V4630/W/24/334724 – **Appendix F**), which was granted on the 13th January 2025. It is noted that this decision was issued after the Laindon Road Committee Report was published, however this endorses BBC's interpretation of the revised NPPF, and the steps required to undertake the Grey Belt analysis and appropriateness tests.

6.17 A subsequent Appeal Decision at Land at Former Court Lane Nurseries, Hadlow (APP/H2265/W/24/3346228 (21st February 2025) – **Appendix G**) further cements the position with regards to Grey Belt analysis and the appropriateness test.

Grey Belt Analysis

6.18 Grey Belt is defined in Annex 2 of the NPPF (2024) as:

> **Grey Belt – For the purposes of plan-making and decision-making, 'grey belt' is defined as land in the Green Belt comprising previously developed land and/or any other land that, in either case, does not strongly contribute to any of purposes (a), (b) or (d) in paragraph 143. 'Grey belt'**

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 refusing or restricting development.

6.19 To determine whether the development meets the exception set out in Paragraph 155, the first step is to confirm whether the Site constitutes Grey Belt land by assessing the contribution to Purposes (a), (b) and (d) of the Green Belt (Paragraph 143):

- **Purpose (a)** - to check the unrestricted sprawl of large built-up areas;
- **Purpose (b)** - to prevent neighbouring towns merging into one another;
- **Purpose (d)** – to preserve the setting and special character of historic towns

Green Belt Study 2018

6.20 GBC's Evidence Base includes a Green Belt Study 2018 and located the Site within Parcel 23 which covers approximately 200 hectares of land between Culverstone Green, Vigo and Harvel, including the Culverstone Valley. The Site is located in the north-west corner of the parcel.

6.21 The Green Belt Study (2018) assesses each parcel against Purposes (a), (b) and (c) of Paragraph 143 of the NPPF. The Parcels are not assessed against Purposes (d) and (e) as all Green Belt land is considered to make an equal contribution to these purposes.

6.22 The assessment of Parcel 23 is outlined in the table below:

Parcel	Purpose (a)	Purpose (b)	Purpose (c)
23 Culverstone Valley	Minimal/no contribution	Minimum/no contribution	Contribution

6.23 As set out in the definition, only Purposes (a), (b) and (d) are relevant when considering Grey Belt land. The table above demonstrates that Parcel 23 makes a 'minimal/no contribution' to Purpose (a) and (b) and has not been assessed against Purpose (d) as all Parcels make an equal contribution.

Gravesham Stage 2 Green Belt Study 2020

6.24 The Gravesham Stage 2 Green Belt Study (2020) includes this Site as part of 2no. parcels – CG2 and CG3.



6.25 The Stage 2 Study further reinforces the conclusion that the Site is Grey Belt, as the assessment of the relevant Purposes for Grey Belt (Purposes (a), (b) and (d)), concludes that both parcels make 'limited/no contribution' (Purpose C not relevant for the assessment of Grey Belt) to those Purposes.

Green Belt Purpose	Parcel CG2	Parcel CG3
Purpose (a)	Limited/no contribution	Limited/no contribution
Purpose (b)	Limited no/contribution	Limited/no contribution
Purpose (c)	Significant	Relatively significant
Purpose (d)	Limited/no contribution	Limited/no contribution
Purpose (e)	Equal contribution	Equal contribution

6.26 Accordingly, both the 2018 and 2020 Local Plan Evidence Base accept the parcels within which the Site sits do not make a strong contribution to the relevant purposes of the Green Belt.

Stantec Landscape and Visual Assessment and Green Belt Assessment

6.27 A Landscape and Visual Appraisal and Green Belt Assessment (LVGBA, May 2025) has been submitted in support of this planning application. The report includes Stantec's assessment of the Site's contribution to the Green Belt (Chapter 6), which is a focused site-specific review, compared to the Council's Green Belt reviews which focus on larger Green Belt parcels. A summary of the Site's contribution can be found below, the full assessment can be found at Page 39 (Table 6.1) of the report.

	Purpose (a) Harm Rating	Purpose (b) Harm Rating	Purpose (d) Harm Rating
Land at Blackthorn Farm, Culverstone Green	Weak/None	None	None

6.28 The report then goes onto consider the matter of 'Grey Belt' (Chapter 6.2). It is concluded that the criteria set out in the NPPF (2024) are met and therefore the Site is considered to comprise 'Grey Belt' land. In short, the Site does **not** perform strongly against any of the Green Belt purposes and exhibits at least one of the features listed in the policy (specifically the Site makes no contribution to preventing neighbouring towns from merging and no contribution to preserving the setting and special character of historic towns).

Summary of the Site's Contribution to the Relevant Green Belt Purposes

- **Purpose (a) - to check the unrestricted sprawl of large built-up areas**

6.29 The Green Belt guidance published by MHCLG in February 2025 confirms Purpose (a) "*relates to the sprawl of large built-up area. Villages should not be considered large built-up areas*". Culverstone Green is a village and therefore does not constitute a large built-up area. Purpose (a) specifically relates to the unrestricted sprawl of large built-up areas. Purpose (a) is therefore not applicable.

6.30 In addition to the above, the findings of the Council's Green Belt Study 2018 and Stage 2 Green Belt Report 2020 both conclude that the Green Belt parcels within which the Site lies (Parcels 23/CG2 & CG3) make 'limited/no contribution' to Purpose (a).

6.31 The Stage 2 Green Belt Study 2020 confirms that following in relation to Purpose (a) *"Land is associated with Culverstone Green which is not a large built-up area and which does not have a strong enough relationship with any large built-up area to be considered to contribute to this purpose".*

6.32 Stantec agree with these findings. They also conclude that due to the Site's physical containment by existing built development to the north, south and west and substantial enclosure by vegetation and perceived sense of sprawl will be diminished and the proposed development will largely be perceived as infill development.

6.33 In conclusion, this Site makes **no contribution** to Green Belt Purpose (a)

- **Purpose (b) - to prevent neighbouring towns merging into one another**

6.34 The Green Belt guidance published by MHCLG in February 2025 confirms that Purpose (b) relates to the merging of towns not villages. Culverstone Green is a village and therefore this purpose is not applicable.

6.35 The findings of the Council's Green Belt Study 2018 and Stage 2 Green Belt Report 2020 both conclude that the Green Belt parcels within which the Site lies (Parcels 23/CG2 & CG3) make 'limited/no contribution' to Purpose (b).

6.36 The Stage 2 Green Belt Study 2020 confirms that in relation to Purpose (b) "*This land does not lie in a gap between neighbouring towns, and does not make any contribution to this purpose.*"

6.37 The LVAGBA (Stantec) confirms that fundamentally Culverstone Green does not constitute a large built up area, and accordingly the extent to which the Site can contribute to this Purpose is diminished. The LVAGBA concludes that the existing built development to the north, south and west of the Site provide a sense of physical containment. The built form to the north of the Site, which lies adjacent to Heron Hill Lane and extends westwards along Chapmans Hill, is perceived as defining the northern extent of Culverstone Green. As a result, the proposed development would not result in a physical or perceptual reduction in the separation distance between Culverstone Green and Meopham, which is 1.2km north of the perceived limits of Culverstone Green.

6.38 In conclusion, this Site makes **no contribution** to Green Belt Purpose (b)

- **Purpose (d) - to preserve the setting and special character of historic towns**

6.39 The Green Belt guidance published by MHCLG in February 2025 confirms that Purpose (d) relates to historic towns not villages. Culverstone Green is a village and therefore this purpose is not applicable.

6.40 The findings of the Council's Green Belt Study 2018 and Stage 2 Green Belt Report 2020 both conclude that the Green Belt parcels within which the Site lies (Parcels 23/CG2 & CG3) make 'limited/no contribution' to Purpose (d).

6.41 The Stage 2 Green Belt Study 2020 confirms that following in relation to Purpose (d) "*Land does not make a significant contribution to the setting of any historic town.*"

6.42 The LVAGB (Stantec) confirms that the Site doesn't contribute to or form the setting or special character of a historic town.

6.43 In conclusion, this Site makes **no contribution** to Green Belt Purpose (d).

6.44 In light of the above, it is demonstrated that the Site does not strongly contribute to Green Belt Purposes (a), (b), (d) as set out in Paragraph 143 of the NPPF (2024). Additionally, there are no policies in Footnote 7 (other than Green Belt), which protect areas or assets of particular importance, relevant to this site.

6.45 Therefore, the Site constitutes Grey Belt land as defined in Annex 2: Glossary of the NPPF 2024. The next step is to confirm that all the criteria set out in Paragraph 155 are met.

Paragraph 155 Criteria

6.46 In order to demonstrate how the Site and the proposed development accords with Paragraph 155, each of these criteria (a-d) is taken in turn.

Paragraph 155 Criteria	Assessment of the Site and Development Proposals
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	This Site does not strongly contribute to Purposes (a), (b) or (d) and therefore constitutes 'Grey Belt'. The Site is perceived to be physically contained by existing built development to the north, south and west. The built form to the north defines the settlement edge and the proposed development would largely be perceived as infill development amidst the existing settlement. The substantial vegetation that encloses the Site will further diminish any perceived sense of sprawl, with any introduced built development within the Site confined within these robust physical features. Redevelopment of the Site with residential development of the scale proposed is unlikely to result in definitional, spatial and perceptual harm to the openness of the Green Belt. Therefore, the proposed development will not undermine the purposes of the Green Belt (taken together) across the area of the plan as a whole. **Criterion (a) is met**
b) There is a demonstrable unmet need for the type of development proposed	Gravesham does not currently have an up-to-date Local Plan and is unable to demonstrate a 5-year housing land supply (3 years as of February 2025). The latest Housing Delivery Test measurement (published in December 2024) indicates that the Council only delivered 59% of their housing requirement. These factors identify a demonstrable unmet need for both market and affordable housing within the Borough that is unlikely to be met in the short to medium term. **Criterion (b) is met**
c) The development would be in a sustainable location, with particular reference to	The Site is in a sustainable location located within walking distance of a range of services, facilities and transport nodes, which can be accessed via continuous footway provision along the A227. This offers future residents and visitors a genuine choice of sustainable transport modes. This will be further encouraged

Paragraph 155 Criteria	Assessment of the Site and Development Proposals
paragraphs 110 and 115 of the Framework	though the implementation of a Travel Plan and the proposed improvements to surrounding pedestrian infrastructure. The proposed vehicular access has been demonstrated to be safe and suitable for future users. The access has been subject to a Stage 1 Road Safety Audit. All matters raised have been fully addressed and the access has been demonstrated to be safe and suitable. Pedestrian access is provided via the main Site access and the emergency access. There is a high level of existing pedestrian infrastructure accessible from the Site. In addition, there are a number of PRoW within the vicinity of the Site providing leisure routes to the surrounding rural countryside. The Site is therefore entirely suitable for residential development from a transport and access perspective, having regard to national and local transport planning policy. **Criterion (c) is met**
d) Where applicable the development proposed meets the 'Golden Rules' requirements set out in Paragraphs 156-157	GBC's adopted Local Plan requires affordable housing provision of 35% in rural areas. The 'Golden Rules' require 15 percentage points above the highest existing affordable housing requirement. The proposed development includes the provision of 50% affordable housing in accordance with the 'Golden Rules'. If required, any necessary improvements to local or national infrastructure will be delivered as part of the development proposals. Substantial areas of public open space are proposed on Site, increasing recreational and play opportunities for new and existing residents. This Site has historically been in private ownership. The proposed development will enable public access to the amenity areas and woodland which was previously inaccessible. Areas of play will be provided within the open space which offers recreational opportunities for children from the proposed development and the wider area. **Criterion (d) is met**

6.47 Paragraph 159 states that improvements to green spaces required as part of the Golden Rules to contribute positively to the landscape setting of the development, support nature recovery and meet local, or were non-existent, national standards for green space provision. Whilst only at Outline stage, the Illustrative Landscape Masterplan and Parameter Plan demonstrate how the design will be landscape led and will contribute positively to the landscape setting. In addition, a substantial level of green space is provided across the Site which will provide future residents will access to publicly accessible green space. The delivery of Biodiversity Net Gain (BNG) will support nature recovery by providing an uplift in biodiversity from the baseline position of the site. Green Belt guidance.

6.48 Paragraph 158 states that *"A development which complies with the Golden Rules should be given significant weight in favour of the grant of planning permission."*.

6.49 As demonstrated in the table above the proposed development meets **all** the criteria listed in Paragraph 155 and therefore **is not** regarded as inappropriate development in the Green Belt. As such relevant test for granting planning permission is no longer Paragraph 153 as this applies only to inappropriate development in the Green Belt. Footnote 55 confirms that the requirement as set out in Paragraph 153 to *"ensure that substantial weight is given to any harm to Green Belt, including harm to its openness"* **does not apply**. The Green Belt guidance published by MHCLG (updated in February 2025) reiterates this point confirming that "*Footnote 55 to the NPPF sets out that if development is considered to be not inappropriate development on previously developed land or grey belt, then this is excluded from the policy requirement to give substantial weight to any harm to the Green Belt, including to its openness"*.

6.50 Therefore, the relevant test for granting planning permission is Paragraph 11(d)(ii), which sets out a presumption in favour of granting planning permission.

b) Harm to the Green Belt

6.51 Whilst it is considered that the proposed development would utilise Grey Belt land and the tests set out in Paragraphs 155 and 156-159 are met, it may be that an alternative view is taken, and the proposals are considered against the requirements of Paragraph 153. Whilst substantial weight is given to any harm to the Green Belt, including its openness, it is important to consider the contribution the Site makes to the purpose and function of the Green Belt.

6.52 A full assessment of potential harm to the Green Belt and Very Special Circumstances arising from the development has been undertaken.

6.53 The table below outlines the conclusions of the Council's Green Belt Study 2018 and Green Belt Study 2020 and the site-specific Green Belt Assessment prepared by Stantec (2025).

Parcel	Purpose (a)	Purpose (b)	Purpose (c)	Purpose (d)	Purpose (e)
Parcel 3 (2018)	Minimal/no contribution	Minimal/no contribution	Contribution	Equal	Equal
Parcel CG2 (2020)	Limited/no contribution	Limited/no contribution	Significant	Limited/no contribution	Equal
Parcel CG3 (2020)	Limited/no contribution	Limited/no contribution	Relatively significant	Limited/no contribution	Equal
Stantec LVAGB	Limited	None	Some	None	n/a

6.54 The above demonstrates that the Green Belt parcels the Site sits within, and the Site (when taken insolation) perform poorly or make an equal contribution to 4 out of the 5no. Green Belt Purposes.

6.55 The conclusions of the Stantec's site specific LVAGB mirror that of the Council's Green Belt Studies (2018 & 2000) in relation to Purposes (a), (b), (d) and (e). The difference in opinion regarding Purpose (c) is minor, with the Green Belt Study 2020 rating the harm slightly higher. The Green Belt Study 2020 concludes that the parcel has a degree of association with urbanising uses along the parcel edges, but the open paddocks are perceived as countryside and have a stronger relationship with the countryside than the inset settlement.

6.56 Stantec acknowledge that the Site lies within the countryside and whilst it is not an extensive tract of land it is perceived as countryside. Nonetheless, due to the containment of the Site by dense vegetation its redevelopment is not likely to have urbanising influence over the surrounding area.

6.57 The Green Belt Study 2020 concludes that Parcel CG2 makes a 'moderate high' overall contribution to the Green Belt and Parcel CG3 makes a 'moderate' contribution. The overall contribution appears to have been elevated on the basis of the contribution of the parcels make to Purpose (c), without recognising that the limited contribution the parcels make to the other 4no. Purposes.

6.58 In conclusion, the Green Belt parcels within which this Site sits perform poorly overall and the Site itself makes a limited contribution to the Purposes of the Green Belt, the harm resulting from the proposed development is therefore concluded to be **low.**

c) Very Special Circumstances

6.59 For the reasons set out above, the Site is considered to be Grey Belt and is therefore not inappropriate development in the Green Belt in accordance with Paragraph 153 and 155 of the NPPF (2024). However, should a different conclusion be reached, a number of Very Special Circumstances (VSCs) have been identified, which clearly outweigh any perceived harm to the Green Belt.

6.60 The VSCs are detailed below:

1. Delivery of Much Needed Housing

6.61 GBC's most recent Five-Year Housing Land Supply Statement (2024 – 2029) confirms that the Borough is unable to demonstrate a 5-Year Housing Land Supply. The Council have calculated a requirement of 3,360 new homes over the 5-year period (new Standard Method), which equates to 672 dwellings per annum. However, GBC can only demonstrate a **3 years'** worth of deliverable housing sites as of February 2025, which represents a shortfall of 1,603 dwellings over the 5-year period.

6.62 The latest Housing Delivery Test (HDT) results confirmed that against a need of 1,789 dwellings only 1,056 were delivered resulting in a HDT measurement of 59% (as confirmed by MHCLG in December 2024). This highlights persistent under-delivery which has resulted in a significant shortfall of housing within the Borough.

6.63 In addition, the Local Plan is out-of-date having been adopted over 10 years ago. Whilst GBC is in the process of preparing a new Local Plan, this has been in the making since 2018. The Borough is extremely constrained by Green Belt with 78% of the Borough designated as Green Belt and the Council itself recognises that the Borough's development needs cannot be met from the existing urban areas and settlements inset from the Green Belt. As such GBC undertook 2no. Green Belt Studies as part of the Evidence Base and the Regulation 18 Local Plan Partial Review included a number of sites within the Green Belt which could contribute towards meeting the Borough's development requirements.

6.64 A number of recent Appeal Decisions have been referred to in order to establish the weight that should be attributed to this matter in the planning balance. In the Appeal at Little Chalfont, Buckinghamshire (Appendix H) both main parties and the Inspector attributed "*very substantial"* weight to the delivery of market and affordable housing within the Green Belt.

6.65 The Inspector for the Appeal at Land off Bullens Green Lane, Colney Heath (Appendix I) attributed '*very substantial weight'* to the delivery of market housing stating that "*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.*"

6.66 Furthermore, in the Secretary of State's (SoS) recent decision at Chiswell Green Lane, St Alban's in Hertfordshire (Appendix J), the delivery of both market and affordable housing in the Green Belt attracted "very substantial" weight. The decision states that "*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…, 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." *(paragraphs 28-29).*

6.67 Giving due regard to the national policy context and the lack of 5-year housing land supply housing alongside the continuing absence of an up-to-date Local Plan in an area highly constrained by Green Belt, it is clear that the proposed development will make an important contribution to the significant housing need in the Borough. In addition, the Site would be delivered within 5 years and will therefore contribute towards GBC's 5 year housing land supply, delivering market housing in the short term. In accordance with Paragraph 158 of the NPPF (2024) **very substantial weight** is given to this matter.

2. Delivery of Affordable Housing

6.68 The Written Ministerial Statement – Building the Homes We Need (30th July 2024) indicates that affordable housing delivery is one the Government's main priorities stating that *"the Government are committed to the biggest growth in social and affordable housebuilding in a generation*".

6.69 The affordable housing need in the Borough is significant. The Housing Development Strategy (2024-2028/29) confirms that Gravesham has some of the highest housing needs in Kent with 870 people on the Council's Housing Register in April 2024 and 230 people in temporary accommodation in January 2024 (the highest in Kent). The Council's website also provides details of new build affordable housing handovers which confirms that since April 2020 only 107 new affordable houses have been delivered. The Housing Development Strategy (2024-2028/29) also confirms that of the total housing delivered in the Borough (circa 250 dwellings per annum) the level of affordable delivered is below 30%, primarily due to viability challenges associated with lower values in the town centre.

6.70 The Housing Development Strategy (2024-2028/29) includes an objective "*to identify, secure, contribute and influence the setting up of a robust pipeline to achieve the target of primarily affordable 1,000 homes to be delivered or started on site in the next 5 years*." This is a significant target, especially considering only just over 10% of that figure has been delivered in the Borough over the last 5 years.

6.71 This persistent underperformance is driven by consistently low delivery rates with rising numbers of households on the Housing Register and increasing reliance on temporary accommodation. The scale of this shortfall, coupled with the growing backlog of unmet need, highlights a systemic failure to deliver the affordable housing required to support the Borough's residents.

6.72 The Appeal decisions at Chiswell Green and Little Chalfont highlighted in the previous section are also relevant to this matter and confirm that '*very substantial weight*' should be attributed to the

delivery of affordable housing. In addition, the Vistry Homes Ltd v Secretary of State for Levelling Up, Housing And Communities & Ors Judgement, Mr Justice Holgate states:

> **157. "If a decision-maker were to reduce the weight which he would otherwise give to a 40% provision of affordable housing because the development will provide the level of housing required by the development plan, that would also be objectionable, certainly in the absence of any logical explanation. The decision-maker should be assessing how the developer's contribution of affordable housing stands in relation to inter alia the justification in the development plan for the level of affordable housing required by the policy. Key considerations could include the level and nature of the need for affordable housing in the district and any shortfall in delivery."**

6.73 The proposed development will accord with the 'Golden Rules', delivering 50% affordable housing. As confirmed above the Site would be delivered within 5 years and will therefore contribute towards rectifying the persistent shortfall of affordable homes in the short term. Given the poor record of delivery of affordable homes within the Borough, **very significant weight** is given to this matter.

3. Green Belt Performance

6.74 As discussed previously, the Site makes a limited contribution to the Purposes of the Green Belt when taken as a whole and the harm resulting from the proposed development is concluded to be **low**.

6.75 Additionally, the Site comprises 'Grey Belt' land and the 'Golden Rules' are met, meaning the proposed development in not inappropriate development in the Green Belt.

6.76 When taking into account the Site's specific Green Belt performance and the Council's own evidence base **very significant weight** is given to this matter.

4. Economic Benefits

6.77 The proposed development will deliver a range of economic benefits during construction phase and once the homes are occupied the new residents will help build a strong and competitive economy. The NPPF seeks to build a strong, competitive economy with Paragraph 85 confirming "*that significant weight should be placed on the need to support economic growth and productivity*".

6.78 The Home Builders Federation (HBF) report 'The Economic Footprint of Home Building in England and Wales' (September 2024) states that housebuilding plays an important role in generating economic output. New housebuilding generated £53.3 billion of economic output in Britain's economy in 2023, 87% of which was contributed through private sector housing. The housebuilding industry also supports a significant employment base and contributes to public finances through the tax revenues generated. In addition to delivering much needed housing and supporting employment

across a range of sectors of the economy, house building also provides a wide range of other economic benefits for local communities through financial and other contributions made through the planning system. The housebuilding industry plays an important role in stimulating further demand and economic activity through its extensive supply chains and networks, which in turn generates additional output, employment, spending and tax contributions.

6.79 The proposed development will deliver economic benefits associated with the construction of up to 100 new dwellings. Additional jobs will be created throughout the construction process, with increased investment in tradesmen and suppliers. New housing will also help support local shops and businesses and increase Council Tax receipts for GBC. **Significant positive weight** has been given to this matter.

5. Environmental Benefits

6.80 The proposed development will deliver ecological enhancements through the delivery of 10% BNG.

6.81 Whilst the NPPF does not set a specific target for BNG, the Environment Act requires 10% net gain in biodiversity, measured using the Biodiversity Metric.

6.82 Recent case law confirmed the weight that should be given to BNG. In the case of Vistry Homes Ltd v Secretary of State for Levelling Up, Housing and Communities & Ors (Rev1) [2024] The Hon. Mr Justice Holgate, at paragraph 155 and 156 states:

> **"155. It is difficult to see how logically a decision-maker could give no weight at all to, for example, the provision of 10% BNG because that equated to the 10% requirement in sched. 7A. The fact that such a requirement is imposed by legislation is simply a mechanism for ensuring that a wide range of developments contribute to the collective effort of improving biodiversity in England. It does not alter the nature or purpose of the improvement in biodiversity which is provided, or the underlying justification for the requirement to reverse a national decline in biodiversity over many years.**
>
> **156. It also follows that where a development would provide BNG of 20%, a decision-maker is not entitled to say that only that part of the BNG which exceeds 10% can qualify as a benefit in deciding whether to grant planning permission."**

6.83 As set out previously the proposed development will deliver 10% BNG through habitat creation and enhancement measures on Site and if necessary, purchasing of a small number of biodiversity credits.

6.84 As outlined above the fact that the 10% uplift in BNG is required by legislation has no bearing on the weight given to this provision, therefore **significant positive weight** has been given to this matter.

6. Open Space

6.85 The proposals incorporate a large area of open space in the eastern and southern parts of the Site as shown on the Parameter Plan and Illustrative Site Layout. Additional areas of open space are shown on the Illustrative Layout to provide incidental amenity areas within the developed area.

6.86 Whilst the Site currently comprises paddocks, it is not publicly accessible. The proposed development will open these areas of green space up to the public providing new amenity, natural and semi natural green spaces and an area of equipped play for children. The open space proposals area of wider public benefit providing new opportunities for recreation and play within the local area.

6.87 The provision of open space aligns with the 'Golden Rules' and **significant positive weight** is given to this matter.

Conclusion on Very Special Circumstances

6.88 Notwithstanding that the Site is considered to be on 'Grey Belt' land and therefore not inappropriate development in the Green Belt, the Very Special Circumstances listed above when taken together, significantly and demonstrably outweigh the potential harm to the Green Belt (concluded to be low) in accordance with Paragraph 153 of the NPPP (2024).

d) Suitability and Accessibility of the Site

6.89 The Site is considered to be a suitable site for development and located in an accessible location. Technical assessments have been undertaken to support the Site's suitability as evidenced within this planning application.

6.90 The A227 South Street is provided with a pedestrian footway on its eastern side, providing a direct pedestrian connection to the Site. The footway measures approximately 2.0m in width and routes between the "Ridley Turning" bus stops to the north and through Culverstone Green village to the south.

6.91 Given the location of the site on the edge of Culverstone Green village centre, it is afforded a good level of pedestrian accessibility, with direct access into the village centre. There are also a number PRoWs located in close proximity to the site

6.92 The "Ridley Turning" bus stops are located on the A227, approximately 60-100m (within a 1.5-minute walk) north of the Site and are accessible via the pedestrian infrastructure on the A227 South Street.

6.93 Meopham Railway Station is located approximately 4.7km north of the site, accessible in a 6-minute drive or 12-minute cycle. The station is operated by Southeastern and provides services to

destinations including London Victoria, Ramsgate and Dover Priory at a frequency of six trains per hour in all directions. Borough Green Railway Station is located approximately a 12 minute drive from the Site and this station provides services to London Victoria, London Charing Cross, Ashford International and Dover Priory.

6.94 An accessibility audit has been undertaken by DHA Transport to describe the routes to/from the Site to key destinations such as bus stops, train stations, shops, schools and includes a review of the PRoW in the local area. The audit concludes that there is a direct and easy to navigate route to the existing bus stops 150m north of the Site and to facilities to the south with appropriate crossing locations.

6.95 The Site enjoys good access to the local highway network and is sustainably located for a rural location, with good connections to existing pedestrian infrastructure and public transport, as well as to everyday facilities and services. A Travel Plan has been submitted as part of the application which promotes sustainable travel behaviours amongst future residents.

e) Definition of Sustainable Development

6.96 Para 8 of the NPPF identifies that there are three dimensions to sustainable development, being economic, social and environmental. It is recognised that these roles should not be undertaken in isolation, because they are mutually supportive.

6.97 The NPPF and the Council both stress the importance of supporting growth and creating sustainable communities. The proposal will have long lasting economic benefits by providing much needed housing in a sustainable location.

6.98 When considering the immediate economic benefits, along with the broader social and environmental benefits resulting from the proposed scheme, it is considered that the development accords fully with the policy objectives of the NPPF:

6.99 The main economic benefits of the scheme will generate construction jobs as well as indirect jobs associated with the construction industry. Furthermore, there will be Gross Value Added through the construction phases.

6.100 Crucially, as an SME, our supply chain is local, meaning not only do we ourselves employ local people, but our supply chain utilises local companies who in turn, employ local workers.

6.101 In respect of new population, the development of 100 dwellings could generate a new population of circa 240 people (assuming 2.4 people per household). This will generate economically active people

that will input into the local labour pool as well as additional local expenditure on convenience related goods.

6.102 During the construction phase 56 full time local jobs will be created with a further 100 full time regional/UK wide jobs. Local economic output over the construction phase (30months) will equal £8.7m, with a total economic output of £15.6m.

6.103 During the operational phase, of the 240 new residents, 117 will be in employment. The local economic output of new residents will generate £2.6m per annum with expenditure on local retail and services equalling £1.5m. Total economic output will total £8m per annum.

6.104 In addition, there will be a new homes bonus receipt of £214,000 and Council tax receipts of £236,000 per annum arising from the development.

6.105 In respect of a social role, the creation of 100 dwellings including affordable dwellings, will support the creation of strong, vibrant and a healthy community.

6.106 In respect of an environmental role the proposed development seeks to deliver areas of open space, landscaping and ecological areas. New tree and shrub planting that is managed will enhance the green infrastructure network and improve biodiversity.

6.107 The development will be designed to be resilient to the impact of climate change. Importantly, this includes an 'all electric' development which will help achieve a carbon reduction of approximately 50% over and above current building regulations. This is achieved by a fabric first approach (i.e. greater wall cavity/insulation/specification of windows), combined with the use of Air Source Heat Pumps. In addition, all vehicles will be fitted with rapid electric vehicle charging points creating a development that seeks to accelerate change in behaviour of how energy is consumed.

ii) Residential Development

a) Housing

6.108 The proposed development provides for a development of up to 100 new dwellings including 50 affordable units representing 50% provision, in accordance with the 'Golden Rules' set out in Paragraphs 156 and 157 of the NPPF (2024). Paragraph 157 confirms that in cases where the development plan policies for affordable housing haven't been updated in line with paragraph 67-68 of the NPPF, the affordable housing contribution required to satisfy the 'Golden Rules' is 15% above the highest existing affordable housing requirement which would otherwise apply (subject to a cap of 50%).

6.109 The indicative housing mix includes a range of 1-4 bed dwellings. The private/affordable housing mix is to be determined. The Illustrative Site Layout represents a gross density of 18.5 dwellings per hectare reflecting the Site's characteristics and surrounding uses as well as taking into consideration open spaces and biodiversity net gain, including good design.

iv) Landscape Impact and Open Space

6.110 An Illustrative Landscape Masterplan has been prepared by Stantec to demonstrate the landscaping proposals, alongside the scale, massing and articulation of built form that could come forward as part of the detailed Reserved Matters stage.

6.111 The aim of the landscape proposals is to create an attractive setting for the new residential development, assimilating the built elements into the surrounding landscape to minimise the impact of the proposed development on the landscape character and visual amenity. It is proposed to enhance and extend the existing landscape framework of the Site, which already provides an extensive and established landscape buffer with the countryside beyond.

6.112 The landscape proposals will improve biodiversity across the Site by introducing a variety of ecological habitats to include species-rich hedgerows; native tree planting; grassland; ponds and wetland habitats; street trees; native garden planting; and garden trees.

6.113 A variety of ornamental shrub planting mix palettes in order to reflect the different character of parts of the Site, including a gateway mix, sub-urban edge mix, a sub-urban transition mix, and a rural transition-mix, that can simultaneously assist with wayfinding and creating a distinctive sense of place within the Site itself while responding to the wider context within which the Site lies.

6.114 The delivery of areas of amenity grassland and wildflower grass will provide amenity space and visual interest within the Site, including an area of play for new and existing residents.

6.115 The LVIA prepared by Stantec provides an assessment of the landscape and visual effect of the proposed development. From a visual perspective at Year 1, the most sensitive receptors are residential properties along South Street and Chapmans Hill. These may experience filtered or partial visibility of new development, particularly from upper-storey windows, leading to Moderate Adverse effects. Road users, PRoW users and commercial premises around the Site are more visually separated by vegetation, fencing and landform, resulting in Negligible to Minor Adverse effects overall.

6.116 By Year 15, the landscape strategy illustrated in the Masterplan will have matured, improving the overall integration of the development. Reinforced boundary planting, tree-lined streets, open spaces and a 15- metre woodland buffer will help restore structure and soften built form. Built development will be set back from sensitive boundaries and arranged in an inward-facing layout to reduce visual

prominence. As a result, landscape effects will lessen for most receptors: the Meopham Downs LCA remains largely intact (Negligible Adverse), the agricultural fields and internal character of the Site are permanently altered (Moderate Beneficial), while field boundaries and new planting contribute positively (Minor Beneficial).

6.117 Visually, the development will be increasingly screened or filtered by mature planting. For most residential receptors, the significance of visual effects reduces to Minor Adverse or Neutral, depending on location and viewing height. For other receptor groups, such as road users and PRoW users, the development will be perceived as part of a softened, well-contained settlement edge. In some locations such as along South Street, improvements to townscape character and green frontage will result in a Minor Beneficial effect.

6.118 Overall, the Proposed Development results in some adverse landscape and visual effects in the short term, particularly where it replaces open or semi-rural land. However, the long-term design, layout and green infrastructure strategy successfully reduce the scale and prominence of change, supporting a transition to a well-integrated and visually appropriate extension to Culverstone Green.

6.119 As such, the proposed development accords with the relevant national and local planning policies.

v) Transport and Traffic

6.120 The application is accompanied by a Transport Assessment prepared by DHA Transport, which confirms that a safe and suitable access to the Site can be achieved. Primary vehicular access will be achieved via a new priority junction off the A227 South Street, which will also provide pedestrian access. An emergency access will also be provided off the A227 South Street which will be installed with a collapsible bollard and be accessible for pedestrians and cyclists.

6.121 To inform the access design, an Automatic Traffic Count (ATC) survey was undertaken on the A227 South Street in proximity to the proposed Site access for the seven-day period commencing on Saturday 8th March 2025. The recorded 85th percentile vehicle speeds equate to visibility splay requirements of 2.4 x 75m southbound and 2.4 x 79m northbound of the access, using the Manual for Streets (MfS) calculator. These splays have been demonstrated within the Stage 1 Site access design.

6.122 The Stage 1 Road Safety Audit recommended that measures are instructed to reduce the speed of traffic on the A227 to within the signed 30mph limit. The proposal includes the provision of either a Vehicle Activated Sign (VAS) or improvement to the gateway feature. This will be discussed and agreed with KCC Highways as part of the detailed design phase.

6.123 The TA confirms that the vehicular and pedestrian access design has been prepared with reference to the appliable highway standards and has been subject to an independent Stage 1 Road Safety Audit,

all matters raised have been addressed and therefore the proposed vehicular and pedestrian access design and off-site works are considered to be safe and suitable.

6.124 The detail of on-site parking provision will be provided within a future Reserved Matters application; and will comply with the adopted parking standards.

6.125 Each dwelling will be provided with an 'active' Electric Vehicle (EV) charging point in line with Part S of the building Regulations.

6.126 The proposed development has the potential to generate up to 40 vehicle movements in the weekday AM peak hour, 42 vehicle movements in the PM peak hour and a total of 368 two-way vehicle trips across the 12-hour day. This equates to an average one additional vehicle movement every 90 seconds on average.

6.127 Junction capacity modelling has been undertaken on the Site access junction confirming that the junction will operate well within capacity in all assessed scenarios and the impact of the proposed development is shown to be negligible.

6.128 On the basis of the above it is concluded that the proposed development would not have a 'severe' residual impact on the operation of the local highway network with reference to Paragraph 116 of the National Planning Policy Framework.

vi) Flooding and Drainage

6.129 A Drainage Strategy and Statement has been prepared by Ardent which outlines the surface water and foul drainage for the Site. The report concludes that the Site is located entirely within Flood Zone 1 and is at low risk of flooding from all sources.

6.130 The proposed surface water drainage strategy for the Site demonstrate a system of sustainable drainage and attenuation features to provide sufficient attenuation storage within the Site during the 1 in 100-year storm event +45% allowance for climate change.

6.131 Foul drainage from the development will discharge to a private packaged pumping station, prior to discharging into the existing Southern Water public sewer in the main highway.

6.132 In conclusion, this document demonstrates that the proposals are consistent with the aims of the NPPF, the Planning Practice Guidance to the NPPF and local planning guidance. The Site will not be at significant risk of flooding or increase the flood risk potential to others.

vii) Ecology

6.133 An Outline Ecological Impact Assessment (OEIA) has been prepared by Lloyd Bore to identify the potential for protected habitats and species present in relation to the proposed development and to provide a baseline assessment of current site conditions and provide recommendations.

6.134 As a result of the findings of the OEIA, further surveys are currently being undertaken for botany/habitats, reptiles, breeding birds, bats and Hazel Dormouse. Further survey results and an impact assessment will be provided during the course of the 2025 survey season.

6.135 The illustrative design and landscaping proposals for the Site incorporate ecological mitigation and habitat enhancement measures that minimise any significant adverse effect on these features during the construction phase and provide biodiversity net gain.

viii) Arboriculture

6.136 An Arboricultural Impact Assessment has been prepared by Down to Earth and includes a Tree Protection Plan and Arboricultural Method Statement. The report concludes that to facilitate the development it will be necessary to remove 12 trees or groups, all of which are Category C, and therefore low-quality specimens and have limited landscape and arboricultural value. As such, the removal of the trees will not have a significant impact on the appearance of the local landscape.

6.137 In addition, Group G2 is to be partially removed in two sections to facilitate the primary vehicular access and emergency access. The remainder of the group is to be retained, maintaining its screening and boundary functions where possible.

6.138 Furthermore, a Tree Root Protection Plan will be implemented and maintained during the course of development to ensure the retained trees are incorporated into the final layout.

6.139 The Illustrative Layout has sought to retain higher value trees, and incursions into retained RPAs are limited and manageable with standard mitigation measures. The development is therefore considered acceptable from an arboricultural standpoint.

x) Archaeology

6.140 An Archaeological Desk-Based Assessment has been prepared by RPS and submitted as part of this application.

6.141 There are no designated archaeological assets within the Site. Therefore, the proposals will not impact on any designated archaeological assets. Based on the information within the KHER, supplemented by historic mapping, LiDAR and Satellite Imagery and documentary research, the Site is considered to have high potential for remains dating to the Post Medieval and Modern period and low potential for remains dating to Prehistoric, Roman, Earyl Medieval and Medieval periods.

6.142 Historic map regression shows the presence of former field boundaries within the Site. The Site itself has changed little from at least the mid-19th century to the present day. The Site visit conducted as part of this assessment also identified the remains of a probable former quarry in the northern part of the woodland within the Site, though the date of it is uncertain.

6.143 On the basis of available evidence, it is considered that the proposed development accords with current legislation and the planning policies contained within the NPPF. Any surviving remains it is considered that the archaeological interest of the Site could be suitably mitigated by undertaking archaeological investigations secured via condition following development consent.

xiii) Contamination

6.144 A Phase 1 Preliminary Risk Assessment has been prepared by Idom and submitted in support of this application. The report identified a number of potential sources of contamination and recommended intrusive site investigation.

xiv) Section 106 Heads of Terms

6.145 The Council has not adopted a CIL levy and accordingly S106 Contributions will be sought. It is anticipated that Section 106 contributions may include contributions or agreements towards highways improvements, education, healthcare and other community uses.

7.0

PLANNING BALANCE AND CONCLUSION

ESQUIRE
DEVELOPMENTS

7.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that the determination of planning applications must be made in accordance with the Development Plan unless material consideration indicates otherwise.

7.2 Whilst this application seeks a departure from the Development Plan, it does so on the basis that the corresponding housing policies are 'out of date' and preventing the Local Planning Authority to meet its housing need.

7.3 The Site is located wholly within the Green Belt, however as demonstrated in Section 6 of this Planning Statement the Site constitutes 'Grey Belt' land, as defined in Annex 2 of the NPPF (2024). Development of homes in the Green Belt should not be regarded as inappropriate where it utilises Grey Belt land and meets all the tests set out within Paragraph 155 of the NPPF. This Statement determines that the proposed development meets **all** these tests and is therefore **not inappropriate** development in the Green Belt.

7.4 As such relevant test for granting planning permission is no longer Paragraph 153. Footnote 55 confirms that the requirement as set out in Paragraph 153 to *"ensure that substantial weight is given to any harm to Green Belt, including harm to its openness"* **does not apply**.

7.5 Therefore, the relevant test for granting planning permission is Paragraph 11(d)(ii), which sets out a presumption in favour of granting planning permission.

7.6 This Planning Statement has demonstrated that the housing shortfall across Gravesham Borough is significant and persistent. In such situations, Paragraph 11d) of the NPPF should be engaged and the application approved unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits.

7.7 This Planning Statement has also demonstrated that proposed development is in keeping with the principles of sustainable development and will deliver a wide range of economic, social and environmental benefits.

7.8 The sensitive, and thoughtful landscape led design will ensure that the proposed development integrates well into its surroundings. The generous open space provision forms an important part of the masterplan, providing critical green infrastructure in the form of amenity and play provision, landscape buffers and the enhancement of biodiversity.

7.6 The proposed development will make a significant and effective contribution towards meeting housing needs, in a Borough that is currently unable to meet its housing requirements. It will also provide much needed affordable homes. The development will create a balanced and vibrant community whereby residents are not solely restricted to using the car.

7.7 The development proposals provide a significant number of benefits which should be weighed in favour of granting permission. These include the following:

- Provides much needed market and affordable homes for local people in a sustainable location;
- Provides a high-quality scheme of an appropriate scale and nature to the existing environment;
- Will make efficient and effective use of a site;
- Will positively address Climate Change by bringing forward an all-electric development by way of a fabric first approach and Air Source HEAT Pumps (i.e. no gas Boilers). The overall effect will be approximately 50% in carbon reduction over and above current Building Regulations;
- Is being brought forward by a SME;
- Will add choice of housing to the market;
- Will support the growth of the economy;
- Will result in beneficial impact to the landscape features through new and managed planting;
- Will be sensitively designed to respect the local ecology and biodiversity of the Site and protect and enhance the local ecology via enhancements to the natural landscape;
- Would not have a severe impact on existing highways and drainage infrastructure.

7.8 The supporting documents and plans submitted as part of this application have demonstrated that the proposal represents a high-quality sustainable development that accords with the relevant planning policies of the Development Plan and other material considerations including the NPPF and, as such, that the proposal should be supported.

APPENDICES

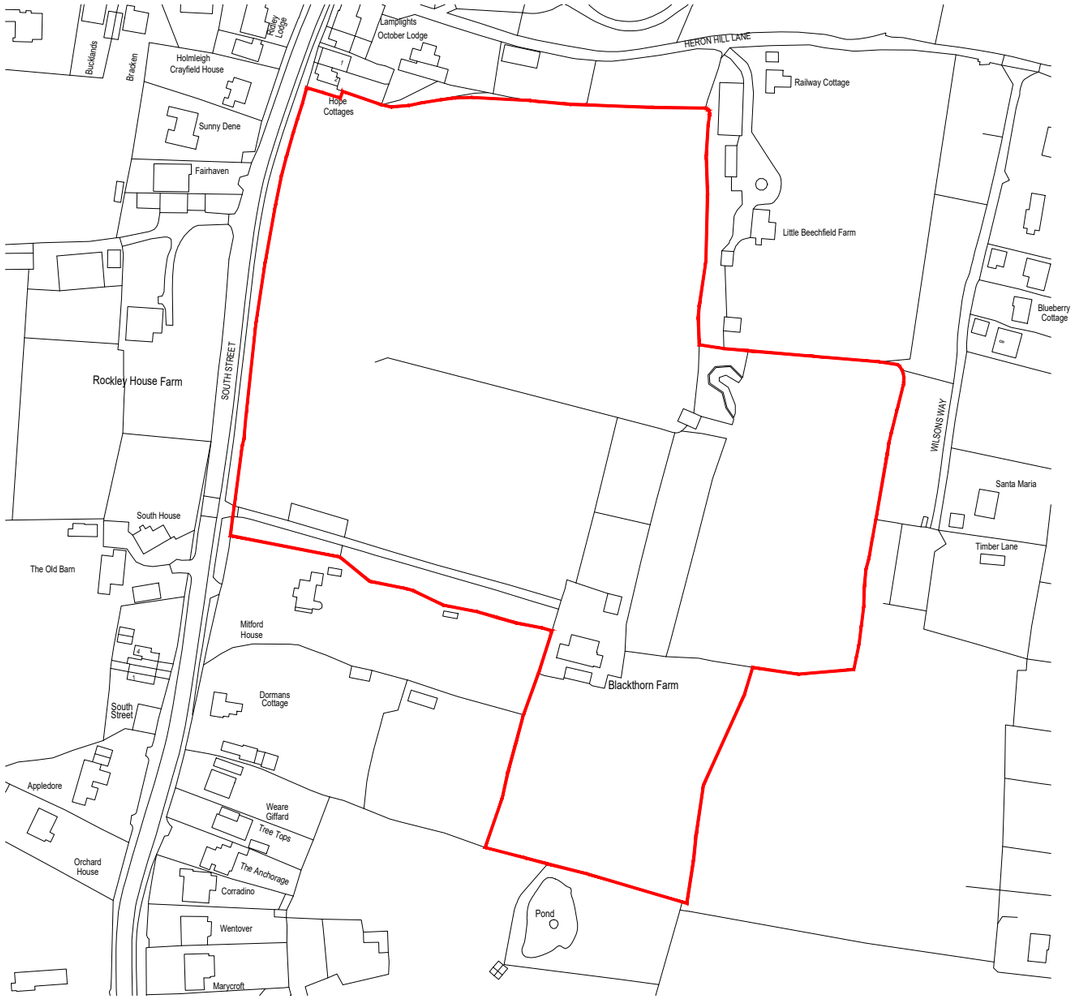
ESQUIRE
DEVELOPMENTS

APPENDIX A

Site Location Plan Drawing

ESQUIRE
DEVELOPMENTS

Esquire Developments



NOTES:

Report all discrepancies, errors and omissions.

Verify all dimensions on site before commencing any work on site or preparing shop drawings.

All materials, components and workmanship are to comply with the relevant British Standards, Codes of Practice, and appropriate manufacturers recommendations that from time to time shall apply.

For all specialist work, see relevant drawings.

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Rev	Date	Description

Project Title

Proposed Residential Development at Blackthorn Farm, Culverstone Green

Drawing Description

Site Location Plan

Scale	Drawn by
1:2500 @ A3	JS
Date	Checked by
February 2025	TWM

CLAGUE ARCHITECTS

62 Burgate, Canterbury
Kent CT1 2BH
01227 76206

1 Kinsbourne Court, Luton Road,
Harpenden, Hertfordshire Al5 3BL
01582 76510

8, Disney Street
London SE1 1JF
0203 597 611

CANTERBURY LONDON HARPENDEN

Drawing Number	Revision
23557B / 01	-

0 25 50 75 100 200m

Scale 1:2500

Proposed Residential Development, Land at Blackthorn Farm

APPENDIX B

The Role of SMEs

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DEVELOPMENTS

THE ROLE OF SMEs

1.1 This statement set out the importance currently being placed by successive Central Governments on the role of Small to Medium Enterprises (SMEs) in the housebuilding Industry and demonstrates the vital role SME Housebuilders, who have been described as being of 'National Importance' and 'the back bone of house building in the UK', will play in complementing volume housebuilders to deliver Local and National housing requirements.

A. *The Previous Conservative Government's Position on SME'S*

i) Building More Homes – July 2016

1.2 The Government has made it clear that it is committed to increase housebuilding to deliver 300,000 homes per year by the mid 2020's. The target figure of 300,000 homes per year comes from a recommendation in the House of Lords Economic Affairs Committee report, 'Building More Homes', published in July 2016[1]. The figure takes into account estimated population change but also to address the backlog created by the failure to build enough homes over many years. All the main political parties have accepted the 300,000 dwelling per annum figure.

1.3 Statistics monitoring completions across the UK (gov.uk) confirm Housebuilding has not achieved this level of growth since 1977-78 (314,090 dwellings – Live_Table 109) and in 2017-18[2] only 222,194 dwellings (Live_Table 122) were completed. Whilst this is an increase since 2012-13 (124,722 completed dwellings), this is still well short of the 300,000 dwelling target.

ii) Home Builders Federation – January 2017

1.4 In January 2017, the Home Builders Federation prepared a research paper titled 'Reversing the decline of small housebuilders: Reinvigorating entrepreneurialism and building more homes'[3]. This document highlighted a number of facts, inter alia:

- In 1988, small builders were responsible for 4 in 10 new build homes (40%). Today it is just 12%.
- In 1988, 12,000 SMEs were building houses. In 2017, this figure was only 2,500 SMEs.

[1] https://publications.parliament.uk/pa/ld201617/ldselect/ldeconaf/20/20.pdf
[2] 2018-19 data is not yet complete.
[3] https://www.hbf.co.uk/documents/6879/HBF_SME_Report_2017_Web.pdf

- The average permissioned housing scheme has increase in size by 17% since 2007, suggesting many allocated sites are out of reach for smaller companies.
- Small sites are consistently efficient in their delivery.
- Delay and risk during the planning stage has influenced lender attitudes to housebuilding meaning terms SMEs borrow on are restricting growth opportunities.
- In 2007-2009, 33% of small companies ceased building homes.
- Returning to 2007 home builder levels could see housing supply boosted by 25,000 dwellings per year.

1.5 The HBF report attributes the reasons for the decline in SMEs has been for two principal reasons:

1. A long-term trend following landmark planning legislation in 1990 which tipped the balance of control significantly further away from entrepreneurial home builders to LPAs; and,
2. The above long-term trend compounded by the Global Financial crisis in the late 2000s when the availability of development finance became a concern.

1.6 The report continues that '*the above effects are further compounded by the availability of suitable housing sites and the constant struggle of securing an implementable planning consent through the planning process beset by delays and bureaucracy. These delays and associated costs have tangible impacts on SMEs and their ability to grow. Whilst larger companies can mitigate risk across a number of sites, small firms encountering delays on one or two sites will be the difference between a year of growth and a year of contraction'.*

iii) White Paper – February 2017

1.7 The release of the Government's White Paper in February 2017 titled 'Fixing our Broken Housing Market'[4] only reinforced the concerns about the lack of SMEs building Houses. The Report identified 3 main problems and described the housing market as 'broken', blaming the supply shortage, "*for too long, we haven't built enough homes*". The three problems were identified as:

1. Not enough local authorities planning for the homes they need;
2. House building is simply too slow; and,

4 https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/590464/Fixing_our_broken_housing_market_-_print_ready_version.pdf

3. The construction industry is too reliant on a small number of big players. (our emphasis)

1.8 The white paper outlined the Government's plans to change ('fix') the market. It called for '*a new approach to house building that included: building homes based on need; building homes faster; diversifying the house building market; and by making it more affordable for people to buy homes*.' (our emphasis)

1.9 The White Paper was clear that the Government intends to open the housing market to smaller builders and those who embrace innovative and efficient methods.

iv) House of Lords Debate – January 2018

1.10 On 11 January 2018, the House of Lords debated 'Housebuilding in the UK'[5] and noted the performance of the UK's major house builders. The debate acknowledged the 2017 HBF report and focussed on the HBF suggestion that part of the practice of local authorities focusing on larger sites with a very high number of units may be counterproductive. The debate acknowledged '*that while it may be efficient in strong market areas, it is inefficient in weaker market areas. While the NPPF has been lauded for increasing the number of planning consents, it is argued that the number of sites permissioned, in areas of need, remains short of where it needs to be.*

v) Revised NPPF – July 2018

1.11 The manifestation of the above discussions set about the introduction of a new approach within the revised NPPF 2018[6], which sought to encourage the use of smaller sites and the requirement that 10% of the housing requirement on sites no larger than 1ha should be identified. The 10% target and 1ha was amended from the consultation version suggestion 10% of 'allocations' and only 0.5ha sites. The increase acknowledged the greater variety of sites SMEs are attracted to.

[5] https://researchbriefings.parliament.uk/ResearchBriefing/Summary/LLN-2018-0001#fullreport
[6] https://webarchive.nationalarchives.gov.uk/20181206183454/https://www.gov.uk/government/publications/national-planning-policy-framework--2

vi) Letwin Independent Review of Housing Build Out Rates – October 2018

1.12 In October 2018, Sir Oliver Letwin issued his final 'Independent Review of Build Out'[7] report and recommendations on how to close the significant gap between the number of housing completions and the amount of land allocated or permissioned on large sites in areas of high housing demand.

1.13 Whilst the main body of the report focussed on the perceived issue of land banking, Sir Oliver Letwin identified that the *'build out rate' on small sites is intrinsically likely to be quicker than on large sites; (to take the limiting case, a site with just one house will take only as long as required to build one unit).'*

vii) Homes England Strategic Plan 2018-2023 – October 2018

1.14 In October 2018, Homes England released its 5-yr '*Strategic Plan 2018-2023'* [8] plan to detail how it will improve housing affordability, helping more people access better homes in areas where they are needed most. The plan outlines their ambitious new mission and the steps that they will take, in partnership with all parts of the housing industry sector, to respond to the long-term housing challenges facing the country.

1.15 The Strategic Plan goes to some lengths identifying the decline in SME housebuilders and the result being the house building market is increasingly made up of a small number of house builders, meaning there is insufficient diversity, competition and capacity. The report continues:

> ***There are a number of barriers preventing smaller builders from delivering a greater number of homes including: a lack of development finance; a land market weighted in favour of larger builders; and a complex planning system.***
>
> ***This is why we'll create a more resilient and competitive market by supporting smaller builders and new entrants. In addition, Homes England***

[7] https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/752124/Letwin_review_web_version.pdf
[8] https://www.gov.uk/government/publications/homes-england-strategic-plan-201819-to-202223

will work with house builders to promote better design and higher quality homes.

1.16 Driving Market Resilience has therefore been identified as a key priority for homes England. This includes access to finance but crucially where HE own sites which are too large to be developed by smaller builders, they will look for opportunities to create smaller parcels which better suit their capacity. They will achieve this improving opportunities for smaller builders to access land, and introduce simpler tender and legal documents on smaller sites to make the bidding process easier.

1.17 Furthermore, the strategic report looks beyond the immediate 5-yr plan and identifies a longer term priority to explore opportunities for, inter alia, removing the planning burdens faced by smaller builders on more complex sites.

viii) House of Commons Briefing Paper – December 2018

1.18 On 12 December 2018, a House of Commons Briefing Paper titled '*Tackling the Under-Supply of Housing in England'*[9] was released. The report addressed all facets of factors influencing the delivery of new homes and addressed in detail 'Support for SME Developers'.

1.19 The Briefing paper recognised the barriers to delivery and the impact that competition for land has on SMEs. The report states that '*While there is sufficient land to build on, land is scarce in economic terms as its supply is inherently limited and fixed. This leads, it is argued, to developers having to undergo 'fierce' competition for land "while remaining uncertain as to what planning permission they will be able to secure." The price of land is certainly viewed as a barrier to housebuilding. The gain in value that planning permission offers is said to encourage strategic land trading, rather than development, resulting in the most profitable beneficiaries of residential development being the landowner, not the developer. High land prices can, in turn, force down the quality and size of new homes and present difficulties for small and medium sized enterprises (SMEs) when seeking to compete for sites to develop.'* (our emphasis)

1.20 The Briefing Paper further acknowledged the over reliance on a small number of developers and considered that '*This concentration of market power is felt to inhibit competition and can exacerbate the impact of market shocks when all the large firms simultaneously reduce output'*.

[9] https://researchbriefings.parliament.uk/ResearchBriefing/Summary/CBP-7671#fullreport

1.21 The briefing paper recognised that housebuilding requires considerable up-front investment, meaning that *'in most cases, new housing developers need access to finance. For the housebuilding industry, a particular concern is access to finance for SME developers. The Aldermore Group, a bank specialising in finance to small businesses, have stated: …smaller developers continue to struggle with access to finance, with a recent industry survey showing that more than 50,000 construction and real estate firms have begun the year in 'significant' financial distress…unless more is done by lenders to increase funding to smaller regional developers, the potential for the industry to reach… [the Government's house building target]…will be less likely.'*

1.22 Problems accessing finance can have an impact on house builders' ability to produce high quality housing, as well as on the overall capacity of the house building industry. As far back as the Budget 2014 a commitment was made to support SME access to finance with the government creating a £500 million Builders Finance Fund to provide loans to developers to unlock 15,000 housing units stalled due to difficulty in accessing finance. In July 2015, the then Housing Minister announced that the Fund would be extended. The Spending Review and Autumn Statement 2015 further extended the £1 billion Fund to 2020/22. In October 2016 the launch of a £3 billion Home Building Fund under which builders, including SME builders, can obtain loan finance to assist with development costs and infrastructure work was established.

1.23 The Autumn Budget 2017 announced a further £1.5 billion for this Fund "providing loans specifically targeted at supporting SMEs who cannot access the finance they need to build. The 2017 Budget also said: "The government will explore options with industry to create £8 billion worth of new guarantees to support housebuilding, including SMEs and purpose built rented housing.

1.24 The briefing continues that SME developers are less able to withstand market shocks. This is illustrated by the fact that their share of total housing starts declined after each of the last two house price crashes (as quantified in the 2017 HBF report). A factor that would reduce risk and improve confidence in the development process is house price stability.

ix) Revised NPPF - February 2019

1.25 In February 2019, the latest version of the NPPF[10] was released. This continues the March 2018 version in respect of the desire to encourage smaller sites to come forward in the plan led system. Paragraph 68 of the NPPF 2019 states:

> 68. Small and medium sized sites can make an important contribution to meeting the housing requirement of an area, and are often built-out relatively quickly. To promote the development of a good mix of sites local planning authorities should:
>
> a) identify, through the development plan and brownfield registers, land to accommodate at least 10% of their housing requirement on sites no larger than one hectare; unless it can be shown, through the preparation of relevant plan policies, that there are strong reasons why this 10% target cannot be achieved;
>
> b) use tools such as area-wide design assessments and Local Development Orders to help bring small and medium sized sites forward;
>
> c) support the development of windfall sites through their policies and decisions – giving great weight to the benefits of using suitable sites within existing settlements for homes; and
>
> d) work with developers to encourage the sub-division of large sites where this could help to speed up the delivery of homes.

1.26 The NPPF makes it clear that that small and medium sized sites can make an important contribution to meeting housing requirements in an area. To this end and to encourage small and medium sites, para 68 (a) seeks that 10% of small sites no larger than 1ha should be identified.

1.27 WDC needs to respond to this guidance in a proactive way. As detailed above, due to the competition for SMEs to enter the market it is likely that sites being promoted by SMEs will fall into Rural Service Centres or smaller villages away from the main urban areas or areas perceived as having the greatest accessibility. In this respect, paragraphs 77 and 78 (Rural Housing) of the NPPF complement paragraph 68 insofar that they recognise that planning policies need to be responsive to local circumstances and support housing development that reflects local needs. Para 77 continues that to support opportunities for affordable housing,

10 https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/810197/NPPF_Feb_2019_revised.pdf

some market housing should be considered to facilitate this. Para 78 further supports that housing should be located where it will enhance or maintain the vitality of rural communities. Policies should identify opportunities for villages to grow and thrive.

1.28 Small and Medium sized sites can make a valuable contribution to these locations principally because the approach of SMEs is more flexible than a volume housebuilder and therefore can at a scale and quality that reflect the characteristics of village locations.

x) Speech by Minister of State for Housing, Esther McVey – September 2019

1.29 Most recently, in September 2019, the Minister of State for Housing, Esther Mcvey gave a speech[11] at the convention for the residential property sector. Alongside reaffirming the commitment to 300,000 homes per annum, reference was made to improving the quality of housing and posed the following point '*and what about the jobs and the careers to build all these homes, we need to think about that. We need to be opening up this house building to SME's, bringing them onboard, bringing it to communities, bringing it to the self-build and bringing in modern methods of construction.'*

xi) Statement of Minister of State for Levelling Up, Housing and Communities – July 2023

1.30 In July 2024, the SoS spoke to the long-term plan for housing. Within this statement, the SoS committed to a new era of regeneration, inner-city densification and housing delivery across England, with transformational plans to supply beautiful, safe decent homes in places with high-growth potential in partnership with local authorities.

1.31 In addition to targeted action in a few high-potential areas, the government's plan delivers a package of reforms to unleash building on underused sites in high-demand regions. As part of the package of reforms, the SoS states that development should proceed on sites that are adopted in a Local Plan with full input from the local community, unless there are strong reasons why it cannot. Local Councils should be pragmatic in agreeing changed to developments where conditions mean that the original plan may no longer be viable, rather than losing the development wholesale or seeing development mothballed.

[11] https://www.gov.uk/government/speeches/resi-convention-2019

1.32 Furthermore, the SoS encouraged the better use of small pockets of brownfield land by being more permission, so more homes can be built more quickly, where and how it makes sense, giving more confidence and certainty to SME builders.

xii) Revised NPPF – December 2023

1.33 In December 2023, the NPPF was further revised[12]. This continued the previous iterations of the NPPF in respect of the vision to encourage smaller sites to come forward through the plan-making system. The updated para 70 continues to make clear that small and medium sized sites can make an important contribution to meeting housing needs in an area. Para 70 goes on to seek that 10% of small sites are no larger than 1ha should be identified. The revised NPPF adds another requirement for:

"e) work with developers to encourage the sub-division of large sites where this could help to speed up the delivery of homes."

1.34 It is recognised that the delivery of smaller sites can address the immediate housing crisis in the short term. It is understood that smaller sites can come forward quickly, developed by local SMEs with a vested interest in delivering the site within a short timeframe. The larger strategic sites take significant time to be promoted through the Plan-making stage, as well as through the application stage, ensuring the infrastructure requirements to support large scale developments are fully considered before development can commence.

vi) Revised NPPF – December 2024

1.35 In December 2024, the NPPF was revised by the recently elected Labour Government[13]. The revised NPPF was introduced following the wide range of changes proposed by the Labour Party throughout their election campaign. This includes but is not limited to, a requirement for all Council's to meet their housing requirement, as calculated via the amended Standard Method unless 'hard constraints' such as flood risk demonstrate that it is not possible. As a result of the amended methodology for calculating housing need, the yearly housing target across the Country has increased to 370,000 homes per annum.

[12] https://assets.publishing.service.gov.uk/media/65a11af7e8f5ec000f1f8c46/NPPF_December_2023.pdf
[13] https://www.gov.uk/government/publications/national-planning-policy-framework--2

1.36 A significant change as part of the 2024 revised NPPF is the removal of the amendments published within the 2023 revised NPPF. This includes the removal of 4-year housing land supply.

1.37 Furthermore, in an attempt to mee their housing need, the Government have introduced the concept of Grey Belt, whereby poorly performing Green Belt is deemed appropriate for development, where it meets the identified 'golden rules' of the NPPF, i.e. 50% affordable housing.

1.38 There is a clear drive from Government to increase house building cross the country, improve affordability through the building of 370,000 homes per annum, with a particular focus on delivering affordable homes.

B. *Pace of Delivery of an SME*

1.39 SME's help diversify the market and deliver choice and quality, but they can also deliver at a quicker pace than larger sites. This means that by supporting SME's into the housing market, LPAs can strengthen its Housing Delivery and ensure a steady supply of deliverable sites.

1.40 Typically, Esquire Developments aim to take no more than 6 months from receipt of detailed consent to start on site.

1.41 The SME business model is usually set up differently to volume housebuilders. SME's are more flexible in matters such as design and landowner negotiations. In addition, SME's also try to limit their financial risk/exposure. As a result, there are a number of factors that that affect an SME's approach to delivering a site. This includes:

1. Cash Flow
    - SMEs tend not to land bank as a return on their financial exposure/risk is critical to maintaining a profitable business. In this respect Cash Flow is critical and due to the time lag involved in the return of funds from a development (i.e. once homes begin to be sold), it is essential SMEs seek to reduce the time taken from the point of receiving a planning permission to the point of the sale of a house. This means once an implementable planning consent is secured, SMEs commence as quickly as possible to start on site. Larger PLCs can better carry this risk through multiple sites

and numerous pipeline of completions - whereas SME's will have fewer outlets and therefore less regular returns in this respect.

2. Infrastructure Requirements
    - Infrastructure requirements on small to medium sized sites are less onerous. This means discussions/contracts with utility providers are less complicated and time taken to implement the required infrastructure is less allowing this element of the build to be quicker.

3. Land Negotiations
    - Often small and medium sized sites have fewer legal complications. This includes fewer land registry titles and fewer landowners and as a result fewer negotiations/legal complications that larger sites or larger PLC companies require. This often makes the 'land deal' more straightforward and thus quicker.

4. Flexibility in Product and Process
    - Due to an SME's flexible approach to design quality and that standard house types tend not to be adopted, SME's have the ability to be more flexible when it comes to product choices. This not only allows the SME to offer a variety of product or specifically address local characteristics/design requirements, but it also means the SME can respond quickly to any delays or changes to the supply. This is mainly due to the decision makers being involved in the process and being 'hands-on'. As a result, there is a less hierarchal structure and decisions can be made quickly and efficiently – again reducing time.

5. Working relationships
    - SMEs tend to work with a close number of trusted consultants and suppliers who also tend to be SMEs. This not only ensures quality of service and product but allows for open communication when it comes to availability of supplies and delivery of products. This means any potential delays are anticipated and the ability to successfully work through solutions. In addition, the sale of the dwellings tends to be on a more bespoke basis meaning the dialogue and communication between SME and Buyer is also on an open and communicative basis.

6. Sales Rates

- Once construction has commenced, completion rates, which follows sales rates matches the market demand and therefore an SME can build out at the same pace as larger volume housebuilders who adopt the same approach.

1.42 Whilst there is little literature addressing the delivery of small sites, there is a significant amount relating to the delivery of large-scale sites. Nathaniel Litchfield & Partners (NLP) produced a research paper titled 'Start to Finish – How quickly do large-scale housing sites deliver? (November 2016)'[14]. The report recognised that '*Large-scale sites can be an attractive proposition for plan-makers. With just one allocation of several thousand homes, a district can – at least on paper – meet a significant proportion of its housing requirement over a sustained period……. But large-scale sites are not a silver bullet. Their scale, complexity and (in some cases) up-front infrastructure costs means they are not always easy to kick start. And once up and running, there is a need to be realistic about how quickly they can deliver new homes'*.

1.43 The report continues that '*past decades have seen too many large-scale developments failing to deliver as quickly as expected, and gaps in housing land supply have opened up as a result'*. NLP suggest that if authorities' Local Plans and five-year land assessments are placing reliance on large-scale developments, including Garden Towns and Villages, to meet housing need, then "*the assumptions they use about when and how quickly such sites will deliver new homes will need to be properly justified."*

vii) Revised NPPF – July 2021

1.44 The NPPF was revised in July 2021[15] to accommodate a number of changes. This included a change in emphasis to good design and how good design was fundamental to what the planning and development process should achieve. Furthermore more, it confirmed development that is not well designed, should be refused and conversely, significant weight should be given to developments which reflect local design policies and/or promote high levels of sustainability or help raise the standard of design more generally in an area. SME's as well placed in this regard to meet these challenges successfully.

1.45 The updated NPPF also amended the numbering of paragraph 68 to paragraph 69, but made no text changes to the 2019 version.

[14] https://lichfields.uk/media/1728/start-to-finish.pdf
[15] https://www.gov.uk/government/publications/national-planning-policy-framework--2

viii) The Bacon Review (August 2021)

1.46 In August 2021, the Prime Ministers Independent Review into scaling up self build and custom housebuilding was published[16]. Led by Richard Bacon MP. Whilst primarily dealing with recommendations to government on how to support growth in all parts of the custom and self build market, helping to boost capacity and overall housing supply in our housing market, the review touched on the plight of smaller building firms.

1.47 The report outlined how smaller firms now account for only 12% of new housing stock and '*have been largely squeezed out by very big companies who can afford the time and cost involved in negotiating a path through the complex thickets of the planning system'.*

1.48 The review continues that *the SME sector has nearly been destroyed as a direct consequence of a regulatory environment which is both exceptionally complex and fraught with risk, so that the gaining of planning consents requires both very deep pockets and the ability to bear significant risks over very long periods of time.*

ix) Meeting Housing Demand, House of Lords Select Committee (January 2022)

1.49 In January 2022, the House of Lords Select Committee released its report 'Meeting Housing Demand[17]. A series of recommendations to Government about addressing housing demand. This included recommendations on the planning system as well as the role of SMEs (Chapter 4). The report confirmed:

> *'In this report, we call on the Government to take action and remove the administrative and other blockers which, at present, make increasing the number of homes built much more difficult. We recognise that these challenges play out differently across the country as a whole. London and the South East face different challenges to other regions, as do those at different ends of the affordability scale.'*
>
> ***Small and Medium-sized Enterprises (SMEs)***
>
> *The role of SMEs in the housebuilding industry has collapsed: in 1988, SME housebuilders built 39% of new homes; now they build just 10%. If housing*

[16] https://www.gov.uk/government/publications/independent-review-into-scaling-up-self-build-and-custom-housebuilding-report
[17] https://committees.parliament.uk/work/1328/meeting-the-uks-housing-demand/publications/reports-responses/

demand is to be met, SMEs should be supported through reduced planning risk, making more small sites available, and increased access to finance. We also provide options for a fast-track planning process for SMEs to reduce delays and planning risk.

1.50 In terms of summary of conditions, in respect of SME's the report made the following:

SMEs

12. The role of SMEs in the housebuilding industry has seen a sharp decline: in 1988, SME housebuilders built 39% of new homes, by 2020 this had dropped to 10%. The Government should encourage SME housebuilders in order to diversify the market and maintain competition. (Paragraph 103)

13. Local authorities should support SME housebuilders to navigate the planning process. One focus of the Government's planning reforms should be to reduce planning risk by making decisions more predictable and reducing delays, which will benefit SMEs. The Government should work with local planning authorities to create a fast-track planning process for SMEs. (Paragraph 104)

14. Wider adoption of the 'master developer' model, where larger sites are built out by a number of different housebuilders, would help SME housebuilders bid for more secure developments. The Government should require local planning authorities and Homes England to increase the percentage of homes on larger sites each year which are built by SME housebuilders. (Paragraph 108)

15. Access to finance is one of the key barriers for SME housebuilders. The Government should work with lenders to encourage them to provide more support to SME housebuilders on commercial terms. (Paragraph 112)

1.51 In March 2022, the Government published its response to the report[18]. In response to matters relating to SME's, the Government responded in the following ways:

'We agree with the Committee that there remain some specific barriers to increasing housing supply. To alleviate these, we are continuing to drive up the supply of good quality new homes that people need and want, including by diversifying the market and supporting SMEs through the Government's Levelling Up Home Building Fund'

[18] https://committees.parliament.uk/publications/9234/documents/159940/default/

The Government wants to increase competition in the housebuilding market, supporting SME housebuilders to deliver the choice of housing consumers need and want in this country. We agree with the Committee's report that SMEs have a vital role in making the housing market more diverse, competitive and resilient, and we are committed to ensuring the right support is in place. SMEs have a vital role in training and retaining their workforce, including delivering apprenticeships.

As stated in the Committee's report (p. 43), Government is aware that historically the three main barriers SMEs identify as facing are planning, land and finance. We have put in place a package of measures, including financial initiatives to help SMEs grow and develop, such as the Home Building Fund and the ENABLE Build Guarantee scheme. The Home Building Fund will see up to £3 billion of funding or short-term development loans provided to SMEs, custom builders and developers using modern methods of construction. It has supported many new sector entrants, with two thirds of the SMEs who have utilised funding existing for less than three years. We have committed 91% of the initial £2.5 billion development finance allocated to the Home Building Fund, and 94% of contracted transactions are with SMEs, two-thirds of which had existed for less than three years when accessing the fund. Home Building Fund development finance is now expected to support close to 70,000 homes once fully committed.

Funding has contributed to interventions like the Housing Accelerator Fund, a lending alliance between Homes England and United Trust Bank which provides SMEs with development finance at up to 70% Loan to Gross Development Value, and the Housing Delivery Fund, set up with Barclays, which provides £1 billion of loan finance to help support small and medium sized developers, speeding up the delivery of thousands of new homes across England.

To build on the success of the Home Building Fund, we have now launched a £1.5 billion Levelling Up Home Building Fund. This will provide loans to small and medium sized builders and developers to deliver 42,000 homes, with the vast majority going outside London and the South East.

We welcome the Committee's suggestions on planning and land. The Government is considering how to best take forward proposals around changes to the planning system, including how they align with and support our wider mission to level-up the country and regenerate left-behind places. Within this, we are exploring further options to support prompt and faster build-out of sites as part of our proposed changes. These changes will support diversification by providing small builders with more speed and certainty in the planning process.

x) Levelling Up and Regeneration Bill: Reforms to National Planning Policy (Dec 2022) Consultation

1.52 In December 2022, the Government consulted on the 'Levelling-up and Regeneration Bill: reforms to national planning policy'[19]. This proposed a suite of amendments to the NPPF. Specifically, in relation to SME'S, the consultation made the following statement:

More small sites for small builders

10. Small sites play an important role in delivering gentle density in urban areas, creating much needed affordable housing, and supporting small and medium size (SME) builders. Paragraph 69 of the existing National Planning Policy Framework sets out that local planning authorities should identify land to accommodate at least 10% of their housing requirement on sites no larger than one hectare; unless it can be shown, through the preparation of relevant plan policies, that there are strong reasons why this 10% target cannot be achieved. The Framework also asks local planning authorities to use tools such as area-wide design assessments and Local Development Orders to help bring small and medium sized sites forward; and to support the development of windfall sites through their policies and decisions. Local planning authorities are asked to work with developers to encourage the sub-division of large sites where this could help to speed up the delivery of homes.

11. We have heard views that these existing policies are not effective enough in supporting the government's housing objectives, and that they should be strengthened to support development on small sites, especially those that will

[19] https://www.gov.uk/government/consultations/levelling-up-and-regeneration-bill-reforms-to-national-planning-policy/levelling-up-and-regeneration-bill-reforms-to-national-planning-policy#chapter-4--planning-for-housing

deliver high levels of affordable housing. The government is therefore inviting comments on whether paragraph 69 of the existing Framework could be strengthened to encourage greater use of small sites, particularly in urban areas, to speed up the delivery of housing (including affordable housing), give greater confidence and certainty to SME builders and diversify the house building market. We are seeking initial views, ahead of consultation as part of a fuller review of national planning policy next year. Alongside this, the government has developed a package of existing support available for SME builders, including the Levelling Up Home Building Fund which provides development finance and Homes England's Dynamic Purchasing System which disposes of parcels of land.

1.53 Two important questions were asked as part of the consultation:

Q.24 Do you have views on the effectiveness of the existing small sites policy in the National Planning Policy Framework (set out in paragraph 69 of the existing Framework)?

Q.25 How, if at all, do you think the policy could be strengthened to encourage greater use of small sites, especially those that will deliver high levels of affordable housing?

1.54 Notwithstanding the above, in December 2023 a revised NPPF was released that made no change to the position of SME Housebuilders. Shortly thereafter, a General Election was called and in July 2024, Labour won the majority of Parliament.

The New Labour Governments Position on SME House builders

1.55 A key component of Labours manifesto and pledge was that it would deliver 1.5 million new homes in the 5 year term and radically seek to overhaul the planning system. Labour recognises the important role housebuilding plays in the countries economic success and wants to get 'Britain Building again and deliver economic growth'. Alongside the planning and infrastructure bill a revised NPPF was consulted on and released in December 2024.

1.56 The consultation version was consulted on in September 2024. It provided positive steps towards improving the planning system and seeking to ensure homes were delivered. This included simplifying the plan making process. The consultation acknowledge the issue

surrounding SME Developers, but suggested that no immediate amendments to the NPPF were identified to be implemented at that time.

Revised NPPF – December 2024

1.57 The December 2024 NPPF did indeed make radical changes to the planning system. It introduced the concept of Grey-Belt, amended the standard methodology for calculating housing need and made those figures mandatory and sought to place greater emphasis on delivery of infrastructure, affordable homes and Local Plans.

1.58 As anticipated, the SME component was left unchanged.

1.59 However, in May 2025, a planning reform working paper relating to Site Thresholds was released. This consultation acknowledges the need to support SME's recognised the strength of feeling that current policy around smaller developments is not working for local planning authorities or SME developers. It further states:

> *The paper primarily explores the simplification of planning requirements for the smallest of sites and the introduction of a medium-sized site threshold within the planning system – in recognition of the particular needs of this scale of development. These changes aim to provide certainty to the sector, ensure the planning system is more targeted and proportionate across different scales of development, and help small and medium builders (SMEs) deliver the homes our communities need.*

1.60 The introduction continues:

> *SME builders play a crucial role in driving up housebuilding rates – by bringing diversity and competition to the market and supporting faster build out rates. SMEs build out the majority of small sites, which supports the efficient use of land, maximises opportunities for gentle densification, and responds to local housing needs. They also contribute to thriving, successful places through the provision of associated infrastructure which supports new development. That is why supporting SMEs forms a key pillar of the upcoming Long-Term Housing Strategy.*
>
> *However, this part of the sector has faced significant challenges in recent years – a third of SME developers have ceased operating over the last two decades, and the largest developers have become increasingly dominant – accounting for roughly 90% of volume growth. Recent analysis from the Federation of Master Builders (FMB) highlights ongoing*

challenges, with the proportion of planning permissions granted on sites with 1 to 9 units having steadily declined over the past 13 years, falling from 21% in 2010-11 to 9.3% in 2023-24 – a marked reduction from previous contributions by SMEs. Addressing this trend, reducing risks and costs, and removing barriers to entry is key to supporting the government's ambitions for a reformed housebuilding system, with SMEs playing a leading role.

1.61 Whilst the final outcome of the consultation is not yet know, there are a number of proposals which would seek to support the SME sector, including minor, small and medium size sites. The recognition of simplifying the process, reducing burden and costs is welcomed and long overdue. These reforms do represent a major step change in support of SMEs and if SMEs are to be the backbone of the housebuilding industry, need to be implemented and delivered.

C. ***Conclusion***

1.62 The role of SMEs has been fully recognised by successive Central Governments (both in the house of Commons and House of Lords) and the wider Industry (HBF, NLP) in how important their role is to helping deliver the now 1.5m homes in the next term target. Constraints to SMEs have been identified, including that the plan-led system is orientated away from encouraging SMEs into the market and access to finance.

1.63 The 2024 NPPF has some provision within it to specifically address this issue with a clear direction to Local Planning Authorities that 10% of all its housing requirements should be on sites that are 1ha or less i.e. approx. 35 dwellings and under per site. This is aimed at SME developers who deliver at or around this scale.

1.64 Most recently the Governments consultation to reforms small and medium size sites is welcomed and acknowledges the commitment to supporting SMEs and recognising their role in meeting housing demand.

The Kent SME Developers Network

June 2025

APPENDIX C

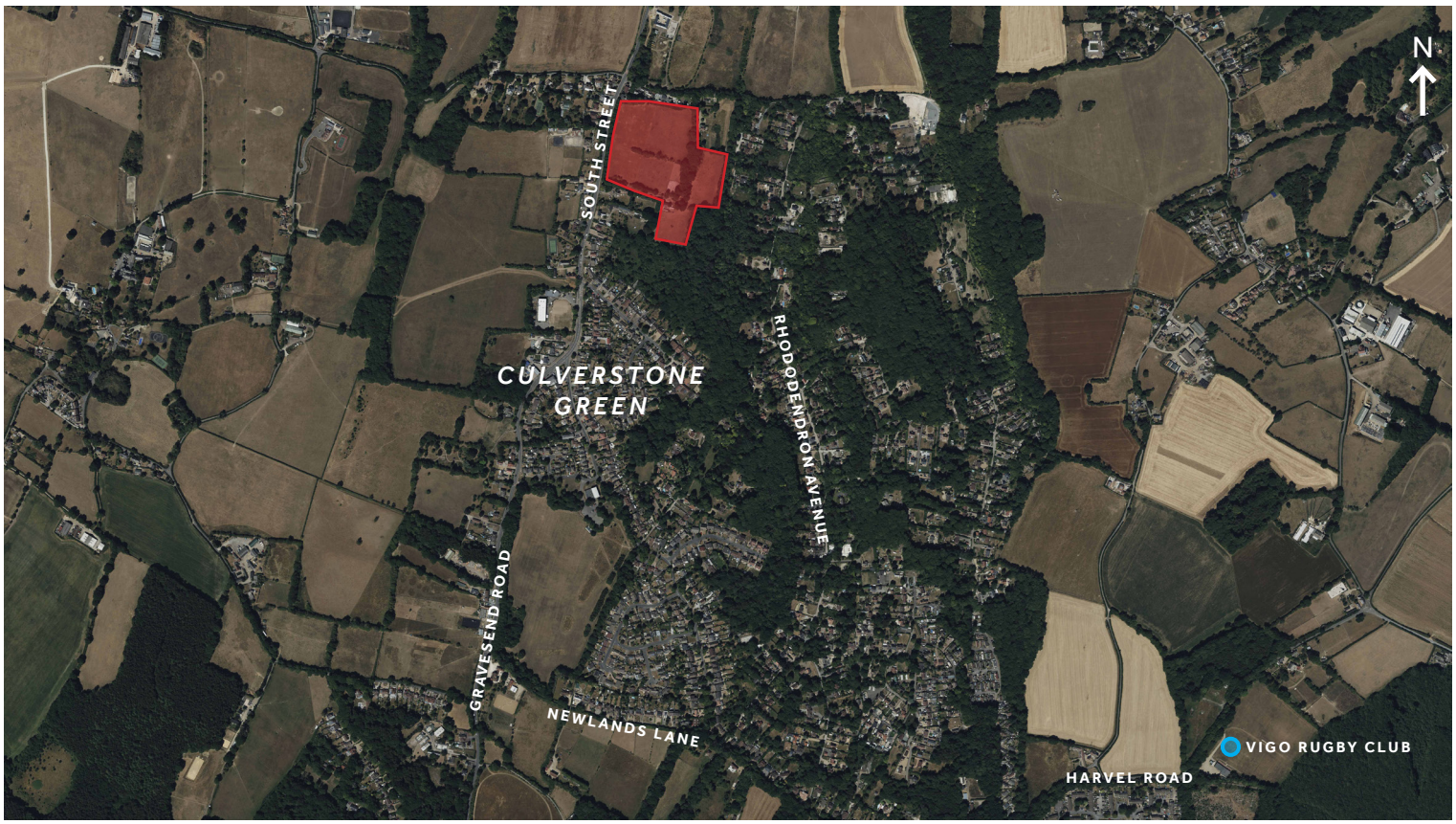
Public Exhibition Leaflet

ESQUIRE
DEVELOPMENTS

Blackthorn Farm, Culverstone Green

Public Consultation Event

ESQUIRE DEVELOPMENTS









Esquire Developments are hosting a public consultation for a residential development of up to 100 residential dwellings at the site known as Blackthorn Farm, South Street, Culverstone Green.

We would like to invite you to view the proposals, where we will present and explain our vision.

You are welcome to come and discuss any matters you have with Esquire Developments and their consultant team. Any feedback received will be taken into account and help shape the emerging designs.

If you are unable to attend the exhibition, the material will go live on our consultation website (on the day of the exhibition) where you will be able to view the material and provide feedback online at:

www.consult-esquire.com

The Event will be held at:

Vigo Rugby Club
Harvel Road
Meopham
Gravesend
DA13 0UA

Wednesday 26th March from 1pm to 7pm.

APPENDIX D

Public Exhibition Boards

ESQUIRE
DEVELOPMENTS

Introduction



Welcome to our exhibition for the emerging development proposals for land located at Blackthorn Farm, Culverstone.

This exhibition is an opportunity for us to present and explain our vision, which currently consists of an Outline application for up to 100 dwellings of which half will be affordable housing.

We have a number of representatives from Esquire Developments and our consultant team to discuss any issues or concerns you may have and to address your individual questions. We are keen to hear your feedback to help shape our proposals as we move forward. Comments can be submitted to us today via a paper form or sent to us by post or email: culverstone@esquiredevelopments.com by Friday 11th April 2025.

The material on display today is also available to download on our website, where comments can also be submitted online:

www.consult-esquire.com





CLAGUE ARCHITECTS

ESQUIRE DEVELOPMENTS

About Esquire Developments



Esquire Developments is a multi-award winning SME Housebuilder based in Longfield, Kent. Founded in 2011, we have established ourself through the delivery of high quality bespoke residential developments across Kent and build approximately 120 homes a year. In 2020, Whathouse awarded us Gold as best small Housebuilder and in 2024 Bronze as best medium Housebuilder.

We adopt a tailored approach, adapting designs and layouts to reflect local characteristics, respecting each community's unique needs. This is achieved through our local knowledge and experience, understanding of place, and crucially, engaging with local communities. This positively focuses our approach to planning and design, with a greater experience of the needs and workings of the parish.

Each of our developments is bespoke, and we do not have fixed house types. This allows us to be totally flexible when it comes to tailoring the right mix and design of each home. Revealed in the high-quality of architecture and materials, this ethos extends to the refinement of open spaces, establishing welcoming and inclusive environments.

As an SME Housebuilder reliant on our reputation, we deliver high-quality homes that bring choice and variation to the housing market, catering for a diverse range of prospective buyers. We are environmentally conscious and have committed to playing a positive role in addressing the Climate Emergency (see later boards). We also pride ourselves in delivering homes exceeding the minimum sizes and finishes that the general housing market sometimes supplies.







CLAGUE ARCHITECTS

ESQUIRE DEVELOPMENTS

The Site



The site is located to the North of Culverstone Green on South Street. It is less than 5 minutes walk from Culverstone Green Nursery / Primary school, and within 10 minutes walk to the most dense southern part of the village. The northern border of the site is lined with a number of commercial premises along Heron Hill Lane. A bridleway sits to the east of the site along Rhododendron Avenue.


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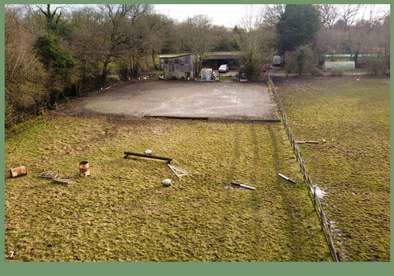
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CLAGUE ARCHITECTS

ESQUIRE DEVELOPMENTS

Our Approach to Climate Change



Fabric first approach to sustainability



Extensive Landscaping to benefit biodiversity



All houses to have an EV charging point



Air Source Heat Pumps installed in all homes





High Specification Glazed Windows



Electric Only Dwellings



Increased Cavity Wall Thickness



Natural material utilising local supply chains

We take a proactive approach to address the Climate Change emergency. We recognise that as a small housebuilder, we have an impact on the environment and we wish to minimise this as best we can. In this regard, we have committed to deliver 'electric only' developments, meaning we no longer provide homes with traditional gas boilers. Instead, we are presently installing air source heat pumps and alongside a 'fabric first approach' we are achieving approximately a 50% carbon reduction in our homes over and above current building regulations.

The fabric first approach means that the improved efficiency of our dwellings is inherent within the build. This means that not only is it is more efficient, but also that they are not features that can be easily (if at all) removed by future homeowners, resulting in the efficiency of the building being maintained for its lifetime. By way of example, we build our homes with greater cavity wall thickness allowing for increased thermal protection, higher specification glazed windows and greater base floor depths.

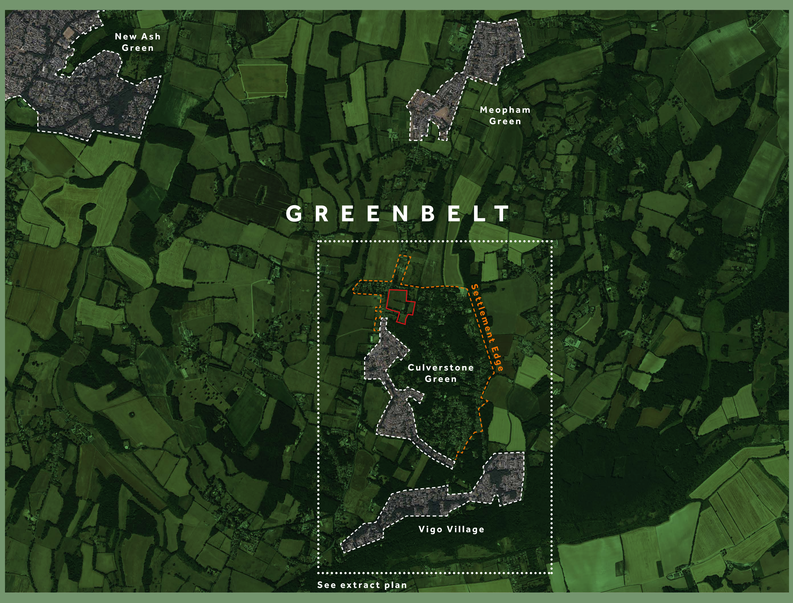
Coupled with the air source heat pumps and that all our homes come with rapid charge electric vehicle chargers, we feel that we are playing our part in trying to minimise the impacts of our developments on the environment and help accelerate the culture change in regard to greener living, reducing the amount of fossil fuels used by the home and vehicle.



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Why are We Here?



We are in the midst of a National Housing crisis. Put simply not enough homes are being built across the Country. Both the current and former Government committed to improving housing delivery and placed requirements on Local Planning Authorities to demonstrate they have at least 5 years' worth of housing land supply. Unfortunately, due to some significant constraints in Gravesvham, including Green Belt designations and complicated unviable Brownfield sites not being delivered, Gravesham Borough Council can only demonstrate 3 years worth of housing – a shortfall of 1,603 homes. This is exacerbating the housing crisis locally and results in unaffordability in the area.

In December 2024, responding to the housing challenges facing the Country, the Labour Government introduced a new national planning concept, known as 'Grey Belt'. This has been introduced to try and deliver more homes in sustainable locations which due to very strict Green Belt policy, have not previously been possible.

A Grey Belt site must meet certain criteria, including satisfying that it does not undermine certain 'functions' of the Green Belt and that any development coming forward meets the 'Golden Rules'.

Accordingly, the purpose of the guidance is to loosen Green Belt planning policy to enable Councils such as Gravesham to support appropriate 'Grey Belt' development and help the Council achieve its housing targets to meet local needs.

This site is considered to meet the requirements of the Grey Belt tests and proposes to accord with the Golden Rules – crucially delivering 50% of the development as Affordable Housing.

Gravesham Stage 2 Green Belt Study (2020) includes this Site as part of 2no. larger Parcels – CG2 and CG3 and concludes that it has limited or no contribution to Green Belt purposes a, b or d in relation to the Grey Belt

13. Protecting Green Belt land

142. The Government attaches great importance to Green Belts. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.

143. Green Belt serves five purposes:

a) to check the unrestricted sprawl of large built-up areas;

b) to prevent neighbouring towns merging into one another;

c) to assist in safeguarding the countryside from encroachment;

d) to preserve the setting and special character of historic towns; and

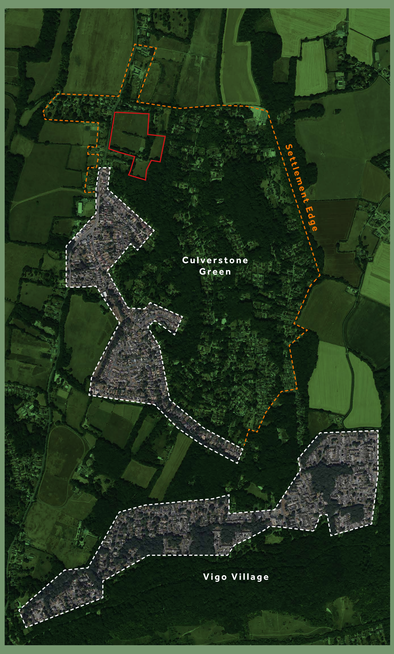
e) to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.

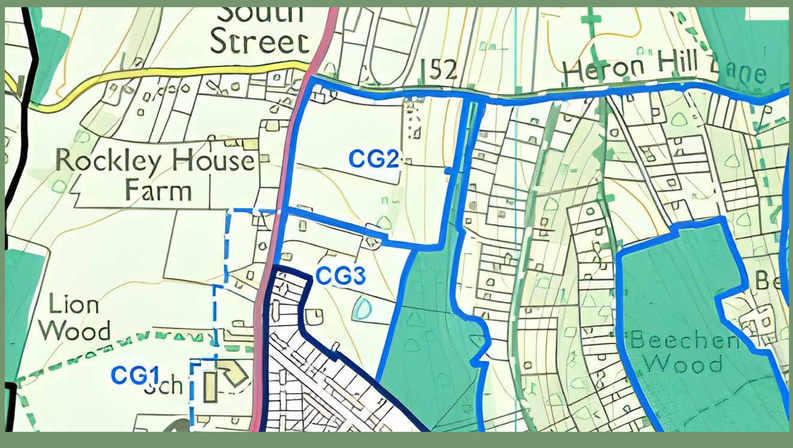
155. The development of homes, commercial and other development in the Green Belt should also not be regarded as inappropriate where all the following apply:

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 a demonstrable unmet need for the type of development proposed[54];

c. The development would be in a sustainable location, with particular reference to paragraphs 110 and 115 of this Framework[57]; and





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Opportunities & Constraints



The site is located to the north of Culverstone Village, lying to the east of the A227 Wrotham Road and south of Heron Lane. It is currently used as horse paddocks and access is located to the south of the site. The site is heavily screened by existing vegetation. Residential properties lie on each side of the site and a number of commercial uses are located to the immediate north of the site.

A number of constraints and opportunities are present which influence how development could come forward. The site slopes towards the south east where Ancient Woodland is located making it a natural location for open space and the Sustainable Urban Drainage Systems.





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Emerging Illustrative Layout



An Outline application is being prepared for up to 100 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 100 dwellings. Key features of the illustrative plan are as follows:

01 CENTRAL GREEN SPACE
Central green space at the heart of the proposals incorporating area of play.

02 OPEN SPACE & PLAY
Dedicated area open space incorporating children's play area and walking routes.

03 LANDSCAPE BUFFER
Ancient woodland buffer safeguarded for biodiversity improvements.

04 EXISTING TREES
Existing trees incorporated within the proposals.

05 PEDESTRIAN LINKS
Links through to the open space from the proposed housing.

06 STREET TREES
Space for street trees within the new streets.

07 SITE ACCESS
Vehicle & pedestrian access onto South Street.

08 SURFACE WATER DRAINAGE POND
Attenuation pond included within the open space as landscaped feature.

09 ON PLOT PARKING
Majority of parking provided on plot with occasional landscaped parking court.

10 WALKING ROUTES
Circular walking routes within the open space.





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Technical Considerations







As we prepare our scheme, we are considering a number of technical matters and understanding base line 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, to ensure the access is safe, with sufficient visibility splays and that the impact of traffic is not severe.

Vehicle & Pedestrian Access - Access will be achieved via the southwest corner of the site off A227 South Street. The speed limit (30mph) and use of the road dictates the length of visibility splay required, which is 43m in both directions – this is easily achieved along the site frontage. The design will be subject to an independent Road Safety Audit in due course.

Culverstone Green has many everyday services and facilities within a short distance of the site. Pedestrian access will be provided onto A227 South Street, tying into the existing 2.0m footways, providing a good connection into the centre of Culverstone Green.

Bus Stops - Bus stops are located 200m to the north on A227 South Street, providing services between Sevenoaks and Gravesend. Enhancements including improving the "Ridley Turning" bus stops and improving the footway links to these stops are being investigated in ongoing correspondence with the Local Highway Authority.

Parking - The site layout and car parking will be provided in accordance with Kent County Council standards, with Electric Vehicle charging available for every dwelling.

Vehicle Movements - The proposed development has been assessed in terms of vehicle trip generation utilising the nationally-recognised TRICS trip rate database, which generates the expected number of trips for a development based on comparable existing sites. This assessment concludes that the site will generate 42 vehicle movements in the weekday morning peak hour and 44 in the weekday evening peak hour.

The A227 is a main road linking the A2/M20, serving the villages located along its length as well as Gravesend and further afield. Accordingly, whilst busy, the road has sufficient capacity to accommodate this small increase in traffic (less than one movement every 80 seconds).

A wider traffic distribution exercise has also been undertaken, assessing the impact on other key junctions, and this shows that the site would also have a negligible impact on the wider network, including the Strategic Road Network.

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

Heritage

There are no nearby Listed Buildings that will be impacted by the development (the nearest is Owls Castle and Owls Castle Barn (both Grade II) located approximately 200m to the south. Any archaeology potential will be assessed as the planning application (desktop study) with site investigation trial pits taking place only after a planning permission is granted but before commencement of development.



Owls Castle
Grade II listed building



Owls Castle Barn
Grade II listed building



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Landscape & Ecology



Landscape

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

- It generally is not of noteworthy scenic beauty, insofar that it largely comprises a series of fields with ruderal vegetation, bounded by woodland and tree vegetation;
- It is not particularly remote, given its proximity to existing built development and the highway
- Network, and is not particularly tranquil (with the exception of the easternmost field);
- It does not form part of the historic landscape setting;
- It does not currently afford the opportunity for public recreation; and
- It is not covered by any landscape designations.

A Landscape Constraints and Opportunities plan has been prepared to demonstrate how residential development can appropriately come forward for 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.

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, and after the completion of the statutory BNG metric in the event 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.









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:

Email: **culverstone@esquiredevelopments.com**
Website: **www.consult-esquire.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 Spring 2026. A start on site may occur in Summer 2026 and may take approximately 2.5-3yrs to complete.

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











CLAGUE ARCHITECTS

ESQUIRE DEVELOPMENTS

APPENDIX E

Public Exhibition Feedback Form

ESQUIRE
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CONSULTATION FEEDBACK FORM
LAND AT BLACKTHORN FARM, CULVERSTONE GREEN
MARCH 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 culverstone@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

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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

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)

APPENDIX I

Land off Bullens Green Lane, Colney Heath

ESQUIRE
DEVELOPMENTS

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
James Stacey BA (Hons) Dip TP MRTPI	Senior Director at Tetlow King Planning Ltd
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.

Right to challenge the decision

47. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged. This must be done by making an application to the High Court within 6 weeks from the day after the date of this letter for leave to bring a statutory review under section 288 of the TCPA 1990.

48. An applicant for any consent, agreement or approval required by a condition of this permission for agreement of reserved matters has a statutory right of appeal to the Secretary of State if consent, agreement or approval is refused or granted conditionally or if the Local Planning Authority fail to give notice of its decision within the prescribed period.

49. A copy of this letter has been sent to St. Albans District Council, Daisy Cooper MP, Sport England, CPRE Hertfordshire and Keep Chiswell Green, the Combined Objectors' Group, and notification has been sent to others who asked to be informed of the decision.

Yours faithfully



Decision officer

This decision was made by the Minister for Housing and Homelessness, on behalf of the Secretary of State and signed on her behalf

Annex A Schedule of representations

Representations received in response to the Secretary of State's reference back letter of 18 January 2024

Party	Date
St. Alban's LPA	31 January 2024
Appeal A Agent – Carter Jonas	31 January 2024
Appeal B Agent – MRP Planning	1 February 2024

Representations received in response to the Secretary of State's recirculation letter of 2 February 2024

Party	Date
St. Alban's LPA	12 February 2024
Appeal B Agent – MRP Planning	12 February 2024
Combined Objector's Group – Keep Chiswell Green	13 February 2024
Appeal A Agent – Carter Jonas	16 February 2024

General representations

Party	Date
Redington Capital Limited	23 February 2024

Annex B Appeal A List of conditions

1) Details of the appearance, landscaping, layout, and scale (hereinafter called "the reserved matters") for each phase of the development as defined by the Phasing Plan agreed as part of condition 16, shall be submitted to and approved in writing by the Local Planning Authority before any development in that phase begins, and the development shall be carried out as approved.

   REASON: To comply with Section 92(1) of the Town and Country Planning Act 1990.

2) Application for approval of the reserved matters shall be made to the Local Planning Authority not later than three years from the date of this permission.

   REASON: To comply with the requirements of Section 92 of the Town and Country Planning Act 1990.

3) The development hereby permitted shall take place not later than two years from the date of approval of the last of the reserved matters to be approved.

   REASON: To comply with the requirements of Section 92 (2) of the Town and Country Planning Act 1990.

4) The development hereby permitted shall be carried out in accordance with the following approved plans: Site Location Plan (REDC01-MCB-ZZ-ZZ-DR-A-0201-D5-P7), Access and Movement Parameter Plan (REDC01-MCB-ZZ-ZZ-DR-A-0221-D5-P3), Building Height Parameter Plan (REDC01-MCB-ZZ-ZZ-DR-A-0222-D5-P6), Land Use Parameter Plan (REDC01-MCB-ZZ-ZZ-DR-A-0223-D5-P5), Proposed Northern Access Junctions (8210856-1001 Rev I9), Proposed Southern Access Junction (8210856_1002 Rev I6), Proposed Forge End & Long Fallow Pedestrian / Cycle Accesses (8210856_1021 Rev I5).

   REASON: To ensure that the development is carried out in accordance with the approved plans and details.

5) Full details of both soft and hard landscape works for each phase, shall be submitted as part of application(s) for reserved matters approval for that phase, 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;
   d) mix, and details of seeding or turfing;
   e) hard surfacing;
   f) means of enclosure and boundary treatments; and
   g) structures (such as furniture, play equipment, refuse or other storage units, signs, lighting).

   REASON: To ensure satisfactory landscape treatment of the site and a suitable appearance in accordance with Policies 70 and 74 of the LP.

6) A landscape and ecological management plan (LEMP) for each phase, shall be submitted as part of application(s) for reserved matters approval for that phase, as required by Condition 1 and include:
    a) A description of the objectives;
    b) Habitat/feature creation measures proposed, including a methodology for translocation of habitats, such as the existing topsoil, grassland and timeframes for completion;
    c) Maintenance of habitat/feature creation measures in the long term and those responsible for delivery;
    d) Lighting strategy (aiming 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 shall cover all landscape areas within the site, other than privately owned domestic gardens.

    REASON: To maximise the on-site mitigation for biodiversity impact.

7) Full details of the proposed housing mix, including a breakdown of unit sizes and tenure, shall be submitted as part of application(s) for reserved matters approval as required by Condition 1.

    REASON: To ensure a suitable dwelling mix at the site in accordance with Policy 70 the LP.

8) Notwithstanding the submitted 'Arboricultural Impact Assessment' – JSL4258_770 (by RPS, 30 March 2022), no development shall commence in each phase unless a method statement has been submitted to and approved in writing by the Local Planning Authority for that phase, to cover the protection of trees during demolition and construction phases based on guidelines set out in BS5837. Thereafter the development shall be carried out in accordance with these approved details.

    REASON: To protect existing trees during the construction works in the interest of the character and appearance of the area and in accordance with Policy 74 of the LP.

9) No trees shall be damaged or destroyed, or uprooted, felled, lopped or topped without the previous written consent of the Local Planning Authority until at least 5 years following the practical completion of the permitted development. Any trees removed without such consent or dying or being severely damaged or becoming seriously diseased before the end of that period shall be replaced by trees of such size and species as may be agreed with the Local Planning Authority.

    REASON: To ensure satisfactory landscape treatment of the site in the interests of character and appearance and to comply with Policy 74 of the LP.

10) All existing hedges or hedgerows shall be retained, unless shown on the approved drawings as being removed or with the written consent of the LPA. All hedges and hedgerows on and immediately adjoining the site shall be protected from damage for the duration of works on the site. This shall be to the satisfaction of the Local Planning Authority in accordance with relevant British Standards BS 5837 (2005). Any parts of hedges or hedgerows removed without the Local Planning Authority's consent or which die or become, in the opinion of the Local Planning Authority, seriously diseased or otherwise damaged within five years following practical completion of the approved development shall be replaced as soon as is reasonably practicable and, in

any case, by not later than the end of the first available planting season, with plants of such size and species and in such positions as may be agreed with the Local Planning Authority.

REASON: In the interests of ecology, character and appearance and to comply with Policy 74 of the LP.

11) No phase of the development hereby permitted shall be occupied unless and until the vehicular accesses for the phase in question have been provided and thereafter retained at the position shown on the approved plan drawing numbers 8210856-1001 Rev I9, 8210856-1002 Rev I6 and 8210856-1021 Rev I5 (as may be amended through detailed technical drawings agreed through the Section 278 process). 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.

REASON: To ensure satisfactory access into the site and avoid carriage of extraneous material or surface water from or onto the highway in the interests of highway safety.

12) Prior to the commencement of development in each phase, full details in relation to the design of estate roads (in the form of scaled plans and / or written specifications for each phase) shall be submitted to and approved in writing by the Local Planning Authority to detail the following:

a) Roads;
b) Footways;
c) Cycleways (compliant with LTN 1/20);
d) Minor artefeacts, structures and functional services;
e) Foul and surface water drainage;
f) Visibility splays;
g) Access arrangements including temporary construction access;
h) Hard surfacing materials;
i) Parking areas for vehicles and cycles;
j) Loading areas; and
k) Turning and circulation areas.

The development shall be implemented in accordance with those approved plans.

REASON: To ensure suitable, safe and satisfactory planning and development of the site in accordance with Policies 34, 69 and 70 of the LP and Policy 5 of Hertfordshire's Local Transport Plan (adopted 2018).

13) No phase of the development hereby permitted shall be occupied unless and until full details have been submitted to and approved in writing by the Local Planning Authority for that phase, in relation to the proposed arrangements for future management and maintenance of the proposed streets within the development. The streets shall thereafter be maintained in accordance with the approved management and maintenance details until such time as an agreement has been entered into under Section 38 of the Highways Act 1980 or a Private Management and Maintenance Company has been established and approved by the LPA).

REASON: To ensure satisfactory development and to ensure estate roads are managed and maintained thereafter to a suitable and safe standard in accordance

with Policies 34, 69 and 70 of the LP and Policies 5 and 22 of Hertfordshire's Local Transport Plan (adopted 2018).

14) Notwithstanding the details indicated on the submitted drawings, no on-site works above slab level shall commence until a detailed scheme for the offsite improvement works as indicated on the drawing numbers set out below have been submitted to and approved in writing by the Local Planning Authority:
    a) Chiswell Green Lane - drawing 8210856-1012 Rev I5 or where planning permission for the development pursuant to appeal APP/B1930/W22/331227 is granted, drawing 8230258-1001 Rev I2 and drawing 8230258-1002 Rev I4;
    b) Watford Road / Chiswell Green Lane public realm improvements drawing 8210856-1013 Rev I4, or where planning permission for the development pursuant to appeal APP/B1930/W22/331227 is granted, drawing 8230258 1007 Rev I3 showing the signalised junction;
    c) Hertfordshire County Council's Watford Road Cycle Improvements drawing 8210856-1028 Rev I1 (Sheet 1 of 6) or where planning permission for the development pursuant to appeal APP/B1930/W22/331227 is granted, drawing 8230258-1008 Rev I1;
    d) Hertfordshire County Council's Watford Road Cycle Improvements drawing 8210856-1029 Rev I1 - (Sheet 2 of 6);
    e) Hertfordshire County Council's Watford Road Cycle Improvements drawing 8210856-1030 Rev I1 - (Sheet 3 of 6);
    f) Hertfordshire County Council's Watford Road Cycle Improvements drawing 8210856-1031 Rev I1 - (Sheet 4 of 6);
    g) Hertfordshire County Council's Watford Road Cycle Improvements drawing 8210856-1032 Rev I1 - (Sheet 5 of 6);
    h) Hertfordshire County Council's Watford Road Cycle Improvements drawing 8210856-1033 Rev I1 - (Sheet 6 of 6).

    Where planning permission for the development pursuant to appeal APP/B1930/W22/331227 is granted, details shall only be required to be submitted in respect of those works listed in a, b and/or c above if at the date of submission those said works have not already been approved pursuant to the planning permission granted pursuant to appeal APP/B1930/W22/331227.

    Prior to first Occupation of the development hereby permitted, the offsite highway improvement works set out above shall be completed in accordance with the approved details.

    REASON: To ensure delivery of the necessary highway improvements.

15) No development shall commence in each phase unless and until a detailed Construction Environmental Management Plan relating to that phase has been submitted to and approved in writing by the Local Planning Authority. Thereafter, the construction of the development in that phase shall only be carried out in accordance with the approved CEMP unless otherwise agreed in writing by the Local Planning Authority. The plan shall be prepared in accordance with the Construction Logistics and Community Safety (CLOCS) Standard.

    The plan shall include the following:
    a) The construction programme;
    b) Clear access strategy for construction vehicles that avoids conflicts with pedestrians, cyclists, public transport and existing and future residents;
    c) Hours of operation;

d) Phasing of the development of the site, including all highway works;
e) Construction vehicle numbers, type, routing;
f) Traffic management requirements;
g) Cleaning of site entrances, site tracks and the adjacent public highway;
h) Provision of sufficient on-site parking prior to commencement of construction activities;
i) Details of any highway works necessary to enable construction to take place, including temporary access works;
j) Details of any works to or affecting Public Rights of Way within and in the vicinity of the site. These shall demonstrate how safe and unobstructed access will be maintained at all times or be temporarily closed or extinguished.
k) Details of servicing and delivery, including details of site access, compound, welfare facilities, hoarding, construction related parking, loading, unloading, turning areas and materials storage areas;
l) Where works cannot be wholly contained within the site, a plan shall be submitted showing the site layout on the highway, including extent of hoarding, pedestrian routes and remaining road width for vehicle movements and proposed traffic management;
m) Management of construction traffic and deliveries to reduce congestion and avoid school pick up/drop off times, including numbers, type and routing;
n) Control of dust and dirt on the public highway, including details of wheel washing facilities and cleaning of site entrance adjacent to the public highway;
o) Details of public contact arrangements and complaint management;
p) Construction waste management proposals;
q) Mechanisms to deal with environmental impacts such as noise and vibration, air quality and dust, light and odour;
r) Post construction restoration/reinstatement of the working areas and temporary access to the public highway; and
s) Measures to be implemented to ensure wayfinding for both occupiers of the site and or those travelling through it.

REASON: In order to protect highway safety and convenience, and to protect living conditions, in accordance with Policies 5, 12, 17 and 22 of Hertfordshire's Local Transport Plan (adopted 2018).

16) Notwithstanding the information contained in the Transport Assessment, no development shall commence in respect of any Development Parcel or Strategic Engineering Element until a Site Wide Phasing Plan which accords with agreed s106 triggers has been submitted to the local planning authority for approval. The Phasing Plan shall include the sequence of providing the following elements:
    a) Development parcels;
    b) Major distributor roads/routes within the site, including timing of provision and opening of access points into the site;
    c) Strategic foul surface water features and SUDS;
    d) Open space;
    e) Strategic electricity and telecommunications networks; and
    f) Environmental mitigation measures.

    No development shall commence apart from enabling works and strategic engineering elements, unless agreed in writing by the Local Planning Authority, until such time as the phasing plan has been approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved

phasing contained within the phasing plan unless otherwise agreed in writing by the Local Planning Authority.

REASON: To ensure suitable, safe and satisfactory planning and development of the site in accordance with Policy 5 of Hertfordshire's Local Transport Plan 2018.

17) No part of the development hereby permitted shall be occupied prior to the implementation of the approved Travel Plan and dated (March 2022) (or implementation of those parts identified in the approved Travel Plan as capable of being implemented prior to occupation). Those parts of the approved Travel Plan that are identified therein as being capable of implementation after occupation shall be implemented in accordance with the timetable contained therein and shall continue to be implemented as long as any part of the development is occupied.

REASON: To ensure that sustainable travel options are promoted and maximised to be in accordance with Policies 3, 5, 7, 8, 9 and 10 of Hertfordshire's Local Transport Plan (adopted 2018).

18) Within three months of the first use of a school, a Modeshift STARS School Travel Plan shall be prepared and submitted to the local planning authority for approval. Thereafter the Travel Plan shall be implemented in full throughout the life of the school.

REASON: To ensure that sustainable travel options are promoted and maximised to be in accordance with Policies 3, 5, 7, 8, 9 and 10 of Hertfordshire's Local Transport Plan (adopted 2018).

19) No phase of the development hereby permitted shall be occupied unless and until a scheme for the parking of cycles including details of the design, level and siting of the proposed parking for that phase has been submitted to and approved in writing by the Local Planning Authority.

The approved scheme shall be fully implemented before the phase is first occupied or brought into use and thereafter retained for this purpose.

REASON: To ensure the provision of adequate cycle parking that meets the needs of occupiers of the proposed development and in the interests of encouraging the use of sustainable modes of transport in accordance with Policies 1, 5 and 8 of Hertfordshire's Local Transport Plan (adopted 2018).

20) No development shall commence in each phase unless and until a detailed surface water drainage scheme for that phase has been submitted to, and approved in writing by, the Local Planning Authority. The scheme shall include the utilisation of above ground attenuation and conveyance sustainable drainage techniques (SuDS), with the incorporation of sufficient treatment trains to maintain or improve the existing groundwater quality, as per the Flood Risk Assessment produced by Glanville (dated March 2022) and updated submission information. The scheme shall also include the following:

    a) a detailed drawing demonstrating the management of surface water runoff during events that may temporarily exceed the capacity of the drainage system has been submitted to, and approved in writing by, the Local Planning Authority.

b) detailed hydraulic modelling calculations of the proposed surface water drainage scheme that demonstrate there will be no increased risk of flooding as a result of development between the 1 in 1 year return period event and up to the 1 in 100 year return period event (including the correct allowance for climate change) have been submitted to, and approved in writing by, the Local Planning Authority.
c) full details of the proposed methods of treating surface water runoff to ensure no risk of pollution is introduced to groundwater both locally and downstream of the site, especially from proposed parking and vehicular areas have been submitted to, and approved in writing by, the Local Planning Authority. Surface water treatment techniques shall include both natural SuDS structures and also proprietary devices, such as advanced vortex separators.
d) detailed construction drawings of all proposed SuDS features, including details of flow controls and piped network, have been submitted to and approved in writing by the Local Planning Authority.
e) detailed construction drawings of the proposed deep bore soakaway structures have been submitted to, and approved in writing by, the Local Planning Authority.
f) a management and maintenance plan for the lifetime of the development has been submitted to and approved in writing by the Local Planning Authority. This plan shall include the arrangements for adoption by an appropriate public body or statutory undertaker, management company or maintenance by a Residents' Management Company and/or any other arrangements to secure the operation and maintenance to an approved standard and working condition throughout the lifetime of the development.
g) details for the provision of any temporary drainage during construction has been submitted to and approved in writing by the Local Planning Authority. This shall include details to demonstrate that during the construction phase measures will be in place to prevent unrestricted discharge, and pollution to the receiving system.
h) detailed construction drawings of the proposed foul water drainage network 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.

REASON: To prevent the increased risk of flooding, both on and off site.

21) No above ground works shall take place for each phase until a scheme for the provision of adequate water supplies and fire hydrants, necessary for firefighting purposes at the site, has been submitted to and approved in writing by the Local Planning Authority for that phase. The development shall not be occupied until the scheme has been implemented in accordance with the approved details.

REASON: To ensure adequate water infrastructure provision is made on site for the local fire service to discharge its statutory firefighting duties.

22) Prior to the commencement of ground works in each phase of the development a minerals recovery strategy for the sustainable extraction of minerals on an opportunistic basis shall be submitted to and approved in writing by the Local Planning Authority, in accordance with the submitted Minerals Resource Assessment dated 15 August 2022. Thereafter, the relevant phase or phases of the development

must not be carried out other than in accordance with the approved minerals strategy. The minerals strategy must include the following:

a) An evaluation of the opportunities to extract minerals (sand and gravel, hoggin and other soils with engineering properties); and
b) A proposal for maximising the extraction of minerals, providing targets and methods for the appropriate recovery and beneficial use of the minerals (where feasible without the need for processing); and
c) A method to record the quantity of recovered mineral for re-use on site.

REASON: In order to prevent mineral sterilisation, contribute to resource efficiency, promote sustainable construction practices and reduce the need to import primary materials in accordance with Policy 5 of the adopted Hertfordshire Minerals Local Plan Review.

23) The development shall not be occupied until confirmation has been provided that either:

a) All foul water network upgrades required to accommodate the additional flows from the development have been completed; or
b) A development and infrastructure phasing plan has been agreed with the Local Planning Authority to allow development to be occupied.

Where a development and infrastructure phasing plan is agreed, no occupation shall take place other than in accordance with the agreed development and infrastructure phasing plan.

REASON: To ensure that the development can be accommodated by suitable drainage infrastructure.

24) The No development-related works shall take place until the implementation of a programme of archaeological evaluation and excavation has been secured, and undertaken in accordance with a Written Scheme of Investigation which has been submitted to and approved in writing by the Local Planning Authority. The Written scheme of investigation shall include an archaeological programme including:

a) The programme and methodology of site investigation and recording.
b) The programme for post investigation assessment.
c) Provision to be made for publication and dissemination of the analysis and records of the site investigation.
d) Provision to be made for archive deposition of the analysis and records of the site investigation.
e) Nomination of a registered archaeological contractor to undertake the works set out within the Written Scheme of Investigation.
f) The site investigation shall be completed prior to development, or in such other phased arrangement, as agreed and approved in writing by the Local Planning Authority.

REASON: To ensure the appropriate identification, recording and publication of archaeological and historic remains affected by the development in accordance with Policy 111 of the LP.

25) Other than the demolition of buildings and structures down to ground level and site clearance works, including tree felling, no development shall take place in each phase until an investigation and risk assessment in relation to contamination on site (in addition to the phase I assessment provided with the planning application) has been

submitted to and approved in writing by the Local Planning Authority for that phase. The assessment shall investigate the nature and extent of any contamination on the site (whether or not it originates on the site). The assessment shall be undertaken by competent persons and a written report of the findings submitted to and approved in writing by the Local Planning Authority before any development takes place other than the excluded works listed above. The submitted report shall include:

a) a survey of the extent, scale and nature of contamination; and
b) 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, ground waters and surface waters, ecological systems, archaeological sites and ancient monuments.

REASON: To ensure that adequate protection of human health is maintained and the quality of groundwater is protected in accordance with Policy 84 of the LP.

26) The results of the site investigations set out in condition 25 and the detailed risk assessment undertaken at the site shall be used to prepare an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken for each phase. The remediation strategy shall contain a verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy are complete and identify any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action. The options appraisal and remediation strategy shall be approved in writing by the Local Planning Authority prior to commencement of construction works and all requirements shall be implemented and completed to the satisfaction of the Local Planning Authority by a competent person.

REASON: To ensure that adequate protection of human health is maintained and the quality of groundwater is protected in accordance with Policy 84 of the LP.

27) Before any dwelling is occupied, verification report(s) demonstrating completion of the works set out in the remediation strategy and the effectiveness of the remediation shall be submitted in writing and approved by the LPA. The reports shall include results of validation sampling and monitoring carried out in accordance with the approved remediation strategy to demonstrate that the site remediation criteria have been met. It shall also include any plan for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan. The long-term monitoring and maintenance plan shall be implemented as approved.

REASON: To ensure that adequate protection of human health is maintained and the quality of groundwater is protected in accordance with Policy 84 of the LP.

28) No dwelling hereby permitted shall be occupied unless and until the internal sound level requirements and insulation proposals outlined in the Noise Assessment (reference RP01- 21618-R2) prepared by Cass Allen have been fully implemented.

REASON: To ensure suitable living conditions for future occupiers.

29) Open space shall be provided on site in accordance with the approved parameter plans. No development in each phase shall commence unless details of all play spaces in that phase are submitted to and approved in writing by the Local Planning

Authority. The approved play space scheme for each phase shall be completed prior to occupation of 50% of the dwellings hereby permitted in that phase and thereafter the approved play space shall be retained.

Such scheme shall indicate but not be limited to:

a) Details of types of equipment to be installed.
b) Surfaces including details of materials and finishes.
c) The location of any proposed signage linked to the play areas.

REASON: To ensure suitable open space and play facilities in accordance with Policy 70 of the LP.

30) No development in each phase, shall take place until a Site Waste Management Plan (SWMP) for the construction of that phase of the site has been submitted to and approved in writing by the Local Planning Authority. The SWMP shall aim to reduce the amount of waste being produced on site and shall contain information including estimated and actual types and amounts of waste removed from the site and where that waste is being taken to. The development shall be carried out in accordance with the approved SWMP.

REASON: To promote sustainable development and to ensure measures are in place to minimise waste generation and maximise the on-site and offsite reuse and recycling of waste materials, in accordance with Policy 12 of the Hertfordshire Waste Core Strategy and Development Management Policies.

Annex C Appeal B List of conditions

1) The 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 takes place and the development shall be carried out as approved.

   REASON: To comply with Section 92(1) of the Town and Country Planning Act 1990.

2) Application for approval of the reserved matters shall be made to the Local Planning Authority not later than three years from the date of this permission.

   REASON: To comply with the requirements of Section 92 of the Town and Country Planning Act 1990.

3) The development hereby permitted shall take place not later than two years from the date of approval of the last of the reserved matters to be approved.

   REASON: To comply with the requirements of Section 92 (2) of the Town and Country Planning Act 1990.

4) The development hereby permitted shall be carried out in accordance with the following approved plans: Site Location Plan (Revision E), Proposed Access Arrangements (21086 001 Rev B), Proposed Foot/Cycle Amendments – Chiswell Green Lane, Stanley Avenue, Watford Road (21086/002), Proposed Foot/Cycle Enhancements (Stanley Avenue) (21086/002/1), Proposed Highway Amendments (Watford Road) (21086/002/2), Proposed PRoW Improvements (St Stephens 082) (21086/003), Proposed PRoW Upgrades (St Stephens FP080) (22185/004 Revision A) and Proposed Pedestrian/Cycling Upgrades - Toucan Crossing (21086/006).

   REASON: To ensure that the development is carried out in accordance with the approved plans and details.

5) Full details of both soft and hard landscape works shall 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;
   d) mix, and details of seeding or turfing;
   e) hard surfacing;
   f) means of enclosure and boundary treatments; and
   g) Structures (such as furniture, play equipment, refuse or other storage units, signs, lighting).

   REASON: To ensure satisfactory landscape treatment of the site in the interests of character and appearance, in accordance with Policies 70 and 74 of the LP.

6) A landscape and ecological management plan (LEMP) shall be submitted as part of application(s) for reserved matters approval as required by Condition 1 and shall include:

a) A description of the objectives;
b) Habitat/feature creation measures proposed, including a methodology translocation of habitats, such as the existing topsoil, grassland and timeframes for completion;
c) Maintenance of habitat/feature creation measures in the long term and those responsible for delivery;
d) Lighting strategy (aiming 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 shall cover all landscape areas within the site, other than small privately owned domestic gardens.

REASON: To maximise the on-site mitigation for biodiversity impact.

7) Full details of the proposed housing mix, including a breakdown of unit sizes and tenure, shall be submitted as part of application(s) for reserved matters approval as required by Condition 1.

REASON: To ensure a suitable dwelling mix at the site in accordance with Policy 70 the LP.

8) Notwithstanding the submitted Arboricultural Impact Assessment and Arboricultural Method Statement (October 2021), a detailed tree protection plan and method statement shall be submitted as part of application(s) for reserved matters approval as required by Condition 1.

REASON: To ensure the protection of trees at the site and to comply with the requirements of Policy 74 of the LP.

9) No trees shall be damaged or destroyed, or uprooted, felled, lopped or topped without the previous written consent of the Local Planning Authority until at least 5 years following the completion of the approved development. Any trees removed without such consent or dying or being severely damaged or becoming seriously diseased before the end of that period shall be replaced by trees of such size and species as may be agreed with the Local Planning Authority.

REASON: To ensure satisfactory landscape treatment of the site in the interests of character and appearance, in accordance with Policy 74 of the LP.

10) All existing hedges or hedgerows shall be retained, unless shown on the approved drawings as being removed. All hedges and hedgerows on and immediately adjoining the site shall be protected from damage for the duration of works on the site. This shall be to the satisfaction of the Local Planning Authority in accordance with relevant British Standards BS 5837 (2005). Any parts of hedges or hedgerows removed without the Local Planning Authority's consent or which die or become, in the opinion of the Local Planning Authority, seriously diseased or otherwise damaged within five years following completion of the approved development shall be replaced as soon as is reasonably practicable and, in any case, by not later than the end of the first available planting season, with plants of such size and species and in such positions as may be agreed with the Authority.

REASON: In the interests of ecology, character and appearance and to comply with Policy 74 of the LP.

11) Prior to the first occupation of the development hereby permitted, the vehicular access shall be provided and thereafter retained at the position shown on the approved plan drawing number 21086 001 Rev B. 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.

REASON: To ensure satisfactory access into the site and avoid carriage of extraneous material or surface water from or onto the highway in the interests of highway safety.

12) Prior to the commencement of the development, full details in relation to the design of estate roads (in the form of scaled plans and / or written specifications for each phase) shall be submitted to and approved in writing by the Local Planning Authority to detail the following:

a) Roads;
b) Footways;
c) Cycleways (compliant with LTN 1/20);
d) Minor artefeacts, structures and functional services;
e) Foul and surface water drainage;
f) Visibility splays;
g) Access arrangements including temporary construction access;
h) Hard surfacing materials;
i) Parking areas for vehicles and cycles;
j) Loading areas; and
k) Turning and circulation areas.

The development shall be implemented in accordance with those approved plans.

REASON: To ensure suitable, safe and satisfactory planning and development of the site in accordance with Policies 34, 69 and 70 of the LP and Policy 5 of Hertfordshire's Local Transport Plan (adopted 2018).

13) The development hereby permitted shall not be occupied unless and until full details have been submitted to and approved in writing by the Local Planning Authority in relation to the proposed arrangements for future management and maintenance of the proposed streets within the development. The streets shall thereafter be maintained in accordance with the approved management and maintenance details until such time as an agreement has been entered into under Section 38 of the Highways Act 1980 or a Private Management and Maintenance Company has been established.

REASON: To ensure satisfactory development and to ensure estate roads are managed and maintained thereafter to a suitable and safe standard in accordance with Policies 34, 69 and 70 of the LP and Policies 5 and 22 of Hertfordshire's Local Transport Plan (adopted 2018).

14) Notwithstanding the details indicated on the submitted drawings, no on-site works above slab level shall commence until a detailed scheme for the offsite improvement works as indicated on the drawing numbers set out below have been submitted to and approved in writing by the Local Planning Authority:

a) Proposed Foot/Cycle Enhancements Chiswell Green Lane / Stanley Avenue - drawing 22185/006 or where planning permission for the development pursuant to appeal APP/B1930/W/22/3313110 is granted, drawings 8230258-1001 I2 and 8230258-1002 I4.
b) Watford Road / Chiswell Green Lane Foot / Cycle Enhancements and Highway Amendments drawing 21086/002/2, or where planning permission for the development pursuant to appeal APP/B1930/W/22/3313110 is granted, drawing 22185/007 showing the signalised junction.
c) Proposed Memorial Car Parking Allocation (22185/005 Rev B).
d) Proposed Pedestrian/Cycling Upgrades - Toucan Crossing (21086/006).
e) Proposed footpath improvements (21086/003 and 22185/004 Rev A).

Where planning permission for the development pursuant to appeal APP/B1930/W/22/3313110 is granted, details shall only be required to be submitted in respect of those works listed in a and b above if at the date of submission those said works have not already been approved pursuant to the planning permission granted pursuant to appeal APP/B1930/W/22/3313110.

Prior to first Occupation of the development hereby permitted, the offsite highway improvement works approved in accordance with the above shall be completed in accordance with the approved details.

REASON: To ensure delivery of the necessary highway improvements.

15) No development shall commence unless and until a detailed Construction Environmental Management Plan has been submitted to and approved in writing by the Local Planning Authority. Thereafter, the construction of the development for which planning permission has been granted shall only be carried out in accordance with the approved CEMP unless otherwise agreed in writing by the local planning authority. The plan shall be prepared in accordance with the Construction Logistics and Community Safety (CLOCS) Standard.

The plan shall include the following:
a) The construction programme;
b) Clear access strategy for construction vehicles that avoids conflicts with pedestrians, cyclists, public transport and existing and future residents;
c) Hours of operation;
d) Phasing of the development of the site, including all highway works;
e) Construction vehicle numbers, type, routing;
f) Traffic management requirements;
g) Cleaning of site entrances, site tracks and the adjacent public highway;
h) Provision of sufficient on-site parking prior to commencement of construction activities;
i) Details of any highway works necessary to enable construction to take place, including temporary access works;
j) Details of any works to or affecting Public Rights of Way within and in the vicinity of the site. These shall demonstrate how safe and unobstructed access will be maintained at all times or be temporarily closed or extinguished.
k) Details of servicing and delivery, including details of site access, compound, welfare facilities, hoarding, construction related parking, loading, unloading, turning areas and materials storage areas;
l) Where works cannot be wholly contained within the site, a plan shallbe submitted showing the site layout on the highway, including extent of hoarding,

pedestrian routes and remaining road width for vehicle movements and proposed traffic management;
m) Management of construction traffic and deliveries to reduce congestion and avoid school pick up/drop off times, including numbers, type and routing;
n) Control of dust and dirt on the public highway, including details of wheel washing facilities and cleaning of site entrance adjacent to the public highway;
o) Details of public contact arrangements and complaint management;
p) Construction waste management proposals;
q) Mechanisms to deal with environmental impacts such as noise and vibration, air quality and dust, light and odour;
r) Post construction restoration/reinstatement of the working areas and temporary access to the public highway; and
s) Measures to be implemented to ensure wayfinding for both occupiers of the site and or those travelling through it.

REASON: In order to protect highway safety and convenience, and to protect living conditions, in accordance with Policies 5, 12, 17 and 22 of Hertfordshire's Local Transport Plan (adopted 2018).

16) Notwithstanding the information contained in the Transport Assessment, no development shall commence in respect of any development parcel or strategic engineering element listed below until a Site Wide Phasing Plan, which accords with agreed s106 triggers has been submitted to the Local Planning Authority for approval. The Phasing Plan shall include the sequence of providing the following elements:
    a) Development parcels;
    b) Major distributor roads/routes within the site, including timing of provision and opening of access points into the site;
    c) Strategic foul surface water features and SUDS;
    d) Open space;
    e) Strategic electricity and telecommunications networks;
    f) Environmental mitigation measures.

    No development shall commence apart from enabling works and strategic engineering elements, unless, agreed in writing by the Local Planning Authority until such time as the phasing plan has been approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved phasing contained within the phasing plan unless otherwise agreed in writing by the Local Planning Authority.

    REASON: To ensure suitable, safe and satisfactory planning and development of the site in accordance with Policy 5 of Hertfordshire's Local Transport Plan 2018.

17) No part of the development hereby permitted shall be occupied prior to the implementation of the approved Travel Plan dated (November 2021) (or implementation of those parts identified in the approved Travel Plan as capable of being implemented prior to occupation). Those parts of the approved Travel Plan that are identified therein as being capable of implementation after occupation shall be implemented in accordance with the timetable contained therein and shall continue to be implemented as long as any part of the development is occupied.

    REASON: To ensure that sustainable travel options associated with the development are promoted and maximised to be in accordance with Policies 3, 5, 7, 8, 9 and 10 of Hertfordshire's Local Transport Plan (adopted 2018).

18) Prior to the first occupation/use of the development hereby permitted a scheme for the parking of cycles including details of the design, level and siting of the proposed parking shall be submitted to and approved in writing by the Local Planning Authority.

The approved scheme shall be fully implemented before the development is first occupied or brought into use and thereafter retained for this purpose.

REASON: To ensure the provision of adequate cycle parking that meets the needs of occupiers of the proposed development and in the interests of encouraging the use of sustainable modes of transport in accordance with Policies 1, 5 and 8 of Hertfordshire's Local Transport Plan (adopted 2018).

19) No development shall be commenced until details of the surface water drainage scheme, based on sustainable drainage principles together with a programme of implementation and maintenance for the lifetime of the development, have been submitted to and approved in writing by the Local Planning Authority, which must include the following:

a) A fully detailed surface water drainage scheme has been submitted to, and approved in writing, by the Local Planning Authority. The scheme shall include the utilisation of contemporary and appropriate sustainable drainage (SuDS) techniques, with reference to the 'Sustainable Drainage Assessment' by GeoSmart Information Ltd and dated 5th July 2022.
b) Accompanying hydraulic modelling calculations for the entire surface water drainage scheme have been submitted and approved. These detailed calculations shall demonstrate that both the site and surrounding area will not flood from surface water as a result of the development for a full range of summer and winter storm durations, up to the 1 in 100 year return period event including an appropriate allowance for climate change.
c) The maximum permissible flow controlled discharge rate shall no more than 10l/s for all events up to and including the 1 in 100 year return period event plus an appropriate allowance for climate change, as currently agreed in principle with Thames Water. This 'in principle' discharge agreement must be formally confirmed in writing with Thames Water and submitted in support of this condition, which shall also include full details of the point of connection, including cover and invert level(s).
d) Submission of final detailed drainage layout plan(s) including the location and provided volumes of all storage and sustainable drainage (SuDS) features, pipe runs, invert levels and discharge points. If there are areas to be designated for informal flooding these shall also be shown on a detailed site plan. The volume, size, inlet and outlet features, long-sections and cross sections of the proposed storage and SuDS features shall also be provided.
e) The surface water drainage plan(s) shall include hydraulic modelling pipe label numbers that correspond with the hydraulic modelling calculations submitted, to allow for accurate cross-checking and review.
f) If any infiltration drainage is proposed on the final drainage layout, this shall be supported with appropriate infiltration testing carried out to the BRE Digest 365 Soakaway Design standard. This would also require confirmation of groundwater levels to demonstrate that the invert level of any soakaways or unlined attenuation features can be located a minimum of 1m above maximum groundwater levels.

g) A detailed assessment of the proposed SuDS treatment train and water quality management stages, for all surface water runoff from the entire development site.
h) The provision of a detailed plan showing the management of exceedance flow paths for surface water for events greater than the 1 in 100 year return period plus climate change event.
i) A construction management plan to address all surface water runoff and any flooding issues during the construction stage is submitted and approved.
j) If access or works to third party land is required, confirmation that an agreement has been made with the necessary landowners/consenting authorities to cross third party land and/or make a connection to the proposed sewer chamber location.
k) A detailed management and maintenance plan for the lifetime of the development has been submitted and approved, which shall include the arrangements for adoption by an appropriate public body or water company, management company or maintenance by a Residents' Management Company and/or any other arrangements to secure the operation and maintenance to an approved standard and working condition throughout the lifetime of the development.

The development shall be carried out in accordance with the approved details.

REASON: To ensure that the development is served by a satisfactory system of sustainable surface water drainage and that the approved system is retained, managed and maintained throughout the lifetime of the development, in accordance with Policy 84 of the LP.

20) No above ground works shall take place until a scheme for the provision of adequate water supplies and fire hydrants, necessary for firefighting purposes at the site, has been submitted to and approved in writing by the Local Planning Authority. The development shall not be occupied until the scheme has been implemented in accordance with the approved details.

REASON: To ensure adequate water infrastructure provision is made on site for the local fire service to discharge its statutory firefighting duties.

21) Prior to the commencement of development/excavation or ground works in each phase of the development a minerals recovery strategy for the sustainable extraction of minerals shall be submitted to and approved in writing by the Local Planning Authority, in accordance with the submitted Minerals Resource Assessment dated 15 August 2022. Thereafter, the relevant phase or phases of the development must not be carried out other than in accordance with the approved minerals strategy. The minerals strategy must include the following:
a) An evaluation of the opportunities to extract minerals (sand and gravel, hoggin and other soils with engineering properties); and
b) A proposal for maximising the extraction of minerals, providing targets and methods for the recovery and beneficial use of the minerals; and
c) A method to record the quantity of recovered mineral (re-use on site or off-site).

REASON: In order to prevent mineral sterilisation, contribute to resource efficiency, promote sustainable construction practices and reduce the need to import primary materials in accordance with Policy 5 of the adopted Hertfordshire Minerals Local Plan Review.

22) The development shall not be occupied until confirmation has been provided that either:
    a) All foul water network upgrades required to accommodate the additional flows from the development have been completed; or
    b) A development and infrastructure phasing plan has been agreed with the Local Planning Authority to allow development to be occupied.

    Where a development and infrastructure phasing plan is agreed, no occupation shall take place other than in accordance with the agreed development and infrastructure phasing plan.

    REASON: To ensure that the development can be accommodated by suitable drainage infrastructure.

23) No development-related works shall take place until the implementation of a programme of archaeological evaluation and excavation has been secured and undertaken in accordance with a Written Scheme of Investigation which has been submitted to and approved in writing by the Local Planning Authority.

    The Written scheme of investigation shall include an archaeological programme including:
    a) The programme and methodology of site investigation and recording.
    b) The programme for post investigation assessment.
    c) Provision to be made for publication and dissemination of the analysis and records of the site investigation.
    d) Provision to be made for archive deposition of the analysis and records of the site investigation.
    e) Nomination of a registered archaeological contractor to undertake the works set out within the Written Scheme of Investigation.
    f) The site investigation shall be completed prior to development, or in such other phased arrangement, as agreed and approved in writing by the Local Planning Authority.

    REASON: To ensure the appropriate identification, recording and publication of archaeological and historic remains affected by the development in accordance with Policy 111 of the LP.

24) 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.
    c) A Method Statement detailing the depth and type of excavations (e.g. piling) to be undertaken including mitigation measures (e.g. appropriate piling design, off site monitoring boreholes etc.) to prevent and/or minimise any potential migration of pollutants to public water supply. Any excavations must be undertaken in accordance with the terms of the approved method statement.

REASON: To avoid displacing any shallow contamination to a greater depth and to prevent and/or minimise any potential migration of pollutants to a public water supply abstraction.

25) If, during development, contamination not previously identified is found to be present at the site, then no further development shall be carried out until a Remediation Strategy detailing how this contamination will be dealt with has been submitted to and approved in writing by the Local Planning Authority. The remediation strategy shall be implemented as approved with a robust pre and post monitoring plan to determine its effectiveness.

REASON: To ensure that the development does not contribute to unacceptable concentrations of pollution posing a risk to public water supply from previously unidentified contamination sources at the development site and to prevent deterioration of groundwater and/or surface water.

26) Prior to the commencement of development, details of a Surface Water Drainage Scheme that considers ground contamination and public water supply as a receptor of that contamination shall be submitted to and approved in writing by the Local Planning Authority.

REASON: To ensure that adequate protection of human health is maintained and the quality of groundwater is protected in accordance with Policy 84 of the LP.

27) No development shall take place until a Site Waste Management Plan (SWMP) for construction waste arising from the site has been submitted to and approved in writing by the Local Planning Authority. The SWMP shall aim to reduce the amount of waste being produced on site and shall contain information including estimated and actual types and amounts of waste removed from the site and where that waste is being taken to. The development shall be carried out in accordance with the approved SWMP.

REASON: To promote sustainable development and to ensure measures are in place to minimise waste generation and maximise the on-site and offsite reuse and recycling of waste materials, in accordance with Policy 12 of the Hertfordshire Waste Core Strategy and Development Management Policies.

The Planning Inspectorate

Report to the Secretary of State

by Michael Boniface MSc MRTPI

an Inspector appointed by the Secretary of State

Date 24 October 2023

Town and Country Planning Act 1990

St Albans City & District Council

Appeal A: Land south of Chiswell Green Lane, Chiswell Green, St Albans

Appeal by Alban Developments Ltd and Alban Peter Pearson, CALA Homes (Chiltern) Ltd and Redington Capital Ltd

Appeal B: Land north of Chiswell Green Lane, Chiswell Green, St Albans

Appeal by Headlands Way Ltd

Inquiry held over 8 days between 17 April 2023 – 9 May 2023
Site visit made on 10 May 2023

File Refs: APP/B1930/W/22/3313110 and APP/B1930/W/22/3312277

APPEAL A
File Ref: APP/B1930/W/22/3313110
Land south of Chiswell Green Lane, Chiswell Green, St Albans

- 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 Alban Developments Ltd and Alban Peter Pearson, CALA Homes (Chiltern) Ltd and Redington Capital Ltd against the decision of St Albans City & District Council.
- The application Ref. 5/22/0927, dated 29 April 2022, was refused by notice dated 6 December 2022.
- The development proposed is 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.

Summary of Recommendation: That the appeal be allowed.

APPEAL B
File Ref: APP/B1930/W/22/3312277
Land north of Chiswell Green Lane, Chiswell Green, St Albans

- 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 Headlands Way Ltd against the decision of St Albans City & District Council.
- The application Ref. 5/21/3194, dated 12 November 2021, was refused by notice dated 25 October 2022.
- The development proposed is 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.

Summary of Recommendation: That the appeal be allowed.

Procedural Matters

1. The appeals were recovered by the Secretary of State (SoS) following a direction made under S79 and paragraph 3 of Schedule 6 of the Town and Country Planning Act 1990, on 1 June 2023. The appeals were recovered for determination by the SoS as they involve proposals for residential development of over 150 units or on sites of over 5 hectares, which would significantly impact on the Government's objective to secure a better balance between housing demand and supply and create high quality, sustainable, mixed and inclusive communities, and proposals for significant development in the Green Belt.

2. The two appeals are made by different appellants and are independent of one another. However, they were considered at the same Inquiry given the close proximity of the sites and the inevitable mutual considerations between the two. Similarly, whilst I have considered each proposal on its own individual merits, I have dealt with them both in this report to avoid unnecessary duplication.

3. Both applications were for outline planning permission with details of the means of access for consideration. Matters of appearance, landscaping, layout and scale were reserved for subsequent consideration. I have considered the appeals on the same basis.

4. Keep Chiswell Green (KCG), a local community group, were granted Rule 6 status in both appeals and participated as a main party to the proceedings throughout.

5. 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. This was apparently to allow more flexibility about the type of school that could be considered, having had further discussions with the Local Education Authority. Comments were invited from the main parties at the Case Management Conference (CMC) and no objections were raised. I subsequently accepted the minor alterations, having been satisfied that no party would be prejudiced, and the appeal proceeded on that basis.

6. In advance of the Inquiry, 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. Again, the main parties were given the opportunity to comment during the CMC and no objections were raised. I subsequently accepted the minor alterations, having been satisfied that no party would be prejudiced, and the appeal proceeded on that basis.

7. Both appeals were screened by the Council and subsequently by the Planning Inspectorate on behalf of the SoS in accordance with the Town and Country Planning (Environmental Impact Assessment) Regulations 2017. The appeals were found not to be EIA development either alone or in combination.

8. I was asked by interested parties not to progress these cases and to hold them in abeyance until potential changes to the planning system are enacted. However, such an approach would be firmly at odds with the purpose of the appeals process to efficiently adjudicate on planning matters and ensure that suitable development is not unnecessarily delayed. Appeals must be determined having regard to planning policy at the time.

9. I received executed legal agreements from both appellants after the Inquiry had closed, in accordance with an agreed timetable. These secure planning obligations pursuant to S106 of the Town and Country Planning Act 1990 in the event that the appeals are allowed and planning permission is granted.

10. The Council hosted an Inquiry Website, containing the core documents and other evidence submitted in relation to the appeals. This can be accessed at: https://www.stalbans.gov.uk/chiswell-green-inquiry.

The Site and Surroundings

11. The sites are located adjacent to the relatively large village of Chiswell Green, which is very close to the city of St Albans. The sites are located on the western edge of the village, around 3.5km to the south-west of the city centre. The M1 and M25 are located a little over 1km southeast of the sites beyond agricultural fields.

Appeal A

12. The northern boundary is formed by Chiswell Green Lane, a residential street adjoining the main through-route in the village, which narrows to a rural country lane as it reaches the open countryside to the west. The eastern and south-

eastern boundaries are directly adjacent to the residential area of Chiswell Green with the site bordered by the gardens of residential properties.

13. There is a small woodland, subject to a Tree Preservation Order (TPO), to the east which is not included in the site boundary and sits between the site and residential properties. Beyond the western boundary of the site is Miriam Lane, leading to Butterfly World, a former tourist attraction that has now closed.

14. The site itself measures around 14ha and comprises an area of four fields separated by tree lines and hedgerows. Fields in the northern part of the site are currently grazed by horses. In the north-west corner sits a livery yard and riding school, with its stables and riding facilities. The fields in the southern part of the site largely comprise grassland. Two lines of hybrid poplar in the south of the site, again subject to TPO, bound a small triangle of scattered scrub, trees and grassland, along with some small buildings and containers.

Appeal B

15. The site is approximately 14.2 hectares in size and is located to the north of Chiswell Green Lane, partly adjoining the settlement edge created by properties on Chiswell Green Lane and The Croft but with an intervening paddock for much of the length of the eastern boundary.

16. Chiswell Green Lane, lined with hedgerows and tree planting, marks the boundary of the site to the south and The Croft, a residential street, stands close to part of the eastern boundary. Public rights of way surround the east, north and west boundaries of the site. An area of woodland stands beyond the footpath to the north and a tall hedgerow screens the western edge of the footpath to the west, beyond which is a farmstead and wider countryside.

17. The site comprises a small paddock with stables and a rarely used polo field within a larger area of grazing land, incorporating an agricultural barn.

Planning Policy

18. The development plan includes the saved policies of the Council's District Local Plan Review (1994) (LP); the St Stephen Neighbourhood Plan (2019-2036) (NP); the Waste Core Strategy & Development Management Policies DPD (2012); and Hertfordshire Minerals Local Plan (2007).

19. The following LP policies are of particular relevance to the appeal proposals:

- Policy 1 - Metropolitan Green Belt;
- Policy 2 - Settlement Strategy;
- Policy 8 – Affordable Housing in Metropolitan Green Belt;
- Policy 34 - Highways Consideration in Development Control;
- Policy 35 – Highway Improvements in Association with Development;
- Policy 39 - Parking Standards, General Requirements;
- Policy 40 - Residential Development Parking Standards;
- Policy 65 - Educational Facilities;

- Policy 69 - General Design and Layout;
- Policy 70 – Design and Layout of New Housing;
- Policy 74 - Landscaping and Tree Preservation;
- Policy 84 - Flooding and River Catchment Management;
- Policy 84A - Drainage Infrastructure;
- Policy 97 – Existing Footpaths, Bridleways and Cycleways;
- Policy 102 – Loss of Agricultural Land;
- Policy 104 – Landscape Conservation;
- Polic6 106 – Nature Conservation;
- Policy 111 – Archaeological Sites;
- Policy 143A – Watling Chase Community Forest; and
- Policy 143B – Implementation.

20. The following NP policies are of particular relevance to the appeal proposals:

- Policy S1 - Location of development;
- Policy S2 - Housing Mix;
- Policy S3 - Character of Development;
- Policy S5 - Design of Development;
- Policy S6 - Minimising the Environmental Impact of Development;
- Policy S7 - Protecting Natural Habitats and Species;
- Policy S10 - Green Infrastructure and Development;
- Policy S11 - Improvements to Key Local Junctions And Pinch Points;
- Policy S12 - Off-street Car Parking;
- Policy S13 - Bus services and Community Transport;
- Policy S14 - Provision for Walking, Cycling and Horse-Riding;
- Policy S15 – Improving the Bridleway Network;
- Policy S16 – Community Facilities;
- Policy S17 - Leisure Facilities for Children and Teenagers; and
- Policy S24 – Broadband Communications.

21. The following guidance is of relevance:

- Design Advice Leaflet No 1 – Design and Layout of New Housing (1998);
- Affordable Housing SPG (2004); and

- Revised Parking Policies and Standards (2002).

Planning History

22. No planning history of relevance to Appeal A was identified during the Inquiry.

23. The following planning history relates to the site subject of Appeal B:

- 5/2021/2520 – Screening Opinion for mixed use development comprising 330 dwellings, open spaces and a memorial park – ES NOT REQUIRED 30/09/2021.
- 5/2020/2245 – Variation of Condition 4 of planning permission 5/2016/3787 to allow partial change of use to repair of commercial vehicles with a particular focus on agricultural machinery and equipment – REFUSED 22/04/2021.
- 5/2016/3787 – Agricultural barn – GRANTED 10/02/2017.
- 05/2018/1324 – Change of use from Sui Generis (agriculture) to Class D2 (assembly and leisure) to create school playing fields and changing rooms with associated access, car parking and landscaping – REFUSED 17/01/2012.

The Proposals

24. The description of development proposed in each case is set out above.

25. For Appeal A, the appellant expands on the description as follows:

- Demolition of existing structures and construction of up to 391 homes;
- 40% affordable homes provision, of which (subject to final approval):

  30% Social Rent;

  19% Affordable Rent;

  26% Intermediate;

  25% First Homes.
- 3% self-build and custom-build plots;
- The provision of land (1.89 ha) for a new school;
- 2.92 ha of publicly accessible amenity space
- 0.82 ha of formal play space for children of all ages and 295sqm for playspace for toddlers;
- New access arrangements into the Site from Chiswell Green Lane, Long Fallow and Forge End;
- Adjustments to existing car parking, footpath, cycle path and highway arrangements along Chiswell Green Lane, Watford Road, Long Fallow, Forge End, Farringford Close; and

- New on-site habitat and a financial contribution to enhance habitats off-site (to achieve a 10% biodiversity net gain).

26. Appeal B is seeking up to 330 Affordable Homes and to create extensive open space, part of which could be a Memorial Park. Existing buildings would be removed, and a new vehicular access would be created from Chiswell Green Lane. An existing access from The Croft would be retained for use by emergency vehicles only. The scheme would provide 100% affordable housing which would be secured for essential local workers.

Refusal Reasons

27. Appeal A was refused planning permission by the Council for the following reasons:

    1) The proposed development comprises inappropriate development, for which permission can only be granted in very special circumstances, these being if the harm to the Green Belt and any other harm is clearly outweighed by other considerations (paragraph 148 NPPF 2021). We do not consider that the benefits outweigh the harm caused by this proposed development due to the harm to the Green Belt openness and purposes relating to encroachment to the countryside, urban sprawl and merging of towns. The harm also relates to landscape character and the loss of agricultural land. The proposal is therefore contrary to the National Planning Policy Framework 2021, Policy S1 of the St Stephen Parish Neighbourhood Plan 2019-2036 and Policy 1 of the St Albans District Local Plan Review 1994.

    2) In the absence of a completed and signed S106 legal agreement or other suitable mechanism to secure the provision of 40% affordable housing provision; 3% self-build dwellings; 10% biodiversity new gain; provision of open space and play space; health contributions (towards ambulance services and GP provision); education contributions (primary, secondary and Special Education Needs and Disabilities); library service contribution; youth service contribution; leisure and cultural centres contribution; provision of highways improvements and sustainable transport measures; and safeguarding of land at the site for a new two form entry primary school, the infrastructure needs of the development and benefits put forward to justify Very Special Circumstances would not be met and the impacts of the proposal would not be sufficiently mitigated. The proposal is therefore contrary to the National Planning Policy Framework 2021, the St Stephen Parish Neighbourhood Plan 2019-2036 and Policy 143B (Implementation) of the St. Albans District Local Plan Review 1994.

28. Appeal B was refused planning permission by the Council for the following reasons:

    1) The site is within the Metropolitan Green Belt and the proposed development represents inappropriate development within the Green Belt, as set out in the National Planning Policy Framework 2021. In addition to the in-principle harm to the Green Belt by reason of inappropriateness, other harm is identified as a result of the proposed development in terms of: its detrimental impact on the openness of the Green Belt, harm to Green Belt purposes, harm to landscape character and appearance, loss of high quality agricultural land, and impacts on social and physical infrastructure. The benefits comprise the provision of

up to 330 affordable housing units including potential for self-build units at the site which would contribute significantly towards meeting an identified housing need in the District, and potential for provision of a significant area of public open space and a new public footpath. The potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is not clearly outweighed by other considerations; and as a result the Very Special Circumstances required to allow for approval of inappropriate development in the Green Belt do not exist in this case. The proposal is therefore contrary to the National Planning Policy Framework 2021, Policy S1 of the St Stephen Parish Neighbourhood Plan 2019-2036 and Policy 1 of the St Albans District Local Plan Review 1994.

2) In the absence of a completed and signed S106 legal agreement or other suitable mechanism to secure: Additional Health services provision; Education provision in the form of new primary school, secondary school, and childcare provision; Special Educational Needs and Disabilities provision; Library service provision; Youth Service provision; Play Areas, Parks and Open Spaces and Leisure and Cultural Services provision; Affordable Housing provision; Open Space and recreation provision, Highway Works including provision for Sustainable Transport and Travel Plan; the infrastructure needs of the development would not be met and the impacts of the proposal would not be sufficiently mitigated. The proposal is therefore contrary to the National Planning Policy Framework 2021, the St Stephen Parish Neighbourhood Plan 2019-2036 and Policy 143B (Implementation) of the St. Albans District Local Plan Review 1994.

Matters of Agreement

29. Several statements of common ground were signed between the parties. These included:

- General SoCG between Appeal A Appellant and the Council;
- General SoCG between Appeal B Appellant and the Council;
- Highways SoCG between Appeal A Appellant and the Local Highway Authority;
- Highways SoCG between the Appeal B Appellant and the Local Highway Authority;
- Affordable Housing SoCG between both appellants and the Council;
- Landscape SoCG between Appeal A Appellant and the Council;
- Landscape SoCG between Appeal B Appellant and the Council;
- Education SoCG between Appeal A Appellant and the Local Education Authority.

30. An additional letter (ID21) of clarification was sent by the Local Highway Authority, dated 25 April 2023, confirming its consideration of both schemes in combination and raising no objection subject to suitable mitigation measures being secured. In particular, this should include signalisation of the Chiswell Green Lane and B4630 Watford Road junction, in addition to environmental style improvements to pedestrian and cycle infrastructure.

The Case for the Appellants (Appeal A)

The summary below is largely taken from the appellants closing submissions, which set out the key points, as they saw them, at the end of the Inquiry.

Housing in St Albans

31. Nowhere is the national housing crisis more acutely evident than St Albans. Mr Kenworthy and Mr Parker have detailed the true extent of the crisis in St Albans, without any challenge in XX from the Council or any contrary evidence from Mr Connell. Indeed, the Council expressly agrees with much of the Appellants' evidence on this issue in the SOCG.

Supply of market housing

32. The Council's supply of market homes has collapsed. The best-case scenario for the Council is a housing land supply of 2 years. This is less than half the required minimum and equates to a shortfall of 3,195 homes. At best, the Council will be able to deliver only 40% of its local housing need over the next five years. Further, the Council's housing supply is in freefall: it has fallen from 3.49 years in 2017 and since the introduction of the NPPF in 2012 the Council has met its annual housing target on only a single occasion (at the start of that period in 2013/14).

33. The collapse of the Council's housing supply has caused an inevitable under delivery of homes in the District. The Council has failed to meet the Housing Delivery Test ("HDT") since 2016/17, even when the targets were artificially reduced due to Coronavirus. Moreover, these failures have not been near misses: the Council has not even achieved 75% on the HDT in the period since 2016/17.

Supply of affordable housing

34. The Council's supply of affordable homes is even more precarious. In the period 2017/18 – 2021/22 the Council has an accumulated delivery shortfall of 4,360 affordable homes. This extreme level of need is the inevitable product of the Council's chronic failure to deliver affordable housing: in the last 28 years the Council has delivered only 18% of all housing completions (net) as affordable housing and in the most recent five-year period, the Council has averaged only 92 affordable dwellings per annum.

35. Looking forward, the Council is only able to demonstrate a supply of 395 affordable homes over the next five years: an equivalent of 79 affordable homes per annum – even less than it has delivered over the last five years. Just like the Council's supply of market housing, the position is going from bad to worse. The ultimate position is that the Council has a shortfall of 5,507 affordable homes over the next five years. This is a staggering shortfall, made all the worse by the fact that the affordability of homes in the District is getting worse, both when looked at in isolation and by comparison to England as a whole. The real-life position is that almost half of households in the District are unable to afford to access the lower quartile private rented housing.

Supply of self-build/custom housing

36. The Council's development plan is entirely silent on the provision of self-build housing. This is unsurprising, given the age of the Local Plan, but the inevitable

consequence is that the Council is significantly failing to deliver the necessary supply of self-build housing. The Council's own data indicates a shortfall of 171 self-build homes. This is an overall delivery rate of only 20%. However, these figures are likely to be unduly optimistic, with need being significantly greater than the Council's records indicate.

Plan-making in St Albans

37. One of the most striking aspects of the housing crisis in St Albans is the absence of any meaningful response from the Council.

38. The Council has published a HDT Action Plan in 2022, but this only contains measures to deliver approximately 160 homes in the period to 2027. This is not even a meaningful start in tackling the shortfall of over 3,000 homes in the same period.

39. The only additional evidence presented by Mr Connell was the Council's Local Development Scheme, indicating a best-case adoption of a new local plan in 2025. However, as Mr Connell confirmed in XX, this was simply a date that he had been presented with by the Council's officers: Mr Connell had taken no steps to interrogate that date or to consider whether it was realistic. Of course, when the LDS is interrogated, it is obviously optimistic. For example, it proposes 18 months from publication of the reg. 19 plan to adoption. In the context of a Green Belt Authority with multiple previous failures at adopting a local plan, this is unrealistic (especially given the potential further disruption from revisions to the NPPF). Ultimately, not only is there potential for delay at all stages of the plan-making process, as Mr Connell accepted, but in fact such delay is likely and quite possibly inevitable.

40. The Local Plan is almost 30 years old. It is from a different era and it is not fit for purpose. It is out of date in multiple respects: first, because of the absence of a 5YHLS; secondly, because of the persistent HDT failures; and thirdly, because the most important policies are out of date - those policies are inconsistent with the NPPF and, taken as a whole, the Local Plan does not plan for the up to date needs in its district, instead persisting with a failing and unjustifiable spatial strategy. Worse still, the Council has repeatedly failed to remedy this situation: the Council has failed to adopt a new local plan on at least two previous occasions and is currently operating in a policy vacuum.

41. Stepping back and looking at matters in the round, there is quite obviously a sustained and significant failure of plan making in the District. This is a significant material consideration in its own right, as Mr Kenworthy explained without challenge.

42. This is not a position that can be allowed to continue: it is contrary to the established national objective of significantly boosting the supply of housing and it is having severe consequences for the families living in the District.

The need for houses in the Green Belt

43. The root cause of the housing emergency in the District is the Council's failure to get to grips with plan-making, and in particular the Green Belt in its area. However, assessed objectively, the issue is straightforward: there is insufficient land outside the Green Belt to meet housing need and thus it is inevitable that housing must be delivered in the Green Belt.

44. Mr Kenworthy's unchallenged analysis (based on the Council's own data) is that at best 14% of the District's housing need can be accommodated within urban areas. It follows that on any reasonable view, it will be necessary for the Council to deliver housing in the Green Belt. The Council cannot wish away the remaining 86% of need. Indeed, as Mr Connell accepted in XX, the Council's latest published position within its most recent HDT action plan is that it will seek to meet all of its housing need in the next Local Plan. However, even if housing need was slashed in half, as Daisy Cooper MP speculated, it will remain necessary to deliver housing on the Green Belt, as Mr Connell accepted in XX (and importantly he was not re-examined on this point).

45. Further, it is necessary to deliver housing on the Green Belt now. There is no moratorium on development in the Green Belt, as Mr Connell accepted in XX (he was not re-examined on this point either). In the absence of any moratorium and in the absence of any prematurity argument, good planning requires the delivery of housing in the Green Belt now. More than that, there needs to be the delivery of a range of houses on a range of sites. Any other approach would not be in the interests of good planning in the District and it would be callous to ignore the very real needs of the people living in the District.

Effect of the development on the Green Belt

The appropriateness of the southern appeal site

46. Through the Green Belt Review Sites and Boundaries Study the Council has comprehensively assessed the potential for strategic sites in the Green Belt. The output of that assessment is clear: sub-area 8 is the most suitable strategic parcel for development; the eastern part of sub-area 8 is the most suitable part of that strategic parcel; and the southern appeal site is the most suitable site within that eastern part. The southern appeal site is at the very top when it comes to development in the Green Belt. The fact that its relative size compared to other sites may have contributed to this is beside the point: what matters is that as a means of delivering a development of the scale proposed by the appeal scheme somewhere in the St Albans Green Belt, the appeal site and appeal scheme can do so at the lowest possible cost to the Green Belt. Indeed, this is clearly corroborated by the Council's own acceptance at the inquiry that the appeal scheme would cause no more than inevitable harm for a development of this scale in the Green Belt.

47. This analysis is consistent with the earlier allocation in the emerging local plan. It is agreed that the emerging local plan cannot be given any weight now, but it is relevant to consider the prospect of allocation. As to this, the Council has withdrawn Mr Connell's suggestion that the southern appeal site will not be allocated in the next Local Plan – in XX he accepted "it's a likelihood" that the site would indeed be allocated.

48. This concession was rightly made given (i) the acceptance that there is a need for at least some Green Belt release, including on strategic sites, which Mr Connell acknowledged would be necessary even with a new local plan requirement figure that sought to meet just a quarter of currently identified housing need given the findings of the Urban Capacity Study; (ii) the findings of the Green Belt Review which still hold good today; and (iii) the common ground with the Council that the proposed development would cause no more than the

minimum inevitable level of harm associated with developing 391 homes in the Green Belt.

49. There can be a high degree of confidence that the southern appeal site would be allocated in due course for residential development of this scale (likely including the provision of land for a school as well, given HCC's clear statement that such land is required for further development in Chiswell Green) if and when the Council gets a new local plan in place.

50. The Council and the Appellants are agreed that significant weight should be given to the Green Belt Review. However, belatedly, the Council has sought to caveat this agreement on the basis that there has been a material change of circumstances with the closure of Butterfly World. This is incorrect for the following reasons.

51. First, the unauthorised development against which the Council has taken enforcement action (the unauthorised change of use and the failure to remove the temporary toilet block) occurred after Butterfly World closed in 2015 and post-dates of the Green Belt Review. Therefore, the enforcement action even if successfully defended on appeal would revert the position back to that at the time of the Green Belt Review. Accordingly, this unauthorised development (including its subsequent removal, if enforcement action is successful) is not a change of circumstances which materially changes the baseline from that which was assessed in the Green Belt Review. Insofar as there is any other unauthorised development within Butterfly World, it is now too late for the Council to take enforcement action against that development, as Mr Connell accepted in XX.

52. Secondly, there is no indication that the Green Belt Review was based on the assumption that the permitted dome within Butterfly World would be built out in full. To the contrary, it is clear that the Green Belt Review assessed the Green Belt as it existed in 2014: all of the descriptions are in the present tense without any suggestion of future development. Further, there would be no basis for that assumption. Planning permission for the dome was granted in 2005, some nine years previously, with development commenced before 2010 with the ground works, hard standing and pouring of concrete base of the dome. Accordingly, the development was already delayed at the date of the Green Belt Review, as the assessors would have appreciated, and thus there would have been no basis for them to base their assessment on the assumption of completion.

53. Thirdly, it is important to read the Green Belt Review's reference to Butterfly World in context. The full passage (CD 8.5, para. 10.1.4) reads as follows: "However, the sub-area identified on pasture land at Chiswell Green Lane displays particular urban fringe characteristics due to its proximity to the settlement edge and Butterfly World along Miriam Road to the west. This development bounds the outer extent of the pasture land and creates a physical barrier to the open countryside."

54. As Mr Friend accepted in XX from his landscape and visual perspective, this observation remains good. The Green Belt Review's identification of urban fringe characteristics of the site were due to both the settlement edge (which has not changed since) and Butterfly World, which on any view in its lawful state would be a previously developed site with significant hardstanding and other physical development (as the aerial image in the Keep Chiswell Green presentation made

abundantly clear) – containing development which at the time it was authorised was recognised as inappropriate development in the Green Belt. Mr Friend accepted in XX that these two factors continue to contribute to the site having urban fringe characteristics from a landscape and visual perspective. He also accepted that in its lawful state (i.e. discounting the matters which are the subject of the ongoing enforcement action) the site continues to separate the appeal site from the open countryside. The observations of the Green Belt Review in this respect therefore remain fully valid.

55. The Appellant on the northern appeal site has argued that the Green Belt Review should be afforded less weight because of the Examining Inspector's comments on the withdrawn local plan. This argument is incorrect. The Inspector's concern was that the Council had failed to assess small scale sub areas i.e. non-strategic small sites. The Inspector did not have any concerns about the assessment of strategic sites. It follows that this is not a basis to reduce the weight to be afforded to the Green Belt Review.

56. In the Council's closing submissions, Mr Parkinson advanced a new point against the Green Belt review, not made in evidence or otherwise previously foreshadowed: namely that "the GBR did not assess the cumulative effect of both the North and the South sites coming forward at the same time". This new point is a bad one given that Ms Toyne's cumulative assessment for the Appellant was not challenged in XX or otherwise contradicted at the inquiry. In any event it does not affect the standalone merits of the southern appeal site and the appeal scheme.

57. Accordingly, the conclusions of the Green Belt Review in relation to the site continue to hold good today without caveat, and there is no good basis for departing from them. On this basis, the only proper conclusion is that the southern appeal site is the most appropriate site for strategic residential development. There is no alternative analysis.

Green Belt – baseline analysis

58. In the baseline analysis, the southern appeal site makes a limited contribution to the openness of the Green Belt.

59. In respect of parcel S8, the Green Belt Review explains that there is a 'sense of enclosure' in the parcel and that 'urban fringe elements are prominent, particularly […] [the] built edge of settlements'. This is especially the case 'at a local level [where] Butterfly World forms a distinctive feature to the west of Chiswell Green'. Further, the Green Belt Review highlights that the land around Chiswell Green Lane, including the southern appeal site, 'displays particular urban fringe characteristics due to its proximity to the settlement edge and Butterfly World along Miriam Road to the west. This development bounds the outer extent of the pasture land and creates a physical barrier to the open countryside. The pasture land displays greater levels of landscape enclosure due to localised planting along field boundaries. This creates potential to integrate development into the landscape with lower impact on views from the wider countryside and surroundings.' On this basis, the Green Belt Review concludes that the land immediately adjacent to Chiswell Green, including the southern appeal site, 'makes a limited or no contribution towards all Green Belt Purposes'.

60. Ms Toyne's analysis – in particular through the BWNS Green Belt Review - was consistent with these findings. As to openness, Ms Toyne explained through her evidence that the principal contribution to openness is in the spatial dimension, because the appeal site is largely undeveloped, but there is no meaningful contribution to the visual aspect of openness: the existing vegetated boundaries truncate views, limiting intervisibility between the southern appeal site and the remaining Green Belt to the west; views from the settlement edge towards the appeal site are also interrupted in part by the existing field boundary vegetation; and as such any appreciation of openness is limited to the immediate locality of the Appeal Site, with no perception of openness beyond the roads and residential properties that immediately adjoin the Site.

61. Further, as to the purposes of including land within the Green Belt, Ms Toyne found that the appeal site made only a partial contribution to a single Green Belt purpose, namely preventing encroachment into the countryside. This is entirely in accordance with the Green Belt Review.

62. The Council's challenge to Ms Toyne's assessment of the baseline was limited. As to openness, the Council did not identify any deficiencies in Ms Toyne's analysis. In particular: The largely undeveloped nature of the southern appeal site is agreed and was expressly part of Ms Toyne's analysis. There was no omission in her analysis in this regard. The Council's case in XX focussed in on very close distance views from private residential properties. Again, these had been taken into account by Ms Toyne and there was no omission in her analysis. There was a suggestion that longer views from outside the Green Belt looking west were relevant. Aside from the fact that Mr Friend provides little if any analysis of these views in Green Belt terms, there is only a very limited extent of visibility as Ms Toyne explained, consistently with the Green Belt Review. The extent of activity from the existing riding school was acknowledged expressly by Ms Toyne in her evidence and there was no omission in this regard.

63. In respect of Green Belt purposes, the Council's case at inquiry evolved beyond its earlier written analysis. In particular, on the first Green Belt purpose, checking the unrestricted sprawl of built up areas, Mr Connell advanced the contention for the first time in XiC that Chiswell Green was a large built up area. This was not foreshadowed in his POE. The absence of earlier analysis only underscored the weakness of this argument and Ms Toyne was right to reject it. Neither the Council's own Green Belt Review nor the BWNS Green Belt review considered Chiswell Green to be a large built up area for this purpose. That is the right analysis, reflecting the Council's own assessment of the different tiers of settlements, where Chiswell Green is not in the top tier as a large built up area.

64. The Council based its case in XX on the appeal decision relating to Burston Garden Centre (another argument not in Mr Connell's evidence). This is a site on the other side of St Albans, beyond the North Orbital Road. The Council sought to argue that a finding of harm to the first Green Belt purpose in that case meant that there was also harm to the same Green Belt purpose in this case. This is flawed in multiple respects. First, the comparison of two different sites on different sides of Chiswell Green is simplistic. A site specific and scheme specific analysis is required. Secondly, on closer examination, it is apparent that the Inspector's concerns in that case – which was about the separation between Chiswell Green and How Wood Village – is not a concern in this case, given (1) the location of How Wood Village; and (2) the close relationship between the

southern appeal site and Chiswell Green in this case, which was not replicated in the other appeal decision where the Inspector noted 'a degree of separation' from Chiswell Green. Thirdly, there is no supporting reasoning which explains either: (1) how (or if) the Inspector grappled with the Green Belt Review; and/or (2) how Chiswell Green and How Wood Village are large built up areas for the purposes of the first Green Belt purpose (in particular, in the face of the Green Belt Review). Ultimately, this appeal decision provides no tenable basis for reaching a different view to Ms Toyne and the Green Belt Review in this case.

65. On the second Green Belt purpose, the Council pinned its case on a simplistic recitation of the "thousand cuts" argument. The deficiency with this argument is that it requires site by site appraisal, not broad brush statements of principle. As Ms Toyne explained in response, when one focuses in on the southern appeal site, it is clear that the development of this parcel will not contribute to the merging of neighbouring towns, given its high levels of enclosure and relationship with Chiswell Green, being wrapped around by existing development from residential properties and Butterfly World. Accordingly, there is no merging effect. It follows that Ms Toyne's assessment of the baseline is to be preferred.

Effect on Green Belt openness and purposes

66. As to the effect of the proposed development, although the parties differed on their precise assessments, it was agreed by both of the Council's witnesses that the harm to the Green Belt from the proposed development was no more than that which would inevitably arise from a residential development of this scale within the Green Belt in this District. There is no excess or egregious harm; rather that harm has been minimised to the lowest possible extent.

67. Ultimately, this is fatal to the Council's case (given the acceptance that some Green Belt release is needed to address the massive unmet needs and that there should be no moratorium on that until such time as a new local plan is finally adopted). It is possible to argue – as the Council sought to do in XX of Mr Kenworthy as to whether or not the substantial weight to the Green Belt harm should be graduated or calibrated to the extent of effect, but in this case such an argument is arid because it makes no difference. The parties are agreed that nothing more than the minimum, inevitable, harm to the Green Belt is caused by the proposed development and thus, when paragraph 148 of the NPPF is applied, the substantial weight to be afforded to that harm is the same on either parties' analysis – it is substantial weight reflecting a minimum level of harm.

68. Insofar as it is necessary to go beyond this analysis, the Appellant submits that Ms Toyne's assessment of effects is to be preferred. Overall, she concluded that there was limited harm to the Green Belt, having regard to both the impact on openness and Green Belt purposes. Mr Kenworthy struck his planning balance on this basis. There was no inconsistency as the Council suggested in XX: that inconsistency was illusionary because it was based on individual component parts of Ms Toyne's analysis, not her overall conclusion on the degree of harm.

69. Further, in XX of Mr Kenworthy and Ms Toyne the Council sought to adopt a mathematical approach, taking the assessment of different elements and adding them up to create a higher level of harm. This approach is wrong as a matter of principle: the assessment of harm is not a mathematical exercise, but instead requires a holistic overall conclusion. That was Ms Toyne's approach and she was correct to do so.

70. As to spatial openness, Ms Toyne acknowledged that there would be harm to this dimension, but in so doing she also, rightly, had regard to the proposed development in its entirety, in particular the substantial areas that would not be developed. The Council challenged the precise figure in this regard on the basis that the school should be included, but even on this basis, the increase in the percentage of developed area would not be significant, as Ms Toyne explained in XX.

71. As to visual openness, the Council reiterated its arguments about adjacent residential properties, but the more that this argument was reiterated, the clearer it became that the effects on visual openness were very limited – these were the only views that the Council could point to in support of its case. Ms Toyne took these matters into account, but they did not materially increase her assessment of harm. This was the same conclusion as the Council's officers who were of the view that 'there is no additional harm to openness as a result of the limited visual impact on openness of the Green Belt'.

72. As to Green Belt purposes, the proposed development would only cause very limited harm to the third Green Belt purpose and that harm would be confined to the southern appeal site itself. Although the southern appeal site makes a partial contribution to this purpose and there would be development within the countryside, the level of harm is significantly mitigated by (1) the existing urban fringe influences in the baseline position; and (2) the fact that following the development there will be a strong, defensible, Green Belt boundary, enclosing the development with Chiswell Green.

73. In respect of this purpose, the Council focussed in XX of Ms Toyne on the fact that the urban influences could be stronger if Butterfly World had been completely built out. That might be right, but it is of no consequence: as the Green Belt review has found, the current form of Butterfly World (and the other existing development) already imposes a substantial urban fringe influence on the appeal site. Ms Toyne's assessment was based on what is on the ground today, not what might have been. Therefore, the Council's argument goes nowhere.

74. There has been no challenge to Ms Toyne's assessment of cumulative impacts. Indeed, this is a matter to which Mr Friend devotes three, essentially inconsequential, paragraphs in his POE. Accordingly, for the reasons that Ms Toyne gives, there is no basis for refusing to grant planning permission because of the cumulative impacts of the development but, even if this was a concern, the clear – and undisputed – preference must be for the development of the southern appeal site with its lower levels of harm. No party has challenged the Appellant's evidence on the comparative impacts of the South and North schemes.

75. Finally, an important gap in the Council's assessment was its failure to take proper account of the positive effects that the proposed development will have on the Green Belt through the formation of a strong boundary on the western edge. The boundary features already exist there, with Miriam Lane and Butterfly World, but at present the urban edge is raw. Following the proposed development, there will be substantial landscaping on the western side, softening the impact of the urban form, reinforcing the existing boundary features and reducing the urban fringe impacts on the Green Belt. This is an important factor that tempers the harm to the Green Belt.

Conclusion on Green Belt effects

76. The southern appeal site represents the most appropriate site for strategic residential development within the Green Belt. As the Green Belt Review rightly concludes, the site is the most suitable part of area S8, that area as a whole being ranked No1 within the Tier 1 of the strategic sites that were assessed.

77. Notwithstanding the Council's concerns as to the extent of Green Belt effects, the ultimate position is that any harm arising from the proposed development is only that which would arise inevitably from any strategic residential-led development within the District's Green Belt. This was accepted by the Council's witnesses.

78. Once it is accepted – as the Council's witnesses have - that development in the Green Belt is necessary and there is no moratorium on Green Belt development, then it follows from the above that there can be no tenable objection to the proposed development on Green Belt grounds. There is no better way of meeting the need for strategic residential development: it is the most appropriate site and any harm arising is only that which would inevitably arise from any such development in the District's Green Belt.

Landscape and visual impacts

Impact on landscape character

79. The starting point – and end point – is the agreement between the Council and the Appellants that there is only a limited degree of harm to landscape character and that only limited weight should be afforded to that harm. Mr Friend also agreed in XX that the level of harm was no more than that inevitable for development of this scale on a green field site in the district. This agreement reflects the fact that there were only two – very minor and ultimately immaterial - points of dispute between Mr Friend and Ms Toyne.

80. The first point of dispute relates to the effect on the character of the site in year 15. Ms Toyne's evidence is to be preferred and the proper conclusion is that at year 15 there will be a neutral on site effect. Although the character of the site would change, the proposed development would establish positive characteristic features across the southern appeal site, thus responding to the published landscape guidance and policy, as well as mitigating the adverse effects of the proposed development itself. This would ensure the sensitive assimilation into the settlement and an overall improvement to the edge of Chiswell Green. Mr Friend's analysis erroneously focussed on the adverse effects in isolation, rather than balancing both the landscape character harms and benefits.

81. The second point of dispute concerns the effect on native hedgerows in year 15. Both Ms Toyne and Mr Friend agree that there will be a beneficial effect on this receptor and the dispute is only one of extent. As to this, Mr Friend based his position on the fact that some hedgerow would be removed for the creation of accesses. However, this is an incomplete assessment because the proposed structural planting will result in an overall net gain in native hedgerow length and quality. This justifies the moderate beneficial effect described by Ms Toyne.

Visual effects

82. The reason for refusal only refers to harm to landscape character. There is no allegation of adverse visual effects. Mr Friend's decision to allege such effects

was thus contrary to art. 35 of the Development Management Procedure Order and unreasonable. This was all the more the case given the alleged adverse visual effects were unjustified.

83. There was no methodological dispute between Mr Friend and Ms Toyne. Instead, Mr Friend purported to dispute the value of the receptors in residential properties on the settlement edge of Chiswell Green. There was no justification for these receptors to be given a high value. The agreed methodology ascribed a high value to a 'view of/from a location that is likely to be of national importance, either designated or with national cultural associations'. Plainly these views do not have national cultural associations. Further, they are not designated for their visual value. Mr Friend's reliance on the Green Belt designation was in error: that is a spatial designation, not a landscape designation, and the visual component of openness does not change this because it is concerned with the extent of visibility, not the quality or value of a view. Mr Friend's error is all the more apparent given the protection of views from private properties is not a purpose of including land in the Green Belt.

84. It follows that Ms Toyne's assessment of visual effects is to be preferred. In any event, Mr Friend's criticisms had no consequence because Mr Connell did not depart from his limited weighting on this issue (and did not add any additional component of harm to his planning balance).

Conclusion on landscape and visual matters

85. Ultimately, the proposed development would only give rise to a limited adverse effect on landscape character. That level of harm does not give rise to any policy conflict, even on Mr Friend's case. This is not an immaterial point as the Council suggested in XX of Mr Kenworthy. Neither the NPPF nor the Local Plan impose a no harm test. Rather, they seek to consider whether the effects are acceptable. A limited adverse effect when delivering a strategic residential development is an acceptable, policy compliant, effect, as the Officer Report and the Appellants' witnesses concluded.

<u>The effect on best and most versatile agricultural land</u>

86. The Council's objection to the loss of agricultural land is inexplicable for multiple reasons.

87. First, over 90% of the land within the District is classified as Grade 3, like the southern appeal site. It follows that if strategic residential sites are to come forward – as they must – then it is inevitable that sites with the same agricultural land classification will be lost.

88. Secondly, the southern appeal site makes no contribution to the agricultural productivity of the district. It has not been in productive agricultural use for more than 20 years and there is no prospect of this changing. The southern appeal site is fundamentally unsuited to a modern, intensive, agricultural enterprise, being an isolated block of land, adjacent to the urban edge and severed from any wider agricultural land. Accordingly, the loss of this agricultural land would have no effect on the agricultural productivity of the District. In none of these respects was the Appellant's evidence challenged.

89. Thirdly, the loss of agricultural land does not give rise to any policy conflict. The Council's reasons for refusal do not allege any conflict with the Local Plan on this

issue. Further, there is no conflict with NPPF para. 174(b), as Mr Connell accepted in XX. That paragraph simply requires the benefits of best and most versatile agricultural land to be taken into account – it does not seek a particular outcome. But in any event, the land in this case does not give rise to any agricultural or economic benefit, given the enduring absence of productive agriculture.

90. It follows that there is, at worst, limited harm arising from the loss of agricultural land and this should be afforded limited weight. This is agreed between the Appellants and the Council.

Highways and transport

91. Neither the Council nor the Hertfordshire County Council, the local highways authority, objects to the proposed development, either on an individual or cumulative basis. This has been reaffirmed during the inquiry. The objections by third parties are without merit and provide no good reason to take a different view to the Council and County Council.

Impact on the highway network

92. The proposed development will not give rise to a severe residual cumulative impact on the highway network either in isolation or in combination with the development on the northern appeal site.

93. Mr Jones has undertaken detailed modelling of the impact on the highway network on a worst case basis. This approach is robust and is not disputed by any party, including Keep Chiswell Green ("KCG"). Instead, the dispute is as to what form of mitigation is necessary.

94. Mr Jones explained his view that for the proposed development in isolation, the modal shift arising from the Travel Plan was sufficient mitigation, but for the developments in combination it would be necessary to introduce traffic signals at the double mini-roundabout. The County Council agrees with this analysis.

95. Mr Walpole accepted the principle of signalisation, subject to detailed design, but contested the efficacy of the Travel Plan. This objection cannot give rise to a refusal of planning permission, given the introduction of traffic signals is offered as a fallback (although it is not considered necessary). But in any event, it is an objection which is unjustified. The Travel Plan proposes a 16% decrease in single occupancy vehicle movements. This is agreed by the County Council to be realistic. That 16% decrease is made up of two components. The first component is a 10% reduction in car driver mode share as a result of active travel improvements. Mr Walpole agreed in XX that he did not contest that element and he agreed that it was realistic. The second component is a 6% increase in people working from home: more specifically, a shift from 9% to 15%. Mr Walpole contended that this was unrealistic, but that is wholly unsustainable, given on KCG's own evidence some 24% of people in Chiswell Green work from home. Given this, achieving the lesser figure of 15% is eminently realistic and achievable, as both Mr Jones and the County Council have concluded.

96. It follows that the impacts of the proposed development will be appropriately mitigated and there is no basis for concluding that the proposed development will give rise to a severe residual cumulative impact on the highway network.

Impact on highway safety

97. Only Mr Walpole has raised an objection on the basis of highway safety. That objection was narrow in scope and only related to the proposed shared pedestrian/cycle way on Chiswell Green Lane. Further, the objection was unfounded in multiple respects.

98. First, as Mr Walpole explained in XX, his analysis was based on the shared way being the only point of access. This was in error. There will be two points of access for all modes of travel into the southern appeal site at Chiswell Green Lane in addition to the access at Forge End and the pedestrian/cycle/emergency access at Long Fallow. Importantly, the most easterly of these access points (and thus the access point that is most likely to be used by school children walking from the centre of Chiswell Green) will be served by footways on both sides of Chiswell Green Lane, contrary to Mr Walpole's understanding. From that access way, school children will be able to follow the footway around the internal access road to the school site. In addition, there is likely to be an internal footpath across the northern part of the site, providing a further alternative access to the school site.

99. Secondly, the proposed shared way has been assessed in the Road Safety Audit and Mr Walpole's concerns were not corroborated. This is consistent with the conclusion of the County Council who also found the shared way to be acceptable.

100. Thirdly, and in any event, the proposed shared way has been designed in accordance with LTN1/20 and it will have a capacity of 300 pedestrians/cyclists per hour. This will be more than adequate, as Mr Jones explained in XiC, in particular when the unchallenged forecasts only identify 40 cycling trips per day on that route. It follows that the proposed development is acceptable in terms of highway safety.

The locational accessibility of the proposed development

101. The issue of locational sustainability must be put in perspective. The Council has consistently assessed Chiswell Green as an appropriate location for development, both in the adopted local plan and in the aborted replacement local plan.

102. The first difficulty with Mr Walpole's evidence was his erroneous approach to national policy. Mr Walpole assessed locational sustainability on the basis that walking, cycling and public transport had to be 'the first choice for journeys by new residents'. This is incorrect. Mr Walpole based this test on a Government policy paper from July 2020. That policy paper predates the NPPF. Given this, it cannot be taken as an expression of the Government's current approach to assessing the locational accessibility of developments; rather, that should be assessed by reference to the NPPF, in its current form.

103. Properly understood, the NPPF requires opportunities to promote walking, cycling and public transport use are 'identified and pursued'; and it seeks to ensure that 'appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location'. Further, the NPPF recognises that opportunities to maximise sustainable transport solutions will vary depending on the location of the development.

104. Mr Walpole did not recognise the contextual judgement that the NPPF requires. Instead Mr Walpole formulated arbitrary lists of required facilities, for which there is no policy or guidance support.

105. The second difficulty with Mr Walpole's evidence was that he assessed the accessibility of the development on foot by the rigid application of an 800m walking distance. This approach is flatly contrary to the relevant guidance. Manual For Streets recognises that whilst 800m represents a 'comfortable' walking distance, it is not an upper limit and that walking is a realistic option to replace car trips at distances up to 2 km. This is also consistent with the WYG research which found that walking up to 1.95 km was realistic as a main mode of travel outside of London. Further, the National Design Guide does not lead to a different conclusion: that discusses how new developments can be laid out so as to be walkable (based on an 800m distance), but it does not dictate or provide guidance on the location of development relative to existing facilities. Mr Walpole did not appreciate this in his evidence.

106. The third difficulty was that Mr Walpole failed to consider the full range of sustainable transport options. In particular, Mr Walpole made no reference at all to the possibility of train travel, despite the appeal site being in close proximity to four train stations, offering the possibility to travel to central London in under an hour by bus and train alone.

107. Given these obvious errors in Mr Walpole's analysis, the Appellants submit that Mr Jones' evidence should be preferred. As he explained, Chiswell Green is served by a good range of facilities, including retail and employment, that are within convenient walking and cycling distance of the southern appeal site. Further, Chiswell Green is well located for the wider use of sustainable transport, in particular by cycle or bus into St Albans or one of the four nearby rail stations, with plentiful opportunities for onward travel, especially to London and Watford. In short, applying the NPPF, it is clear that appropriate opportunities for sustainable transport exist and can be taken up. Mr Walpole was unable to identify any opportunities that had been overlooked.

108. It follows that the southern appeal site is in a sustainable location.

<u>The effect on education</u>

109. The Council do not dispute that the provision of the school land is a benefit, but instead they contest the weight to be given to it as a benefit. Mr Connell agreed that if planning permission is granted for both the northern and southern developments, then substantial weight should be afforded to the provision of the school land. Accordingly, the dispute is narrow, namely the weight to be afforded to the school land if planning permission is granted for the southern appeal site alone.

110. The starting point is to recognise that both the Council (and the County Council) consider that the obligation to provide the school land complies with reg. 122 of the Community Infrastructure Levy Regulations 2010. It follows that the Council (and the County Council) has concluded that the provision of the school land is necessary to make the development acceptable in planning terms. The Appellants agree.

111. Mr Connell's evidence – and the XX of Mr Kenworthy – must be seen in this context. The more that the Council suggested the delivery of the school land was uncertain, the further it strayed from the agreed position that the school land was necessary. Ultimately, it became clear that the Council's position was a contrived attempt to avoid giving the provision of a school land substantial weight, consistently with Mr Kenworthy's evidence and the officer's report.

112. The Appellants submit that substantial weight should be afforded to the provision of the school land for the following reasons.

113. First, there is no dispute that the school land is required. The SOCG with the County Council states so in terms. More than that, the school land is the ideal response to that requirement. As Mr Hunter explained in his evidence, the school site is a rare opportunity because school land is not easy to come by, especially unencumbered, remediated and of an appropriate size without the need for compulsory purchase.

114. Secondly, following discussions with the County Council, the description of development was amended to allow the County Council the maximum flexibility when bringing forward the school land, in particular to allow the County Council to develop the school land for a SEND school (either alone or in combination with primary provision). This is important because there is a significant unmet need for school places for children with profound neurological impairments ("PNI") and the school land will provide the County Council with the opportunity to address that need.

115. Mr Connell has sought to contest this analysis. He was wrong to do so in multiple respects.

116. The County Council's Statement of Case is clear: there is a shortfall in places for children with both PNI and Severe Learning Difficulties ("SLD"), but the County Council only has a plan to accommodate the SLD need. The County Council does not have a plan to accommodate PNI. There is no contrary evidence and Mr Connell was not able to point to any before the inquiry.

117. The email correspondence between Mr Hunter and Mr Wells in January 2023 does not alter this analysis. Mr Wells email deals only (and specifically) with SLD needs. Mr Wells does not deal with PNI. Further, contrary to XX of Mr Hunter, there is nothing in the fact that Mr Hunter did not ask about PNI specifically because the County Council only disclosed that need to the Appellants in its subsequent statement of case, in February 2023.

118. Similarly, the email to the case officer from the County Council in March 2023 does not alter the analysis. Again, the only pertinent information in that correspondence is concerned with SLD provision (and specifically the size of school required). That email does not deal with PNI. Further and importantly, as Mr Hunter has explained in his evidence, the school land is big enough for a PNI school (or PNI provision in combination with primary provision).

119. The remaining concern of the Council is the fact that the County Council has indicated a feasibility study would be needed prior to going ahead with a PNI school on the site. However, Mr Hunter explained in XX and RX that there is nothing unusual about that: the requirement for a feasibility study is standard process. His expert opinion was that there were no foreseeable or likely

showstoppers that would arise out of any such feasibility study in future. He was the only education expert who appeared before the inquiry; there is no evidential basis in support of a different analysis. His evidence was obviously credible and well informed. The fact that no issues had arisen out of the feasibility study already undertaken for a primary school underscores the confidence that can be had in his judgment in this respect.

120. It follows that all the available evidence before this inquiry shows that there is an unmet need for school places for children with PNI and the school land is suitable to accommodate that need.

121. Thirdly, although it is theoretically possible to conceive of meeting the need for school places in a different way, the use of the school land is very obviously the best – and thus most likely – solution. Enabling it is markedly advantageous in planning terms. More particularly:

122. If planning permission is granted for both the north and the south sites, it is inconceivable that the County Council would seek to expand Killigrew Primary School to a 4FE. As Mr Hunter explained, there are no 4FE primary schools in Hertfordshire and such schools form less than 1% of the school stock across the country. Such an approach is so rare that DfE does not have baseline designs for 4FE. There is an obvious reason for this, given the qualitative benefits of smaller schools. Mr Connell accepted in XX that if permission is granted for both sites, an immediate need for the new school would arise and that substantial weight should in that situation be accorded to this benefit.

123. There is insufficient surplus space at Killigrew Primary School to accommodate the pupil yield from the southern appeal site alone. The small (but insufficiently large) surplus that currently exists is necessary to ensure the smooth operation of the school, as Mr Hunter explained in XX. It is possible that the existing school could be expanded by 1FE to accommodate the need from the southern appeal site alone, but this is unlikely given: (1) 98% of the primary schools in Hertfordshire are 2FE; and (2) the requirement identified by the County Council is for a 2FE school, not for a 1FE extension. In XX the Council suggested that expansion to a 3FE school would build resilience, but this point goes nowhere, given the County Council has not raised any concern about the resilience of the existing school and the current levels of up take indicate that it is well used.

124. Given these matters, the most likely approach is that the County Council will draw down the primary school land, at the very least to deliver a 1FE school, with the ability to expand that in future, given the likelihood of future development in Chiswell Green (having regard to the extent of need, the ability of urban sites to meet only 14% of the need, and Chiswell Green's comparative sustainability relative to much of the District).

125. Ultimately, there are four possible options: (1) the County Council do not draw down the school land; (2) a primary school is constructed; (3) a SEND school is constructed; or (4) a primary school with SEND provision is constructed. The least likely of these four options is the first, given the County Council's stated requirement for the land; the unmet need for PNI school places; and the low likelihood of an alternative solution.

126. Fourthly, paragraph 95 of the NPPF requires local planning authorities to take 'a proactive, positive and collaborative approach' to ensure that a sufficient

choice of school places is available to meet the needs of existing and new communities. Further, local planning authorities are required to take the same approach 'to development that will widen the choice in education'. The approach of Mr Connell and that put to Mr Kenworthy in XX is inconsistent with this clear policy. On the Council's approach, local planning authorities should sit around until schools are at capacity and there are no other options before recognising the importance of new school delivery. This is wrong. A proactive approach is that proposed by the Appellants: delivering a school now, with capacity for the southern appeal site and future growth in Chiswell Green. In addition, this approach will widen the choice in education, providing an alternative to the existing primary school (indeed, an alternative which KCG appeared to consider would be at least, if not more, attractive).

127. It follows that the provision of the school land is a benefit of the proposed development to which substantial weight should be afforded, consistently with the officer's report. (This is equivalent on the parties' weight scales to the "great weight" provided for by NPPF para. 95(a)).

Other matters

128. KCG and third parties have raised a number of other matters, outside of the reasons for refusal. The Appellants have responded to those matters through their evidence. Further, in XX Ms St Ledger McCarthy accepted that KCG had not presented evidence on the other matters raised in its SOC and/or that those matters did not give rise to a basis for refusing to grant planning permission.

129. Notwithstanding this, given the volume of representations made on the issue of precedent, it is necessary to deal with it briefly. The grant of planning permission will not give rise to any precedent. KCG's evidence has concentrated on Colney Heath. That is entirely irrelevant to precedent in this case. In addition, KCG's evidence about Chiswell Green has focussed on the potential for further applications to be made; not for further grants of planning permission. Further, it was based on the mistaken understanding that the grant of planning permission in this appeal would alter the Green Belt boundary and/or lessen the policy protection for land within the Green Belt.

130. In short, there is no evidence that the grant of planning permission in this case would render it more difficult for the Council to refuse to grant planning permission on another site. The absence of such evidence is readily explicable: the test of very special circumstances is inherently fact sensitive and thus not readily amenable – if at all – to arguments based on precedent. Further, the Council's own conduct – with different recommendations on each development – demonstrates the lack of any precedent, with the Council considering each site independently.

131. Accordingly, the representations based on precedent are nothing more than a generalised fear or concern. That is insufficient to found a precedent argument and it should be dismissed.

Very special circumstances

132. The Appellants accept that it is necessary to demonstrate very special circumstances in order to justify the grant of planning permission. Those circumstances exist here. Of all the cases for development in the Green Belt, this

could not be stronger: the harm is limited and is clearly outweighed by a package of very significant benefits.

Components of harm to be weighed in the planning balance

133. As to the harm arising from the proposed development, there are only three components.

134. First, the harm to the Green Belt. Mr Connell clarified in XX that he attributed a single value to this harm and treated it as a single factor (not multiple factors with the potential for double counting, as the SOCG suggested). That harm is to be afforded substantial weight, consistently with the NPPF, as the parties have both identified. For the reasons already explained, the Council is wrong to allege a greater scale of harm to the Green Belt, and in any event, the differences in the scale of harm are not material in this case, given the common ground that the harm is only that which is inevitable – the minimum harm, not justifying any increase in the weight, even on the Council's approach.

135. Secondly, there is an agreed position on the harm to landscape character: this is limited in scale and should be attributed limited weight. This too is accepted to be the minimum inevitable for a development of this scale.

136. Thirdly and similarly, there is an agreed position on the loss of agricultural land: at most, this is limited in scale and should be attributed limited weight. This too is accepted to be the minimum inevitable for a development of this scale.

137. Overall, therefore, on the evidence of the Council's own witnesses at this inquiry, the "harm to the Green Belt and any other harm" for the purposes of NPPF para. 148 is the minimum possible harm for a Green Belt development of this scale in the District - in the context that such developments need to come forward and there should be no moratorium pending the new local plan. The substantial package of benefits which the appeal scheme would deliver comes at the least possible cost to the Green Belt.

Benefits to be weighed in the balance

138. The Council and the Appellants are agreed that very substantial weight should be given to the delivery of market housing. This is consistent with the Inspector's conclusion in the Roundhouse Farm appeal (on a materially smaller scheme, but in the same District, with the same chronic housing delivery issues).

139. Secondly, there is agreement that delivery of affordable homes should also attract very substantial weight.

140. Thirdly, there is agreement that the delivery of self-build and custom-build homes should attract substantial weight.

141. Fourthly, for the reasons already explained, the Appellants' position on the school land should be preferred and this should be afforded substantial weight.

142. Fifthly, it is agreed that the provision of open space and children's play space is a benefit, but there is a dispute as to the weight to be afforded to this delivery. The Council seeks to justify a lesser weighting on the basis that there is no identified deficiency. This is perverse. An identified deficiency is a factor that might increase the weight to be afforded to this benefit, but it is not a necessary precondition. The nature, quality and quantity of the provision must be assessed

in its own right, as Mr Kenworthy did. On this basis, he concluded that the new provision was larger than that required by policy and represented an improvement because it integrated the open and play space into the development, allowing "doorstep" provision for the local community to use which is an improvement over the existing situation. Mr Kenworthy also highlighted that the local community would also be able to secure new bridleway access through the site to gain easier access to PROW beyond. This improvement in the baseline position and the overall quality of the development as a result justifies moderate weight, as the Council's officers also concluded.

143. Sixthly, the provision of ecological improvements is a benefit to which moderate weight should be afforded. Mr Connell struggled to give this any weight, seemingly on the basis that he thought it was a policy requirement. This is wrong in multiple respects. The policy requirement is that found in the NPPF which does not specify a target percentage. A 1% uplift would suffice. Accordingly, when, as here a greater uplift is provided, that should be attributed greater weight. The fact that this may be mandatory in the future does not change the analysis: as at the date of determination, the policy requirement is being exceeded. In any event, as a matter of principle, the fact that the policy requirement is met is not a reason to reduce its weight. Affordable housing is a prime example: no reduction is made because "only" a policy compliant level is provided. So too with ecological improvements: weight should be attributed based on the quality of the provision, without reduction for it being policy compliant. Similarly, the fact that some of the provision is off site does not reduce the weight: the off site provision is permissible under both current and emerging policy, and the off site provision is within the District or within the same Northern Thames Basin National Character Area within Hertfordshire. It follows that at least moderate weight should be attributed to this benefit.

144. Seventhly, the socio economic benefits of the proposed development are significant. The Council accepts that this is a benefit, but seeks to contest the weight to be afforded to it, despite no issue being taken with this aspect in the Reason for Refusal.

145. The BWNS analysis in this respect has not been disputed. The proposed development will give rise to 214 direct jobs and 207 indirect jobs during construction with a combined GVA during construction of £114.6 million. Following occupation, the GVA from the residents will amount to £25.5m per year with an additional £10.9m per year of commercial expenditure. This leaves out of account the council tax and new homes bonus (and therefore the Council's arguments about these latter two items are de minimis in the overall conclusion – even if they are left out of account, that does not alter the order of magnitude of the economic benefits or the weight to be afforded to them). Further, the fact that some of this spend might not be within the District does not alter the weight to be afforded to it. These benefits are not to be assessed on a parochial basis: they are economic benefits to be realised. It follows that even looked at in isolation, divorced from the policy framework, the socio economic benefits justify substantial weight, as the Council's officers concluded.

146. This analysis is also consistent with paragraph 81 of the NPPF which mandates that significant weight to be given to the need to support economic growth and productivity (irrespective of whether that support is at a local or national level and irrespective of whether it is permanent or temporary). The appeal scheme

would, as Mr Connell accepted in XX, support economic growth and productivity and accordingly significant weight flows automatically from NPPF para. 81 to these benefits. There are a string of recent appeal decisions which confirm this approach, all considering considerably lesser schemes. The Council has pointed to other appeal decisions but these do not assist because in none of them has the Inspector grappled with (or referred to) paragraph 81 of the NPPF, and most of them pre-date the appeal decisions upon which the Appellant relies. It follows that the Appellants' analysis is to be preferred.

147. Eighthly, as already explained, the development of the southern appeal site will improve the urban edge by incorporating substantial planting, assisting in the creation of a strong Green Belt boundary and giving rise to positive effects both on the Green Belt and the character and appearance of the area. This is a matter to which significant weight should be afforded in accordance with para. 134 of the NPPF.

The very special circumstances balance

148. Before turning to the balance, there are two important preliminary considerations.

149. First, the Council founds its judgment on the assertion that, as Mr Parkinson put it in Opening: 'There is nothing "very special" about the circumstances of either case'. This approach is wrong as a matter of principle and law. The question is not whether the individual circumstances are "very special"; rather the question is whether, cumulatively, the benefits clearly outweigh the harms. If this is so, then very special circumstances have been demonstrated, even if on an individual basis, the benefits were to be considered unremarkable (which in any case they are not).

150. Secondly, the difference in the parties' positions is small. Mr Connell explained in XX that in his view it was "very finely balanced" as to whether very special circumstances exist in this case. He then accepted that the proposed development only failed to demonstrate very special circumstances by a very fine margin. Consistently, with this, Mr Connell accepted that if the officer's weightings were adopted, then very special circumstances would be demonstrated. Accordingly, only a very small number of changes to Mr Connell's weightings are required before the benefits clearly outweigh the harms and very special circumstances are demonstrated even on the Council's own case.

151. Thirdly, even on Mr Connell's weightings, the clear and obvious conclusion is that very special circumstances have been demonstrated. Critical to this consideration are, first, the cumulative force of the weightings he has ascribed to the various benefits, and secondly – and fundamentally, his (and in the absence of any RX on these points the Council's) acceptance that (a) the only harm the appeal scheme would cause would be the inevitable harm of building 391 homes and a new school on a greenfield Green Belt site in St Albans (b) some greenfield Green Belt sites will necessarily have to be developed to meet housing and education needs (given the vast difference between the extent of needs and the identified urban capacity) and (c) that there should not be a moratorium on meeting needs in the Green Belt pending the adoption of a new emerging plan at some indeterminate point in the future. These three points are necessarily fatal to the Council's case.

152. There is a hint of a previously unpleaded precedent argument at para. 9 of the Council's closing submissions, where reference is made to the risk of the death of the Green Belt by "a thousand cuts". In fact, the precedent risk in relation to the south site and appeal scheme runs the other way. If a VSC case cannot be made out in relation to a development which is agreed to cause the minimum inevitable "harm to the Green Belt and any other harm" for a development of this scale, which is top-ranked in the Green Belt review, then what prospect is there for VSC to be made out anywhere else? The consequences of dismissing this appeal would be in practice to bring about the very moratorium on pre-Local Plan Green Belt permissions that the Council has explicitly disavowed in evidence.

153. Overall, and having regard to the foregoing matters, the Appellants submit that the benefits of the proposed development are compelling, as officers recognised, and that as a package, the harm arising from the proposed development is clearly outweighed. It follows that very special circumstances exist. Once this hurdle has been cleared, the Council accepts that there is accordance with the development plan read as a whole, the proposed development benefits from the tilted balance in NPPF para. 11(d)(ii) and planning permission should be granted.

The Case for the Appellant (Appeal B)

The summary below is largely taken from the appellant's closing submissions, which set out the key points, as it saw them, at the end of the Inquiry.

154. In 1919, the first Housing and Town Planning Act received Royal Assent, a direct response to the nation's demand for "homes fit for heroes" following the Great War. A century later, millions stood outside their homes to applaud our own, modern-day, "heroes", those who had been fighting on the frontline against the Covid pandemic. It is a bitter irony that, in St Albans, many of the local heroes being applauded could not afford homes of their own to stand outside.

155. The appeal proposal, "Addison Park" is an equally direct response to the affordable housing crisis made manifest by that sad truth. Named after the Minister for Health who brought in the 1919 Act, it will deliver 330 homes – all of them affordable, and all for Key Workers – offering a route to home ownership for the nurses at St Albans, Watford, and Hemel Hempstead Hospitals; the teachers in the town's Primary and Secondary Schools; the police officers who keep the streets of St Albans safe; and the firefighters who rush to the rescue of local residents.

156. That is, of course, precisely what national planning policy anticipates: the only people specifically identified in the definition of "affordable housing" in the NPPF are "essential local workers"; and they are identified, moreover, in the particular context of providing them with a subsidised route to home ownership. "Affordable housing is … housing for sale or rent, for those whose needs are not met by the market … including housing that provides a subsidised route to home ownership and/or is for essential local workers."

Plan-making in St Albans

157. The extant Local Plan in St Albans, the District Local Plan Review 1994, is the oldest Local Plan in the country – no older plan was identified during the inquiry. When paragraph 33 of the NPPF states that Local Plans are meant to be reviewed

every 5 Years, the St Albans Local Plan effectively expired 22 years ago. It is comprised of policies which have been un-reviewed since they were adopted in 1994 – that is to say: 27 years before the current version of the NPPF was issued; 23 years before the Government published "Fixing Our Broken Housing Market"; and 20 years before the Planning Practice Guidance ("PPG") went online. Most important of all, the Green Belt boundaries in St Albans have not been revised since 1985, and there are no up-to-date housing targets or undeveloped allocations to meet unmet housing needs.

158. And so, when paragraph 15 of the NPPF states that the Local Plan should "provide a positive vision for the future of each area; a framework for addressing housing needs and other … social … priorities; and a platform for local people to shape their surroundings", in St Albans the Local Plan fails to deliver in all of these regards. It provides no sort of vision for the future; it contains no framework for addressing current housing needs, still less those needs looking forward; and it has not acted as a platform for local people to shape their surroundings since it was consulted upon in the early 1990s.

159. More worrying still for the future of planning in St Albans, however, are the reasons which lie behind the repeat failures of the Council to fulfil its statutory duty to adopt a replacement Local Plan: An unwillingness to undertake necessary planning assessments on obviously important issues; an unwillingness to accept independent advice when, eventually, it is commissioned; an unwillingness promptly to make the hard, potentially unpopular, decisions which that advice compels, when decisions are urgently needed; and a failure to co-operate on matters of strategic importance across the wider, local area.

160. The facts speak for themselves. As Mr Parker explained, four attempts have been made to replace the extant, out-of-date, Local Plan and none of them have come to anything.

161. The Local Development Framework Core Strategy 2006-2021 was withdrawn in January 2010 after the Council rejected an Inspector's advice that it had to confront the need to find sites in the Green Belt.

162. The Strategic Local Plan 2011-2031 (Version 1) was voted down by Members in 2013 after the Council received a petition from a Residents Association that demanded the Plan be paused for a Housing Needs Assessment and Green Belt Review, studies that any competent Plan-making Authority would already have commissioned.

163. The Strategic Local Plan 2011-2031 (Version 2) was found unlawful by the Examining Inspector in 2016 because of the Council's failure to comply with the duty to co-operate. In addition to this, however, the Plan also had a flawed evidence-base - whilst, unlike Version 1, it was at least 'informed' by a Housing Needs Assessment 5 and a Green Belt Review, the Council saw fit flatly to reject key recommendations of both of them:

- The Council dismissed the recommendation that the "Objectively Assessed Housing Needs"' ("OAN") in St Albans was 586 dwellings per annum ("dpa"), deciding instead that the Council's housing target should be 450 dpa, meaning that the Council was knowingly planning for an accumulative shortfall of 2,700 dwellings over the 20-year Plan period, a planned shortfall which rose to just under 3,000 (2,700 + (14x20)), when the

Council reduced its proposed housing target yet further, to just 436 dpa; and

- The Council also rejected the advice of the SKM Green Belt Review to assess not just larger, strategic sites, but smaller-scale sites also, which ultimately meant that sites which were less than 14ha in extent and/or accommodated less than 500 dwellings were excluded from the Local Plan process.

164. Finally, the Council's most recent attempt at a replacement, the Local Plan 2020-2036, was withdrawn in 2020 on the invitation of Examining Inspectors following their findings that:

- The Council had once again failed to comply with the duty to co-operate;
- The Plan prevented delivery of a Strategic Rail Freight Interchange which the Secretary of State had personally permitted; and
- The Plan's spatial strategy was premised upon a flawed Green Belt Review, stating as follows (in terms which directly reflect the concerns earlier expressed by SKM, but ignored by the Council): "45. … [S]maller sites have been disregarded as part of the plan making process. It is our view that this approach has ruled out an important potential source of housing that may have been found to have a lesser impact on the purposes of the Green Belt than the sites selected without sufficient justification."

165. There has now been further slippage in the timeline to the adoption of the next version of a proposed replacement Local Plan. The Council's December 2020 Local Development Scheme ("LDS") promised a Regulation 18 consultation in January/February 2022, and adoption in 2023. However, the Council's September 2022 LDS put back the Regulation 18 consultation to July/September 2023, with adoption in late 2025.

166. That means there will be no new housing allocations in St Albans until the end of 2025 at the very earliest, with the delivery of actual houses to live in some years later still. And that is if the Plan does not fail like all of those that preceded it; and that it is not further delayed either, which is a real risk - whilst a Regulation 18 Local Plan is due to be published in July 2023, just two months' time, no documents relating to the new evidence have yet been published. Little wonder that Mr Connell accepted further delay was possible.

The Housing Crisis

167. All the while, from 2001 onwards, the Council has had no up-to-date Local Plan; no up-to-date housing target; and no up-to-date housing allocations. And the direct consequence of the Council's failure to adopt new housing allocations in line with the NPPF is nothing less than a housing crisis in St Albans - so much so that the Council has long-since acknowledged that the housing shortage in St Albans is so severe that there are "exceptional circumstances" to justify removal of land from the Green Belt in accordance with paragraph 140 of the NPPF.

168. Put shortly, and as agreed by Mr Connell, from 2013 onwards, a whole decade, the Council has been unable to demonstrate the 5-year housing land supply ("5 YHLS") required by paragraph 74 of the NPPF; and the Council can currently demonstrate just 2.0 YHLS, the worst housing land supply position since the

extant Local Plan was adopted. And with the housing shortfall growing bigger and bigger, and demand increasingly outstripping supply, the house price to earnings affordability ratio in St Albans has, of course, grown higher and higher also: In 2003, it was 10.28 – already the highest in the East of England; By 2010, it had grown to 12.36; By 2012, it had grown yet further to 12.47; By 2017, it was 16.62; and in July 2021, it was 17.32.

169. To put that into context, it means that individuals on median incomes now need to find more than 17 times their annual salary to buy a median priced property in St Albans. That is the housing reality facing ordinary people on ordinary earnings, hoping to buy a home of their own in St Albans today.

The Affordable Housing Crisis

170. Moreover, and as again agreed by Mr Connel, given that the only model St Albans has for the delivery of affordable housing is for it to come alongside, and parasitic upon, open market housing on an aspirational, albeit undelivered, 60:40 split, it necessarily follows that, with a massive undersupply of market housing, comes a massive shortfall in affordable housing too, and an additional crisis in that regard also - one which was recently described, on appeal, as a "critical situation" and an "extremely acute affordable housing position". Ms Gingell's terminology was even more emphatic – she described the situation in St Albans as an "affordable housing emergency".

Consequences of the Housing Crisis

171. These planning and housing crises have, of course, necessary consequences for decision-making on housing proposals in St Albans. In particular, until the end of 2025 at the earliest, the shortfalls in both housing land supply and affordable housing can only be met through decision-makers accepting that very special circumstances exist, in accordance with paragraph 147 of the NPPF. In the past, of course, there were Ministerial Statements which indicated that the single issue of unmet demand for conventional housing was unlikely to satisfy this test. However, and importantly, not only is the Appeal Scheme far from for "conventional" housing in any event, but a unique scheme comprising 100% affordable housing for Key Workers, national planning policy has also changed since those early Ministerial Statements were made, as Daisy Cooper MP openly recognised in her evidence to this Inquiry (ID12). The critical need significantly to boost the supply of housing, expressly recognised in paragraph 60 of the NPPF, is such that the policy approach of those Ministerial Statements, made as long ago as 2013-2015, was not translated into either the 2019 or 2021 NPPF; has not appeared in the consultation version of the new NPPF; and all associated guidance in the PPG has been removed.

172. Accordingly, and as a matter of up-to-date national planning policy, meeting unmet housing needs, and especially affordable housing needs, can now amount to very special circumstances justifying otherwise inappropriate development in the Green Belt. Furthermore, this is not just the view of Mr Fidgett, it has all recently been confirmed, both on Appeal in St Albans and by the Council itself.

173. In the Bullens Green Lane appeal decision letter it was held that the earlier Ministerial Statements which indicated that meeting unmet needs was unlikely to establish very special circumstances had not been incorporated in the NPPF, had been removed from the PPG, and should be given little weight; that the Council

could not demonstrate a 5 YHLS, and even if the Council's asserted supply of 2.4 YHLS was accepted (it is now even lower at 2.0 YHLS), the position was a bleak one and the shortfall considerable and significant; very substantial weight was to be afforded to the provision of market housing; as referred to already, the uncontested evidence on affordable housing presented as a "critical situation" and an "extremely acute" position, such that "very substantial weight" should additionally be attached to the delivery of up to 45 affordable homes; and substantial weight should also be afforded to self-build plots as a discrete element of housing supply.

174. In the Council's decision to permit housing on land to rear of Harpenden Road, the Officer's Report stated, explicitly, that there was no material reason to apply a different weighting to those proposals than had been applied by the Inspector at Bullens Green Lane and therefore: "very substantial weight" for affordable housing; and "substantial weight" for self-build plots was appropriate. Other decisions in the District have reached similar conclusions.

175. Notably, all of these decisions were sites of fewer than 14 hectares/500 dwellings, which underlines that SKM's advice, and the Examining Inspectors' criticisms of the Council's rejection of that advice, were both valid. More importantly, however, they all properly understand that if housing needs are to be met in St Albans, including affordable housing needs, there will have to be substantial development on open land in the Green Belt. As agreed by Mr Connell there is, quite simply, no alternative. The only questions are: Where and How?

National Policy on Affordable Housing

176. So far as national planning policy is concerned, it is agreed by Mr Connell that nothing in the NPPF definition of affordable housing ranks one form of affordable housing over any other. That is plain from the PPG and has been confirmed by appeal decisions. There is, therefore, no national planning policy which favours affordable rented accommodation over affordable home ownership. Far from it, indeed. The only group of people specifically identified in the NPPF definition of affordable housing are "essential local workers", and in terms which expressly reference a need to provide them with a subsidised route to home ownership. That wording is deliberate, and it tells us: who to house (amongst others in housing need) - Key Workers whose needs are not met by the market; how to house them – affordably, including through housing that provides a subsidised route to home ownership; the priority to be attached to housing them affordably - essential; and where they need to be housed – locally.

177. Consistent with all of this, of course, and as Mr Connell again agreed, for the last 22 years the Government has promoted policies which are explicitly aimed at helping Key Workers achieve local home ownership - from the 'Starter Home' Initiative in 2001 to the 'First Homes' policy of today. The reason for this special treatment for essential local workers – both as a matter of definition in the NPPF and in a succession of bespoke national Government policy initiatives directed at them - is obvious. The essential services which Key Workers deliver are themselves put at risk if they are priced out of local housing and have to live elsewhere.

178. As Mr Parker pointed out, this was correctly understood, and expressly stated, in the Conclusions and Recommendations of the House of Commons' Health and Social Care Committee in its July 2022 Report, "Workforce: Recruitment, Training

and Retention in Health and Social Care", in terms which were equally applicable to all categories of Key Workers; and given the high house prices in St Albans, the struggle to recruit and retain Key Workers will be at least as severe here as it is anywhere in the country.

179. It is against the backdrop of all of this, that the substantive national planning policy for affordable housing, set out in NPPF, falls to be considered: Paragraph 20(a) states that strategic Local Plan policies should make sufficient provision to meet housing needs, including for affordable housing; Paragraph 34 states that Local Plans should set out the levels and types of the affordable housing required; and Paragraph 63 states that where a need for affordable housing is identified, Local Plan policies should specify the type of affordable housing required.

180. However, despite these imperatives, the out-of-date Local Plan in St Albans makes manifestly insufficient provision for affordable housing; and contains no policy at all specifying the type of affordable housing required.

Local Plan Policy on Affordable Housing

181. Policies 7a and 8 of the St Albans District Local Plan Review 1994 support low-cost housing for sale but the Plan seeks to deliver a total of just 200 affordable homes per annum, which paragraph 3.36 of the supporting text recognised (even then) "… probably represents a considerable under-estimation of the total need for affordable housing". Some 17 years ago, the 2006 DCA "St Albans City & District Housing Needs Survey Update", identified an annual affordable housing shortfall of 822 units a year.

182. The 1994 Local Plan target for affordable housing is obviously out-of-date, therefore, and no weight can be attached to it. Moreover, that Local Plan also contains no reference to Key Workers, an omission which of itself demonstrates the age of the Local Plan, given the specific inclusion since 2018 of "essential local workers" in the NPPF definition of "affordable housing"; and given, also, the consideration of these needs in both the Council's Affordable Housing Supplementary Planning Guidance 2004 ("SPG") and DCA's 2006 District Housing Needs Survey Update.

St Albans Affordable Housing SPG (2004)

183. As long ago as 2004, the Council's Affordable Housing SPG identified both a growing problem with regard to Key Worker housing and the need to devise a strategy to address that: "3.12 - There are growing difficulties in the provision of housing for workers on lower incomes necessary for the economic health of the County. Hertfordshire County Council has concluded that if nothing is done then the most likely scenario is one of growing polarisation, more and longer commuting, and poorer personal and public service sectors. A specific research study of the housing needs of Key Workers across the County has been undertaken. Housing problems are predicted to worsen both in terms of affordability and access. 3.13 - A strategy to provide affordable housing will increasingly have to address the provision of housing for these Key Workers."

184. Furthermore, the Affordable Homes SPG both defined "Key Workers"; and expanded upon what the "strategy to provide affordable housing … for these Key Workers" potentially entailed. So far as the SPG's definition is concerned, that

has been adopted in the S106 with the addition of military personnel, an addition which accords with both the Council signing up to the Armed Forces Covenant, and national planning policy.

185. The Ministerial Statement of 24th April 2021, referred to in the PPG's explanation of the eligibility criteria for First Homes, states as follows: "In recognition of the unique nature of their circumstances, members of the Armed Forces, the divorced or separated spouse or civil partner of a member of the Armed Forces, the spouse or civil partner of a deceased member of the Armed Forces (if their death was caused wholly or partly by their service) or veterans within five years of leaving the Armed Forces should be exempt from any local connection testing restrictions."

186. Given this express recognition of the importance of providing affordable housing to military personnel and their families, including those without a local connection, it was highly disappointing (to say the least) that Mr Connell called into question the undoubted benefit of Addison Park addressing these needs. He was quite wrong to do so.

187. Further, and so far as the called-for "strategy" to provide Key Workers with affordable housing is concerned, paragraph 5.13 of the SPG went on expressly to anticipate that this could include the provision of housing for low-cost sale, exactly as Addison Park proposes.

DCA's Housing Needs Survey (2006)

188. As for DCA's 2006 Housing Needs Survey Update this also defined Key Workers, and it did so in terms which made their importance to the maintenance of a balanced community quite clear: "A Key Worker is "any person who directly provides services that are essential for the balanced and sustainable development of the local community and local economy, where recruitment or retention difficulties apply', and includes teachers, nurses, other public sector workers and employees of businesses considered vital to sustaining the economy of an area"".

St Stephen Neighbourhood Plan

189. The St Stephen Neighbourhood Plan is also part of the Development Plan for St Albans. Moreover, it is not only much more up to date than the Local Plan, it directly addresses housing needs in the immediate vicinity of the Appeal Site. The first bullet point in its "Vision and Objectives" section expressly recognises that the high cost of property makes it increasingly difficult to move into and remain in the area; and the first objective under the theme of "Housing, Character and Design of Development" is to encourage the development of housing that meets an identified local need, including through housing which is affordable to local workers.

190. Given that "essential local workers" are the only group specified in the NPPF definition of "affordable housing, that must mean that the Neighbourhood Plan positively encourages affordable housing for them. Indeed: Cllr Parry of the Parish Council expressed "sympathy with the stated objectives of the proposal"; the Opening Statement of Keep Chiswell Green ("KCG") fairly recognised "the altruistic motives" of the Appellants; and Mr Moreland also acknowledged that "Addison Park is an applaudable concept".

Affordable Housing Needs in St Albans

191. As already noted, the Local Plan policy target of 200 affordable dwellings per annum is considerably out-of-date. For the purposes of these appeals, however, all of the assessments in Ms Gingell's Proof of Evidence have been agreed in the Statement of Common Ground on Affordable Housing and it is this which provides the up-to-date evidence of affordable housing needs for St Albans.

192. GL Hearn's 2020 LHNA assessed that, in St Albans and over the 16- year period 2020-2036, there is a need for 13,248 affordable dwellings, equivalent to 828 per annum.

193. Over the nine-year period between 2013/14 and 2021/22, there was a shortfall against that need of 5,053 affordable dwellings, equivalent to 561 per annum.

194. In the first two years of the 2020 LHNA period since 2020/21, there has been an additional shortfall of 1,428 affordable dwellings, equivalent to 714 per annum.

195. The agreed approach is that any shortfall in delivery should be dealt with in the next five years.

196. When the 1,428 dwelling affordable housing shortfall which has accumulated since 2020/21 is factored into the need of 828 affordable dwellings per annum for the period 2020 to 2036, the number of affordable homes that the Council needs to deliver in the 5-year period from 2022/23 to 2026/27 is 5,570, or 1,114 per annum.

197. The Council's current supply figure for the next five years is, however, just 39 affordable dwellings per annum.

198. That means there will be a shortfall of 1,075 affordable dwellings per annum, and a total shortfall of 5,375 affordable dwellings over the next five years.

199. These conclusions are absolutely irrefutable. In St Albans, the delivery of affordable housing has collapsed. Worse still, in refusing permission for the Appeal application, 330 affordable homes in one quick hit, the Council has given up on even attempting to address this affordable housing emergency.

Home Ownership Affordability in St Albans

200. Ms Gingell's evidence confirms that: The median house price across St Albans as a whole has risen by 63%, from £362,500 to £590,000, since the start of the 2016 SHMA period in 2013; the median affordability ratio in St Albans is currently 17.32, and stands significantly above the East of England average of 10.53 (+64%), and very substantially above the national average of 9.05 (+91%); and this is at a time when mortgage lending is typically offered on the basis of up to just 4.5 times household earnings, an assumption which both Ms Gingell and GL Hearn have adopted.

201. Put shortly, the prospect of home ownership for those on average, or less than average, earnings is becoming a very distant dream in St Albans, as is quite apparent from the evidence upon which the Council itself relies, the September 2020 GL Hearn LHNA: Table 29 tells us that a household income of £75,400 is required to buy in St Albans. However, Table 28 tells us that the median

household income in St Albans is just £51,400. Accordingly, on GL Hearn's data, home ownership in St Albans is currently out of reach for households with median earnings of £51,400 all the way up to household earnings of £75,400.

202. Moreover, the brutal reality of all of this has to be seen in the context of the thresholds for eligibility to seek affordable rented accommodation in St Albans: For a 1-Bed Property, the limit is £36,295; For a 2-Bed Property, it is £48,173; For a 3-Bed Property, it is £56,152; and for a 4-Bed Property, the limit is £69,608.

203. It follows that if household income exceeds £70,000 in St Albans, that household has no access to affordable housing for rent in St Albans at all; and household income of just £50,000 excludes access to even 2-bed housing. However, such a household, one earning between £50,000 and £70,000, would be unable to buy as well - it would be excluded from social rented housing in St Albans, but could not afford to purchase an open market family home either. The only choices are to move away, out of St Albans altogether - as recommended by paragraph 3.4 of the Council's Housing Allocations Policy; pay high market rents in St Albans; or try to access affordable home ownership in St Albans – if any is available, that is.

204. Unfortunately, however, the Council's failure to deliver affordable housing extends to affordable home ownership also: Table 42 of the GL Hearn 2020 LHNA identifies a need for 385 net affordable home ownership homes per annum over the period 2020 to 2036; The Council's 2021 and 2022 AMR breaks down the Council's gross affordable housing completions figure by tenure; Ms Gingell's Figure 7.5 shows that in the first two years of the 2020 period, between 2020/21 and 2021/22, gross affordable home ownership completions averaged just 29 dwellings per annum, against the need of 385 per annum, a shortfall of 356 affordable home ownership dwellings per annum; a shortfall of 712 affordable home ownership dwellings has therefore arisen in just the first two years of the 2020 LHNA period (a shortfall which would be even higher if demolitions were taken into account).

205. At present, therefore, there is simply not a supply of affordable home ownership dwellings in St Albans to meet the needs of such a household. Moreover, that will include many Key Worker households. However, because the Council refuses not only to address these needs, but to assess them at all, the Appellants have had to do the Council's work for them.

Home Ownership Needs of Key Workers in St Albans

206. Despite the role that Key Workers play in the delivery of essential local services to the communities of St Albans, the Council has never endeavoured even to assess the extent of their housing needs, or the consequences of not meeting them; and they have failed to do so even though the need to develop a strategy to provide affordable housing for Key Workers is expressly acknowledged in its own Affordable Housing SPG.

207. Other Local Planning Authorities have, of course, done what this Council has failed to do. The Housing Needs Assessment by Fordham Research for Haringey Council is an example which is before us. It contains a "needs assessment model" for Key Workers, which looks at the number of Key Workers in the Borough; their housing and household characteristics; the income and affordability of those Key

Worker households; and their housing preferences. Notably, the Haringey HNA demonstrated owner occupation to be the clear preference for 83.8% of them, a conclusion similarly reached in a 2003 study by DCA for Dacorum Borough Council. Mr Connell readily accepted that the same would be true for St Albans.

208. Mr Connell also agreed that St Albans could have commissioned a similar Assessment to Haringey's had it wanted to. St Albans Council has, however, refused to do so. Whilst the Council's Local Plan Advisory Group ("LPAG") were told at a meeting on 1st March 2022 that a report on housing for Key Workers was due in September 2022, and this was confirmed in the June 2022 LPAG Work Programme, no report was ever produced. The issue was simply dropped by the Council.

209. Mr Connell sought to justify this upon the basis that "there is no requirement to carry out a separate assessment for key workers in national policy or guidance". That, however, is both extraordinary, and extraordinarily complacent. Paragraph 62 of the NPPF requires Councils to assess the housing needs of different groups and Mr Connell agreed that the list of examples in paragraph 62 is open not closed, and expressly includes "service families". Mr Connell also agreed that it was perfectly open, therefore, to the Council to measure the need of essential local workers, including military personnel and their families, but that the Council simply chose not to.

210. Mr Connell also agreed that the Council chose not to: despite the fact that essential local workers are singled out in the NPPF definition of affordable housing; despite the fact that essential local services in St Albans depend upon them; despite the Council's SPG on Affordable Housing stating that "a strategy to provide affordable housing will increasingly have to address the provision of housing for these Key Workers"; and despite the fact that the Council cannot devise any strategy to address the provision of affordable housing for Key Workers without attempting to assess the extent of their housing needs.

211. Ms Gingell's Proof of Evidence and Rebuttal Proof is, then, not only the best and most up-to-date evidence on Key Worker housing needs in St Albans but, as Mr Connell agreed, it is the only evidence on those needs available at this Inquiry. Moreover, it has been prepared by the expert witness whose other evidence on affordable housing has been readily agreed by all parties.

The Appellants' Key Worker Housing Needs Evidence

212. The starting-point is the ONS Data (2021), which shows that there are c.27,000 Key Workers in St Albans; and c.250,000 in Hertfordshire as a whole. That is the potential catchment of Key Worker households for Addison Park and it is a very substantial number and a sizeable proportion of the local population.

213. As for the earnings of Key Workers, Ms Gingell set out sample pay scales in her Figure 11.1. Importantly, because many Key Worker households will have more than one salary income and seek mortgages on that basis, Ms Gingell included the 'combined' Key Worker household earnings of a Key Worker together with another median income-earner, and the mortgage to which such households will be entitled. Upon this basis, her Figure 11.1 indicates, as Mr Connell agreed: Key Worker household earnings ranging from, broadly, £55,000 to £80,000; and a corresponding range of mortgage entitlement from, broadly, £245,000 to £350,000.

214. The first point to take from Ms Gingell's Figure 11.1 is the limited eligibility of any of those households for social rented accommodation in St Albans. It is readily apparent that in every scenario set out in Ms Gingell's Figure 11.1, the combined incomes exceed the gross household incomes limit for 1 and 2-bed properties. Indeed, the majority exceed the gross household limit for 3 and 4-bed properties also.

215. The second point to take from Ms Gingell's Figure 11.1 is the unaffordability of open market homes in St Albans to Key Worker households: to purchase a median priced property in St Albans at £590,000, a minimum household income of £118,000 is required (so as to obtain a mortgage of c.£530,000 to supplement a 10% deposit of c.£60,000); to purchase a lower quartile priced property at £415,000, the required household income is £83,000 (to obtain a mortgage of c£375,000 plus a 10% deposit of c.£40,000); and it is quite obvious from Ms Gingell's Figure 11.1, therefore, that an alarming number of Key Worker households are priced out of home ownership altogether.

216. In the St Albans Local Authority area alone, there are as many as 27,000 Key Workers, and up to 250,000 in the County, falling in this gap – ineligible for social rented housing and yet unable to buy as well. These Key Workers represent "the hidden middle", those whose needs have been ignored by the Council, and they are among the most valuable members of the local community. It is precisely to fill the gap into which many Key Workers fall that Addison Park has been promoted.

The Concept and Business Model

217. To qualify as affordable housing in the terms of the Framework, First Homes and Discounted Market Sales Housing must be discounted by at least 30% and 20%, respectively, but Shared Ownership Housing is not subject to a specific discount. However, because of Mr Collins' insistence on providing something genuinely affordable in the context of the high house prices in St Albans, all of the dwellings at Addison Park, including Shared Ownership, will be discounted by at least a third, and against the median price of comparable properties in St Albans as a whole rather than the more expensive St Stephen Ward. Furthermore, all of those homes will be dedicated to local Key Workers (Save that, in the highly unlikely event that any Key Worker housing remains unsold 12 months after completion, sale as Discounted Market Homes without the Key Worker restriction will be permitted, in order to ensure that there will be no empty homes in the Green Belt, only affordable ones).

218. As both Mr Collins and Mr Parker explained, this heavy discounting is possible because Addison Park does not follow the traditional business model, whereby an owner sells land to a national housebuilder which recoups its costs by selling the majority of them at the open market prices. Under that model, the national housebuilder must pay for the land, pay for the build, make S106 contributions, and also make a profit (typically 15-20%), all of which will be reflected in the ultimate sale price of the dwellings. However, because Mr Collins already owns the land, and will commission the build of the houses himself, the land costs are nil. It is that simple model which enables prices to be discounted by at least a third without threatening viability. That will make home ownership possible in St Albans for many of the Key Worker households who are currently unable to access the property ladder in the community that they serve.

Key Worker Home Ownership Affordability in St Albans with a 33% Discount

219. There are very many essential local worker households who are simply unable to buy a home of their own in St Albans. However, the picture changes dramatically when the Addison Park discount is taken into account. With a 33% discount from the median priced property in St Albans: The median house price falls from £590,000 to £395,300 and now requires a household income of £80,000 for the mortgage, with a 10% deposit; the lower quartile house price falls to £275,000, and now requires a household income of £55,000 for the mortgage, with a 10% deposit. As Mr Connell agreed, all of those Key Worker households with an income range of £55,000-£80,000 in Ms Gingell's Figure 11.1, would, therefore, potentially have access to an affordable home of their own at Addison Park.

220. One gets to the same conclusion from the evidence upon which Mr Connell himself relies. As already noted, GL Hearn's Table 29 states that a household income of £75,400 is required to buy in St Albans, and GL Hearn's Table 28 gives a median household income in St Albans of just £51,400, so the above property, at open market, is out of reach. However, that all changes with a 33% discount: a household earnings' requirement of £75,400 to purchase a property indicates a house price of £377,000. Discounted by 33%, that house price of £377,000 falls to £251,333 which, minus a 10% deposit of £25,133, requires a mortgage of just £226,200; and to obtain that mortgage requires a household income of £50,267, which is lower than the median GL Hearn household income in St Albans of £51,400.

221. In Ms Gingell's Rebuttal, she directly addresses Mr Connell's questioning of the affordability of Addison Park to Key Workers noting that, unlike the Jubilee Square scheme which the Council are trumpeting, the Appeal Scheme not only discounts the affordable housing proposed, but does so by at least a third against the median price of housing in St Albans as a whole, not the particularly expensive part of St Albans in which the Appeal Site is located.

222. When a 33% discount is deducted from the median house price for properties in St Albans as a whole (£590,000), the sales price at Addison Park becomes £395,300, which is £119,700 (£23%) lower than the median house price in St Peters Ward, where Jubilee Square is located.

223. Applying the mortgages available to the household incomes for the range of Key Worker occupations Ms Gingell has listed in paragraph 2.42 of her Rebuttal Proof, once the assumption of a 10% deposit is applied, each of those Key Worker households would be able to afford a property costing £395,300.

224. As for Ms Gingell's evidence in chief, that is to be seen against the backcloth of paragraphs 5.150 and 5.158 of the GL Hearn LHNA, which make it clear that it will be for the developer to choose the mix of subsidised routes to home ownership they wished to provide from the wide range listed Annex 2 of the NPPF.

First Homes

225. As for 'First Homes', the sale price is capped at £250,000 (including discount). Assuming 10% deposit, a minimum income of £50,000 would be required to

obtain the resultant £225,000 mortgage. All of the Key Worker household incomes in Ms Gingell's Figure 11.1 exceed £50,000.

Shared Ownership Homes

226. As for 'Shared Ownership Homes', the minimum purchase share is 10%, with a minimum deposit of 5% of that share. Using Mr Connell's figures in his Rebuttal, the cost of a 10% share would be £39,530. Once the 5% minimum deposit is deducted, all of the Key Worker households in Ms Gingell's Figure 11.1 could secure a mortgage for the remaining sum of £37,553.

227. Moreover, purchasing the minimum share would not mean unaffordable rents on the remaining share. If one deducts the 10% minimum purchase from the overall house prices this gives a remaining share of £355,770. The rent to be paid is usually 2.75% of the property value per year, which gives an annual rent of £9,783.68 and a monthly rent of £815.31; and this is considerably below both the median private rent of £1,250 for St Albans in 2021/22 and the lower quartile rent of £995.

Discounted Market Sale Homes

228. So far as the 'Discount Market Sale' properties are concerned, all of the households in Figure 2.4 of Ms Gingell's Rebuttal could obtain a mortgage sufficient to buy at the indicative District house price of £355,770 set out in Mr Connell's Rebuttal Proof, as could NHS Bands 7 and 8 in Figure 11.1 of her main Proof.

Mr Connell's Rebuttal

229. The remaining contents of Mr Connell's Rebuttal get the Council absolutely nowhere, for three principal reasons: Firstly, Mr Connell seeks to demonstrate the unaffordability of the discounted housing proposed at Addison Park by applying the discount to prices in the expensive St Stephens Ward in which the Appeal Site is located, when the S106 ties the open market valuation of the Shared Ownership and Discount Market Sale properties to the median house prices of St Albans as a whole, which is considerably lower than the Ward price; Secondly, what Mr Connell does highlight by pointing out the expensive location in which the Appeal Site is located, is the added benefit of providing heavily discounted homes in a high value area; and thirdly, insofar as Mr Connell still seeks to argue that the homes proposed at Addison Park will not be affordable to Key Workers, he ignores entirely that the Council have trumpeted the affordability of the homes at Jubilee Square to Key Workers when those homes are not discounted by a penny and will be considerably more expensive than at Addison Park.

Conclusions on the Affordability of Addison Park

230. In the end, the sums speak for themselves. For very many Key Worker households, home ownership in St Albans is, currently, not only a distant dream, but an impossibility. Addison Park would, however, give very many of them access to the property ladder and a chance to buy a home of their own – something which all of the available survey data indicates is their clear preference. Moreover, the recent announcement by the Council with regard to Jubilee Square, positively celebrating a scheme that offers Key Workers routes to home ownership, proves the merit of the current Appeal Scheme also. Put

shortly, Addison Park is a comprehensive offer, providing a mix of tenures affordably to meet a wide range of housing need; and it should be applauded for its unique approach, responding to those needs in such an innovative and imaginative way.

A Balanced Community

231. Moreover, far from creating an imbalanced community as the Council allege, through offering home ownership to Key Workers at these high discounts, Addison Park will begin to redress some of the imbalance inherent to the current situation - one in which large numbers of essential local workers are priced out of home ownership in St Albans, whilst being ineligible for affordable rented accommodation also.

232. It will do so by building the right homes for the right people in the right place: The "right homes" for the "right people" are those which, by definition, provide "affordable housing" for "essential local workers"; and the "right place" to house essential local workers, again by definition, must be "locally".

233. These are wholly uncontroversial conclusions that have been drawn by others – as demonstrated by the following statement in "Key Issues for Key Workers - affordable housing in London", published by the Greater London Authority: "Another important strand in the vision relates to the benefits of maintaining key workers in the local community. This was not just about ensuring that those working shifts or unsocial hours could live near their work but focused on the wider benefits of ensuring balanced communities and the long-term maintenance of mixed neighbourhoods."

234. And yet, Mr Connell asserts the opposite, stating that the Appeal Scheme leads to an unbalanced community, saying so in words lifted verbatim from the Officer's Report: "It is considered that a mixture of general market housing and affordable rent, plus the proposed discounted Key Worker dwellings, would be more likely to lead to a mixed and balanced community as sought in policy."

235. However, the Council's approach omits multiple critical matters (quite apart from the simple point that 100% affordable housing schemes are positively contemplated by national planning policy through paragraph 65 d) of the NPPF.

236. First, as made clear in the definition in the DCA 2006 Housing Needs Study, Key Workers "… are essential for the balanced and sustainable development of the local community". Nurses, teachers, police officers, fire fighters, local government officers and the like are not just part of a balanced community, they provide the local services upon which a properly balanced community actually depends.

237. Second, insofar as the Officer Report expresses support for a mixed scheme comprising social rented accommodation as the affordable element, that entirely ignores: That part of the NPPF definition of affordable housing which expressly refers to "housing that provides a subsidised route to home ownership … for essential local workers"; the findings of both Fordham Research in Haringey and DCA in Dacorum, that the overwhelming majority of Key Workers want to own their own home if that can be made affordable for them; and that part of the Council's Affordable Homes SPG which expressly recognises that affordable housing for Key Workers "could be for … low-cost sale".

238. Third, there is no support in policy, either nationally or locally, for the extraordinary approach the Council has taken. Mr Connell agreed that nothing in the NPPF definition of affordable housing ranks one form of affordable housing over any other. Furthermore, and unlike the Former Imperial College Private Ground decision letter which Mr Parkinson put to Ms Gingell in cross-examination, nothing in the Local Plan ranks one form of affordable housing over any other either.

239. Fourth, insofar as Mr Connell sought to rely on the GL Hearn LHNA, that is not policy at all, as the LHNA itself made clear, and it also leaves to the developer the choice as to the mix of affordable home ownership housing which is proposed. Paragraph 2.5 expressly states "To be clear this Local Housing Needs Assessment does not set housing targets. It provides an assessment of the need for housing, making no judgements regarding future policy decisions which the Councils may take". Paragraph 6.51 reiterates "Within the 40% affordable/affordable home ownership a split of 75:25 has been used; this means an estimated total of 30% of completions as affordable housing (rented) and 10% as affordable home ownership. It should be stressed that these figures are not policy targets". Moreover, paragraphs 5.150 and 5.158 of the GL Hearn LHNA makes it very clear that it will be for the developer to choose the mix of subsidised routes to home ownership they provide.

240. Fifth, the mix proposed in this Appeal Scheme will provide for a balanced development in any event: It includes a range of types of property - detached, semi-detached and terraced dwellings and small apartment blocks, and a range of dwelling size also - 1-bed, 2-bed, and 3-bed properties; it is a mixed tenure scheme also, comprising a combination of First Homes, Shared Ownership Homes, Discount Market Sale, and Self-Build properties, all discounted by at least a third of open market value; and that mix comprises a broad offer, one which is affordable to different households on different incomes.

241. Sixth, and most important of all, the existing community in St Albans is already unbalanced because many Key Workers cannot afford to live there – they are priced out of owning a home and ineligible for affordable rented accommodation as well.

242. The Key Worker households at whom Addison Park is directed will not, for example, be able to live in the Cala Homes development, should it be permitted: they could not afford the open market housing; and they would not be able to access the affordable housing either. It is a peculiar view to consider that a development which cannot readily accommodate nurses, teachers, police officers, firefighters – the very workers upon which we all depend – affords a social balance to aspire to; and one that meets their needs is somehow imbalanced. That simply cannot be right - essential local workers should be able to live locally, in the very heart of the place they serve.

The Right Location

243. If the housing needs in St Albans are to be met, there will have to be very substantial development in open Green Belt land – the only question is 'How' and 'Where'.

244. Council Officers have already assessed the broad location of land on the west side of Chiswell Green as a sustainable and acceptable location for development

through the recommendation to approve the Cala Homes scheme and the current Appeal Site, on the other side of Chiswell Green Lane, is in an equally sustainable location.

245. Nearby Chiswell Green is served by a good mix of services, facilities, and amenities within easy walking and cycling distance. There are 5 bus stops within a 10-minute walk, offering access to nearby settlements, including How Wood, Park Street, St Albans and Watford. The package of sustainable transport mitigation measures agreed with the Highway Authority is comprehensive and will further encourage sustainable travel, benefitting both existing and future residents.

246. For good reasons of sustainability, Council Officers have already identified the settlement of Chiswell Green as appropriate for expansion in order to address the Council's chronic, and serious, unmet housing needs. Neither the Local Planning Authority nor the Highway Authority has any highways objection to the Appeal Scheme itself, or the Appeal Scheme coming forward together with the Cala Homes proposal.

247. A number of points are relevant to landscape. First, whilst the Appeal Site lies in the Green Belt, this is a spatial designation only - not a landscape designation at all.

248. Second, whilst any reliance on the SKM Green Belt Review has to be seen against the backcloth of the examining Inspectors' conclusion that it was seriously flawed, to the extent that it is to be attributed weight, that Review identified the whole of Sub-Area SA8, including the Appeal Site, as the least sensitive in the District in terms of its contribution to Green Belt purposes, and the Appeal Site is therefore part of the best Sub-Area, sitting top of the league table in the SKM Review.

249. Third, it is agreed that the Appeal Site is not in any nationally protected designated landscape area and is neither part of, nor contributes to, a "valued" landscape for the purposes of paragraph 174(a) of the NPPF.

250. Fourth, given that the Council has accepted that housing needs can only be met through development on open Green Belt land, there will be an unavoidable detrimental impact, somewhere, on the openness of the Green Belt and encroachment into the countryside, and a consequential impact on landscape character and appearance as well. Mr Friend confirmed his understanding that this was the case.

251. Fifth, whilst Mr Friend comes to marginally different judgements to Mr Gray on the impacts on landscape character and appearance, the differences of opinion are all at the lowest end of the scale: in terms of landscape sensitivity and condition, from low to medium; the change in landscape character in the Landscape Character Area is agreed to be small, and it reduces to slight as planting matures. The height of Mr Friend's criticisms is that, at landscape scale, the effects are localised and slight; at site level, moderate; and with regard to setting, moderate also – that is hardly damning in a District which needs to build in the Green Belt to meet urgent housing needs.

252. Sixth, if those detrimental impacts are going to be occasioned somewhere in any event, it must be an advantage that this particular Appeal Site can be

developed without breaching any landscape policy at all – national or local - and no such allegation has even been made.

253. Moreover, it is worth noting that to deliver 330 affordable homes in accordance with the Council's model of a 40:60 split, would require an additional 495 open market houses on top of the 330 affordable units which are proposed. At the Council's preferred density of 24 dwellings per hectare, 34 hectares of Green Belt land would be needed to achieve that, when the Addison Park model of 100% affordable homes, delivers 330 on just 14 hectares – that is a very considerable Green Belt saving in terms of openness and represents an extremely efficient use of greenfield land.

Third Party Representations

Precedent

254. KCG (and others) reference the risk of precedent for the release of adjoining land. However, this application must be determined on its own merits and the question as to whether very special circumstances exist with regard to this unique proposal. Furthermore, in Poundstretcher Ltd v Secretary of State for the Environment [1988] 3 PLR 69, it was held that for precedent to be material, more than the "mere fear or a generalised concern" upon which KGC (and others) exclusively rely, is required.

Green Belt and 'Gateway Development'

255. The question over the need to release Green Belt land for housing is a consistent theme among the representations. However: as Mr Fidgett explained, the Council has long-since acknowledged that exceptional circumstances exist to justify the release of Green Belt to meet housing needs; this has been reflected in recent decisions which have acknowledged that very special circumstances justify development of Green Belt sites in order to contribute to meeting housing needs; and the majority of homes delivered in the last year have been on Green Belt sites, underlining the reliance on this source, even for the low levels of supply currently being achieved.

Affordable Housing Uncertainty

256. While the significant benefit of affordable housing is acknowledged by KCG, questions have been raised over the financial model to deliver this. However: both Mr Collins and Mr Parker have fully explained how the business model of Addison Park comprehensively secures delivery; and in any event, the S106 Planning Obligation sets out the terms of the affordable housing proposal, and the delivery of the affordable homes is, therefore, certain and can be relied upon.

Integration

257. KCG are concerned that the new residents are likely not to integrate well into the existing population. However, Key Workers are an essential part of our society, not excluded from it. They are no different than anyone else; and our education, police, healthcare, and other services could not run without them.

Transport Impacts

258. So far as the transport issues are raised, the following points fall to be made. First, as Mr Fidgett explained, paragraph 111 of the NPPF states that

development should only be refused on highways grounds if there would be an unacceptable impact on highway safety or if the residual cumulative impacts on the network would be "severe".

259. Second, the height of this latter threshold is significant. It is Government policy significantly to boost the supply of housing, a policy objective which necessarily will add traffic to the road network, and planning policy plainly prioritises the delivery of housing over the risk of sitting a little longer than is comfortable in a traffic queue.

260. Third, so far as highway safety is concerned, as agreed with the Highway Authority, there is no evidence to suggest that any increased traffic demand attributable to the Appeal Scheme, with or without the Cala Homes proposal proceeding, will cause a road safety problem. Further, insofar as Mr Walpole has any residual concern that relates exclusively to the shared pedestrian/cycle way which is suitable to accommodate up to 300 pedestrians and 300 cyclists per hour and, even together with the Cala Homes proposal, there is more than sufficient capacity safely to cater for prospective trips.

261. Fourth, based on the Transport Assessment submitted in support of the Appeal application, the Highway Authority concluded that the impacts arising from the Appeal Scheme on the operational characteristics of the Chiswell Green Lane double mini roundabout, were not "severe" and did not warrant a refusal of permission.

262. Fifth, and finally, the cumulative impacts of the two Appeal Schemes together have also been addressed by both Mr Stevens and Mr Jones for Cala Homes and, now, by Red Wilson Associates (ID 16.1-2) and the Highway Authority (ID 21). All agree that mitigation to an acceptable level is readily possible through a staggered, signalised junction. Indeed, even Mr Walpole agreed that this was possible.

Prematurity

263. Whilst "prematurity" has also been raised as an issue, this is not in the context of an emerging Local Plan (since no such plan exists), but as a point about potential future changes in Government policy. However, this decision must be made on extant planning policy. Besides, it cannot be right to sit back and watch the dwindling supply position become even worse, with a consequential worsening of both access to and the affordability of housing.

<u>Planning Overview and Balance</u>

The Correct Approach

264. Paragraph 74 of the NPPF sets out the requirement to maintain a minimum 5 YHLS of deliverable housing sites assessed against housing need. Footnote 8 to paragraph 11 d) of the NPPF makes it clear that where, as here, there is not a 5 YHLS, the "tilted balance" is engaged.

265. The NPPF identifies the Green Belt as one of the policies which may indicate that development should be restricted and, therefore, it is necessary to consider whether very special circumstances exist, sufficient clearly to outweigh the definitional harm to the Green Belt by reason of inappropriateness and any other harm.

266. In these regards, however: the past Ministerial Statements which indicated that the single issue of unmet demand for conventional housing was unlikely to constitute very special circumstances is no longer policy, and meeting unmet housing needs, and especially affordable housing needs, can now amount to very special circumstances; given that the Council has long-since concluded that there needs to be development on open land in the Green Belt if its housing needs are to be met, it necessarily follows that there is bound to be a considerable impact on openness (and an encroachment into the countryside) wherever that necessary development takes place; and pending any fresh allocations in a replacement Local Plan – and none will be possible till the end of 2025 at the earliest – the only way in which any of the Council's considerable housing shortfall can be addressed is through very special circumstances being accepted.

Green Belt Harms

In Principle Harm

267. As Mr Fidgett accepted, inappropriate development in the Green Belt is by definition harmful, and Substantial Weight should be given to this harm.

Openness

268. Given that there will have to be considerable housing development on open Green Belt sites to meet the Council's housing needs, a considerable impact on openness is inevitable. That said, however, the Appeal Site is relatively well contained in visual terms, and while there are locations where views would be gained, these are localised and limited in nature. As a result, Mr Fidgett considered that there is harm to openness which attracts Moderate to Substantial Weight.

Checking the Unrestricted Sprawl of Large Built-Up Areas

269. As for checking unrestricted sprawl, the Appeal Site adjoins a medium sized village only, not a large built-up area. Further, the Appeal Scheme plainly has the potential, subject to the masterplanning and design at the Reserved Matters stage, to form a well-contained extension to the existing settlement. The Appeal Site relates well to the notion of a westward area of growth for Chiswell Green, something supported by the Council in its proposed allocation of land south of Chiswell Green Lane; and whilst separated by a strip of paddock land from the existing settlement edge, the Appeal Scheme would both function, and be perceived as, a western addition to Chiswell Green, joined by a series of pedestrian and cycle connections through the landscape buffers.

270. Furthermore, the Appeal Site is already contained by strong landscape boundaries and given the provision of an additional green buffer of open space, the Appeal Scheme would not pose any risk of urban sprawl. As a result, Mr Fidgett considered there to be no harm in respect of checking the sprawl of large built-up area, such that No Weight falls to be attached.

Preventing Neighbouring Towns Merging into One Another

271. Mr Connell openly conceded that "a significant gap" would be maintained between Chiswell Green and Hemel Hempstead, which is over 4 km northwest of the site, beyond the M1, and that the Appeal Scheme would not lead to any merger of the two. Mr Fidgett's conclusion that there would be no harm in

respect of towns merging is plainly right. No Weight should therefore be attached.

Assisting in Safeguarding the Countryside from Encroachment

272. Mr Fidgett accepted that whilst this arises in result of any release of land from the Green Belt for housing, it is unavoidable if housing needs are to be met. In the instant case, however, the character of the site is relatively contained by strong boundary landscaping and any perception of the wider countryside is limited until you pass beyond the site into more open farmland.

273. Furthermore, whilst the Appeal Site can be seen from the footpaths adjoining the site, these are relatively close-range views and, with a combination of landscape buffers and a Memorial Park framing the housing, the visual impact of its development would be limited to localised views, without significantly impacting the countryside extending to the west or north. As a result, Mr Fidgett considered there to be only moderate harm in respect of safeguarding the countryside from encroachment and that only Moderate Weight be attached.

Non-Green Belt Harms

Agricultural Land

274. As Mr Fidgett explained, the Council attributes only limited weight to harm arising from the development of agricultural land. In these regards, moreover, all of the options for the release of land to meet housing needs outside of the urban area considered in previous versions of the Local Plan review involved the loss of Grade 2 and/or 3 agricultural land. The NPPF only requires consideration of whether land of lesser quality is available, and that is not the case here. Accordingly, Mr Fidgett attributed No Weight or Very Limited Weight to this issue.

Highways and Transport

275. Development should only be restricted or refused on highways grounds if there would be an unacceptable impact on highway safety or if the residual cumulative impacts on the network would be severe and that is not the judgement made by the Highway Authority. Accordingly, and correctly, Mr Fidgett recorded this as is neutral matter carrying No Weight.

Benefits

Housing Delivery

276. The Council is in housing crisis: it has just 2.0 YHLS. The Appeal Scheme proposals are for 330 dwellings that will contribute, significantly and positively, to the choice of housing available in the local market, appealing to a wide range of people - first time buyers, individuals, couples, and families, offering each a different route to home ownership. Mr Fidgett attributed Very Substantial Weight to this contribution to housing supply.

Affordable Housing

277. There is also a very clear, and additional, benefit in addressing the affordable home crisis in St Albans through the provision of 330 affordable units (100%). Mr Fidgett accorded Very Substantial Weight to this benefit, which is precisely the

weight attributed to considerably smaller amounts of affordable housing other sites in the district. Consistency in planning decisions is highly important.

Key Worker Affordable Housing

278. As Mr Fidgett further explained, there is a particular problem with the supply of housing to meet the needs of Key Workers - being unable to buy at open market prices, but at the same time above the income thresholds for the limited supply of affordable rental homes. Given that the Appeal Scheme would offer 330 affordable homes exclusively for Key Workers, and in such an unaffordable locality, Mr Fidgett, accorded this benefit Very Substantial Weight.

279. Mr Connell's approach, for the Council, is in essence, to attach "very substantial" weight to the benefit of delivering housing to the wealthiest in the nation, those who can afford open market housing in St Albans, even with a new homes' premium; and then to reduce that weight to the lowest part of "substantial", simply because all of the housing at Addison Park is considerably cheaper and for Key Workers. That is obviously wrong.

280. It is completely absurd to attach less weight to housing because it is cheaper and meets the needs of the most valuable members of the local community. It would mean that the only way in which the Appeal Scheme would gain equivalent weight to that of Cala Homes, would be to replace affordable housing for essential local workers with expensive market homes which Key Workers cannot afford, or social rented houses for which they do not qualify.

281. Indeed, not even the Officer's Report agrees with Mr Connell: the weight attached to that benefit was expressly stated to be "very substantial".

Self-Build Housing Plots

282. The Appeal Scheme also includes a contribution to the provision of self-build plots, giving the land away for all but nothing, and locking that discount in for future qualifying purchasers. Mr Fidgett accorded this benefit Substantial Weight, which accords precisely with the Inspector's decision in the Bullens Green Lane appeal and the Council's own decision regarding the development off Harpenden Lane. Mr Fidgett's judgement in this regard is plainly correct and supported by recent precedent, save that these self-build plots will make for affordable homes for Key Workers in perpetuity.

Economic Benefits

283. On any view the economic benefits would be considerable (albeit Mr Connell completely ignores them in his Proof of Evidence for the Appeal Scheme, whilst attributing moderate weight to them for the Cala Homes proposal).

284. As Mr Fidgett explained, the lack of access to housing is a key factor hampering economic performance. By providing more housing to meet local needs, this improves overall economic conditions.

285. Furthermore, the development of 330 homes also brings with it direct and indirect economic benefit, which, calculated by reference to work undertaken by the Home Builders Federation, represents a gross development value of nearly £100m, much of which will stay within the local economy, supporting up to 1,000

jobs, providing 11 apprenticeships/trainees, and generating approximately £3.9m in tax revenue and £372,000 in local Council Tax revenue.

286. For all these reasons, Mr Fidgett correctly accorded the wider economic benefits Substantial Weight.

Public Access

287. In addition, the Appeal Scheme will make a contribution to public access to the Green Belt, in the form of the Memorial Park, the areas of landscape buffer, and the footpath network that connects with the existing public footpath network to create both a circular route without having to walk along Chiswell Green Lane. Mr Fidgett correctly attributed these benefits Moderate Weight.

Accessibility Improvements

288. The Appeal Scheme will also contribute to the improvement of local bus services, enhancing wider access to public transport for the community. Quite correctly, Mr Fidgett accorded these benefits Moderate Weight.

Net Biodiversity Gain

289. The Appeal Site comprises predominantly improved grassland that has been grazed by horses over an extended period. While no BNG metric has been undertaken, as this must clearly respond to the detail of any landscape and biodiversity scheme at Reserved Matters stage, it is reasonably anticipated that a 10% BNG can be achieved on site through the inclusion of native woodland, hedgerow, and meadow as part of that landscape scheme. Even if it cannot be achieved on site, however, the S106 requires a 10% BNG gain in any event – an additional benefit of the Appeal Scheme to which Moderate Weight should be attached.

Overall Planning Balance

290. It has long been accepted by the Council that exceptional circumstances exist that necessitate the release of Green Belt land in order to meet housing needs in St Albans. The Council has, however, failed to deliver a new Local Plan. The end result is one of both crisis and emergency: a Plan-making crisis; a housing crisis; and an affordable housing emergency, especially for the Key Workers unable to access social rented housing, but unable to afford a home of their own either. Worse still, the Council has no intention of addressing their needs in the future; indeed, they have no intention even to assess their specific needs in any ongoing Plan-making.

291. It is precisely because the Appeal Scheme addresses all of these unmet needs, ones which the Council have ignored, and propose to continue to ignore, that, in Mr Fidgett's overall planning judgement, the substantial benefits of this Appeal Scheme clearly outweigh the harm to the Green Belt and all other harms and compel that this Appeal is allowed. Mr Fidgett maintains this view, even if Mr Friend's views are accepted on the impact of the Appeal Scheme on the unvalued, ordinary, landscape in which the Appeal Site is located.

Compatibility with Appeal A

292. Each scheme must, of course, be decided on its own merits, and for all of the above reasons the merits of the Appeal Scheme are overwhelming. It is not

necessary to choose between the Appeal A and Appeal B schemes: both can be approved without giving rise to a severe impact on the operation of the local highway network. Moreover, the housing needs of St Albans are such that, together, the two schemes will go a considerable way towards addressing planning and housing crises.

293. Indeed, whilst the Appellants emphatically assert that the Appeal Scheme, of itself, not only represents a balanced community, but addresses a fundamental imbalance in St Albans as it currently is, it is beyond any doubt whatsoever that, together, the two Appeal Schemes will not only mark the step change in housing delivery, across all tenures, that St Albans needs, but do so in a balanced way - a total of 721 homes, comprised of 486 affordable housing units (67%), with a variety of affordable tenures - affordable home ownership for Key Workers, social rental housing, affordable rental housing, intermediate housing, First Homes housing, and self-build and custom-build plots; and 235 market housing units (33%) on top of that.

The Case for the Local Planning Authority

The summary below is largely taken from the Council's closing submissions, which set out the key points, as it saw them, at the end of the Inquiry.

294. The principal main issue in both appeals is whether the Appellants can demonstrate the Very Special Circumstances ("VSC") necessary to justify their proposed inappropriate developments in the Green Belt. The conclusions that are reached on the other main issues ultimately feed into this overall VSC planning balance.

Planning Framework

295. Planning permission for either development should be refused unless VSC exist: paragraph 147 of the National Planning Policy Framework ("NPPF"). Such circumstances will not exist unless the harm by reason of inappropriateness and any other harm is clearly outweighed by other considerations (see paragraph 148 of the NPPF). If – as is the Council's position - VSC do not exist for either development, then the developments will be contrary to the development plan taken as a whole because there would be a breach of Policy 1 of the Local Plan.

296. That is the case regardless of the weight that is given to the relevant policies of the Local Plan. In this respect, it is common ground that the most important policies for determining the applications are out of date because the Council does not have a five-year housing land supply ("5YHLS") and due to its housing delivery test ("HDT") results. However, if VSC do not exist, this provides a "clear reason" for refusing the applications. In those circumstances, the tilted balance in paragraph 11(d)(ii) of the NPPF is not engaged and the appeal proposals would represent unjustified inappropriate development in the Green Belt.

Correct approach to paragraph 148 of the NPPF

297. In carrying out the balance under paragraph 148, the NPPF expressly advises that substantial weight must be given to any Green Belt harm. That weighting is mandated by policy irrespective of the circumstances (and remains the same regardless of whether or not a local planning authority has a 5YHLS). This reflects the importance of the protection of the Green Belt in national policy as a

designation of national importance. Indeed, the NPPF states in terms that the Government attaches "great importance to Green Belts" (paragraph 137).

298. Further, the requirement for something "very special" is deliberately framed in national policy. Needless to say, it is a high bar to meet. It requires more than the "exceptional circumstances" required to release land from the Green Belt – already a stringent test. Further, for VSC to exist, it is not enough for the benefits to merely outweigh the harm – they must clearly outweigh the identified harm. Imposing a very high bar before inappropriate development is permitted in the Green Belt is key to ensuring permanence and avoiding the death of the Green Belt by "a thousand cuts".

Emerging policy

299. Finally, it is worth at this point addressing the question of emerging policy. It is agreed that the emerging Local Plan should be given no weight, since there is no document to give any weight to. That said, work on the new Local Plan is progressing with vigour and regulation 18 consultation is scheduled shortly (between July-September 2023). There is no positive evidence before the Inquiry to suggest that the overall timetable towards adoption is unachievable.

300. The housing requirement under the new Local Plan is unknown, and whether the standard method calculation for local housing need is to be used is a decision to be made through the local plan process. The spatial strategy in the new Local Plan – i.e. how that housing requirement will be distributed across the District – is also unknown. We do not know whether the requirement will be met through a small number of broad locations for growth (as in the withdrawn plan); a large number of smaller sites; or a combination of both. Further, a new Green Belt Review is due to be published shortly.

301. Therefore, whilst there has been a lot of reference to the South Site (which was allocated in the withdrawn Local Plan) as being "at the front of the queue" for allocation in the emerging Local Plan, we simply cannot say today that it is likely that it will be allocated in the new Local Plan (the North Site, of course, was not allocated in the withdrawn Local Plan). And in any event, we are applying a different, and more stringent, test in this Inquiry (VSC) compared with the test that is applied when deciding to release land from the Green Belt through a Local Plan review.

<u>Green Belt Harm</u>

Approach to assessing Green Belt harm

302. Both schemes constitute "inappropriate development" in the Green Belt. Inappropriate development is "by definition, harmful to the Green Belt" (NPPF para. 147). This is even before one considers harm due to loss of openness and harm to Green Belt purposes. Any harm to openness or purposes is in addition to the definitional harm. So far as openness is concerned, the Planning Practice Guidance ("PPG") sets out the factors that may be relevant when assessing openness and it is common ground that all factors are relevant here.

303. In terms of the spatial aspect of openness, this is generally understood to mean the absence of built development. It is not the same as openness in a landscape character sense and is not influenced by what we can visually discern. Therefore, there can be harm to the spatial aspects of openness without there

being a visual impact. On that basis, visual mitigation will not mitigate spatial impacts. Further, even if spatial harm is "inevitable" and cannot be avoided or further minimised, that is not a basis to reduce the degree of harm.

304. When looking at visual aspects we are considering whether development would have an adverse effect on the perception of openness. The ability to see built form where previously there was none will result in a visual harm to openness. This is a different approach to assessing visual effects in accordance with Guidelines for Landscape and Visual Impact Assessment ("GLVIA"), which is concerned with how pleasant a view is to visual receptors, and therefore takes into account factors such as the attractiveness of new development and green space rather than the simple question of whether the Green Belt will appear more built up than before. Therefore, both landscape witnesses agreed that it would be impermissible to automatically read across the conclusions on visual effects from a Landscape and Visual Impact Assessment ("LVIA") when reaching a conclusion on openness - although, the landscape witness for the North Site in fact adopted the approach that he agreed was wrong.

305. It is important to take care when considering the combined spatial and visual effects of a development on openness. Visual impacts on openness can fall into three categories: (i) they can be neutral – i.e., visually the site may be no more or less visually open following the development; (ii) they can offer an improvement to openness; thereby reducing any harm arising from the spatial impacts of the development; (iii) they can in of themselves be harmful; thereby increasing any harm arising from the spatial impacts of the development.

306. There is no dispute that both developments will result in harmful visual impacts on openness. Therefore, the third category above is relevant – and this visual harm to openness can only increase the degree of harm to openness over and above that which follows from their spatial harm. There is no basis in national planning policy or guidance to support "netting off" spatial and visual harm; or to suggest that harm from visual effects can reduce the overall degree of harm to openness. As it was put in Turner v SSCLG [2016] EWCA Civ 466 (at paragraph 25), "…the absence of visual intrusion does not in of itself mean that there is no impact on the openness of the Green Belt as a result of the location of a new or materially larger building there".

307. In terms of the Green Belt Review (GBR), whilst all parties agree that no weight should be given to the withdrawn draft Local Plan (2020-2036), there is a disagreement on the weight to be attached to the St Albans Green Belt Review prepared by Sinclair Knight Merz on behalf of the Council ("GBR"). Both sites are located within Strategic Sub-Area 8 ("SSA 8") within Parcel GB25 within the GBR.

308. The Council and the Appellant on the South Site agree that the GBR should be given significant weight. However, that does not mean that the findings of the GBR can simply be applied wholesale to the development proposals.

309. There have been changes in circumstance on the ground since the GBR was published. The closure of Butterfly World, to the immediate west of the South Site, after Part 2 of the GBR was published in February 2014, represents a change in circumstance and affects the findings of the GBR insofar as it relates to the South Site. Whilst the South Site was the top ranked site out of the eight strategic sites identified for potential release in the GBR, it was also one of the smallest strategic sites. Ms. Toyne accepted that it was inevitable that smaller

sites, such as this, will achieve a higher ranking than the larger Green Belt sites in the ranking of sites at the end of the February 2014 Green Belt Review. The GBR did not assess the cumulative effect of both the North and the South sites coming forward at the same time.

310. The Appellant on the North Site on the other hand, contends that the GBR should be given "no weight" at all. This position was never adequately explained at the Inquiry, but is in any event fundamentally flawed. It is agreed that conceptually a decision-maker can give no weight to an emerging or withdrawn plan but give weight to an evidence base document. The weight to be given to the evidence base document will depend on whether the evidence base document was subject to criticism by those examining the plan.

311. The position of Mr. Parker appears to be that the Inspectors who examined the Council's withdrawn Local Plan concluded that the GBR was "seriously flawed". However, when one actually looks at what the examining Inspectors said, it is clear that their criticisms do not have any bearing on the GBR assessment of the northern part of SSA 8. For a start, the Inspectors did not criticise the substantive findings reached by the GBR in relation to the individual parcels or strategic sub-areas assessed. Instead, there were two main procedural criticisms, neither of which has any relevance here.

312. First, there was a criticism that the small-scale sub-areas identified in the Stage 1 Report (November 2013) were not investigated in the Stage 2 Report (February 2014). However, that is irrelevant here, because the North Site was not part of a small-scale sub-area identified for potential release in the Stage 1 Report. Second, the Inspectors noted that the list of small-scale sub-areas identified in the Stage 1 Report may not be exhaustive, and that by only considering eight areas in detail in the Stage 2 report, the Council may have missed out on other potential small-scale sub-areas. However, that criticism also does not apply here because SSA 8 was considered at a fine grain in the Stage 2 Report, and the part of the area within which the North Site falls was not found to be suitable for release.

313. In this respect, (i) there was nothing to prevent the Stage 2 Report from identifying more than one suitable site in SSA 8 and (ii) nor was the North Site ruled out from consideration on the basis that it had a capacity of less than 500 units. The GBR itself did not impose a 500-unit cap when considering sites – after all, the South Site had a maximum potential capacity of only 450 units, and despite being given several opportunities, none of the witnesses for the North Site were able to point to any part of the GBR where this cap was imposed. Rather, as Mr. Connell explained, the 500-unit threshold post-dated the GBR during the subsequent site-selection progress in 2018 - and therefore is not a sound basis to reduce the weight to be attached to the GBR itself.

314. Therefore, the criticisms raised by the examining Inspectors do not affect the findings of the GBR so far as they relate to the North Site. Nor is there any other basis for departing from the findings of the GBR. Mr Gray had not considered the GBR in any detail, despite accepting that it was relevant to his evidence, but said that the visual findings in relation to the North/West part of SSA8 "seemed right". There was a faint suggestion raised by Mr. Fidgett for the first time in cross-examination on the last day of the evidence that circumstances may have changed since the GBR was published (potentially because Mr. Collins had

planted some new trees around the North Site) but it was difficult to understand what had changed and why this would affect the findings of the GBR.

North Site: harm to Green Belt Openness and Purposes

Openness

315. The Site comprises approximately 14ha of undeveloped countryside. There is only a very small amount of existing built development on the site, and such built form that there is would not be regarded as inappropriate in Green Belt policy terms. It is therefore spatially completely open. Whilst there is some screening of views into the North Site from existing vegetation (on the north and east boundaries) there remains views into the open areas of the North Site from these locations. More open views into the North Site can be obtained from the west, particularly from Public Right of Way ("PROW") St Michael Rural Footpath 12 where, as Mr. Gray acknowledges, "the full sense of openness of the Green Belt" can currently be experienced. Therefore, to a great extent, the North Site is also visually open.

316. The North Site does not immediately adjoin the existing settlement edge of Chiswell Green, being separated from the western edge of the settlement by an open paddock and an evergreen hedge. This prevents the existing settlement edge of Chiswell Green from exerting any significant influence on the open character of the Site. Further, given the vegetation on Chiswell Green Lane, Butterfly World provides very limited urban influence on the Site. Both Mr. Friend and Ms. Toyne are right that the Site is not integrated with Chiswell Green. Rather, there is a strong connection with the wider countryside to the west, which ensures that the Site reads as part of a tract of open countryside beyond the settlement. Indeed, Mr. Gray agreed that the Site "absolutely" has a strong relationship with the open countryside to the western side of the Site.

317. Unsurprisingly, therefore, the GBR identified that the northern part of SSA 8, within which the North Site sits, "has a very open character and development would completely change this" and that "the openness of the landscape means development would be conspicuous from the surrounding landscape". Mr Gray did not dispute that finding saying that it "seemed right", and nor did he volunteer any explanation for why they did not also apply to the North Site. The GBR also acknowledges that the site falls within an area that "is separate from the edge of the settlement and relates more to the wider countryside".

318. Spatially, the development would result in a very substantial loss of openness on the North Site. Fields which are currently predominantly open would be replaced by a significant amount of urban development comprising buildings, roads and other associated infrastructure. Based on the indicative layout, over 10ha of this 14ha site would be covered with built form. The existing built form on site has a footprint of c. 560 sqm; this would be replaced with a developed area of c. 100,000 sqm - a 18,000% increase. There would also be a very substantial increase in volumetric terms, with proposed buildings of 2-3 storeys high. Even Mr. Fidgett acknowledged that there would be a substantial to very substantial loss of spatial openness. The impact is plainly very substantial.

319. This harm would be irreversible and cannot be mitigated. A substantial area of presently open Green Belt land would no longer be characterised by an absence of built development. The impact would also not be restricted to a loss of spatial

openness: in addition to this very substantial loss of spatial openness, there would be a significant loss of visual openness.

320. In his written evidence, Mr. Gray contended that the visual impact on openness would be "very localised and marginal". However, as he acknowledged, he had assessed the impact of the development on visual openness in a similar way to how he had judged the impact on visual appearance – taking into account exactly the same considerations. This is agreed to be the wrong approach, and this fundamental error infected his assessment of the harm to visual openness. For example, the view from Footpath 12, previously assessed as having a "negligible" effect on openness, was revised to "moderate" – even on Mr. Gray's own analysis. Similarly, the view from residential properties to the east, previously assessed as "moderate" was upgraded to "major adverse". As a consequence, his written evidence is largely worthless as an analysis of Green Belt visual harm.

321. These key errors were compounded by a failure to take into account or understand the appeal proposals – which means that even these revised effects underplay its true impact. As set out below, Mr. Gray had not taken into account the gaps in the boundary screening which would enable "clear views" into the site at places on the eastern and western boundaries. Further, the GBR – agreed to be a relevant document when assessing the effect of the proposals on visual openness – had not been considered in any detail by Mr. Gray.

322. The correct position, as explained by Mr. Friend, is that there are a number of viewpoints, immediately adjacent to, and further away, from the North Site where the visual impact from the proposed development would be substantially harmful to openness.

323. The development would be clearly visible from more elevated land to the west of the site, such as Footpath 12; reducing the openness that can currently be experienced in this sensitive location. The harm to visual openness from this location is agreed by Mr. Gray to be moderate (at least). In truth, it is greater than this as there would be clear views into the site from the west, as opposed to the "glimpsed" views claimed by Mr. Gray. The reduction in visual openness would also be visually perceived from the footpaths that run adjacent to the Site on the northern (Footpath 80) and western (Footpath 21) boundaries where built form would be visible in place of existing views into an open site. Further, from the east, the existing clear views across an open site from the residential properties on Cherry Hill and The Croft would be foreshortened leading to a now agreed major adverse impact on visual openness.

324. Overall, the development would be perceived as a significant incursion of the settlement into the wider open countryside. Mr. Gray expressly agreed that the development will have significant effects on openness which are more than localised.

325. On top of this, it is necessary to consider the impact of the development on activity. Whilst this is also agreed to be material, it is not something that had been considered by any of the North Site's witnesses in their written evidence. Currently, there is very little activity on or from the North Site. The increase in internal movements; vehicular trips on Chiswell Green Lane, noise etc, would all result in a significant increase in activity on the Site that would add further harm to openness.

326. For all of these reasons, the North Site Appellant was right to accept – in the original Statement of Common Ground – that there would be substantial harm to openness. That is plainly a reference to the degree of harm (not its weight). For the reasons set out above, this harm is at the highest end of the scale – very substantial. The overall effects go beyond those which would inevitably arise from development of this quantum. This is a Site with a very open baseline; separated from the existing settlement edge; surrounded on all sides by PROWs, and clearly visible from the more elevated land to the west. It is not surprising that inserting major residential development into this highly sensitive area would give rise to harm to Green Belt openness at the highest end of the scale.

327. In the course of the Inquiry, the North Site Appellant – perhaps worried that it had been too realistic about the effects of the development in its written evidence – sought to further downplay the level of harm. In a document entitled "Statement of Common Ground 2", Mr. Fidgett sought to record his evidence as noting only a "moderate" degree of harm to openness. This late attempt to minimise the harm caused should be rejected.

328. For a start, it departs from the agreed original Statement of Common Ground, without any explanation; and nor was the basis for a moderate degree of harm explained in Mr. Fidgett's written evidence. In any event, that written evidence (and the subsequent "SOCG2") was prepared a time when (as set out above) Mr. Gray considered the visual effects to be "very localised and marginal". However, Mr. Gray had applied the wrong test and it is now common ground that, assessed on the correct basis, the development has significant visual effects on openness that are more than localised.

329. In addition, as set out above, the undoubted visual harm that results from the development can only add to the spatial harm to openness. Therefore, even if the visual harm to openness here is only limited (which it is not, and this is now agreed), it would drive a coach and horses through the protection afforded to the Green Belt in national planning policy if this level of harm could be said to somehow reduce the agreed substantial harm to spatial openness to somehow an overall degree of moderate harm to openness.

330. Overall, the development on the North Site would result in very substantial harm to Green Belt openness.

Green Belt Purposes

331. The starting point is the GBR. The North Site is located in an area of "higher sensitivity" and was not recommended for release in the GBR; indeed, in light of the findings of the GBR in relation to this part of SSA 8, the North Site is very far from being at the front of the queue for release.

332. Whilst Mr. Fidgett sought to rely on the fact that SSA 8 itself had performed comparatively well within the GBR; this is based on a misreading of the GBR. The "sub-area identified on pasture land at Chiswell Green Lane" identified in the Stage 1 Report as contributing least to Green Belt purposes is plainly the South Site and not the whole of SSA 8. That is clear both from the description used in the Stage 1 Report (e.g. the reference to the Butterfly World being located "along Miriam Road to the west") and the fact that the Stage 2 Report clearly considered that development within the remainder of the sub-area would result in an unacceptable level of harm to Green Belt purposes. In any event, the findings of

the GBR are borne out by the detailed appraisal of the North Site's performance against Green Belt purposes carried out at this Inquiry.

To check the unrestricted sprawl of large built-up areas

333. The GBR found that this parcel made no contribution to this purpose. However, that is because – for the purposes of its strategic review - it treated "large built-up areas" as being London, Luton & Dunstable and Stevenage. Therefore, following the methodology in GBR, there would be no large built-up areas in the District – even St. Albans would not be defined as a large built-up area. It was inevitable, applying that approach, that the parcels around St. Albans and Chiswell Green would be found to make no contribution to preventing unrestricted sprawl. Plainly, for the purposes of this appeal, Chiswell Green should be considered to be a large-built up area. It is a settlement identified in the Local Plan; and as the Appellants are keen to emphasise elsewhere, has a range of services and facilities. Indeed, it was treated as a large built-up area by the Inspectors at both appeals into the Burston Nurseries development, and there is no reason for departing from that approach here.

334. The development would plainly result in harm to this purpose. The Site is in open countryside and not directly adjacent to the built edge of Chiswell Green. It reads as detached from the existing built settlement edge, and extends westwards beyond the former Butterfly World site. This is why neither the GBR nor the withdrawn Local Plan suggested that a westward expansion here.

335. Importantly, there is also no defensible boundary to the western edge of the site. The existing trees on the western boundary are limited in depth and would form a weak boundary even with additional buffer planting – especially since this boundary would be punctured by the proposed connections into Footpath 21. However, the effect would be most apparent at a distance from the North Site to the west. From these elevated views (such as Footpath 12), it is agreed that the settlement of Chiswell Green will visibly extend to the west towards the viewer by about 650 metres – or a third of a mile. As extended, it is agreed that the new settlement edge of Chiswell Green will appear to be surrounded by open countryside to the north, south and west. Importantly, there is no obvious physical boundary or feature separating the site on the western edge from the remaining open countryside. The nearest road to the west is Furzebushes Lane – which lies beyond the land to the west of the site.

336. When asked whether there was a physical boundary to the west which meant that someone looking at this settlement extension would say to themselves "I know why it has stopped there", Mr. Gray readily agreed that there was none.

337. If that is not harm to this purpose, it is hard to know what would be. Post-development, Chiswell Green would be perceived to be sprawling into the open countryside with no obvious connection to the existing settlement or limit on its expansion. Mr. Fidgett's assessment that there would be no harm at all to this purpose is clearly wrong and, in the circumstances, Mr. Connell's assessment of moderate harm to this purpose is in fact generous to the North Site.

To prevent neighbouring towns merging into one another

338. There is also harm to this purpose (albeit limited). As found in the GBR, the wider Parcel forms part of a network of parcels which form the Strategic Gap

between St Albans and Hemel Hempstead. Whilst the development clearly would not result in coalescence with Hemel Hempstead, towns tend to merge incrementally over time, and therefore it is unlikely that one single development will result in towns merging. In other words, this purpose can be offended incrementally. The development of this site (especially if it was together with the South Site) would result in ribbon development along both sides of Chiswell Green Lane, physically reducing the separation with Hemel Hempstead, albeit to a limited extent given the gap that would remain. Mr. Connell was right to find limited harm to this purpose.

To assist in safeguarding the countryside from encroachment

339. It is common ground that there is at least moderate harm to this purpose. This level of agreed (minimum) harm to this purpose is far from inevitable. It also must involve a recognition that the Site is currently perceived as countryside, and would no longer be post-development. However, the North Site Appellant has again underplayed the effect of the development – which would in fact result in very substantial harm to this purpose.

340. Mr. Fidgett's assessment of only a moderate degree of harm relied on two key components of Mr. Gray's evidence that no longer stand up to scrutiny. First, Mr. Fidgett's claim that the North Site's "connection [with] and perception of the wider countryside is limited" is wholly inconsistent with both how the Site is perceived on the ground and with Mr. Gray's acknowledgment that the North Site "absolutely" has a strong relationship with the open countryside to the western side of the North Site. Second, the suggestion that the visual impact would be "limited to localised views without significantly impacting the countryside extending to the west or north" no longer reflects Mr. Gray's position that there would be a significant effect on visual openness from the Footpath 12 to the west.

341. In truth, the harm to this purpose would be very substantial – a function of the development very substantially reducing openness on a site that is currently visually perceived as open countryside. In this respect, it is important to remember that there is an inherent connection between a loss of openness and harm to this purpose. As it was put by the Court of Appeal in Turner: "Openness of aspect is a characteristic quality of the countryside, and 'safeguarding the countryside from encroachment' includes preservation of that quality of openness".

342. Overall, the significant level of harm to Green Belt purposes counts very substantially against the grant of planning permission for the North Site.

<u>South Site: harm to Green Belt Openness and Purposes</u>

Openness

343. Whilst influenced to a degree by the existing settlement edge of Chiswell Green, the vast majority of the South Site is spatially open. 96% of the site is currently free from built development, and the built development that does exist on the South Site is restricted to its northern end. To the extent that reliance was placed in the written evidence on the fact that the South Site is internally divided into parcels defined by hedgerows with trees and small woodlands, Ms. Toyne agreed that those features do not limit its sense of spatial openness. In a spatial

sense, the site is currently positively contributing to the fundamental aim of Green Belt policy of keeping land permanently open. Further, whist the South Site is currently influenced to a degree by the current activities on Butterfly World (storage of construction materials, vehicle parts, household items, vehicle sales), it is important to note that these activities are subject to enforcement action.

344. Ms Toyne agrees that, as is stated in the LVIA, the development proposal will result in a substantial increase in built form on the Site. As set out in the Officer's Report, the built-up area would comprise c. 10.62ha of a c. 13.96ha site. As spatial openness is concerned with the absence of built development – a substantial increase in built form must result in substantial harm to spatial openness.

345. Whilst Ms. Toyne relied on the fact that 41% of the site would not be covered with built development, that figure must be treated with considerable caution. For a start, it assumes that the school land is undeveloped and therefore Ms. Toyne agreed that the 41% figure would reduce if the school came forward. In any event, the 41% figure includes within it elements that will undoubtedly impact on spatial openness (such as children's play areas; cycleways; drainage, utilities and service infrastructure; and roads). Further, the urban influence of the new built form will extend far beyond its footprint; as the undeveloped parts of the South Site will be perceived in its context. Almost the entirety of the South Site will be deprived of its open character.

346. In any event, the extent of site coverage only tells part of the story. As the PPG recognises, the volume of the built form is highly relevant – which requires consideration of height. Here, the height of the new buildings ranges from 2.5 up to 3 stories. In comparison with the baseline position, there will be a massive increase in volume of built form on the site and the volume of built form proposed as part of the development is very substantial (even Ms. Toyne accepted that there would be substantial volume of built form on the South Site and a substantial increase above the baseline).

347. There is no prospect of remediation – the change will be irreversible. The footprint and volume of built form would be a permanent feature and its spatial impact will not reduce over time.

348. The fact that the spatial harm would be restricted to the appeal site itself, as noted by Ms. Toyne, is an irrelevant consideration: development will never have a spatial or physical impact on openness on land outside of the boundaries of the site, since development will never take place outside the red-line boundary. Having regard to this consideration as a factor to reduce the degree of spatial harm would mean that the spatial impacts of the development would be unduly minimised.

349. The loss of openness would be visually perceived by the many who have views across it – in particular, from Chiswell Green Lane; from residential properties on Long Fallow, Forge End and Woodlea; and from pedestrians on PROW 82, 28 and 22. These are local views but the fact that the loss of openness may be only locally perceived does not lessen the conflict with the fundamental aim of Green Belt policy. As such, whilst the South Site is fairly visually contained, the impact of the development within that area is substantial.

350. For example, residential properties along the settlement edge (such as those on Long Fallow, Forge End and Hammers Gate) currently have open views over the site. Far from being "a very few" properties, as claimed by Ms. Toyne, there are in fact a significant number of properties. It is common ground that post-construction, residents of houses will have open, close range, frontal views of new built form in place of views of an open field. That will result in a large magnitude of change (i.e. a pronounced change to the existing view, resulting in the loss or addition of features that will substantially alter the composition of the view). This arises from being able to see built form in place of views of an open field – i.e. harm to visual openness. The factors that reduce the impact to visual appearance to negligible in Year 15 (in the LVIA) will do nothing to reduce the impact on visual openness. The visual openness of the South Site for these visual receptors will be completely lost.

351. Similar effects will be experienced elsewhere. The LVIA records adverse effects at Year 1 to varying degrees at seven visual receptors: (i) Residential properties on the settlement edge; (ii) Users of Chiswell Green Lane; (iii) Users of Long Fallow, Forge End and Woodlea; (iv) Pedestrians on PROW 82, 28 and 22; (v) Workers at the commercial estate on Miriam Lane. These adverse effects all arise from the visibility of additional built form into the view. That is a visual harm to openness which would be compounded by the high degree of activity that would be introduced onto a site where presently there is almost none.

352. Overall, the suggestion that inserting 391 new homes and associated development onto a spatially open site would only result in a "limited" degree of harm to openness, as suggested by Mr. Kenworthy, is plainly wrong. It is not even supported by the Appellant's own evidence (Ms. Toyne referred on a number of occasions to the moderate harm that would be caused to the openness of the South Site).

Green Belt Purposes

To check the unrestricted sprawl of large built-up areas

353. The South Site currently performs a role in fulfilling this purpose as there is a clear boundary, and contrast, between the residential properties at the settlement edge of Chiswell Green and the open undeveloped nature of the South Site. Despite attempts to argue that there is "clutter" on the Site, in truth this is minimal and to the extent that it is present it is confined to the very northern boundary of the South Site adjacent to Chiswell Green Lane. The appeal proposals would extend the settlement of Chiswell Green in a westerly direction and built development would be spread across the full extent of the South Site.

354. Further, as agreed by Ms. Toyne, it is relevant when considering whether or not development amounts to urban sprawl to consider the extent to which it has defensible boundaries – and in particular, whether every boundary is defensible. As Mr. Connell observed, the south-western part of the Site, which borders onto Miriam Lane, does not have a strong defensible boundary. There is no landscape bunding in this location and limited visual screening. There is very little to physically separate the South Site from the open countryside beyond to the south-west. Further, Miriam Lane is essentially an access road to the (now closed) Butterfly World. It is not a major transport corridor. In fact, it is now not even possible to travel up Miriam Lane – since it is blocked by closed gates. The GBR had placed a lot of weight on Butterfly World as providing a physical barrier.

Now that Butterfly World is closed, the extent to which Miriam Lane provides a permanent physical boundary at the south-western corner of the South Site is reduced.

355. The proposed development introduces built form close to the edge of the site in this sensitive location. This will increase the perception of urban sprawl, resulting in a moderate degree of harm to this purpose – as correctly assessed by Mr. Connell.

To prevent neighbouring towns merging into one another

356. Similar considerations apply to the South Site as they do to the North Site (see above). For the reasons set out there, there is a degree of harm to this purpose (albeit limited).

To assist in safeguarding the countryside from encroachment

357. It is common ground that there is some harm to this purpose. That finding of harm must include an acceptance that the Site is currently countryside. Post-development, however well-designed the scheme is, the South Site will no longer be perceived as countryside.

358. However, the harm to this purpose is greater than that assessed by Ms. Toyne (moderate as opposed to limited). In particular, the extent to which the South Site is influenced by the urbanising effect of Butterfly World has reduced since Stage 2 of the GBR was published in February 2014. There can be no doubt that the dome that was permitted under the original Butterfly World planning permission would have been a significant feature in the landscape – at 23 metres in height and 100 metres in diameter.

359. It would have contributed significantly to a perception of the appeal site as an urban fringe location. If constructed, the dome would have had more of an effect on the openness of the Green Belt in this location than the base of the dome – which is what is currently on site at the moment. At the time that the GBR was published, Butterfly World was open and there was no reason to suppose that the dome would not eventually be built once sufficient funding had been obtained. Now, as Mr. Connell explained, there is no prospect of that occurring.

360. Therefore, circumstances have changed since the GBR was published. Whilst the South Site is influenced by the existing urban edge to the east; there is less influence to the west. In simple terms, the South Site reads more as countryside now than it did before. That countryside would be encroached upon by the westward expansion of Chiswell Green resulting in moderate harm to this purpose.

<u>Conclusion on Green Belt Harm</u>

361. Substantial weight must be given to the harm identified on both sites.

362. It is important to recognise that this involves giving substantial weight to a degree of harm. Whilst Mr. Kenworthy refused to agree, giving substantial weight to a substantial level of harm is a weightier consideration under paragraph 148 of the NPPF compared to giving substantial weight to a limited level of harm. That must be the case otherwise the overall weight that would be given to (say) the harm to openness arising from a larger replacement house in the Green Belt

would be the same as that given to major warehouse development. The fact that he failed to recognise this calls into doubt his overall planning balance.

363. On the North Site, Mr. Fidgett's approach is even harder to understand. Whilst substantial weight is given to the definitional harm, the other Green Belt harm he identifies is given less than substantial weight (either moderate or moderate to substantial). Again, it is impossible to understand why, since there is no explanation for this in his written evidence. However, it is plainly inconsistent with the NPPF which states that substantial weight should be given to "any harm to the Green Belt" (paragraph 148). The only element of harm that substantial weight has been given to is the definitional harm. Therefore, not only has the North Site underplayed the degree of Green Belt harm caused by the development, this is compounded by impermissibly reducing the weight to be given to this harm. The overall conclusions reached by Mr. Fidgett should be treated with considerable caution in the light of this.

Non-Green Belt Harm

364. It is then necessary to consider any other non-Green Belt harm in respect of both sites. This includes, for both sites, (i) harm to landscape character and appearance and (ii) loss of best and most versatile ("BMV") agricultural land.

365. In this respect, it is important to remember that any other harm must be weighed into the balance under paragraph 148 of the NPPF. Therefore, the fact that the reasons for refusal do not indicate a freestanding breach of either agricultural land or landscape policies does not make any difference to the balance under paragraph 148 of the NPPF. If there is harm, which there is, it must be weighed into that overall balance and the degree of harm is the same whether or not it is said to separately breach the relevant local plan policies.

Character and appearance

366. There is harm to landscape character and appearance on both sites, although to different degrees. Harm to the intrinsic character and beauty of the countryside is harm to be weighed against the grant of planning permission. Unlike a non-Green Belt case, there is no need to decide whether this harm would be "unacceptable" in its own right. As set out above, all that is needed is to assess the level of harm caused and add it to the balance of harm arising.

North Site

367. The starting point is the weight to be given to the LVIA submitted with the application, and indeed the evidence of Mr. Gray more generally. Unfortunately, that evidence can be given very limited weight and nor can there be any confidence that the LVIA accurately sets out the effects of the development.

368. It was rightly accepted that the LVIA is an important document in the determination both of the application and of this appeal. However, it is riddled with errors. To take just one example, Mr. Gray acknowledged that the conclusion it reached on the effect of the development on the landscape features of the Site was "plainly wrong" and needed to be "re-written" – not least because it showed that the landscape effects of the development got worse, not better, over time. For some reason, the North Site Appellant did not take the opportunity to correct these errors before the Inquiry began even though they were pointed out by Mr. Friend over a month before on the exchange of proofs. As a result, the

LVIA was effectively re-written in the course of the Inquiry through a "Statement of Common Ground" that Mr. Gray acknowledged was itself "rushed" and did not fully correct the LVIA.

369. This is a point that goes well beyond the credibility of the judgments reached in the LVIA and subsequently. As Mr Gray accepted, assessing the nature and significance of effect is an important part of LVIA process and for an LVIA to be fit for purpose, it is important that the assessment of effects is transparent and understandable. It was also (rightly) agreed that it is important to know why effects are adverse both to know whether and to what extent they will reduce, but also to design effective mitigation for the development. The LVIA (even as re-written through the "SOCG") does not fulfil this function. For example, Mr. Gray accepted that there was nothing in the LVIA which records why there are major adverse effects on the features of the Site post-construction. The LVIA does not transparently set out the nature of the effects from the development and is therefore not fit for purpose; and nor is it of any assistance in designing effective mitigation (even at the outline stage) – or in providing any confidence that the effects can be acceptably mitigated.

370. That can then be seen in the proposals we have in front of us. There are no parameter plans addressing matters such as building height, or site layout (unlike on the South Site); nor any landscape strategy to inform the consideration of landscaping at reserved matters stage (again, unlike the South Site). Further, for all that the North Site Appellant waxed lyrical in its evidence about how the development was "landscape-led", the indicative masterplan was obviously fixed at a very early stage in the process and had not been informed by the LVIA in any meaningful sense at all. Mr. Gray had not even spoken to the design team. Whilst Mr, Friend has taken into account the potential for mitigation in his assessment of effects, even for an outline proposal it is uncommon for there to be so much uncertainty about how the development could actually acceptably come forward at this stage and what the residual effects would actually be.

371. The assessment of visual effects was similarly flawed. There is agreed to be no GLVIA compliant assessment of the effects of the development on Footpath 82 in the LVIA, notwithstanding the fact that it runs in close proximity to the Site to the east. Further, at times in his evidence, Mr. Gray appeared to be making up the visual effects of the development on the spot (for example, in the space of under a minute, Mr. Gray said that there would be "no harm" to visual receptors on Footpaths 80 and 21; then minor harm; then no harm; then beneficial effects; before eventually settling on no harm).

372. These key errors were then compounded by a failure to take into account important elements of the appeal proposals. For example, the effects of the footpath connections onto Footpath 21 on the north and south-west corners of the North Site had not been assessed. Further, Mr. Gray had not assessed the impact of the emergency access to the east of the North Site which would result in a break in the existing boundary hedgerow. As a result, his assessment of effects was revised on the hoof in cross-examination.

373. None of these errors can be wished away on the basis that this is an outline proposal. Of course it is, but changing the indicative masterplan will have other and different consequences. For example, strengthening the buffer to the west,

or moving built form away from the western boundary will simply move built former closer to the northern or eastern boundaries. These consequences have not been assessed at any point, both because the LVIA is so flawed and also because the indicative masterplan was never truly landscape-led in the first place.

374. Finally, the attempt to give new landscape evidence through Mr. Fidgett should be given short shrift. Mr. Fidgett is not a qualified landscape architect and had expressly relied on the findings of Mr. Gray on landscape and visual matters in his written evidence. He agreed that on matters falling within Mr. Gray's expertise the latter's evidence should be preferred.

375. For all these reasons, there is a very real doubt about whether there is sufficient information before the Inquiry to properly assess the landscape and visual effects of this development. Even if that is not accepted, and working on the basis of the material that we have, it is clear that the North Site Appellant has significantly understated the effects of the development on landscape character and appearance.

Landscape character

376. It is common ground that the North Site and its features has a medium sensitivity; that there would be a large magnitude of change at Year 1, and a medium magnitude at Year 15; and that there would be a major adverse effect at Year 1 and a moderate significance of effect at Year 15. Unusually, the dispute is as to the nature of effect at Year 15 – since Mr. Gray contends that the development would have a residual beneficial (rather than adverse) effect on the landscape character of the North Site itself.

377. There is no basis for this conclusion which falls apart on the most cursory examination. It is common ground that post-construction there will be a "large" magnitude of change – defined in the LVIA as "Permanent removal of, or a significant change to, the characteristics of the landscape element in question. Limited scope for replacement, reinstatement or other mitigation". Not only does that finding in of itself suggest that there would be limited scope for mitigation but the significant change to the characteristics of the North Site which is adverse in Year 1 is agreed to be the introduction of built form onto the site. That harmful effect of the development, which covers 74% of the Site, remains there at Year 15.

378. Rather, it is agreed that the main change that has happened in the 15 years post-construction is that the landscaping will have matured. However, whilst this might help soften and integrate the new built form (which is why Mr Friend reduces his adverse effects from major to moderate) it is agreed that the new green infrastructure will still be perceived in the context of a new housing estate – the very thing that was causing the major harm in the first place. It is therefore very hard to understand why the adverse effects do not merely reduce, but (on Mr. Gray's approach) are in fact offset to such an extent that the net effect is beneficial.

379. The only substantive answer he could give was that the landscaping would be "exemplary". However, as he agreed, achieving well-designed landscaping is a requirement of national planning policy, and therefore any scheme; and there is simply no detail as to what this supposedly exemplary landscaping would involve;

whether it could be provided whilst still delivering the required quantum of development; and why it shifts the effects all the way to beneficial. Anyone can turn up to an Inquiry, claim that their scheme will be "exemplary" and then say (without more) that the overall effect will be beneficial. We rightly adopt a more rigorous approach than this.

380. In truth, as Mr. Friend finds, the residual effect of the development (with mitigation) on the landscape character of the Site and its surroundings would be to irreversibly change the character of the agricultural field from arable field to one with built form, associated managed open space, infrastructure and activity. Whilst the maturation of the primary and secondary mitigation measures, in particular the planting within the open space, will result in a softening and filtering the built form, the rural character of the North Site will have been lost. The effect would be a moderate residual adverse effect to its landscape character. That is a sensible, balanced, and reasoned view.

381. For similar reasons, the harm to the setting of the Site would also be moderate adverse. It is common ground that there would be no material impact on the wider St Stephens Plateau Landscape Character Area.

Visual effects

382. Turning next to visual effects. These would be experienced primarily from the north, east and west of the Site and the adverse effects on visual appearance would be significant from a number of PROWs, including three which run along the North Sites' boundaries. The suggestion in the LVIA that the overall adverse visual effects are negligible seriously misjudges the effects of the development; and in any event was revised during the course of the Inquiry.

Views from PROW to the immediate north and west of the site

383. There are two PROWs that border the North Site: (i) Footpath 80, which runs to the north of the site and (ii) Footpath 21, which runs to the west.

384. Mr. Gray assesses the residual significance of effect as being "neutral". There are two main reasons for this. First, the sensitivity of visual receptors using the footpath is recorded as being "low". Second, the residual magnitude of change is recorded as being "very small".

385. So far as sensitivity is concerned, Mr. Gray has severely underestimated the sensitivity of views from these footpaths. His assessment of "low sensitivity" is equated with a "small number of private views visible from principal living spaces" under his LVIA methodology which is clearly not relevant to views from a PROW. These are publicly accessible views; available to receptors likely to be using the PROWs for the purposes of recreation; by users likely to have the expectation of a rural outlook. The sensitivity should therefore be "high" under his own methodology – as assessed by Mr. Friend. In cross-examination, Mr. Gray agreed that, in accordance with GLVIA, the susceptibility of visual receptors using these footpaths was "high". In those circumstances, an overall "low" sensitivity is plainly wrong.

386. So far as magnitude is concerned, Mr. Gray's assessment is that there would be only a "very minor loss or alteration to a key feature or characteristic of the existing view". Along both footpaths, residential built form is not characteristic of the existing landscape for much of their length as they run around the site. Even

post-mitigation, built form will be visible above the hedgerow from Footpath 80 and through the existing planting from Footpath 21. Mr. Gray agreed that built form on the northern boundary "will be visible and evident". Further, as Mr. Gray accepted, at all points along the footpaths, people will be aware that they are walking next to a housing estate. Further, at the two points where there will be a break in the hedgerow on the western boundary of the site, "clear views" will be available into the North Site. This is not acknowledged anywhere in the assessment of effects in the LVIA.

387. Overall, there would be a substantial adverse effect on visual receptors along both footpaths.

PRoW St Michael Rural Footpath 12

388. This footpath is adjacent to Square Wood, at an elevated position to the west of the North Site. It is agreed not to be a localised view of the North Site. It is common ground that the view is currently over open countryside; that housing development is not a characteristic component of the view; and that the existing settlement edge of Chiswell Green is not a prominent or detracting feature in the view. It is also agreed that housing on the North Site will be evident post-construction. Mr. Friend is right that there will be clear views into parts of the North Site from this location. Further, there is little that can be done by mitigation to prevent views into the site – because the site is visible by virtue of Footpath 12 being at a higher elevation than the site. The resultant harm to visual receptors at this location would be significant.

Views from the east

389. These views are from residential properties on Cherry Hill/The Croft and from Footpath 82 which runs north/south to the east of the site from Chiswell Green Lane. It is common ground that the upper storeys of the development will be visible from both residential properties and also from Footpath 82 even at Year 15. Further, Mr. Gray had assessed the visual effects from this location on the basis that "The existing evergreen hedge that defines the eastern boundary of the appeal site and the paddocks will remain unchanged". This is completely wrong as there will be a break in the hedgerow to allow for a tarmacked access of 5 metres in width and 55 metres in length. This break is agreed to enable clear views into the site and Mr. Gray agreed that the magnitude of change will increase for both residential properties and also receptors on Footpath 82 beyond that assessed in the LVIA.

390. It was agreed that there will be a large magnitude of change from the residential properties and also from part of Footpath 82 (whereas the LVIA assessed this as only being medium for the properties and the magnitude of change for the PROW had not been assessed in the LVIA). It was also agreed that there would be major (as opposed to moderate) adverse effect on residential properties – this is a significant effect under Mr. Gray's methodology.

391. Overall, therefore, the North Site Appellant's suggestion that the adverse visual effects are negligible seriously misjudges the visual effects of the development. The effect from all of the receptors set out above would be significant; and there would be a level of additional harm that would be significant in views from Chiswell Green Lane and from Footpath 39.

392. Mr Connell is right to give substantial weight to the overall harm from the North Site to landscape character and appearance. Mr. Fidgett's suggestion that the degree of harm is "limited" is impossible to reconcile with Mr. Gray's evidence. Mr. Fidgett's further suggestion that the harm (which is common ground, if not its extent) should be given "no weight" (i.e., effectively disregarded) is, with respect, a nonsense. The idea that the now acknowledged landscape character and appearance effects of the development should be given no weight is yet further evidence that the overall planning balance carried out by the North Site Appellant is partial and inadequate and ultimately unsound.

South Site

393. On the South Site there is significant agreement between the landscape witnesses. It is common ground that there is some harm, both to landscape character and in terms of its visual effects. However, this is ultimately given limited weight by Mr. Connell in the overall balance. Given this, it would not be proportionate to address in detail the few points of difference between Mr. Friend and Ms. Toyne in this closing – the details of which are addressed in Mr. Friend's written evidence.

394. Nevertheless, this harm (albeit limited) must be taken into account under paragraph 148 of the NPPF, since this paragraph requires all harms to be taken into account, not just those effects which are deemed to be of significance under the relevant LVIA methodology.

Agricultural Land

395. Both developments would result in the loss of BMV agricultural land. On the North Site, 10.9ha of Grade 3a land is lost from a total site area of 14.2ha; on the South Site it is 7ha from a total site area of 13.9ha. This results in additional harm (albeit limited) in respect of both sites, that must be weighed into the balance.

Other Considerations

396. The nature and level of benefits is very different on the North Site compared to the South Site. However, on both sites, the benefits fail to clearly outweigh the harm identified. Further, in considering the benefits of each proposal, a careful judgment is required – rather than merely regurgitating the findings of other Inspectors, often involving different circumstances and contexts, but in any event reflecting no doubt the evidence and arguments that were put before them which almost certainly also differed from here.

Benefits on the North Site

Affordable housing for key workers

397. This is the only truly substantive benefit that the North Site delivers. That said (i) it is important that the decision here is made based on planning, rather than emotive, considerations; and (ii) the delivery of key worker housing, which is clearly an important benefit of this proposal, is just one component of the wider planning balance that must be carried out in accordance with national planning policy.

398. Whilst Mr. Fidgett has divided this into three apparently separate benefits (Housing; Key Worker Housing; and Affordable Housing), in truth there is one substantive benefit since the "Housing" is "Affordable Housing" and it is only for "Key Workers". Indeed, he agreed that, whilst the benefits had been disaggregated, cumulatively they amounted to very substantial weight to the benefit arising from the new housing provided by the development. Whilst splitting up this benefit into three may superficially appear to increase the "number" of benefits that arise on the North Site; it is well-established that the planning balance under paragraph 148 of the NPPF is not a mathematical exercise.

399. The Council agrees that the delivery of key worker affordable housing is not only a benefit of the proposal but one which ought to be afforded substantial weight. The Council fully supports the provision of key worker housing.

400. The only difference relates to whether this should be substantial weight at the very highest end of the scale (i.e., very substantial) or not. This is important context. There is no suggestion by the Council that the proposed homes will "sit empty" or that the option to buy a home on the North Site would not be a profound benefit for those able to do so. Clearly, it would be. Increasing home ownership is, rightly, a key national policy objective.

401. However – when considering whether this benefit of the proposal ought to be given the very highest weighting - the Council is right to challenge the extent to which the reduction in prices will make the housing on the site materially more affordable than existing market housing elsewhere in the District and whether the proposal meets the priority need for housing in the District. These are factors that go to the degree of substantial weight; not whether this is a benefit in the first place.

402. Perhaps most importantly, even if very substantial weight is given to this benefit, ultimately it does not affect the overall planning balance. Given the level of harm to the Green Belt (combined with the degree of landscape and visual harm), this benefit cannot be said to clearly outweigh the harm (even in combination with the other fairly generic benefits relied on by the North Site Appellant).

403. It is suggested by the North Site Appellant that the LHNA ought to be given limited weight. However, it is agreed to be the most up to date assessment of affordable housing need in the District before the Inspector. It has been tested at the examination into the Watford Local Plan and was not the subject of criticism in the Inspector's Report. There is no criticism by the North Site Appellant of the methodology that sits behind the assessment, and nor are alternative figures offered. Indeed, the affordable Housing Statement of Common Ground is based on figures from the LHNA. Plainly, it can be given material weight for the purposes of this appeal.

404. Numerous attacks have been made on the Council, in particular by Mr. Parker. He has sought to characterise the Council's approach to key worker housing as being "tardy", "unambitious" and "indifferent". These accusations are unfair, and many fall apart upon objective scrutiny.

405. For example, far from being "entirely excluded from the Council's evidence base on housing needs" (as Mr. Parker claims) the South West Hertfordshire

Local Housing Needs Assessment (2020) ("the LHNA") includes key workers within its assessment of the need for affordable housing for rent and for affordable home ownership ("AHO"). The true complaint is that the needs for key workers have not been separately assessed. However, it is agreed that there is no requirement in national planning policy to do so; and the approach taken in the LHNA was not the subject of any criticism by the Inspector who examined the Watford Local Plan; Mr. Parker has put forward no evidence of any local authority post-NPPF separately measuring Key Worker housing need; and it is agreed that this is not common-place.

406. There are numerous other examples of Mr. Parker's criticisms of the Council being overblown and his evidence should be read with some caution. As should the repeated references to "Jubilee Square" as if this somehow proved that the Council was acting inconsistently in its approach to this appeal, notwithstanding, as Mr. Connell pointed out, Jubilee Square is not a scheme designed solely for key workers. Ultimately, Mr. Parker accepted that a fair characterisation of the position was his own words – before permission was refused – namely that the Council is genuinely committed to delivering more affordable housing through an up-to-date plan but like many Councils has found it difficult. Given this, it is regrettable that rather than simply focussing on the benefits of the proposed development for key workers, the North Site Appellant has decided to spend a considerable amount of time seeking to unfairly run-down the Council's approach to this issue.

407. Another distraction is the repeated reference throughout the Inquiry to many key workers earning more than the income threshold under the Council's Allocation Policy. However, the purpose of the Council's allocation policy is to allocate households on the housing register for social and affordable rented housing. There is no criticism of the levels set in the Allocations Policy, which are set at that level because, above that threshold, households have sufficient income to meet need for rented accommodation on the private market and therefore do not have a need for rented affordable housing– which is what the allocations policy is designed to allocate. Key worker households who earn less than the threshold (and therefore do have a need for rented affordable housing) are, of course, fully entitled to affordable rented accommodation.

408. This scheme is designed to meet a different need – i.e. those who are able to afford to rent in the private sector, but not to buy at all on the open market. For those in the gap between renting and buying that need will be met once they are able to afford a lower quartile home of a suitable size. That is because a lower quartile home is seen as "entry-level" market housing. That is the approach taken in the PPG for the purposes of assessing affordable housing need. Whilst as Ms. Gingell pointed out, the PPG does not require discounts to be set in relation to a lower-quartile price, it would be surprising if did. Whether or not this is needed will depend on the disparity between lower and median prices in any particular area; and (as set out above) the Council's concerns here go to weight not whether the proposed development amounts to affordable housing. Consistent with the PPG, this is also the approach taken by the LHNA which has used "lower quartile prices…to reflect the entry-level point into the market" (and remembering that this approach albeit not tested at examination in St. Albans has been considered in the Watford Local Plan examination).

409. It is also consistent with common-sense. If the housing that is provided at the development is in fact more expensive than entry-level housing elsewhere in the District, that will obviously reduce the extent of its benefit because those purchasing a home in the development would have been able to purchase an (undiscounted) home elsewhere.

410. With that in mind, it is necessary to consider the discount that is being offered here and whether it would result in properties that are more affordable than the entry-level price of housing elsewhere in the District. As it is put in the LHNA "…The problem with having a percentage discount is that it is possible in some locations or types of property that such a discount still means that AHO housing is more expensive than that typically available in the open market (i.e. lower quartile homes). This is particularly the case when this discount is applied to new homes which already attract a new-build premium".

411. The key issue here is that the discount for all tenures being offered (First Homes, Shared Ownership and Discounted Market Sale) is applied to the median house price district-wide of a similar property (assuming that this is lower than the open-market value of the property itself given the disparity in house prices between St. Stephen's ward and the District as a whole).

412. Discounted Market Sale properties: according to ONS data, the price of an entry-level home in the District is £415,000 – without a discount. That requires a household salary of £83,000 to purchase. The same data shows that a median-quartile home in the District – with a 33% discount is c. £395,000. That requires a household salary of £79,000 to purchase. This is a difference of about 5%. However, this data comes from the ONS data-sets and therefore includes all properties sold. It is agreed that the properties at Addison Park would attract a new-build premium of around 15%. Applying this to the ONS data, even with a discount of 33% and even applying that discount to the district-wide median price, the sale price of properties at the development would be more expensive than an entry-level home elsewhere.

413. That can only serve to reduce, at least to some extent, the benefit of this development. It is no answer to say that the discount is "at least" 33% since there is no obligation on the owner to sell at a greater discount; and why would it if there is a purchaser who is willing to purchase at that price (for example, someone able to afford an entry-level home in the District but who would prefer to purchase a new-build property at Addison Park). The point is that linking the discount to the median (rather than entry-level) price severely limits the benefit of this proposal in genuinely enabling key workers to enter into the housing market who would not otherwise be able to do so.

414. First Homes: exactly the same issue arises. We know that the capped price for First Homes, with the discount, is £250,000. But that is largely meaningless without knowing whether a similar entry-level home could be purchased for the same price, without any discount.

415. Shared Ownership: The position here is slightly different, as the key consideration is whether the rent that must be paid (applying the North Site's discount to a median-priced property of a similar size) is higher than a lower-quartile rent. Even on the basis of purchasing a 10% share in the property (the lowest amount possible), any properties sold above £482,500 would result in a rent that exceeds the lower-quartile rent. And this calculation excludes other

outgoings that could affect the affordability of a purchase (which is taken into account by mortgage providers) – for example, the monthly cost of the mortgage, service charge, loans, monthly outgoings. Notably, these are factors that the LHNA considered were relevant when assessing whether shared ownership products offered a genuine ability to purchase a property in the District for those that were otherwise unable to do so.

416. Therefore, the position is not as straightforward as being able to point to key worker households (often on high incomes) who may be able to afford the properties on the development. That really is only half of the picture – it leaves unanswered the big question namely whether those households are being given an opportunity to purchase in St. Albans which they would otherwise not have had.

417. On top of this is the fact that the development would not be meeting the priority need for affordable housing. That is self-evidently for affordable and social rented properties. Indeed, the LHNA is clear that this should be given priority over AHO "as it makes provision for those that are more in need". Of course, there is not a policy requirement for a specific tenure split for affordable housing. But that rather misses the point. This is inappropriate development that is sought to be justified in the Green Belt on the basis that VSC exist – a high bar. It is clearly relevant in that context, when judging the weight to be given to this central benefit of the proposal, to take into account that it would do nothing to address the priority need for affordable housing in the District.

418. Overall, Mr. Connell was fully entitled to give this benefit substantial weight. Yes, it is a substantive benefit, but ultimately given how the North Site Appellant has chosen to price the properties at the scheme against a district wide median price, not one that should be given the very highest degree of weight.

Self-build affordable housing

419. The self-build provisions in the section 106 agreement have undergone considerable revisions in the course of the Inquiry – and indeed after all of the evidence had been heard (notwithstanding that Mr. Connell's concerns about the self-build housing, as originally proposed, were raised a month before in the Inquiry in his Proof of Evidence).

420. The Council still has concerns about this element of the proposal. The discount on the original purchase of the plot will be no more than £20,000 and, as Mr. Connell explained, a purchaser will then need to construct their home with no discount on the construction costs; before selling at a 33% discount on market value. There remains a risk for any initial purchaser that this will not be a viable proposition. In any event, there is no evidence of the actual demand for affordable self-build properties by key workers, in circumstances where any purchaser of the plot would require a significant capital sum in order to self-build – this is not a question of the plots remaining empty but rather goes to the extent to which this development will help meet the District-wide need for self-build plots as set out on the register. These concerns do remain unresolved, even with the agreed provisions in the section 106, and they are matters that go to the weight to be afforded to this benefit.

421. In any event, even if substantial weight is given to the self-build element of the proposal it should be recognised that just 5% of the units are self-build (i.e.

16). As with the harms caused by the proposal, this substantial weight is being applied to this particular degree of benefit. The fact that the weight that is given to this benefit is the same as that afforded to the Green Belt harm (i.e. considerable harm to a designation of national importance) obviously does not mean that the two considerations somehow cancel each other out.

Economic benefits

422. The economic benefits claimed fall into three main categories: (i) construction employment and spend (ii) support for local facilities and services and (iii) "revenue benefits" – such as contributions through section 106 contributions and tax revenues. Taken collectively, they should be given moderate weight.

423. The job creation during the construction stage is relatively low in real terms, and only temporary during the construction period.

424. The benefits from Council Tax revenue and New Home Bonus receipts should not be taken into account as there is no evidence that they will be used to help make this development acceptable in planning terms and therefore in accordance with the PPG should be disregarded (as agreed by Mr. Kenworthy). Council Tax receipts merely cover the cost of public services which are required to be delivered to residents in the Council's area and there is no evidence that the New Homes Bonus would be spent in a way so as to make the effects of this particular development acceptable in planning terms. The section 106 contributions are put forward as mitigation for the development.

425. Therefore, the only real economic benefit here is the support the development would provide for local facilities and services, which is moderate given the size of the development and taking into account the fact that not all of the anticipated spend would be spent within the District itself. The benefits that arise here would arise from any scheme of a similar size within the District. There is nothing unique or special about the economic benefits that would arise from this development.

426. Whilst the North Site has never directly subscribed to the argument that paragraph 81 of the NPPF mandates that significant weight be given to the economic benefits of a proposal – whatever their extent – I deal with that argument here. It is plainly wrong. In truth, it is a clever "lawyer's argument" that fails to read the words used in paragraph 81 of the NPPF in full and in their context: paragraph 81 states that significant weight is placed on the need to support economic growth and productivity; not that significant weight should be given to any economic benefit of development. The paragraph could quite easily have said: "local authorities should ensure that significant weight is given to any economic benefits of a proposal" – in the same way in which that instruction is given in respect of Green Belt harm. It is therefore entirely consistent with paragraph 81 of the NPPF to give significant weight to that general need, but only moderate weight to the actual economic benefits delivered by this proposal taking into account the factors set out above.

427. This is why Inspectors do not simply give significant weight to the economic benefits accruing from every scheme. Simply because the Inspectors in those decisions did not expressly reference paragraph 81 in their appeal decisions does not mean that they did not take it not account.

428. In any event, an approach that paragraph 81 requires significant weight to be given to all economic benefits is not one taken by Mr. Fidgett (or Mr Kenworthy for that matter) in their evidence, since they gave even more than the supposedly mandated weight. Whilst Mr. Kenworthy sought to argue that the reference to "significant" in the NPPF was merely a "starting point" this leads to absurd consequences, because at the same time he was quick to emphasise that the NPPF imposes a "cap" on the weight to be afforded to Green Belt harm of "substantial" – ruling out very substantial weight being given. There is no obvious reason why the NPPF should take this approach; and many reasons why it would not.

Public access and recreation

429. The provision of public access to additional open space is recognised to be a benefit of the proposal. However, the weight to be afforded is limited. Significant areas of public open space already exist in the local area (including a children's play area right next to the north-east corner of the North Site), and there is no evidence of any identified shortfall in local open space in the vicinity. Whilst the open space on the development may be on the "doorstep" of the new residents, it is unlikely to be extensively used by other residents in the area given the existing provision. There would be additional access provided to the PROW network, however there are already a number of connections to this network (and on the North Site in particular, there is already a safe east-west route along Footpath 80 which avoids the need to walk along Chiswell Green Lane).

430. It is also important to remember that the development would (i) be providing additional access to PROWs that would themselves be harmed by the development through adverse visual effects and (ii) the "exemplary" open space, and the recreational opportunities it provides, has already been taken into account by the North Site Appellant in reducing the landscape harm caused by the proposals. It is double counting to separately count it as a free-standing benefit of the proposals. No additional weight should be given to this "benefit".

Biodiversity Net Gain

431. This was raised as a benefit for the first time by Mr. Fidgett in his evidence in chief. It had not previously been referred to as a benefit in his proof, rebuttal proof, SOCG1 or even SOCG2. Nor was Mr. Connell asked about it.

432. It is suggested that weight should be given to it as a benefit to ensure consistency with the South Site. However, the circumstances there are entirely different. For a start, no BNG calculations were submitted with the application; therefore, we do not know whether there will be an "on-site" net gain or loss, and the degree of this; as such, we do not know how much of the 10% net gain will need to be delivered off-site; further no potential receptor site for the off-site net gain has been identified; and therefore at this stage, there is no detail at all as to how the net gain will be delivered. The reverse is true on every count on the South Site.

433. Mr. Fidgett was originally right to have given this no material weight as a benefit. Even if weight should be given to "ensure consistency", it should be limited. There is already a policy requirement to achieve a net gain in the NPPF, and it is expected that the mandatory 10% requirement will come into effect in November this year. If we were here in 6 months time, what is secured through

the section 106 would be an automatic condition on any grant of planning permission by virtue of the Environment Act. Reflecting this, and the fact that the net gain achieved is modest in any event, Mr. Connell was right to give only limited weight to this benefit.

Benefits on the South Site

434. The Council accepts that there are a number of benefits which weigh in favour of the grant of planning permission on the South Site. However, they do not clearly outweigh the identified harm.

Housing Need

435. There is no material dispute as to the extent of the general housing need. The Council does not have a 5YHLS. For the five-year period (2021/2 to 2025/26) there is just a 2- year supply of deliverable housing sites and no early prospect of that deficit being addressed. There is also accepted to be an acute affordable housing need in the District. The provision of up to 156 affordable housing units as part of the development, with a mix of tenures (affordable rent, first homes, social rented homes and intermediate/shared ownership) would be a very substantial benefit. In consequence, both in relation to housing and affordable housing the Council has afforded the very highest weighting level to the contribution which the appeal proposals would make towards meeting the unmet needs (very substantial weight). The delivery of shared ownership units is also agreed between the parties to have substantial positive weight.

Education

436. The Council accepts that there is a benefit from the school land – the issue is the weight to be attached to that benefit: either substantial (Mr. Hunter) or limited (Mr. Connell).

437. The description of development seeks permission for "the provision of land for new school". It is plainly relevant when considering the extent to which this land is a benefit, to have regard to the likelihood of whether a school will come forward on the site or not. In this respect, there is no suggestion that there is any need for a secondary school on the site – the two options are a primary school or a SEND school.

SEND school

438. The views of Hertfordshire County Council ("HCC") – as Education Authority and as the organisation who would ultimately decide whether to build a SEND school on this site – should obviously be given very significant weight. In this respect, HCC did not request that land be available for a potential SEND school. Indeed, there is no agreement with HCC that the site would be suitable for a SEND school; HCC consider that further feasibility work is required. The need for further feasibility work plainly introduces some uncertainty about whether a SEND school will come forward on the site. Further, whilst Mr. Hunter concludes that the size of the site is suitable to accommodate at least 80 PNI children, he also agreed that size isn't the only factor when deciding whether a site is suitable for a PNI school – hence the need for further feasibility work.

439. This alone is sufficient basis to only afford limited weight to the potential for a SEND school coming forward on the South Site.

440. In addition, there is the question of whether or not there is a need for a SEND school here. It is agreed that there is no need for a Severe Learning Difficulties ("SLD") school on the site – however, Mr. Hunter says that there is a need for a Profound Neurological Impairment ("PNI") school on the basis that HCC does not have a strategy for meeting a supposedly unmet need for those places. The sole basis for this is a close and forensic reading of the text in HCC's Statement of Case. However, the organisation best placed to know whether or not there is a strategy for PNI places is HCC. There is nothing from them to suggest there is real need for such a school, even when it was directly asked by the Appellant "whether there is a deficit in provision". Indeed, HCC considers that its School Place Planning Strategy shows that the education land is unlikely to be considered as an option for a new SEND School – including for a PNI school.

441. Ultimately, HCC's position is that the potential for a SEND school "was an accepted offer on the basis that it does not prejudice HCC" – i.e. providing the option of a SEND school on the land would not cause any harm. Hardly a ringing endorsement for a benefit to which the South Site Appellant gives substantial weight.

Primary School

442. The South Site sits within the St Michael's Primary Planning Area – where there are two primary schools – Killigrew Primary and Prae Wood School. The current forecast, without either development, is that there would be a surplus of places in the St Michael's Primary Planning Area up to 2026-27.

443. Importantly, Killigrew Primary School has the potential to be expanded from 2 forms of entry ("FE") to 3FE. That expansion from 2FE to 3FE would accommodate the likely pupil yield from this development - on the agreed basis that development in this location will generate a need for an additional 1FE per 400 dwellings. That option of expanding Killigrew Primary School to meet the additional demand as a result of the development would bring some advantages to Killigrew School. Having a school with three forms of entry would help the financial viability of the school since larger schools are more able to cope with future fluctuations in roll numbers.

444. HCC's position is that if the South Site is the only site to come forward, it may be appropriate for the additional primary school capacity required to be delivered through an expansion of Killigrew Primary School since, if just the South Site is approved, that would not generate enough pupils to support opening a new primary school. So, the probability of a new school being needed (as opposed to meeting the need arising from the development through an expansion of Killigrew) is inherently linked to level of future growth. To provide a critical mass to support delivery of a new primary school would require in the region of 800 new homes to come forward – beyond those originally forecast (i.e., the South Site plus 400 others).

445. HCC's position is that there is currently uncertainty surrounding the levels of growth in the local area. That is plainly right given the stage that the emerging Local Plan is at. There is nothing from HCC that says that a new primary school on the site is likely. Therefore, whilst the provision of land is clearly a benefit, not least in providing some flexibility – as recognised by HCC (and as recognised by the fact that HCC considers it meets the tests under regulation 122 of the CIL Regulations) – it is not a benefit to which substantial weight should be afforded.

Other Benefits

446. Economic benefits; open space, children's play space and access to PROW; and Biodiversity Net Gain have all been considered above in relation to the North Site. The weight afforded to each is the same in respect of the South Site as given to the North Site. Whilst there are of course some nuances in the position on each site (as reflected in the written evidence) a similar overall approach should be adopted in respect of the South Site.

Design

447. It is said by Mr. Kenworthy that significant weight should be given to the design of the development on the basis that it would help soften and improve the existing "hard" settlement edge and therefore "help raise the standard of design more generally in an area". The Council's position is that this benefit is exaggerated.

448. However, in any event, delivering a development of high-quality design is a policy expectation under national planning policy. Paragraph 134 of the NPPF which tells us that development that is not well designed should be refused. If the development was not capable of providing a well-designed development at reserved matters stage, it would be contrary to national policy.

449. To be well-designed, development must comply with the elements of paragraph 130 of the NPPF - including that it adds to the overall quality of the area and establishes or maintains a strong sense of place. Therefore, to achieve significant weight under paragraph 134 of the NPPF a development must be more than well designed (which is a minimum expectation in any event) - it must help raise the standard of design more generally in an area. In other words, it is not enough simply to (for example) add to the overall quality of the area. Therefore, even if there would be an improvement to the settlement edge, the development does no more than what would be required of it under national planning policy in any event, and no weight should be afforded to this as a benefit of the proposal.

<u>Overall Planning Balance</u>

450. On the North Site, the cumulative harms which the development would give rise to are very substantial indeed. The development would constitute a very significant encroachment into the Green Belt resulting in very substantial harm to its openness in conflict with its fundamental aim and causing harm to three of its purposes. In addition, there would be a high degree of harm to landscape character and visual appearance.

451. The benefits said to outweigh that harm are in the main generic – new open space provision, economic benefits and the like (although that of course does not mean that they should not be weighed into the overall balance). It does mean, however, that the main benefit put forward is the provision of affordable housing for key workers. However, if unmet housing need (whether for market or affordable housing) was given decisive weight in the overall planning balance, and used to permit a proposal that resulted in considerable Green Belt and landscape harm, then it is difficult to see where VSC would not exist for edge of settlement Green Belt development in the District. In other words, the set of circumstances here are far from being very special; the adverse effects in fact clearly outweigh the benefits.

452. As Mr. Connell fairly acknowledged, the balance is more marginal on the South Site – a function of the reduced level of harm to Green Belt openness and purposes; a limited degree of harm to landscape character and appearance; and a wider range of benefits. However, as tempting as it may be to simply say "well St. Albans needs to build on the Green Belt to meet its housing need; the harm here is "inevitable" if it is going to meet its need; and therefore, permission should be granted" that is not the exercise required by paragraph 148 of the NPPF. All harm (inevitable or not) must be properly weighed – and not reduced on that basis; further decisions about how the District's housing need should be met, and where, are for the Local Plan process; and the NPPF has deliberately set a higher threshold that must be met when considering individual planning applications. Applying that high threshold test, the benefits may just outweigh the harm, but do not clearly do so, and therefore permission should be refused on the South Site.

453. Overall, VSC have not been demonstrated on either site. There is nothing "very special" about the circumstances of either case. The "other considerations" cumulatively fall far short of "clearly outweighing" the harms. As a result, both appeals should be dismissed.

The Case for Keep Chiswell Green (KCG) (Rule 6)

The summary below is largely taken from Keep Chiswell Green's closing submissions, which set out the key points, as it saw them, at the end of the Inquiry.

454. It seems clear to us that the crux of this Inquiry is a planning balance decision: does the harm that will be caused to the Green Belt, and the other harms that will result from the appeal applications, outweigh any benefits that the appeal applications may bring? We firmly believe that the benefits do not outweigh the harm that will be caused, even by each development individually, but we believe there is one further aspect to this decision which requires equal attention: with the worldwide climate crisis and commitment from our Government to decarbonise the transport system to meet climate ambitions, if these developments were to be granted, do they satisfy the criteria as sustainable developments? We do not see conclusive evidence that they do and so both appeals should be dismissed.

Harm to the Green Belt

Developer led impositions on the landscape

455. These speculative applications would each destroy 14 hectares of Metropolitan Green Belt – a total of 70 acres – and each represents a developer-led urban extension, each an incongruous "blot on the landscape" equivalent to 30% of the existing village. In combination, a gargantuan 60% extension to the village would be completely overwhelming and change not just the character of the village but also the character of the Green Belt in this area.

Precedent

456. The 2021 appeal decision in favour of 2 developments at Roundhouse Farm, Land off Bullens Green Lane in nearby Colney Heath (APP/B1930/W/20/3265925) and the subsequent decision at Sewell Park, known as "Land to the rear of 112-

156b Harpenden Road" to the north of St Albans (LPA 5/2021/0423/LSM) have demonstrated the extent to which a precedent can be set.

457. Since the Roundhouse Farm decision, there have been a further 4 applications in Colney Heath, totalling 460 new dwellings, in a village of only 750 inhabitants currently. Each application has cited multiple aspects of the Roundhouse Farm decision to add weight to and to justify their application.

458. It seems de rigeur since then, where a local planning authority has unmet housing need, to cite the Bullens Green Lane and the Sewell Park decisions as having established unmet housing need as the "very special circumstances" required to obtain permission for speculative development and to destroy many hectares of prime Green Belt land.

459. We already know that we can expect the same in Chiswell Green if the two appeal applications the subject of this Inquiry are granted. Within the immediate area, within a mile of these application sites, we expect 10 applications to follow in quick succession for a total of 2,892 new dwellings. If these are granted under the guise of "consistency", the combined effect would be a near trebling of the size of the village of Chiswell Green, inverting the current sensitive balance between the village settlement and the Green Belt, and teetering, poised to take over the remaining ribbons of greenery within the tract of land bounded by the M1, A414, M25 and A405. This will be the death of the Green Belt by 1,000 cuts.

460. Given the nationwide scale of under-delivery of housing targets, the steady march of the precedent set by the Bullens Green Lane and the Sewell Park decisions must be halted, until the appropriate measures are in place for a truly plan-led system.

Harm through loss of the Green Belt

461. The loss of any part of this Green Belt would be harmful. Local residents and many more benefit from the beautiful views of the Green Belt extending for 2 miles and more from the numerous public rights of way that cross the Green Belt in this area, and from the rural lanes that provide scenic routes to other local hamlets and villages.

462. The lanes around the appeal sites are widely used by local groups including walkers, horse-riders and cyclists, light aircraft and microlite enthusiasts, Scouts and runners, as well as local residents and dog-walkers. The annual St Albans Half Marathon, which attracts runners from across the country, is routed through this area of Green Belt, which is described as "stunning" in independent reviews of the course. Participants benefit from the "intrinsic character and beauty of the countryside" (NPPF para 174b).

463. Harm will result from development on these sites in the loss of visual amenity to a significant number of local residents and the wider general public using the area, as well as to the visitors to St Albans.

464. Comparatively, the appellants have produced no evidence to say that they have examined other possible sites - brownfield sites in urban areas, other green belt sites where the harm may potentially be less impactful. Data from CPRE Herts (CD 6.9) shows that 373 brownfield sites are available for development in Hertfordshire covering 442 hectares of land. Furthermore, 179 of these sites have planning permission for 7,557 dwellings.

Loss of open space

465. Mr Day confirmed when he gave evidence as an interested party (ID #8), which supports the evidence in our Statement of Case (CD 6.1 - Open and Play Space), the land to the South of Chiswell Green Lane was used "for decades" for walking and exercising dogs and children. Mr Kenworthy's evidence is correct that the general public is no longer allowed to freely access the appeal site (CD 3.18a para 7.18, 7.19) and it seems more than coincidental that the land was closed off around 2014 which is about the time that Mr Kenworthy testified that the Barton Willmore, now Stantec team started to promote the Land South of Chiswell Green Lane for development. We therefore consider it disingenuous that the appellant for the Land to the South of Chiswell Green Lane claims a benefit of moderate weight for re-opening up land that had been available to local residents until the project to promote this parcel of land for development was initiated.

Loss of agricultural land

466. While the two sites are not currently being used for agricultural production, a 21-page proof of evidence from Mrs Tindale (CD 3.2a) on behalf of the appellant for the Land South of Chiswell Green Lane, and a 26-page assessment by ADAS (CD 4.3) on behalf of the appellant for the Land North of Chiswell Green Lane, each considering the suitability of the their site for agricultural production, can be summarised in one sentence which I quote from the ADAS Executive Summary (CD 4.3 page 9) : "the land retains its agricultural potential and could be reverted to agricultural production with minimal effort".

Loss of biodiversity and disregard for wildlife

467. The southern parcel in particular of the appeal sites is rich in wildlife with badgers, bats and owls, as well as deer, small blue butterflies and other protected or rare bird and insect species, all of which have been evidenced by local residents.

468. Far from contributing to and enhancing the natural and local environment, and "protecting and enhancing valued landscapes, sites of biodiversity" as guided by the NPPF (para 174), these developments will turn 70 acres of green into concrete while Mr Kenworthy asserts in his evidence (CD 3.18a para 7.17) that the delivery of 10% biodiversity net gain should attract a moderate weight in favour of the development.

469. He accedes that Herts and Middlesex Wildlife Trust have asked for conditions to be added to any grant of permission for the development but fails to point out that HMWT were initially critical of the appellant's biodiversity assessments during the initial application process and required further assessments to be carried out. In fact, it is only as a result of pressure applied by HMWT that the appellant eventually completed the biometric assessment, and as the metric shows, and was confirmed to Mr Parkinson in questioning, development on the land to the South of Chiswell Green Lane would result in a 29% biodiversity net loss – that is to say that the site will lose nearly a third of its habitat for wildlife.

470. KCG is disappointed that, despite raising these issues in our Planning Statement (CD 6.3 para 56-59), the appellant for Land to the South of Chiswell Green Lane continues to ignore evidence of protected species on the site. Mr Kenworthy, under questioning declared the badger's sett "was in the wood" but,

despite photographic evidence from KCG to demonstrate the badger's existence and foraging on the appeal site, the appellant for the Land to the South of Chiswell Green Lane has not investigated the location of the badger's sett, insisting, without evidence, that it is located in the wood. However, this is negligent speculation and could lead to the badger becoming land-locked by the appeal development. As badgers typically have a foraging territory of 50 hectares, a badger locked into a 2 acre woodland could quickly fail to thrive.

471. Equally, despite evidence of their presence from KCG, the appellant has not provided evidence that other protected species have been investigated, that the dubious reptile survey has been repeated, nor assessments carried out of owls, bees, and other rare species, including bat foraging sites given the evidence of bats. It is therefore impossible to know accurately what the baseline level of wildlife is on the site. KCG believes that the appellant for the Land to the South of Chiswell Green Lane should, in the spirit of the law, have investigated the wildlife of the site more thoroughly.

472. The appellant, however, appears more interested in adhering to the letter of the law, and while it may be strictly accurate that the appellant is not obliged to demonstrate any net gain in biodiversity until the November deadline, the appellant has not been mindful of the stipulation in the NPPF (para 174b) to recognise "the wider benefits from natural capital and ecosystem services".

473. Furthermore, given that there will be an obligation to provide a 10% BNG for all major developments from November of this year, and Mr Kenworthy elaborated in questioning that the development would yet take over a year before full construction could start, it seems illogical that benefit might be claimed for an obligation that has not even been accurately or conscientiously fulfilled.

Other harms

Traffic and transport/transport sustainability

474. We acknowledge that the local highways authority have not objected to either of the appeal developments on highways grounds. However, there have been other appeal decisions where the highways authority did not offer any objection and the inspector involved determined that the highways concerns constituted grounds enough to dismiss the appeal. A lack of objection from the highways authority is therefore not always enough for the highways case to be convincing.

475. These appeals are of nationwide importance for the precedent that a grant of permission for either appeal would set. This precedent primarily relates to the distances considered acceptable to be walked or cycled to school, employment and daily activities from a new major development in the Metropolitan Green Belt for the development to be considered "sustainable" in transport terms.

476. In Mr Stevens' proof of evidence for the appeal for the Land North of Chiswell Green Lane, he states that "It is accepted that, for the foreseeable future and with any existing and future development proposal, the car is and will remain the primary mode of transport".

477. This reflects the evidence of our own witness, Mr Walpole, who states in his evidence that "the car is, and will remain, the primary mode of transport for most people, most of the time".

478. Cross-examination of Mr Stevens' evidence confirmed that, following a successful implementation of the agreed Residential Travel Plans, car usage from the developments – and it was likely to be the same for both developments – would only have reduced to 67% after 5 years.

479. Evidence by Mr Jones for the Land to the South of Chiswell Green Lane is less clear; at paragraph 3.1 of his proof of evidence, Mr Jones states that there are four railway stations between 1.6 km and 7.3km away, and at paragraph 3.9, he names How Wood as the nearest train station at 2.8 km from the centroid of any new development. This is inconsistent.

480. At paragraph 3.3, Mr Jones tells us there are local employment opportunities and community facilities. He cites Burston Garden Centre and the Noke Hotel, and goes on in paragraph 3.4 to list other local businesses. He then acknowledged in his evidence that the Noke Hotel closed for the first Covid-19 lockdown and has not since re-opened to the public.

481. We also heard from interested party, Emma Smith, the owner of The Walk in Closet, whose statement was read out for the Inquiry by Alan Moreland (ID #9). She informed us that The Walk in Closet, listed by Mr Jones as a local business, does not employ anyone.

482. In conclusion, Mr Jones' evidence does not seem reliable, and KCG is persuaded from our own evidence, which is essentially in line with that of Mr Stevens, that the two appeal developments cannot be considered sustainable in transport terms.

483. Combining information from our Planning Statements, and from the evidence of Mr Stevens and Mr Jones, the distances from the two appeal sites to the local amenities are as follows.

- Local primary school: 1.5km
- Nearest train station: 2.8km
- Nearest bus stop: 700m
- Nearest supermarket: 3.3km

484. These distances are in conflict with the January 2021 MHCLG National Design Guide which defines a walkable distance as "generally considered to be no more than a 10-minute walk (800m radius)".

485. The outcome of this Inquiry is of great significance to the Transport and Development industries. It is accepted by Hertfordshire Highways and by the appellants that the developments will start as 75% car-dependent and will still be 67% car-dependent 5-years after the assumed successful implementation of a Residential Travel Plan as agreed with Hertfordshire Highways.

486. This is in conflict with the March 2023 DoT and Active Travel England policy paper, The Second Cycling and Walking Investment Strategy (Foreword), which details the Government's aim for 50% of all journeys in towns and cities to be walked or cycled by 2030. Therefore, a determination in favour of either of these two developments will establish a 67% car-dependency rate, 3, 4 or 5 travel stages in a single trip, and walking distances in excess of 1.5km as acceptable

parameters for new developments in the Metropolitan Green Belt and elsewhere throughout England.

487. Furthermore, neither development will contribute to the Government's stated target to decarbonise the UK economy to net-zero by 2050, nor to the local council's net-zero target by 2030. In this respect again, the two appeal applications are in conflict with Government policy and do not meet the necessary criteria to be considered sustainable.

Traffic in Chiswell Green

488. The Watford Road is already the busiest B-road in the county, and the 18th busiest road in county which includes M1, M25, A1(M), A414, A405, and the A10. The proposed signalised traffic junction will not reduce traffic flows – it will merely cope with them in a different way to the existing roundabouts.

489. As is identified by the Department of Transport and Active Travel England, road transport remains a major source of PM2.5, the air pollutant with the greatest harm to human health. Evidence by Mr Fray highlighted that the levels of PM2.5 at the centre of Chiswell Green were already more than double the World Health Organisation recommended limits. Adding to the traffic volumes at this junction can only exacerbate the situation. However, implementing a signalised junction with mandatory wait schedules will inevitably cause a further deterioration in the air quality in the village.

490. Furthermore, despite "insistent" questioning from Mr Henderson, Mr Walpole did not concede that the signalised junction provided a solution to the congestion at the double mini-roundabout and we remain concerned that the complications of this particular junction will result in long wait times for each phase, will result in impatient behaviour from drivers, and still does not resolve the issue of safety for children crossing Tippendell Lane on their way to and from school. We also firmly believe that it will cause an increase in numbers of drivers using Stanley Avenue as a "rat run".

<u>Purported benefits</u>

Affordability

491. While the concept of all affordable houses for key workers is an admirable one, we still have significant concerns over its viability. Our primary concern is that the calculations offered by Ms Gingell only include one model of mortgage lending – 4.5 times base salary, with no consideration for age, mortgage term, or financial commitments – which is a model that is not realistic in these economic times, nor for those on lower salaries who cannot expect to be offered 4.5 times base as lending.

492. Furthermore, once benefitting from the at least one third discount, buyers will find themselves trapped when they want to move on and as they try to move back into the general market. Although they may have benefitted from an increase in house prices during their ownership, it is not percentage increases, but real cash that will be important in buying their next property, and benefitting from only a small proportion of the increase will mean they will not be able to afford to move. This will create employment immobility in a population of key workers for whom mobility is important.

493. There is also a substantial risk that control of tenants will be lost through sub-letting as a means of increasing mobility or as an investment for those who meet the criteria. This may over time result in a resident population that does not fit the criteria.

494. We also remain unconvinced that it will be possible to release the entire development under the terms envisaged and that the remaining properties will be offered on the open market, eliminating the USP of the development.

Land for a school

495. The appellant for the Land to the South of Chiswell Green Lane realised prior to this Inquiry that a 2FE primary school was really not needed and changed the application to land for a school.

496. Mr Hunter confirmed that he has no evidence or experience to determine that this parcel of land would be in any way suitable for a PNI school as was suggested might be needed.

497. The land being offered by the appellant for a school cannot be considered to be a benefit when there is no need for a primary school, and it is unsuitable for a PNI school.

Conclusion

498. Starting from NPPF paragraph 147 and the clarity that inappropriate development is, by definition, harmful to the Green Belt, we assert that no "very special circumstances" have been demonstrated that would justify a grant of permission for these two developments – that the harms to the Green Belt, and the other harms that would result from the two developments, do not outweigh the benefits.

499. It is our opinion, and the opinion of the Leader of St Albans City and District Council, that the standard methodology of calculating housing targets is not appropriate for the St Albans District as the district is "wholly within the Green Belt", as is true or largely true for its neighbours. As a result of decisions regarding local appeals by speculative developers, the St Albans District has struggled for a number of years with the obligation to find space to put 10,000+ new houses in the Metropolitan Green Belt and to produce a local plan. However, a decision in favour of the appellants in this Inquiry will unfairly punish local residents for the failure of their district council to have produced a local plan, while not resolving the very real issues around balance between housing need and Green Belt.

500. The appeal applications will not deliver the purported benefits they claim, other than a number of housing units which will still not address the need in this district for genuinely affordable and social rented houses. On the other hand, they will cause very significant harm to the Green Belt and other harms in addition.

501. The Covid-19 pandemic has shown us all the significant benefit that being in green spaces gives to our well-being and mental health and the Green Belt in Chiswell Green has been very much appreciated both during the pandemic and since for the tranquillity, access to nature and sense of well-being it has contributed to local residents in difficult times.

502. Permission to develop these two sites will replace beautiful, tranquil views with years of construction noise, dust and traffic, and leave behind imposing structures which will result in the local residents having their sense of space and openness replaced by a sense of being closed in, cut off from nature.

503. Ms Toyne for the South Site appellant told the Inquiry that "only a few" households would be impacted by the South Site development as they viewed the site from their homes. As she had to agree under questioning, over 100 is not "a few" and the site visit will demonstrate that it is in the region of 150 local households that have expansive views over the wider area of Green Belt.

504. These developments would irrevocably change the character of the village and, in today's fast-paced, time-poor lifestyle, integration of the new residents into the existing community would be more than challenging. 98% of local residents support this view, not because they are unwelcoming or NIMBY's, but because they can foresee the undesirable changes that even one of these enormous developments would force onto our village, to the detriment of our health, infrastructure and quality of life.

Written Representations

505. A large number of interested parties made representations at the time of the planning applications and during the appeal, the majority of which oppose the developments. The grounds for objection are summarised in the Council's Committee Reports (CD 3.4 for Appeal A and CD 4.48 for Appeal B). Matters raised by interested parties are addressed by the appellant for Appeal A at Appendix JK7 of CD 3.18a, and for Appeal B at Section 12 of CD 4.81. I have had regard to them in reaching my conclusions below.

Conditions

506. Both appellants agreed a list of conditions with the Council in the event that planning permission is granted. These were updated following discussions during the Inquiry. The attached Schedules set out the conditions that I recommend should the Secretary of State approve one or both appeals. These are largely in the form agreed between the Council and the respective appellant but I have altered them where necessary to improve their precision or otherwise ensure compliance with the tests contained in the Framework.

507. The only condition in dispute by the end of the Inquiry related to a requirement for noise assessment and subsequent mitigation to protect the living conditions of future occupants (Appeal B only). I do not recommend this condition because no particular noise source representing a concern was identified by the Council and there is no reason to expect that noise should be problematic in this location, necessitating measures beyond normal building standards. As such, the condition is not necessary and would not be reasonable.

508. Should the Secretary of State disagree and conclude that a noise condition would meet the relevant tests, the suggested condition is set out in Schedule 3.

Obligations

509. Completed legal agreements pursuant to S106 of the Town and Country Planning Act 1990 have been provided, securing planning obligations in the event that planning permission is granted.

510. Both the Council and the County Council provided CIL Compliance Statements setting out the justification for each obligation having regard to Regulation 122 of the Community Infrastructure Levy Regulations 2010 (CIL Regulations).

Appeal A

511. Two separate legal agreements were submitted, one between the appellants and the Council, and the other between the appellants and the County Council.

512. All matters are agreed between the appellant and the Council. The obligations include, amongst other detailed provisions and requirements, contributions towards/provision of local medical facilities, leisure and cultural centres, 40% affordable housing, self-build and custom housing, open space provision and management, and measures to ensure a biodiversity net gain. I am satisfied that all the obligations are necessary to make the development acceptable and are otherwise in accordance with the CIL Regulations. I have taken them into account in making my recommendation.

513. The obligations pursuant to the agreement with the County Council include, amongst other detailed provisions and requirements, provisions for a Travel Plan and its ongoing review and implementation, libraries, education (including land), youth provision, waste disposal, bus services, sustainable travel and highway improvements. There is no disagreement between the parties in relation to the substance of the obligations. I am satisfied that all the obligations are necessary to make the development acceptable and are otherwise in accordance with the CIL Regulations. I have taken them into account in reaching my recommendation.

514. Notwithstanding the above, the detailed wording of certain provisions was not agreed between the appellants and the County Council and so Clause 12 of the agreement allows the Secretary of State to determine which wording should apply.

515. I have had regard to the submissions made by both parties but note that, whilst a representative of the County Council attended the Inquiry, he was not the legal officer responsible for the matters in dispute and no opportunity was available to test the authority's position on the disputed legal provisions. I also note that there was some inconsistency in the position taken by the County Council between Appeal A and Appeal B.

516. I am not persuaded that there are any reasonable grounds for refusing to exclude demolition from the definition of commencement. Any obligations secured are to mitigate the impacts of the development only. In any case, there is very little demolition required on the site and the likely impacts in advance of other works constituting commencement would be very small.

517. The inclusion of "or as may be amended as agreed in writing by the County Council from time to time" within the Definition of Serviced Land Specification is entirely reasonable and does not put the County Council at any risk. It provides a degree of flexibility without impacting the clarity of the obligation. The desirability or acceptability of any subsequent amendment would be entirely at the discretion of the County Council.

518. Finally, I do not accept the County Council's position that individual house owners should become liable for site-wide obligations, which would be

disproportionate, unreasonable and unrealistic. The legal agreement specifies triggers for each obligation and prevents occupations until such time as payments are made or obligations are otherwise met. I take this view, notwithstanding the position set out in the County Council's Guide to Developer Infrastructure Contributions, which is not part of the development plan.

519. It is unfortunate that the parties were not able to work more constructively in resolving these points of detail, which are not matters that should generally be left for determination by an Inspector or the Secretary of State. Nevertheless, it seems to me that the wording of the agreement is satisfactory without invoking the potential alternative clauses at 12.2.1, 12.2.2 and 12.2.3. I have considered the planning obligations on that basis and recommend that the Secretary of State takes the same approach.

Appeal B

520. A tripartite legal agreement between the appellant, Council and County Council has been submitted. The obligations include, amongst other detailed provisions and requirements, contributions towards/provision of 100% affordable housing, self-build and custom build housing, measures to achieve a biodiversity net gain, bus service improvements, education provision, local medical facilities, leisure and cultural centres, libraries, open space and play area provision, Travel Plan and its ongoing review and implementation, e-bike provision, sustainable travel and highway improvements, waste contribution and youth provision. There is no disagreement between the parties in relation to the substance of the obligations. I am satisfied that all the obligations are necessary to make the development acceptable and are otherwise in accordance with the CIL Regulations. I have taken them into account in making my recommendation.

521. Notwithstanding the above, as with Appeal A, the detailed wording of certain provisions was not agreed between the appellant and the County Council and so Clause 12 within the agreement allows the Secretary of State to determine which wording should apply to ensure that obligations are suitably secured.

522. I have had regard to the submissions made by both parties but again, whilst a representative of the County Council attended the Inquiry, he was not the legal officer responsible for the matters in dispute and no opportunity was available to test the authority's position on the disputed legal provisions.

523. The appellant accepts that the Primary Education (Land Purchase) Contribution is necessary in the event that both appeals are allowed. I agree 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.

524. The second area of dispute mirrors that of Appeal A, in that the County Council seeks to make individual homeowners liable for site-wide obligations. For the same reasons as above, I do not consider this to be appropriate, and Clause 9.13 should apply, as opposed to 9.12. I have considered the planning obligations on this basis and recommend this approach to the Secretary of State.

Inspector's Conclusions

From the evidence before me at the Inquiry, the written representations, and my inspection of the application site and its surroundings, I have reached the

following conclusions. The references in square brackets [] are to earlier paragraphs in this report, from which these conclusions are drawn.

525. Having regard to the evidence submitted, the main issues common to both appeals, are:

a) The effect on the Green Belt;
b) Landscape and visual impacts;
c) The effect on best and most versatile agricultural land;
d) Highways and transportation;
e) 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.

526. For Appeal A only, the effect on education provision is also a main issue.

Green Belt

527. Both appeal sites are located wholly within the Metropolitan Green Belt. The Government attaches great importance to Green Belts. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.

528. There is no dispute between the parties that the appeal proposals constitute inappropriate development in the Green Belt and that such development would be, by definition, harmful to it. Such proposals should not be approved except in very special circumstances. These 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.

529. Consistent with the National Planning Policy Framework (the Framework), Policy 1 of the District Local Plan Review (1994) (LP) restricts development in the Green Belt other than in very special circumstances.

530. In preparing for a new Local Plan, the Council commissioned a Green Belt Review (GB Review) comprising the Green Belt Review Purposes Assessment (November 2013) (GBR Purposes Assessment) and the Green Belt Review Sites & Boundaries Study (February 2014). The first is said to be an independent and comprehensive Green Belt review that seeks to advise on the role different areas play in fulfilling the fundamental aim of the Green Belt and its five purposes as defined within the Framework, ranking and scoring their performance. The second, reviews the eight strategic sub-areas found to contribute the least towards the five Green Belt purposes against which all Green Belt land in St Albans was assessed in the GBR Purposes Assessment. [46-57, 248, 307-314]

531. The GB Review looks at the district on a large and strategic scale, rather than on a site-by-site basis and is now some years old, such that some circumstances may have changed. It also makes assessments in the context of a potential release of land from the Green Belt through the plan making process, which is not the purpose of these appeals. For these reasons, its conclusions cannot be directly applied to the appeal proposals. However, the GB Review is clearly a material consideration relevant in considering Green Belt matters in the district, notwithstanding that the Local Plan they were intended to support has been

withdrawn by the Council and attracts no weight in and of itself. I have had regard to the GB Review in reaching my own conclusions. This is notwithstanding the reservations expressed about the GB Review by the Inspectors examining the formerly emerging LP, which have no bearing on the issues in these appeals or on the purposes for which I have had regard to the GB Review. [55-57, 310-314]

532. Both appeals fall within strategic sub-area 'S8: Land at Chiswell Green'. It is a 'Tier 1' site, which includes sites that do not significantly contribute towards any of the five Green Belt purposes and are classified as exhibiting 'higher' suitability for at least two of the three categories relating to constraints, integration and landscape sensitivity. Out of the strategic sub-areas considered, it is ranked in first position, the most suitable area in the district. [59, 76]

533. The Council accepts that there will need to be a significant amount of development in the Green Belt if its housing requirement is to be met. That being the case, the relative suitability of sub-area S8 is an important consideration. [248, 307, 532]

Appeal A

534. The site is largely undeveloped and open at present, with few structures, notably the existing stable block to the northwest and an unoccupied dwelling to the northeast. As such, there would undoubtedly be a significant and permanent impact to openness in a spatial sense. The introduction of 391 dwellings, a school and associated works would introduce a great deal of built volume to the Green Belt.

535. There would also be significant harm to openness in a visual sense in that the development would be seen from surrounding properties, highways and public rights of way, albeit that areas of open space would also be delivered. Activity within the site would also increase greatly with the comings and goings of residents, visitors, school pupils and staff. [62, 325, 351, 380]

536. That said, the development would not become a prominent part of the wider Green Belt and would only be visually harmful in relatively close proximity to the site. It is visually contained by existing built form on the eastern side, and this partially wraps around the site to the north and south. To the west, is Miriam Lane, which follows the western boundary of the site with thick landscaping along much of its length. This leads to the former Butterfly World site where significant development exists, such as building slabs, earth bunds, fencing and other built form associated with the former use. Even bearing in mind that some structures and uses within the site are apparently unauthorised and may be removed, development is visible and provides a good degree of screening, along with a definitive boundary to the west of the site. [50-54, 59, 65, 73-75, 309, 316, 332, 334, 343, 354-360]

537. Nevertheless, it is clear that the development would result in significant harm to Green Belt openness and I attach this harm substantial weight.

538. So far as the Green Belt purposes are concerned, the first seeks to check the unrestricted sprawl of large built-up areas. The proposed development would extend the urban edge of Chiswell Green, expanding the settlement into countryside. However, as I have described above, the site is relatively well contained by Miriam Lane, its landscaping (including some earth bunds) and the

remaining development associated with Butterfly World, which is now closed. These defensible boundaries would define the extent of the site and separate it from the wider countryside, minimising any perception of uncontrolled sprawl. There would be moderate harm to this Green Belt purpose.

539. The second purpose is to prevent neighbouring towns merging into one another. The development would extend the settlement edge of Chiswell Green, which is located in close proximity to St Albans. The urban edge would be brought marginally closer to Hemel Hempstead but the size of the site, in the context of the vast gap between St Albans and Hemel Hempstead, is such that there would be little contribution to any perceived merging of the towns. The harm to this purpose would be very limited.

540. The third purpose is to assist in safeguarding the countryside from encroachment. The development would obviously encroach on the countryside, albeit contained by Butterfly World and Miriam Lane. Having regard to the considerations I have set out above, the development would result in moderate harm to this purpose.

541. No party argues that there would be any harm to the remaining Green Belt purposes, as contained in the Framework. [68, 72-75, 331-342, 353-360]

542. It is notable that the Council's GB Review found the part of sub-area S8, within which the appeal site falls, to be the least sensitive part of the sub-area. Nevertheless, the Appeal A scheme would result in definitional harm to the Green Belt, as well as harm to its openness and purposes. I attach substantial weight to this harm. [76-78, 267-273, 309, 361-363, 532]

Appeal B

543. The appeal site is again largely open and undeveloped, albeit with a modest agricultural style building close to Chiswell Green Lane. Appeal B proposes less development than Appeal A, but the 330 dwellings sought would nevertheless have a considerable and permanent impact on openness in both a spatial and visual sense. This would result from the volume of built form to be introduced and the visibility of buildings from surroundings properties, highways and public rights of way. Again, activity within the site would increase greatly.

544. Unlike Appeal A, more open and longer-range views towards the site are available and the development would be seen more readily in the context of the wider Green Belt from the west, including from public rights of way. Conversely, views from Chiswell Green in the immediate locality of the site would be curtailed or filtered to a large extent by the boundary hedgerows and other landscaping, which includes thick evergreen hedges along the north and east boundaries that would largely be retained. It is likely that the upper parts of the buildings would still be visible however, even after further landscaping the site. The fact that the site is separated from the edge of Chiswell Green by a thick hedgerow and an intervening paddock gives a strong perception that it is part of the countryside beyond the settlement edge. The established urban edge has little impact on the visual openness of the site, though houses on Cherry Hill and The Croft are a notable backdrop from the west.

545. In light of the above, the development would result in substantial harm to Green Belt openness and I attach this harm substantial weight.

546. Having regard to the purposes of Green Belt, the development would significantly harm the first purpose. It would introduce development well beyond the established settlement edge and would remain separated from built form on the edge of Chiswell Green by a paddock. It would, to some extent, have the appearance of unrestricted sprawl, clearly protruding into the wider rolling countryside. This appearance might be reduced if the intervening paddock were subsequently developed as KCG anticipate, but that cannot be guaranteed. Public right of way 21 would provide the only form of defensible boundary to the west of the site, with its established hedgerow and tree planting, though additional landscaping could be introduced to reinforce this.

547. The effect on the second Green Belt purpose would be similar to that for Appeal A. The development would protrude in the general direction of Hemel Hempstead but there is no evidence of a proliferation of development in the separating gap that leads to any meaningful perception of coalescence, even on an incremental basis. To the extent that the gap would be marginally reduced, very limited harm would result to the second purpose.

548. There is no disagreement between the parties that the third Green Belt purpose would also be harmed by the development and, having regard to my conclusions above, it is obvious that the development would encroach on the countryside. The quantum of development, its separation from the established settlement edge and visibility from the wider Green Belt are such that significant harm would result to the third purpose.

549. As with Appeal A, no party argues that there would be any harm to the remaining Green Belt purposes, as contained in the Framework.

550. The GB Review draws a distinction between the east and west parts of sub-area S8, noting that the western area, within which Appeal B is located, is more sensitive. This accords with my own findings that the Green Belt impacts would be much greater from Appeal B. The development would result in definitional harm to the Green Belt, as well as harm to its openness and purposes. I attach substantial weight to this harm. [76-78, 267-273, 309, 361-363, 532]

Landscape and visual impacts

Appeal A

551. The application is supported by a detailed and comprehensive Landscape and Visual Impact Assessment that accords with the principles contained in GLVIA3[1], and this was further supplemented during the course of the appeal. Many of the judgements reached by the appellant are accepted by the Council and there is little between the parties as to the impacts that would result from the development.

552. From a landscape perspective, there would be a need to remove some sections of hedgerow to accommodate the development, particularly the access points. However, the vast majority would be retained, reinforced and new sections would be planted. The parties agree that a beneficial effect would arise by year 15, once new hedgerow had established. The character of the site would change significantly as a result of development, and although the scheme would

[1] Guidelines for Landscape and Visual Impact Assessment, Third Edition

incorporate areas of open space and landscaping that would mature and soften the development over time, the residual effect would remain Minor Adverse.

553. In relation to visual effects, the Council's case is that some Minor Adverse impacts would remain by year 15 for residents on the edge of Chiswell Green and users of Chiswell Green Lane. Obviously, the effects would be greater in the early years of the development, particularly for residents that currently enjoy views over the site, but they would reduce over time as landscaping matured and the development became assimilated into the settlement. There is no right to a private view of open fields and these types of effects are inevitable for development of this scale on a greenfield site. The detailed design of the development would be for a subsequent reserved matters application but there is clearly scope for a well-designed and sensitive scheme.

554. Overall, there would be adverse landscape and visual impacts and I attach this limited weight, consistent with the Council's assessment. [79-85, 393-394]

Appeal B

555. The application is accompanied by a Landscape and Visual Impact Assessment, which was supplemented during the course of the appeal, including a statement of common ground. The judgements offered by the appellant were not always consistent, were changeable and were not always convincingly explained when tested at the Inquiry. This undermined the credibility of the appellant's landscape and visual evidence, in contrast with the more consistent and reasoned judgments put forward by the Council, though that is not to say that I agree with all the conclusions reached. Having regard to the totality of the evidence available, I am satisfied that sufficient information is available to reach my own judgement in this case. [367-375]

556. As with Appeal A, there would be adverse impacts on site features and character through the recontouring of the site and removal of hedgerow sections to accommodate the proposed dwellings and associated works. However, large amounts of green space would be incorporated into the scheme and there is potential for significant landscaping to occur. At present there is little detail as to how this would be achieved but I am satisfied that there is sufficient space and opportunity to deliver a suitable scheme with no more than Moderate Adverse landscape impacts.

557. There would be a number of significant visual effects arsing from the development given that public rights of way surround three sides of the site and longer-range views are available from the countryside in the west. Whilst the appellant's judgements are not sufficiently explained, the Council has tended to assess the visual impacts too highly in my view.

558. Footpath 082 is short in length with houses on one side and a close boarded fence for much of its length on the other side, before opening to a paddock. The appeal site is beyond the paddock and behind a thick evergreen hedgerow that blocks much of the view. It provides less significant public views and housing would not be entirely uncharacteristic in this edge of settlement location. A Moderate residual significance of effect would result, notwithstanding that a small section of hedgerow would need to be removed to accommodate an emergency access. A similar experience and significance of effect results from footpath 039 which continues northwards from 082.

559. Footpath 080 is located to the north of the site. Views are drawn westwards towards the open countryside but are funnelled between the existing evergreen hedgerow on the site boundary and a woodland. Very little visibility is available into the site itself and countryside views are only expected in a westerly direction. When looking back towards the settlement, to the extent that the upper stories of development would be visible over the hedgerow, development would be seen in the context of housing on Cherry Hill and The Croft. A Moderate residual significance of effect would result.

560. Footpath 021, to the west of the site, is heavily screened from the wider countryside by a thick evergreen hedge but filtered views are available into the site itself, creating an expectation of countryside for footpath users, though in the context of houses on the edge of the settlement. The development would be prominent to start with but as a suitable landscaping scheme matured and the development became assimilated into the settlement the significance of effect would lessen to Moderate.

561. Footpath 012 provides a rural route through arable fields to the west of the site, well beyond the settlement and where there is a very clear sense of being in the countryside. Long views towards the site are possible from elevated positions on the route but it is a very small part of a wider panoramic view and glimpsed views of the existing settlement edge are already possible. The proposed development would become more conspicuous but would be seen in the context of the distant Chiswell Green and filtered by both existing and proposed landscaping on the site boundaries. The Council assesses a residual Moderate significance of effect, with which I agree.

562. Occupants living on the edge of Chiswell Green would have private views towards the development, as with Appeal A. For the same reason as above, the residual adverse effects would be Moderate.

563. Overall, it is clear that the development would result in significant landscape and visual impacts and that these would be more widespread than those identified for Appeal A. Cumulatively, these impacts attract significant weight. [251-252, 375-392]

564. If both schemes were to come forward, the harms I have identified would result cumulatively, but the effects would remain as I have set out. There would be very limited opportunities to meaningfully experience the two developments together beyond Chiswell Green Lane.

Agricultural Land

565. Both developments would result in a loss of best and most versatile agricultural land (BMV agricultural land). 7ha would be lost as a result of Appeal A and 10.9ha from Appeal B, along with their economic and other benefits.

566. The south site is not currently being used for agriculture and so there would be no loss of agricultural productivity, though that does not mean that the land could not be put to an agricultural use. That said, the appellant for the south site suggests that it is not particularly suitable for modern agricultural purposes being isolated from a wider farmstead and close to the settlement edge. This was not

challenged by the Council and it seems to be a reasonable observation – the site has not been used for arable purposes for many years.

567. Much of the greenfield land in the district is BMV agricultural land and if housing needs are to be met, it is inevitable that some will be lost – the Council accepts that only a small proportion of its requirements can be met in the urban area. Overall, I attach limited weight to the loss of BMV agricultural land in both appeals, though there would be no conflict with Policy 102 of the LP given the overriding need for housing in the district. [86-90, 274, 395, 466]

Highways and Transportation

568. Both schemes have been subject to detailed transport assessments that seek to demonstrate the likely impacts of the development in accordance with industry standards. They have regard to development in the area that has already been granted planning permission. The proposals are sizeable and would generate a significant amount of additional traffic. Individually, each development would put pressure on the local highway network, particularly the double mini-roundabout arrangement at Chiswell Green Lane/Watford Road/Tippendell Lane. This junction is already under strain at peak times, resulting in some localised congestion and it would be made worse, requiring road users to wait longer.

569. However, the Framework sets a high bar for resisting development on such grounds and planning permission should only be refused if the residual cumulative impacts on the road network would be severe. In these cases, the Local Highway Authority does not consider that this would be the case and has worked with the appellants to mitigate the impacts as far as possible through sustainable travel improvements.

570. Both schemes would be subject to a Travel Plan that would seek to influence the travel choices of future residents. To support this approach, an improved bus service would be funded and highway improvements would be made to deliver a cycleway. This is a reasonable approach that would support sustainable travel objectives, in favour of private car usage. Having regard to the modal shift targets contained within the Travel Plans, which would be monitored to ensure they were achieved, I am satisfied that both schemes, individually, would be acceptable in highway capacity terms.

571. Should both schemes come forward, the cumulative traffic impact could not be satisfactorily mitigated by sustainable travel measures alone as the double mini-roundabout junction would be pushed unacceptably beyond its operational capacity. This is accepted by the appellants and a suitable scheme to signalise the junction has been put forward. Provision is also made to mitigate any potential consequences from 'rat running' on Stanley Avenue. The Local Highway Authority is satisfied that, subject to the detailed design, such a scheme would sufficiently mitigate the impacts of the developments and I am minded to agree. The proposed sustainable travel measures would be secured nonetheless.

572. In terms of highway safety, the developments would be accessed from Chiswell Green Lane, which is a wide residential street in parts, narrowing to a rural lane. Existing footpaths are present on either side for most of the road's length leading up to the sites and these would be improved. This would include the provision of a 3m wide shared footway and cycleway, which has been subject to a Road Safety Audit and designed to accommodate a capacity of 300

pedestrians/cyclists per hour. The existing and proposed routes would provide ample safe capacity for pedestrians and cyclists, particularly bearing in mind that alternative routes are also to be provided into the southern section of the site for Appeal A.

573. Particular reference was made to existing cottages opposite the proposed access for Appeal B, which currently have no access to footpaths, requiring residents to walk on the carriageway. It seems to me that the provision of footpaths as part of the developments would improve this situation, notwithstanding any additional traffic, delivering improved access to a safe walking route.

574. I have had regard to concerns about parking in existing residential areas where the new emergency accesses or pedestrian routes are proposed, and to dissatisfaction with driver behaviour on other parts of the existing highway network. However, no detail of any existing accident patterns or significant parking stress have been provided. New routes would be suitably designed and identified, and it should be expected that drivers will behave safely and in accordance with the highway code. There are no highway safety issues that indicate against the proposals.

575. Chiswell Green is a large village that benefits from a wide range of services and facilities, including but not limited to, a public house, shops, cafe, post office, doctors' surgery, primary school and places of worship. All of these provide opportunities to meet some of the day to day needs of future residents and potential employment. Furthermore, many would be within a comfortable walking or cycling distance from the appeal sites.

576. In addition, there are numerous bus stops (including stops within 800m) that provide frequent services to larger settlements, with their greater range of services, facilities and employment opportunities, notably close by is St Albans. From St Albans, the mainline railway can be accessed for those wishing to travel further afield. There are also three further train stations in close proximity, increasing the variety of destinations that are accessible by train.

577. Not all day-to-day needs would be met within Chiswell Green itself and the walking distances to some of the bus stops and facilities would exceed those considered to be ideal by some publications. However, the Framework recognises that opportunities to maximise sustainable transport solutions will vary between urban and rural areas.

578. Chiswell Green is a village, where such opportunities are likely to be fewer, but there are numerous opportunities for sustainable travel, including a vast array of services and facilities within the 2km walking distance recognised to be realistic by Manual for Streets. Whilst shorter distances might be preferable, the 800m walking distance referenced in the National Design Guide should not be imposed rigidly without regard to the function and opportunities available within different settlements, or without analysis of relative accessibility in the round. In these cases, the appellants have sought to maximise sustainable transport opportunities as far as reasonably possible, improving footways, introducing cycleways and through the proposed Travel Plans.

579. Overall, I consider that Chiswell Green is an eminently suitable location for the proposed developments, with access to a good range of services and facilities

and providing plentiful opportunities for sustainable travel. There is no doubt that some private car usage would continue, but alternative options are available and are likely to be taken up by many, reducing reliance on private vehicles. [91-108, 244-246, 258-262, 275, 474-490]

Education

580. Both appeal schemes would generate the need for additional education provision in the locality given the likelihood that a significant number of future occupants would be children. The additional capacity required could be created be expanding existing primary schools, using a contribution secured as a planning obligation from either development. This would mitigate the education impact of either scheme individually.

581. Nevertheless, after discussions with the Local Education Authority (LEA), the Appeal A scheme would additionally secure land for a new primary school in recognition that existing provision would subsequently be reaching capacity and in anticipation of further development in the area. Additionally, the LEA is required to meet SEND (Special Educational Needs and Disability) needs and there is also potential for making some provision on the reserved school land.

582. The Framework makes clear the importance that a sufficient choice of school places is available to meet the needs of existing and new communities. A proactive, positive and collaborative approach to meeting this requirement, and to development that will widen the choice in education, is required.

583. The Council accepts that the provision would be a benefit of the scheme and that would certainly be the case if both appeals were allowed, since the pupil yield might justify a new school in and of itself, allowing some capacity for flexibility or additional development in the area.

584. It seems to me, in the context of the great need for additional housing in St Albans, that the provision of school land is a significant benefit, allowing for the education contribution to be used towards delivery on-site should this become desirable to the LEA. Should both schemes be allowed, the provision of land on which a new school could be built locally would be a substantial benefit indeed. [109-127, 436-445, 495-497]

Other Considerations

<u>Housing</u>

585. There is a very substantial need for housing in the district which is persistently going unmet. The LP is one of the oldest in the country and its housing requirement is hopelessly out of date, such that it does not attempt to deliver anywhere near the amount of housing that is now required. Against the requirement for a deliverable five-year housing land supply, using the standard method, the Council can demonstrate just a two-year supply at best. The latest Housing Delivery Test (HDT) has been failed by some margin. Consequently, the Framework dictates that the policies which are most important for determining the applications are out-of-date.

586. The Council further accepts that there is an acute need for affordable housing. The most recent Local Housing Needs Assessment (2020) identified a need for 13,248 affordable dwellings during the period of 2020-2036, equivalent to 828

per annum. Since the beginning of that period, a shortfall of 1,428 affordable dwellings has arisen. The Council's estimated supply of affordable housing up to 2027 is just 39 dwellings per annum. This position follows years of under delivery, a substantial shortfall having accumulated against the requirement identified in the earlier Strategic Housing Market Assessment (2016).

587. There is also a sizeable shortfall, in the order of 171 homes, against the necessary supply of self-build/custom housing, and a delivery rate of just 20% against registrations.

588. Various attempts have been made to replace the existing LP but all have failed to date and whilst a further attempt is now being made, it is at the early stages of preparation and provides little certainty that the situation will improve at present. Even the Council accepts that there is no early prospect of the housing land supply deficit being addressed. The situation is dire.

589. Appeal A would deliver up to 391 dwellings, 40% of which would be affordable housing (up to 156 units). A small proportion would also be self-build/custom housing plots. The scheme would make sizeable contributions towards the identified needs, and I attach very substantial weight to the proposed housing.

590. Appeal B would deliver 330 dwellings, 100% of which would be for affordable housing. Again, a small proportion would be self-build/custom housing plots. The properties would be secured for local key worker accommodation and military personnel, specifically seeking to provide for people that are ineligible for social and affordable rented housing in accordance with the Council's Allocation Policy but unable to afford to buy private market housing in an area with increasing unaffordability. In short, it provides a subsidised route to home ownership for essential local workers that would otherwise be unable to afford to buy.

591. In these respects, the scheme is unusual, but is facilitated by the appellant's desire to meet these particular needs by offering the land for free and discounting all properties by at least 33%, in excess of that required to qualify as affordable housing. Such a scheme is unquestionably a positive aspiration that would go a long way towards boosting the Council's supply of affordable housing. In the context of such a great housing need, I attach very substantial weight to the proposed housing.

592. This weight is not diminished by the Council's assertion that some key workers would be unable to afford the properties, even after discount. The evidence presented by the appellant shows clearly that many would, and if a situation arose where there was an insufficient number of eligible buyers, the legal agreement makes provision for key workers to become eligible from further afield, or ultimately for the housing to be released towards meeting the Council's general affordable housing needs. As such, there are no circumstances where the scheme would fail to contribute to an identified affordable housing need. The scheme might not contribute to those most in need of affordable housing, as identified by the Council, but the Framework does not rank different types of affordable housing or suggest that some types are less important than others.

593. It is often desirable to spread affordable housing amongst market housing to ensure social integration and to create balanced communities. However, I do not share the Council's concern in relation to this scheme given that a range of

dwelling types and tenures are proposed and key workers cover a broad section of society from all walks of life, where there would inherently be a diverse mix of people and circumstances. [231-242]

594. Those buying self-build/custom housing plots would receive at least a 33% discount on the plot. The subsequent building costs would fall to them and the property would be required to be sold at a discounted rate if sold on. The desirability of this arrangement is a matter of individual choice which would likely have regard to the intended length of occupation and expectations for the local property market. Nonetheless, the Council does not suggest that the plots are likely to remain empty and so I see no reason why they should not make a useful contribution to housing need. [31-36, 167-216, 397-421, 435, 491-494]

Precedent

595. Much of KCG's case focused on concerns that, if allowed, the proposals might provide a precedent for further development in the area. However, each planning application is to be considered on its own merits and there is a particularly high bar for proposals in the Green Belt, which require the demonstration of very special circumstances. As such, whatever the decision in these cases, they would not necessarily provide any additional support for future schemes. [456-460]

Ecology

596. Both appeals have been subject to ecological assessments that identify the sensitivities and seek to mitigate the impacts of the development. Subject to appropriate conditions, no significant ecological impacts would result and both schemes would deliver a biodiversity net gain, weighing in favour of the proposals. [143, 289, 446, 467-473]

Air quality

597. Neither site is located within a designated Air Quality Management Area, though there are three within the district. Both appeals are supported by professional air quality assessments that comprehensively consider the potential impacts of the schemes. Pollutant concentrations are predicted to be well within the relevant health-based air quality objectives at the facades of both existing and proposed receptors. The operational impact of the developments is expected to be negligible, having regard to changes in pollutant concentrations and absolute levels. As such, I attach very limited weight to the harm arising. [489]

Open space and recreation

598. The sites are not currently publicly accessible, but both would create new areas of public open space, including children's play areas. This would be a benefit to future residents but would also widen the availability and choice for existing residents in the vicinity, notwithstanding that there is already a good level of provision in Chiswell Green. [142, 429-430, 465]

Neighbouring living conditions

599. The appeals relate to outline planning applications with matters of appearance, landscaping, layout and scale reserved for subsequent consideration. As such, there is currently limited detail available regarding the ultimate layout and design

of the development or how it would relate to neighbouring properties. Nevertheless, the indicative information is sufficient to demonstrate that a suitable scheme could be delivered on the sites without unacceptably harming neighbour's living conditions.

600. Although there would be some inevitable noise and disruption during construction, these would be temporary effects and would not result in any long-term harm.

Flooding and drainage

601. Both appeal schemes have been subject to flood risk and drainage assessments which indicate that the sites could be drained using sustainable drainage techniques. Subject to appropriate mitigation, the developments would not be at risk of flooding or cause flooding elsewhere.

602. The local sewerage undertaker is obliged to accept foul water flows generated by the developments and undertake any network improvements that may be required to provide the necessary capacity. Conditions could be used to ensure that capacity is available in advance of properties being occupied.

Climate change

603. A strategic approach to addressing climate change is important and the Government is taking action to ensure that the country's obligations are met, implementing policies and strategies across various sectors. Notwithstanding these obligations, the Government's objective is to boost significantly the supply of homes. The proposals are not in conflict with any national or local policies in relation to climate change. [454]

Infrastructure

604. The developments would significantly increase the local population and the additional people would need to be served by infrastructure, services and facilities. Where insufficient capacity has been identified by the Council, it has sought financial contributions or other obligations to mitigate the impacts of the developments. Both appellants undertake to deliver necessary planning obligations through legal agreements with the Council.

Economic impact

605. Both developments would support economic growth and productivity, generating significant local economic benefits, including jobs during construction, investment in the area and expenditure by future residents that would support local services and facilities. These benefits are likely to extend beyond Chiswell Green and weigh in favour of the proposals. [144-146, 283-286, 422-428]

Very Special Circumstances

Appeal A

606. I attach substantial weight to the harm that would arise to the Green Belt; limited weight to landscape and visual harms and the loss of BMV agricultural land; and very limited weight to air quality harms.

607. There would be very substantial benefits from the scheme in terms of housing provision. Added to this, there would be benefits in terms of ecology, open space and recreation provision, land for education provision, improved bus services and cycleway provision that would be accessible to existing residents, and economic benefits.

608. Overall, the harm by reason of inappropriateness, and any other harm, is very clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

Appeal B

609. I attach substantial weight to the harm that would arise to the Green Belt; significant weight to landscape and visual harms; limited weight to the loss of BMV agricultural land; and very limited weight to air quality harms.

610. There would be very substantial benefits from the scheme in terms of housing provision. Added to this, there would be benefits in terms of ecology, open space and recreation provision, improved bus services and cycleway provision that would be accessible to existing residents, and economic benefits.

611. Overall, 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.

Both appeals

612. As very special circumstances have been demonstrated in both cases, there would be no conflict with Policy 1 of the LP or Policy S1 of the St Stephen Parish Neighbourhood Plan. The appeal proposals would be in accordance with the development plan, taken as a whole, and there are no material considerations that indicate that planning permission should be refused. The adverse impacts of granting permission would not significantly and demonstrably outweigh the benefits, when assessed against the policies of the Framework taken as a whole and planning permission should be granted.

Recommendation

613. I recommend that both appeals be allowed and that planning permission is granted subject to the conditions set out in the respective Schedules and the planning obligations discussed above.

Michael Boniface

INSPECTOR

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Andrew Parkinson, Counsel

He called:

John-Paul Friend HND (LGD) BA (Hons) Dip LA CMLI	Director, LVIA Ltd
Stephen Connell BA (Hons) Dip TP MRTPI	Director, GC Planning Partnership Ltd

FOR THE APPELLANT (APPEAL A):

Charles Banner KC and
Matthew Henderson, Counsel

They called:

Ben Hunter BA DipMS	Associate Director, EFM Ltd
Anthony Jones BSc MCIHT	Technical Director, Glanville Consultants
Lisa Toyne BA (Hons) DipLA DipTP CMLI	Associate Director, Barton Wilmore, now Stantec
Justin Kenworthy MA (Hons) MA MRTPI	Planning Director, Barton Wilmore, now Stantec

FOR THE APPELLANT (APPEAL B):

Paul Stinchcombe KC

He called:

Steve Collins	Landowner
Brian Parker BA (Hons) MSc MRTPI	MRP Planning
Annie Gingell BSc (Hons) MSc MRTPI	Tetlow King Planning
Paul Gray BA (Hons) BLA CMLI	Consultant, UBU Landscape Architects

Matt Stevens MIHT	Director, Milestone Transport Planning Ltd
Steven Fidgett BSc (Hons) DipTP MRTPI	Director, Union4 Planning Ltd

FOR KEEP CHISWELL GREEN (RULE 6 PARTY):

Shirani St Ledger McCarthy

She called:

David Walpole BSc (Hons) CivEng MCIHT	Partner, THaT Consultancy
Stuart Fray BSc	Local resident
John Clemow BA (Hons Arch) Dip. Arch	Secretary, 4ColneyHeath Residents Association
Shirani St Ledger McCarthy BA (Hons)[2]	Local resident

INTERESTED PERSONS:

Cllr David Parry	Parish Councillor
Clare De Silva	Conservative Parliamentary Spokesperson
Chris Berry	Campaign to Protect Rural England
Hugh Day	Local resident
Emma Smith	Local resident and business owner
Alan Moreland	Local resident
Victoria Prever	Local resident
Daisy Cooper MP	Member of Parliament
Cllr Giles Fry	Ward Councillor
Benjamin Brassett	Local resident

[2] Examination in Chief undertaken by John Clemow

DOCUMENTS SUBMITTED DURING THE INQUIRY

1 Appellant's opening statement (Appeal A)
2 Appellant's opening statement (Appeal B)
3 Council's opening statement
4 Keep Chiswell Green's opening statement
5 Speaking notes of Cllr David Parry
6 Speaking notes of Clare De Silva
7 Speaking notes of Chris Berry
8 Speaking notes of Hugh Day
9 Speaking notes of Emma Smith
10 Speaking notes of Alan Moreland
11 Speaking notes of Victoria Prever
12 Speaking notes of Daisy Cooper MP with attachment
13 Speaking notes of Cllr Giles Fry
14 House Price and Mortgage Calculations
15 Appeal decision - APP/B1930/A/09/2109433
16 RWA Technical Note
17 Affordability calculations
18 E-mail submissions from CLASH dated 22 April 2023
19 Planning Statement of Common Ground 2 (Appeal B)
20 Landscape Statement of Common Ground (Appeal B)
21 Letter from Local Highway Authority dated 25 April 2023
22 Speaking notes of Benjamin Brassett
23 Draft conditions (Appeal A), dated 3 May 2023, V3
24 Second Rebuttal Proof by Justin Kenworthy (Appeal A)
25 Note to the Inspector: Affordable Housing, by Annie Gingell
26 Revised conditions (Appeal A)
27 Draft conditions (Appeal B)
28 Draft site visit itinerary agreed by parties
29 Revised conditions (Appeal B)
30 Revised conditions (Appeal A), dated 3 May 2023, V3
31 Summary Notes on S106, Version 2 (Appeal B)
32 HCC Position Statement Responding to Outstanding S106 Matters
33 Revised draft S106 as at 8 May 2023 (Appeal A)
34 Optional walking or cycling route from KCG
35 Council's closing submissions
36 Keep Chiswell Green's closing submission
37 Appellant's closing submissions (Appeal A)
38 Appellant's closing submissions (Appeal B)

DOCUMENTS SUBMITTED AFTER THE INQUIRY

1 Executed S106 agreement (Appeal B)
2 Executed S106 agreements (Appeal A)
3 Appellant's submissions on HCC's S106 Position Station

SCHEDULE 1 - RECOMMENDED CONDITIONS (APPEAL A)

1) Details of the appearance, landscaping, layout, and scale (hereinafter called "the reserved matters") for each phase of the development as defined by the Phasing Plan agreed as part of condition 16, shall be submitted to and approved in writing by the Local Planning Authority before any development in that phase begins, and the development shall be carried out as approved.

   REASON: To comply with Section 92(1) of the Town and Country Planning Act 1990.

2) Application for approval of the reserved matters shall be made to the Local Planning Authority not later than three years from the date of this permission.

   REASON: To comply with the requirements of Section 92 of the Town and Country Planning Act 1990.

3) The development hereby permitted shall take place not later than two years from the date of approval of the last of the reserved matters to be approved.

   REASON: To comply with the requirements of Section 92 (2) of the Town and Country Planning Act 1990.

4) The development hereby permitted shall be carried out in accordance with the following approved plans: Site Location Plan (REDC01-MCB-ZZ-ZZ-DR-A-0201-D5-P7), Access and Movement Parameter Plan (REDC01-MCB-ZZ-ZZ-DR-A-0221-D5-P3), Building Height Parameter Plan (REDC01-MCB-ZZ-ZZ-DR-A-0222-D5-P6), Land Use Parameter Plan (REDC01-MCB-ZZ-ZZ-DR-A-0223-D5-P5), Proposed Northern Access Junctions (8210856-1001 Rev I9), Proposed Southern Access Junction (8210856_1002 Rev I6), Proposed Forge End & Long Fallow Pedestrian / Cycle Accesses (8210856_1021 Rev I5).

   REASON: To ensure that the development is carried out in accordance with the approved plans and details.

5) Full details of both soft and hard landscape works for each phase, shall be submitted as part of application(s) for reserved matters approval for that phase, 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;

   d) mix, and details of seeding or turfing;

   e) hard surfacing;

   f) means of enclosure and boundary treatments; and

   g) structures (such as furniture, play equipment, refuse or other storage units, signs, lighting).

REASON: To ensure satisfactory landscape treatment of the site and a suitable appearance in accordance with Policies 70 and 74 of the LP.

6) A landscape and ecological management plan (LEMP) for each phase, shall be submitted as part of application(s) for reserved matters approval for that phase, as required by Condition 1 and include:

   a) A description of the objectives;

   b) Habitat/feature creation measures proposed, including a methodology for translocation of habitats, such as the existing topsoil, grassland and timeframes for completion;

   c) Maintenance of habitat/feature creation measures in the long term and those responsible for delivery;

   d) Lighting strategy (aiming 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 shall cover all landscape areas within the site, other than privately owned domestic gardens.

   REASON: To maximise the on-site mitigation for biodiversity impact.

7) Full details of the proposed housing mix, including a breakdown of unit sizes and tenure, shall be submitted as part of application(s) for reserved matters approval as required by Condition 1.

   REASON: To ensure a suitable dwelling mix at the site in accordance with Policy 70 the LP.

8) Notwithstanding the submitted 'Arboricultural Impact Assessment' – JSL4258_770 (by RPS, 30 March 2022), no development shall commence in each phase unless a method statement has been submitted to and approved in writing by the Local Planning Authority for that phase, to cover the protection of trees during demolition and construction phases based on guidelines set out in BS5837. Thereafter the development shall be carried out in accordance with these approved details.

   REASON: To protect existing trees during the construction works in the interest of the character and appearance of the area and in accordance with Policy 74 of the LP.

9) No trees shall be damaged or destroyed, or uprooted, felled, lopped or topped without the previous written consent of the Local Planning Authority until at least 5 years following the practical completion of the permitted development. Any trees removed without such consent or dying or being severely damaged or becoming seriously diseased before the end of that period shall be replaced by trees of such size and species as may be agreed with the Local Planning Authority.

   REASON: To ensure satisfactory landscape treatment of the site in the interests of character and appearance and to comply with Policy 74 of the LP.

10) All existing hedges or hedgerows shall be retained, unless shown on the approved drawings as being removed or with the written consent of the LPA. All hedges and hedgerows on and immediately adjoining the site shall

be protected from damage for the duration of works on the site. This shall be to the satisfaction of the Local Planning Authority in accordance with relevant British Standards BS 5837 (2005). Any parts of hedges or hedgerows removed without the Local Planning Authority's consent or which die or become, in the opinion of the Local Planning Authority, seriously diseased or otherwise damaged within five years following practical completion of the approved development shall be replaced as soon as is reasonably practicable and, in any case, by not later than the end of the first available planting season, with plants of such size and species and in such positions as may be agreed with the Local Planning Authority.

REASON: In the interests of ecology, character and appearance and to comply with Policy 74 of the LP.

11) No phase of the development hereby permitted shall be occupied unless and until the vehicular accesses for the phase in question have been provided and thereafter retained at the position shown on the approved plan drawing numbers 8210856-1001 Rev I9, 8210856-1002 Rev I6 and 8210856-1021 Rev I5 (as may be amended through detailed technical drawings agreed through the Section 278 process). 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.

REASON: To ensure satisfactory access into the site and avoid carriage of extraneous material or surface water from or onto the highway in the interests of highway safety.

12) Prior to the commencement of development in each phase, full details in relation to the design of estate roads (in the form of scaled plans and / or written specifications for each phase) shall be submitted to and approved in writing by the Local Planning Authority to detail the following:

a) Roads;
b) Footways;
c) Cycleways (compliant with LTN 1/20);
d) Minor artefeacts, structures and functional services;
e) Foul and surface water drainage;
f) Visibility splays;
g) Access arrangements including temporary construction access;
h) Hard surfacing materials;
i) Parking areas for vehicles and cycles;
j) Loading areas; and
k) Turning and circulation areas.

The development shall be implemented in accordance with those approved plans.

REASON: To ensure suitable, safe and satisfactory planning and development of the site in accordance with Policies 34, 69 and 70 of the LP and Policy 5 of Hertfordshire's Local Transport Plan (adopted 2018).

13) No phase of the development hereby permitted shall be occupied unless and until full details have been submitted to and approved in writing by the Local Planning Authority for that phase, in relation to the proposed arrangements for future management and maintenance of the proposed streets within the development. The streets shall thereafter be maintained in accordance with the approved management and maintenance details until such time as an agreement has been entered into under Section 38 of the Highways Act 1980 or a Private Management and Maintenance Company has been established and approved by the LPA).

REASON: To ensure satisfactory development and to ensure estate roads are managed and maintained thereafter to a suitable and safe standard in accordance with Policies 34, 69 and 70 of the LP and Policies 5 and 22 of Hertfordshire's Local Transport Plan (adopted 2018).

14) Notwithstanding the details indicated on the submitted drawings, no on-site works above slab level shall commence until a detailed scheme for the offsite improvement works as indicated on the drawing numbers set out below have been submitted to and approved in writing by the Local Planning Authority:

a) Chiswell Green Lane - drawing 8210856-1012 Rev I5 or where planning permission for the development pursuant to appeal APP/B1930/W22/331227 is granted, drawing 8230258-1001 Rev I2 and drawing 8230258-1002 Rev I4;

b) Watford Road / Chiswell Green Lane public realm improvements drawing 8210856-1013 Rev I4, or where planning permission for the development pursuant to appeal APP/B1930/W22/331227 is granted, drawing 8230258 1007 Rev I3 showing the signalised junction;

c) Hertfordshire County Council's Watford Road Cycle Improvements drawing 8210856-1028 Rev I1 (Sheet 1 of 6) or where planning permission for the development pursuant to appeal APP/B1930/W22/331227 is granted, drawing 8230258-1008 Rev I1;

d) Hertfordshire County Council's Watford Road Cycle Improvements drawing 8210856-1029 Rev I1 - (Sheet 2 of 6);

e) Hertfordshire County Council's Watford Road Cycle Improvements drawing 8210856-1030 Rev I1 - (Sheet 3 of 6);

f) Hertfordshire County Council's Watford Road Cycle Improvements drawing 8210856-1031 Rev I1 - (Sheet 4 of 6);

g) Hertfordshire County Council's Watford Road Cycle Improvements drawing 8210856-1032 Rev I1 - (Sheet 5 of 6);

h) Hertfordshire County Council's Watford Road Cycle Improvements drawing 8210856-1033 Rev I1 - (Sheet 6 of 6).

Where planning permission for the development pursuant to appeal APP/B1930/W22/331227 is granted, details shall only be required to be submitted in respect of those works listed in a, b and/or c above if at the date of submission those said works have not already been approved pursuant to the planning permission granted pursuant to appeal APP/B1930/W22/331227.

Prior to first Occupation of the development hereby permitted, the offsite highway improvement works set out above shall be completed in accordance with the approved details.

REASON: To ensure delivery of the necessary highway improvements.

15) No development shall commence in each phase unless and until a detailed Construction Environmental Management Plan relating to that phase has been submitted to and approved in writing by the Local Planning Authority. Thereafter, the construction of the development in that phase shall only be carried out in accordance with the approved CEMP unless otherwise agreed in writing by the Local Planning Authority. The plan shall be prepared in accordance with the Construction Logistics and Community Safety (CLOCS) Standard.

The plan shall include the following:

a) The construction programme;

b) Clear access strategy for construction vehicles that avoids conflicts with pedestrians, cyclists, public transport and existing and future residents;

c) Hours of operation;

d) Phasing of the development of the site, including all highway works;

e) Construction vehicle numbers, type, routing;

f) Traffic management requirements;

g) Cleaning of site entrances, site tracks and the adjacent public highway;

h) Provision of sufficient on-site parking prior to commencement of construction activities;

i) Details of any highway works necessary to enable construction to take place, including temporary access works;

j) Details of any works to or affecting Public Rights of Way within and in the vicinity of the site. These shall demonstrate how safe and unobstructed access will be maintained at all times or be temporarily closed or extinguished.

k) Details of servicing and delivery, including details of site access, compound, welfare facilities, hoarding, construction related parking, loading, unloading, turning areas and materials storage areas;

l) Where works cannot be wholly contained within the site, a plan shall be submitted showing the site layout on the highway, including extent of hoarding, pedestrian routes and remaining road width for vehicle movements and proposed traffic management;

m) Management of construction traffic and deliveries to reduce congestion and avoid school pick up/drop off times, including numbers, type and routing;

n) Control of dust and dirt on the public highway, including details of wheel washing facilities and cleaning of site entrance adjacent to the public highway;

o) Details of public contact arrangements and complaint management;

p) Construction waste management proposals;

q) Mechanisms to deal with environmental impacts such as noise and vibration, air quality and dust, light and odour;

r) Post construction restoration/reinstatement of the working areas and temporary access to the public highway; and

s) Measures to be implemented to ensure wayfinding for both occupiers of the site and or those travelling through it.

REASON: In order to protect highway safety and convenience, and to protect living conditions, in accordance with Policies 5, 12, 17 and 22 of Hertfordshire's Local Transport Plan (adopted 2018).

16) Notwithstanding the information contained in the Transport Assessment, no development shall commence in respect of any Development Parcel or Strategic Engineering Element until a Site Wide Phasing Plan which accords with agreed s106 triggers has been submitted to the local planning authority for approval. The Phasing Plan shall include the sequence of providing the following elements:

a) Development parcels;

b) Major distributor roads/routes within the site, including timing of provision and opening of access points into the site;

c) Strategic foul surface water features and SUDS;

d) Open space;

e) Strategic electricity and telecommunications networks; and

f) Environmental mitigation measures.

No development shall commence apart from enabling works and strategic engineering elements, unless agreed in writing by the Local Planning Authority, until such time as the phasing plan has been approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved phasing contained within the phasing plan unless otherwise agreed in writing by the Local Planning Authority.

REASON: To ensure suitable, safe and satisfactory planning and development of the site in accordance with Policy 5 of Hertfordshire's Local Transport Plan 2018.

17) No part of the development hereby permitted shall be occupied prior to the implementation of the approved Travel Plan and dated (March 2022) (or implementation of those parts identified in the approved Travel Plan as capable of being implemented prior to occupation). Those parts of the approved Travel Plan that are identified therein as being capable of implementation after occupation shall be implemented in accordance with the timetable contained therein and shall continue to be implemented as long as any part of the development is occupied.

REASON: To ensure that sustainable travel options are promoted and maximised to be in accordance with Policies 3, 5, 7, 8, 9 and 10 of Hertfordshire's Local Transport Plan (adopted 2018).

18) Within three months of the first use of a school, a Modeshift STARS School Travel Plan shall be prepared and submitted to the local planning authority for approval. Thereafter the Travel Plan shall be implemented in full throughout the life of the school.

REASON: To ensure that sustainable travel options are promoted and maximised to be in accordance with Policies 3, 5, 7, 8, 9 and 10 of Hertfordshire's Local Transport Plan (adopted 2018).

19) No phase of the development hereby permitted shall be occupied unless and until a scheme for the parking of cycles including details of the design, level and siting of the proposed parking for that phase has been submitted to and approved in writing by the Local Planning Authority.

The approved scheme shall be fully implemented before the phase is first occupied or brought into use and thereafter retained for this purpose.

REASON: To ensure the provision of adequate cycle parking that meets the needs of occupiers of the proposed development and in the interests of encouraging the use of sustainable modes of transport in accordance with Policies 1, 5 and 8 of Hertfordshire's Local Transport Plan (adopted 2018).

20) No development shall commence in each phase unless and until a detailed surface water drainage scheme for that phase has been submitted to, and approved in writing by, the Local Planning Authority. The scheme shall include the utilisation of above ground attenuation and conveyance sustainable drainage techniques (SuDS), with the incorporation of sufficient treatment trains to maintain or improve the existing groundwater quality, as per the Flood Risk Assessment produced by Glanville (dated March 2022) and updated submission information. The scheme shall also include the following:

a) a detailed drawing demonstrating the management of surface water runoff during events that may temporarily exceed the capacity of the drainage system has been submitted to, and approved in writing by, the Local Planning Authority.

b) detailed hydraulic modelling calculations of the proposed surface water drainage scheme that demonstrate there will be no increased risk of flooding as a result of development between the 1 in 1 year return period event and up to the 1 in 100 year return period event (including the correct allowance for climate change) have been submitted to, and approved in writing by, the Local Planning Authority.

c) full details of the proposed methods of treating surface water runoff to ensure no risk of pollution is introduced to groundwater both locally and downstream of the site, especially from proposed parking and vehicular areas have been submitted to, and approved in writing by, the Local Planning Authority. Surface water treatment techniques shall include both natural SuDS structures and also proprietary devices, such as advanced vortex separators.

d) detailed construction drawings of all proposed SuDS features, including details of flow controls and piped network, have been submitted to and approved in writing by the Local Planning Authority.

e) detailed construction drawings of the proposed deep bore soakaway structures have been submitted to, and approved in writing by, the Local Planning Authority.

f) a management and maintenance plan for the lifetime of the development has been submitted to and approved in writing by the Local Planning Authority. This plan shall include the arrangements for adoption by an appropriate public body or statutory undertaker, management company or maintenance by a Residents' Management Company and/or any other arrangements to secure the operation and maintenance to an approved standard and working condition throughout the lifetime of the development.

g) details for the provision of any temporary drainage during construction has been submitted to and approved in writing by the Local Planning Authority. This shall include details to demonstrate that during the construction phase measures will be in place to prevent unrestricted discharge, and pollution to the receiving system.

h) detailed construction drawings of the proposed foul water drainage network 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.

REASON: To prevent the increased risk of flooding, both on and off site.

21) No above ground works shall take place for each phase until a scheme for the provision of adequate water supplies and fire hydrants, necessary for firefighting purposes at the site, has been submitted to and approved in writing by the Local Planning Authority for that phase. The development shall not be occupied until the scheme has been implemented in accordance with the approved details.

REASON: To ensure adequate water infrastructure provision is made on site for the local fire service to discharge its statutory firefighting duties.

22) Prior to the commencement of ground works in each phase of the development a minerals recovery strategy for the sustainable extraction of minerals on an opportunistic basis shall be submitted to and approved in writing by the Local Planning Authority, in accordance with the submitted Minerals Resource Assessment dated 15 August 2022. Thereafter, the relevant phase or phases of the development must not be carried out other than in accordance with the approved minerals strategy. The minerals strategy must include the following:

a) An evaluation of the opportunities to extract minerals (sand and gravel, hoggin and other soils with engineering properties); and

b) A proposal for maximising the extraction of minerals, providing targets and methods for the appropriate recovery and beneficial use of the minerals (where feasible without the need for processing); and

c) A method to record the quantity of recovered mineral for re-use on site.

REASON: In order to prevent mineral sterilisation, contribute to resource efficiency, promote sustainable construction practices and reduce the need to import primary materials in accordance with Policy 5 of the adopted Hertfordshire Minerals Local Plan Review.

23) The development shall not be occupied until confirmation has been provided that either:

a) All foul water network upgrades required to accommodate the additional flows from the development have been completed; or

b) A development and infrastructure phasing plan has been agreed with the Local Planning Authority to allow development to be occupied.

Where a development and infrastructure phasing plan is agreed, no occupation shall take place other than in accordance with the agreed development and infrastructure phasing plan.

REASON: To ensure that the development can be accommodated by suitable drainage infrastructure.

24) The No development-related works shall take place until the implementation of a programme of archaeological evaluation and excavation has been secured, and undertaken in accordance with a Written Scheme of Investigation which has been submitted to and approved in writing by the Local Planning Authority. The Written scheme of investigation shall include an archaeological programme including:

a) The programme and methodology of site investigation and recording.

b) The programme for post investigation assessment.

c) Provision to be made for publication and dissemination of the analysis and records of the site investigation.

d) Provision to be made for archive deposition of the analysis and records of the site investigation.

e) Nomination of a registered archaeological contractor to undertake the works set out within the Written Scheme of Investigation.

f) The site investigation shall be completed prior to development, or in such other phased arrangement, as agreed and approved in writing by the Local Planning Authority.

REASON: To ensure the appropriate identification, recording and publication of archaeological and historic remains affected by the development in accordance with Policy 111 of the LP.

25) Other than the demolition of buildings and structures down to ground level and site clearance works, including tree felling, no development shall take place in each phase until an investigation and risk assessment in relation to contamination on site (in addition to the phase I assessment provided with the planning application) has been submitted to and approved in writing by the Local Planning Authority for that phase. The assessment shall investigate the nature and extent of any contamination on the site (whether or not it originates on the site). The assessment shall be undertaken by competent persons and a written report of the findings submitted to and approved in writing by the Local Planning Authority before

any development takes place other than the excluded works listed above. The submitted report shall include:

a) a survey of the extent, scale and nature of contamination; and

b) 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, ground waters and surface waters, ecological systems, archaeological sites and ancient monuments.

REASON: To ensure that adequate protection of human health is maintained and the quality of groundwater is protected in accordance with Policy 84 of the LP.

26) The results of the site investigations set out in condition 25 and the detailed risk assessment undertaken at the site shall be used to prepare an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken for each phase. The remediation strategy shall contain a verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy are complete and identify any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action. The options appraisal and remediation strategy shall be approved in writing by the Local Planning Authority prior to commencement of construction works and all requirements shall be implemented and completed to the satisfaction of the Local Planning Authority by a competent person.

REASON: To ensure that adequate protection of human health is maintained and the quality of groundwater is protected in accordance with Policy 84 of the LP.

27) Before any dwelling is occupied, verification report(s) demonstrating completion of the works set out in the remediation strategy and the effectiveness of the remediation shall be submitted in writing and approved by the LPA. The reports shall include results of validation sampling and monitoring carried out in accordance with the approved remediation strategy to demonstrate that the site remediation criteria have been met. It shall also include any plan for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan. The long-term monitoring and maintenance plan shall be implemented as approved.

REASON: To ensure that adequate protection of human health is maintained and the quality of groundwater is protected in accordance with Policy 84 of the LP.

28) No dwelling hereby permitted shall be occupied unless and until the internal sound level requirements and insulation proposals outlined in the Noise Assessment (reference RP01- 21618-R2) prepared by Cass Allen have been fully implemented.

REASON: To ensure suitable living conditions for future occupiers.

29) Open space shall be provided on site in accordance with the approved parameter plans. No development in each phase shall commence unless

details of all play spaces in that phase are submitted to and approved in writing by the Local Planning Authority. The approved play space scheme for each phase shall be completed prior to occupation of 50% of the dwellings hereby permitted in that phase and thereafter the approved play space shall be retained.

Such scheme shall indicate but not be limited to:

a) Details of types of equipment to be installed.

b) Surfaces including details of materials and finishes.

c) The location of any proposed signage linked to the play areas.

REASON: To ensure suitable open space and play facilities in accordance with Policy 70 of the LP.

30) No development in each phase, shall take place until a Site Waste Management Plan (SWMP) for the construction of that phase of the site has been submitted to and approved in writing by the Local Planning Authority. The SWMP shall aim to reduce the amount of waste being produced on site and shall contain information including estimated and actual types and amounts of waste removed from the site and where that waste is being taken to. The development shall be carried out in accordance with the approved SWMP.

REASON: To promote sustainable development and to ensure measures are in place to minimise waste generation and maximise the on-site and offsite reuse and recycling of waste materials, in accordance with Policy 12 of the Hertfordshire Waste Core Strategy and Development Management Policies.

End of Schedule 1 - Conditions for Appeal A

SCHEDULE 2 - RECOMMENDED CONDITIONS (APPEAL B)

1) The 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 takes place and the development shall be carried out as approved.

   REASON: To comply with Section 92(1) of the Town and Country Planning Act 1990.

2) Application for approval of the reserved matters shall be made to the Local Planning Authority not later than three years from the date of this permission.

   REASON: To comply with the requirements of Section 92 of the Town and Country Planning Act 1990.

3) The development hereby permitted shall take place not later than two years from the date of approval of the last of the reserved matters to be approved.

   REASON: To comply with the requirements of Section 92 (2) of the Town and Country Planning Act 1990.

4) The development hereby permitted shall be carried out in accordance with the following approved plans: Site Location Plan (Revision E), Proposed Access Arrangements (21086 001 Rev B), Proposed Foot/Cycle Amendments – Chiswell Green Lane, Stanley Avenue, Watford Road (21086/002), Proposed Foot/Cycle Enhancements (Stanley Avenue) (21086/002/1), Proposed Highway Amendments (Watford Road) (21086/002/2), Proposed PRoW Improvements (St Stephens 082) (21086/003), Proposed PRoW Upgrades (St Stephens FP080) (22185/004 Revision A) and Proposed Pedestrian/Cycling Upgrades - Toucan Crossing (21086/006).

   REASON: To ensure that the development is carried out in accordance with the approved plans and details.

5) Full details of both soft and hard landscape works shall 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;

   d) mix, and details of seeding or turfing;

   e) hard surfacing;

   f) means of enclosure and boundary treatments; and

   g) Structures (such as furniture, play equipment, refuse or other storage units, signs, lighting).

   REASON: To ensure satisfactory landscape treatment of the site in the interests of character and appearance, in accordance with Policies 70 and 74 of the LP.

6) A landscape and ecological management plan (LEMP) shall be submitted as part of application(s) for reserved matters approval as required by Condition 1 and shall include:

   a) A description of the objectives;

   b) Habitat/feature creation measures proposed, including a methodology translocation of habitats, such as the existing topsoil, grassland and timeframes for completion;

   c) Maintenance of habitat/feature creation measures in the long term and those responsible for delivery;

   d) Lighting strategy (aiming 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 shall cover all landscape areas within the site, other than small privately owned domestic gardens.

   REASON: To maximise the on-site mitigation for biodiversity impact.

7) Full details of the proposed housing mix, including a breakdown of unit sizes and tenure, shall be submitted as part of application(s) for reserved matters approval as required by Condition 1.

   REASON: To ensure a suitable dwelling mix at the site in accordance with Policy 70 the LP.

8) Notwithstanding the submitted Arboricultural Impact Assessment and Arboricultural Method Statement (October 2021), a detailed tree protection plan and method statement shall be submitted as part of application(s) for reserved matters approval as required by Condition 1.

   REASON: To ensure the protection of trees at the site and to comply with the requirements of Policy 74 of the LP.

9) No trees shall be damaged or destroyed, or uprooted, felled, lopped or topped without the previous written consent of the Local Planning Authority until at least 5 years following the completion of the approved development. Any trees removed without such consent or dying or being severely damaged or becoming seriously diseased before the end of that period shall be replaced by trees of such size and species as may be agreed with the Local Planning Authority.

   REASON: To ensure satisfactory landscape treatment of the site in the interests of character and appearance, in accordance with Policy 74 of the LP.

10) All existing hedges or hedgerows shall be retained, unless shown on the approved drawings as being removed. All hedges and hedgerows on and immediately adjoining the site shall be protected from damage for the duration of works on the site. This shall be to the satisfaction of the Local Planning Authority in accordance with relevant British Standards BS 5837 (2005). Any parts of hedges or hedgerows removed without the Local Planning Authority's consent or which die or become, in the opinion of the Local Planning Authority, seriously diseased or otherwise damaged within five years following completion of the approved development shall be

replaced as soon as is reasonably practicable and, in any case, by not later than the end of the first available planting season, with plants of such size and species and in such positions as may be agreed with the Authority.

REASON: In the interests of ecology, character and appearance and to comply with Policy 74 of the LP.

11) Prior to the first occupation of the development hereby permitted, the vehicular access shall be provided and thereafter retained at the position shown on the approved plan drawing number 21086 001 Rev B. 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.

REASON: To ensure satisfactory access into the site and avoid carriage of extraneous material or surface water from or onto the highway in the interests of highway safety.

12) Prior to the commencement of the development, full details in relation to the design of estate roads (in the form of scaled plans and / or written specifications for each phase) shall be submitted to and approved in writing by the Local Planning Authority to detail the following:

a) Roads;

b) Footways;

c) Cycleways (compliant with LTN 1/20);

d) Minor artefeacts, structures and functional services;

e) Foul and surface water drainage;

f) Visibility splays;

g) Access arrangements including temporary construction access;

h) Hard surfacing materials;

i) Parking areas for vehicles and cycles;

j) Loading areas; and

k) Turning and circulation areas.

The development shall be implemented in accordance with those approved plans.

REASON: To ensure suitable, safe and satisfactory planning and development of the site in accordance with Policies 34, 69 and 70 of the LP and Policy 5 of Hertfordshire's Local Transport Plan (adopted 2018).

13) The development hereby permitted shall not be occupied unless and until full details have been submitted to and approved in writing by the Local Planning Authority in relation to the proposed arrangements for future management and maintenance of the proposed streets within the development. The streets shall thereafter be maintained in accordance with the approved management and maintenance details until such time as an agreement has been entered into under Section 38 of the Highways Act 1980 or a Private Management and Maintenance Company has been established.

REASON: To ensure satisfactory development and to ensure estate roads are managed and maintained thereafter to a suitable and safe standard in accordance with Policies 34, 69 and 70 of the LP and Policies 5 and 22 of Hertfordshire's Local Transport Plan (adopted 2018).

14) Notwithstanding the details indicated on the submitted drawings, no on-site works above slab level shall commence until a detailed scheme for the offsite improvement works as indicated on the drawing numbers set out below have been submitted to and approved in writing by the Local Planning Authority:

a) Proposed Foot/Cycle Enhancements Chiswell Green Lane / Stanley Avenue - drawing 22185/006 or where planning permission for the development pursuant to appeal APP/B1930/W/22/3313110 is granted, drawings 8230258-1001 I2 and 8230258-1002 I4.

b) Watford Road / Chiswell Green Lane Foot / Cycle Enhancements and Highway Amendments drawing 21086/002/2, or where planning permission for the development pursuant to appeal APP/B1930/W/22/3313110 is granted, drawing 22185/007 showing the signalised junction.

c) Proposed Memorial Car Parking Allocation (22185/005 Rev B).

d) Proposed Pedestrian/Cycling Upgrades - Toucan Crossing (21086/006).

e) Proposed footpath improvements (21086/003 and 22185/004 Rev A).

Where planning permission for the development pursuant to appeal APP/B1930/W/22/3313110 is granted, details shall only be required to be submitted in respect of those works listed in a and b above if at the date of submission those said works have not already been approved pursuant to the planning permission granted pursuant to appeal APP/B1930/W/22/3313110.

Prior to first Occupation of the development hereby permitted, the offsite highway improvement works approved in accordance with the above shall be completed in accordance with the approved details.

REASON: To ensure delivery of the necessary highway improvements.

15) No development shall commence unless and until a detailed Construction Environmental Management Plan has been submitted to and approved in writing by the Local Planning Authority. Thereafter, the construction of the development for which planning permission has been granted shall only be carried out in accordance with the approved CEMP unless otherwise agreed in writing by the local planning authority. The plan shall be prepared in accordance with the Construction Logistics and Community Safety (CLOCS) Standard.

The plan shall include the following:

a) The construction programme;

b) Clear access strategy for construction vehicles that avoids conflicts with pedestrians, cyclists, public transport and existing and future residents;

c) Hours of operation;

d) Phasing of the development of the site, including all highway works;

e) Construction vehicle numbers, type, routing;

f) Traffic management requirements;

g) Cleaning of site entrances, site tracks and the adjacent public highway;

h) Provision of sufficient on-site parking prior to commencement of construction activities;

i) Details of any highway works necessary to enable construction to take place, including temporary access works;

j) Details of any works to or affecting Public Rights of Way within and in the vicinity of the site. These shall demonstrate how safe and unobstructed access will be maintained at all times or be temporarily closed or extinguished.

k) Details of servicing and delivery, including details of site access, compound, welfare facilities, hoarding, construction related parking, loading, unloading, turning areas and materials storage areas;

l) Where works cannot be wholly contained within the site, a plan shallbe submitted showing the site layout on the highway, including extent of hoarding, pedestrian routes and remaining road width for vehicle movements and proposed traffic management;

m) Management of construction traffic and deliveries to reduce congestion and avoid school pick up/drop off times, including numbers, type and routing;

n) Control of dust and dirt on the public highway, including details of wheel washing facilities and cleaning of site entrance adjacent to the public highway;

o) Details of public contact arrangements and complaint management;

p) Construction waste management proposals;

q) Mechanisms to deal with environmental impacts such as noise and vibration, air quality and dust, light and odour;

r) Post construction restoration/reinstatement of the working areas and temporary access to the public highway; and

s) Measures to be implemented to ensure wayfinding for both occupiers of the site and or those travelling through it.

REASON: In order to protect highway safety and convenience, and to protect living conditions, in accordance with Policies 5, 12, 17 and 22 of Hertfordshire's Local Transport Plan (adopted 2018).

16) Notwithstanding the information contained in the Transport Assessment, no development shall commence in respect of any development parcel or strategic engineering element listed below until a Site Wide Phasing Plan, which accords with agreed s106 triggers has been submitted to the Local Planning Authority for approval. The Phasing Plan shall include the sequence of providing the following elements:

a) Development parcels;

b) Major distributor roads/routes within the site, including timing of provision and opening of access points into the site;

c) Strategic foul surface water features and SUDS;

d) Open space;

e) Strategic electricity and telecommunications networks;

f) Environmental mitigation measures.

No development shall commence apart from enabling works and strategic engineering elements, unless, agreed in writing by the Local Planning Authority until such time as the phasing plan has been approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved phasing contained within the phasing plan unless otherwise agreed in writing by the Local Planning Authority.

REASON: To ensure suitable, safe and satisfactory planning and development of the site in accordance with Policy 5 of Hertfordshire's Local Transport Plan 2018.

17) No part of the development hereby permitted shall be occupied prior to the implementation of the approved Travel Plan dated (November 2021) (or implementation of those parts identified in the approved Travel Plan as capable of being implemented prior to occupation). Those parts of the approved Travel Plan that are identified therein as being capable of implementation after occupation shall be implemented in accordance with the timetable contained therein and shall continue to be implemented as long as any part of the development is occupied.

REASON: To ensure that sustainable travel options associated with the development are promoted and maximised to be in accordance with Policies 3, 5, 7, 8, 9 and 10 of Hertfordshire's Local Transport Plan (adopted 2018).

18) Prior to the first occupation/use of the development hereby permitted a scheme for the parking of cycles including details of the design, level and siting of the proposed parking shall be submitted to and approved in writing by the Local Planning Authority.

The approved scheme shall be fully implemented before the development is first occupied or brought into use and thereafter retained for this purpose.

REASON: To ensure the provision of adequate cycle parking that meets the needs of occupiers of the proposed development and in the interests of encouraging the use of sustainable modes of transport in accordance with Policies 1, 5 and 8 of Hertfordshire's Local Transport Plan (adopted 2018).

19) No development shall be commenced until details of the surface water drainage scheme, based on sustainable drainage principles together with a programme of implementation and maintenance for the lifetime of the development, have been submitted to and approved in writing by the Local Planning Authority, which must include the following:

a) A fully detailed surface water drainage scheme has been submitted to, and approved in writing, by the Local Planning Authority. The scheme shall include the utilisation of contemporary and appropriate sustainable drainage (SuDS) techniques, with reference to the

'Sustainable Drainage Assessment' by GeoSmart Information Ltd and dated 5th July 2022.

b) Accompanying hydraulic modelling calculations for the entire surface water drainage scheme have been submitted and approved. These detailed calculations shall demonstrate that both the site and surrounding area will not flood from surface water as a result of the development for a full range of summer and winter storm durations, up to the 1 in 100 year return period event including an appropriate allowance for climate change.

c) The maximum permissible flow controlled discharge rate shall no more than 10l/s for all events up to and including the 1 in 100 year return period event plus an appropriate allowance for climate change, as currently agreed in principle with Thames Water. This 'in principle' discharge agreement must be formally confirmed in writing with Thames Water and submitted in support of this condition, which shall also include full details of the point of connection, including cover and invert level(s).

d) Submission of final detailed drainage layout plan(s) including the location and provided volumes of all storage and sustainable drainage (SuDS) features, pipe runs, invert levels and discharge points. If there are areas to be designated for informal flooding these shall also be shown on a detailed site plan. The volume, size, inlet and outlet features, long-sections and cross sections of the proposed storage and SuDS features shall also be provided.

e) The surface water drainage plan(s) shall include hydraulic modelling pipe label numbers that correspond with the hydraulic modelling calculations submitted, to allow for accurate cross-checking and review.

f) If any infiltration drainage is proposed on the final drainage layout, this shall be supported with appropriate infiltration testing carried out to the BRE Digest 365 Soakaway Design standard. This would also require confirmation of groundwater levels to demonstrate that the invert level of any soakaways or unlined attenuation features can be located a minimum of 1m above maximum groundwater levels.

g) A detailed assessment of the proposed SuDS treatment train and water quality management stages, for all surface water runoff from the entire development site.

h) The provision of a detailed plan showing the management of exceedance flow paths for surface water for events greater than the 1 in 100 year return period plus climate change event.

i) A construction management plan to address all surface water runoff and any flooding issues during the construction stage is submitted and approved.

j) If access or works to third party land is required, confirmation that an agreement has been made with the necessary landowners/consenting authorities to cross third party land and/or make a connection to the proposed sewer chamber location.

k) A detailed management and maintenance plan for the lifetime of the development has been submitted and approved, which shall include the arrangements for adoption by an appropriate public body or water company, management company or maintenance by a Residents' Management Company and/or any other arrangements to secure the operation and maintenance to an approved standard and working condition throughout the lifetime of the development.

The development shall be carried out in accordance with the approved details.

REASON: To ensure that the development is served by a satisfactory system of sustainable surface water drainage and that the approved system is retained, managed and maintained throughout the lifetime of the development, in accordance with Policy 84 of the LP.

20) No above ground works shall take place until a scheme for the provision of adequate water supplies and fire hydrants, necessary for firefighting purposes at the site, has been submitted to and approved in writing by the Local Planning Authority. The development shall not be occupied until the scheme has been implemented in accordance with the approved details.

REASON: To ensure adequate water infrastructure provision is made on site for the local fire service to discharge its statutory firefighting duties.

21) Prior to the commencement of development/excavation or ground works in each phase of the development a minerals recovery strategy for the sustainable extraction of minerals shall be submitted to and approved in writing by the Local Planning Authority, in accordance with the submitted Minerals Resource Assessment dated 15 August 2022. Thereafter, the relevant phase or phases of the development must not be carried out other than in accordance with the approved minerals strategy. The minerals strategy must include the following:

a) An evaluation of the opportunities to extract minerals (sand and gravel, hoggin and other soils with engineering properties); and

b) A proposal for maximising the extraction of minerals, providing targets and methods for the recovery and beneficial use of the minerals; and

c) A method to record the quantity of recovered mineral (re-use on site or off-site).

REASON: In order to prevent mineral sterilisation, contribute to resource efficiency, promote sustainable construction practices and reduce the need to import primary materials in accordance with Policy 5 of the adopted Hertfordshire Minerals Local Plan Review.

22) The development shall not be occupied until confirmation has been provided that either:

a) All foul water network upgrades required to accommodate the additional flows from the development have been completed; or

b) A development and infrastructure phasing plan has been agreed with the Local Planning Authority to allow development to be occupied.

Where a development and infrastructure phasing plan is agreed, no occupation shall take place other than in accordance with the agreed development and infrastructure phasing plan.

REASON: To ensure that the development can be accommodated by suitable drainage infrastructure.

23) No development-related works shall take place until the implementation of a programme of archaeological evaluation and excavation has been secured and undertaken in accordance with a Written Scheme of Investigation which has been submitted to and approved in writing by the Local Planning Authority.

The Written scheme of investigation shall include an archaeological programme including:

a) The programme and methodology of site investigation and recording.

b) The programme for post investigation assessment.

c) Provision to be made for publication and dissemination of the analysis and records of the site investigation.

d) Provision to be made for archive deposition of the analysis and records of the site investigation.

e) Nomination of a registered archaeological contractor to undertake the works set out within the Written Scheme of Investigation.

f) The site investigation shall be completed prior to development, or in such other phased arrangement, as agreed and approved in writing by the Local Planning Authority.

REASON: To ensure the appropriate identification, recording and publication of archaeological and historic remains affected by the development in accordance with Policy 111 of the LP.

24) 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.

c) A Method Statement detailing the depth and type of excavations (e.g. piling) to be undertaken including mitigation measures (e.g. appropriate piling design, off site monitoring boreholes etc.) to prevent and/or minimise any potential migration of pollutants to public water supply. Any excavations must be undertaken in accordance with the terms of the approved method statement.

REASON: To avoid displacing any shallow contamination to a greater depth and to prevent and/or minimise any potential migration of pollutants to a public water supply abstraction.

25) If, during development, contamination not previously identified is found to be present at the site, then no further development shall be carried out until a Remediation Strategy detailing how this contamination will be dealt with has been submitted to and approved in writing by the Local Planning Authority. The remediation strategy shall be implemented as approved with a robust pre and post monitoring plan to determine its effectiveness.

REASON: To ensure that the development does not contribute to unacceptable concentrations of pollution posing a risk to public water supply from previously unidentified contamination sources at the development site and to prevent deterioration of groundwater and/or surface water.

26) Prior to the commencement of development, details of a Surface Water Drainage Scheme that considers ground contamination and public water supply as a receptor of that contamination shall be submitted to and approved in writing by the Local Planning Authority.

REASON: To ensure that adequate protection of human health is maintained and the quality of groundwater is protected in accordance with Policy 84 of the LP.

27) No development shall take place until a Site Waste Management Plan (SWMP) for construction waste arising from the site has been submitted to and approved in writing by the Local Planning Authority. The SWMP shall aim to reduce the amount of waste being produced on site and shall contain information including estimated and actual types and amounts of waste removed from the site and where that waste is being taken to. The development shall be carried out in accordance with the approved SWMP.

REASON: To promote sustainable development and to ensure measures are in place to minimise waste generation and maximise the on-site and offsite reuse and recycling of waste materials, in accordance with Policy 12 of the Hertfordshire Waste Core Strategy and Development Management Policies.

End of Schedule 2 - Conditions for Appeal B

Schedule 3 – Noise condition suggested by the Council for Appeal B only (only to be applied if the Secretary of State considers it would meet the tests for conditions, contrary to the recommendation of the Inspector)

No development above ground level shall take place until a noise assessment has been carried out in accordance with BS8233:2014 Guidance on sound insulation and noise reduction for buildings to establish the potential impact of noise from road traffic, railways, commercial activity, on the proposed development.

Where identified by the noise assessment, to be necessary, a scheme for noise mitigation including sound insulation measures to be incorporated into the design of the proposed development so that the indoor ambient noise criteria described in BS8233:2014 are achieved within all habitable rooms, shall be submitted to and approved in writing by the Local Planning Authority, and implemented prior to the occupation of any of the units.

In general, for steady external noise sources, it is desirable that the internal ambient noise level does not exceed the guideline values set out below:

Internal ambient noise levels for dwellings
Activity Location 0700 to 2300 2300 to 0700
Resting Living room 35 dB Laeq, 16 hour
Dining Dining room/area 40 dB Laeq, 16 hour
Sleeping (daytime resting) Bedroom 35 dB Laeq, 16 hour 30 dB Laeq, 8 hour

The levels shown above are based on the existing guidelines issued by the World Health Organisation.

The LAmax,f for night time noise in bedrooms should not exceed 45dBA more than 10 times a night in bedrooms; this is not included in the 2014 standard but note 4 allows an LAmax,f to be set. 45dBA and over is recognised by the World Health Organisation to be noise that is likely to cause disturbance to sleep.

REASON: To protect the amenities of future occupants of the development and to comply with the requirements of the NPPF.

End of Schedule 3

Department for Levelling Up, Housing & Communities

www.gov.uk/dluhc

RIGHT TO CHALLENGE THE DECISION IN THE HIGH COURT

These notes are provided for guidance only and apply only to challenges under the legislation specified. If you require further advice on making any High Court challenge, or making an application for Judicial Review, you should consult a solicitor or other advisor or contact the Crown Office at the Royal Courts of Justice, Queens Bench Division, Strand,London,WC2 2LL (0207 947 6000).

The attached decision is final unless it is successfully challenged in the Courts. The Secretary of State cannot amend or interpret the decision. It may be redetermined by the Secretary of State only if the decision is quashed by the Courts. However, if it is redetermined, it does not necessarily follow that the original decision will be reversed.

SECTION 1: PLANNING APPEALS AND CALLED-IN PLANNING APPLICATIONS

The decision may be challenged by making an application for permission to the High Court under section 288 of the Town and Country Planning Act 1990 (the TCP Act).

Challenges under Section 288 of the TCP Act
With the permission of the High Court under section 288 of the TCP Act, decisions on called-in applications under section 77 of the TCP Act (planning), appeals under section 78 (planning) may be challenged. Any person aggrieved by the decision may question the validity of the decision on the grounds that it is not within the powers of the Act or that any of the relevant requirements have not been complied with in relation to the decision. An application for leave under this section must be made within six weeks from the day after the date of the decision.

SECTION 2: ENFORCEMENT APPEALS

Challenges under Section 289 of the TCP Act
Decisions on recovered enforcement appeals under all grounds can be challenged under section 289 of the TCP Act. To challenge the enforcement decision, permission must first be obtained from the Court. If the Court does not consider that there is an arguable case, it may refuse permission. Application for leave to make a challenge must be received by the Administrative Court within 28 days of the decision, unless the Court extends this period.

SECTION 3: AWARDS OF COSTS

A challenge to the decision on an application for an award of costs which is connected with a decision under section 77 or 78 of the TCP Act can be made under section 288 of the TCP Act if permission of the High Court is granted.

SECTION 4: INSPECTION OF DOCUMENTS

Where an inquiry or hearing has been held any person who is entitled to be notified of the decision has a statutory right to view the documents, photographs and plans listed in the appendix to the Inspector's report of the inquiry or hearing within 6 weeks of the day after the date of the decision. If you are such a person and you wish to view the documents you should get in touch with the office at the address from which the decision was issued, as shown on the letterhead on the decision letter, quoting the reference number and stating the day and time you wish to visit. At least 3 days notice should be given, if possible.