

Summary of Planning Proof of Evidence of Russell Gray BA (Hons) DIP UP MRTPI

Appeal by Canton Ltd

Land off Bullens Green Lane, Colney Heath

WHBC Appeal Ref: APP/B1930/W/20/3265925

SADC Appeal Ref: APP/C1950/W/20/3265926

Issue

Final

Statement prepared by

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Reviewed by

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Executive Summary

Introduction

- E1 This proof of Evidence addresses planning matters, including the framework of planning policy against which the appeal proposals should be judged at both a local and national level. It sets out the planning balance, including the NPPF paragraph 196 balance in respect of there being less than substantial harm to a designated heritage asset and the ‘very special circumstances’ balance required by paragraph 144 of the NPPF as the site is located in the Green Belt.

The Appeal Site and Surroundings

Site Character

- E2. The appeal site comprises a single, irregularly shaped arable field, approximately 5.25 ha in size. Vehicular access is currently provided via a field access from Bullens Green lane in the north eastern corner of the appeal site.
- E3. A Public Right of Way (FP67/46) also enters the appeal site at the same point as the vehicular field access, running along part of the northern boundary, before heading north west and connecting to FP23. It continues providing a non-vehicular connection to Roestock Lane. FP23 also continues south east running adjacent to the sites boundary, before joining FP44 and running south west through Roestock Park.
- E4. The appeal site is bordered by settlement related uses along the entirety of its northern and western boundaries and on part of its southern and eastern boundaries.
- E5. No. 68 Roestock Lane, which backs onto the northern boundary of the site at its westernmost extent, is a Grade II listed building.

Locational Sustainability

- E6. The facilities plan that is being agreed between the parties following the Inspector’s request at the Case Management Conference shows that the following are located in and around Colney Heath:
- Colney Heath Junior Mixed Infant School and Nursery School;
 - Pre-School Nursery (Treasure Tots Pre-School Ltd);
 - St Marks Church and associated facilities;
 - Colney Heath Village Hall;

- Convenience Store & Post Office (Colney Heath News);
- Public House (The Crooked Billet);
- Takeaway (The Rice Indian Takeaway);
- Cake Shop (Hayley Jane's Cakes - currently shut);
- Hair Salon (Colney Cuts - currently shut due to Covid-19);
- Roestock Park (including Scout and Guide hut);
- Colney Recreation Ground & Social Club;
- Colney Heath Common;
- Red Hall Wood; and
- Numerous Public Rights of Way across surrounding fields.

- E7. There are also a number of other facilities in Hatfield that are accessible by foot via the A1(M) subway within 2km.
- E8. The submitted Travel Plan (CD1.24) demonstrates that there are numerous destinations accessible within a 30-minute cycle from the appeal site, including railway stations at Welham Green, Hatfield and St Albans.
- E9. I also note that the Highways Authority's response to the WHBC on the application states:
"Cycling facilities are adequate with safe routes and access to the national route network. No further information is required for this".
- E10. The facilities plan also indicates the location of bus stops, of which there are 7 (2 of these are on the opposite sides of Tollgate Road) within 10 minutes' walk of the appeal site. The Travel Plan provides detailed commentary on local bus and train services and I consider the appeal site to be well served by these modes.

Extent of the Appeal Site's Contribution to the Green Belt Purposes

- E.11 The appeal site makes no contribution to Green Belt purpose a) *to check the unrestricted sprawl of large built-up areas*, b) *to prevent neighbouring towns merging into one another* and d) *to preserve the setting and special character of historic towns*. The LPAs appear to accept this position.
- E12. In respect of purpose c) *to assist in safeguarding the countryside from encroachment* I consider it necessary to consider how the appeal site relates to the existing settlement and to the countryside. The appeal site adjoins and is wrapped around by the existing settlement of Colney Heath to the north, west and partly to the south. Its relationship with Bullens Green Lane to the east and Fellowes Lane to the south, together with the presence of existing mature landscaping along these boundaries, gives the site a sense of

containment and separation from the wider countryside beyond to the east, south east and south.

- E13. As a consequence, the site's contribution to safeguarding the countryside from encroachment is in fact relatively limited and thus the harm resulting from its development should be reflective.
- E14. In terms of purpose e) *to assist in urban regeneration, by encouraging the recycling of derelict and other urban land*, whilst the appeal site is an agricultural field and makes a contribution towards this purpose, I note that the WHBC Green Belt Study assesses all Green Belt parcels equally in respect of their contribution to this purpose. Both the withdrawn St Albans Local Plan 2020-2036 and the draft Welwyn Hatfield Local Plan have proposed the release of hundreds of hectares of greenfield land from the Green Belt due to the lack of availability of derelict and other urban land.

The Development Plan

Welwyn Hatfield District Plan 2005

Status

- E15. The WHDP was adopted in 2005, some 16 years ago. It is therefore considerably dated, predating even the first version of the NPPF by many years. It only planned for housing up to 2011 and this was based on a Structure Plan housing requirement dating back to 1994. Consequently, for some 10 years now there has been no strategy in place for meeting housing need in the Borough.

The WHBP is Out-of-Date

- E16. It is common ground between the parties that the development plan policies that are "most important" for determining the appeals are deemed out-of-date as a footnote⁷ of the Framework. Neither LPA can demonstrate a five year supply of deliverable housing sites (with the appropriate buffer) even by their own figures; the Appellant's position is that the supplies are even worse (See Emery Planning's 5YHLS Report at Appendix RG2). Furthermore, the Housing Delivery Test results 2020 (CD9.20) confirm that the delivery of housing has been substantially (less than 75%) than the housing requirement over the previous three years. In the case of both LPAs it has been at only 63%, a considerable shortfall, which continues a worrying trend of under delivery of both market and affordable housing in this part of Hertfordshire. I discuss this in greater detail in the following sections of this proof.

Compliance with and weight to be given to Development Plan Policies

- E17. My evidence demonstrates that the appeal proposals comply, or can be compliant at the reserved matters stage, with all of the most important policies in the WHBC, subject to the very special circumstances balance required by paragraph 144 of the Framework and referred to in the supporting text to Policy GBSP2 due to the sites location in the Green Belt. I undertake that exercise in Section 5 of this proof.

St Albans District Local Plan Review 1994*Status*

- E18. The SADLPR was adopted in 1994, some 27 years ago, making it the oldest local plan in the whole country since the introduction of the 1990 Planning Act. As with the WHBP, it predates even the first iteration of the NPPF, by some 18 years in fact. Despite the plan itself acknowledging the need for it to be urgently reviewed (Limb iii of Policy 35) this has not translated into a successful outcome, with SADC having had two unsuccessful attempts at replacing it, both times failing the Duty to Co-operate.
- E19. The housing requirement the SADLPR was prepared to deliver was derived from the Hertfordshire Structure Plan Alterations 1991 and time expired in 2001, some 20 years ago. Therefore, for 2 decades there has been no strategy in place for meeting housing need in the District.

The SADLPR is out-of-date

- E20. Again, it is common ground between the parties that the policies in the SADLPR that are “most important” for determining the appeal are deemed out-of-date as a consequence of footnote⁷ of the Framework. SADC cannot demonstrate a five year supply of deliverable housing sites (with the appropriate buffer) even by their own figures. The Appellant’s position is that the supplies are even worse (See Emery Planning’s 5YHLS Report at Appendix RG2). Furthermore, the Housing Delivery Test results 2020 (CD9.20) confirm that the delivery of housing has been substantially less than the housing requirement over the previous three years, which continues a worrying trend of under delivery of both market and affordable housing in this part of Hertfordshire. I discuss this in greater detail in the following sections of this proof.

Compliance with and weight to be given to Development Plan Policies

- E21. My evidence demonstrates that the appeal proposals comply with, or can comply with at the reserved matters stage, all of the relevant policies and the Plan, read as a whole,

subject to the very special circumstances balance required by paragraph 144 of the Framework and referred to in Policy 1. I undertake that exercise in Section 5.

Material Considerations

The NPPF

The need for up-to-date local plans

- E22. National policy is very clear on the need to keep local plans up-to-date. Paragraph 33 of the Framework confirms that relevant strategic policies will need updating a least once every five years if their applicable local housing need figure has changed significantly. The PPG adds (Reference ID: 61-062-20190315; CD9.17) that to be effective plans need to be kept up-to-date.
- E23. As noted already, the WHBP was adopted in 2005, some 16 years ago and the SADLPR in 1994, 27 years ago. The housing requirement in the WHBC time expired 10 years ago. In the SADLPR, the housing requirement time expired 20 years ago. In both cases, this is clearly contrary to the requirement in national policy to keep development plans up-to-date.

The need for market housing

- E24. The introduction of the first iteration of the Framework in 2012 brought about a radical shift in national planning policy in respect of focusing on meeting housing need. The current version of the Framework retains the key objective of significantly boosting the supply of housing. With paragraph 59 stating:
- “To support the Government’s objective of significantly boosting the supply of homes, 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.”*
- E25. It is common ground between the parties that neither LPA has a five year supply of deliverable housing land against their respective local housing need, calculated using the standard method (base date 21st March 2020) and with a 20% buffer applied. WHBC considers its housing land supply to be 2.58 years in its latest position statement (CD8.01). SADC considers its land supply to be 2.4 years in its position statement (CD8.02).
- E26. The Appellant has updated its 5 Year Housing and Supply Statement (Copy at Appendix 2) following publication of the LPAs’ latest position statements, which post-date the Report submitted with the planning applications. In WHBC, Emery Planning have assessed the

deliverable supply as 1,947 dwellings, compared to the Council's figure of 2,706 dwellings, meaning the supply is 1.85 years, a shortfall of some 3,303 dwellings against the requirement. In SADC, the assessed deliverable supply by Emery Planning is 1,746 dwellings compared to the Council's claimed supply of 2,612 dwellings. By Emery Planning's assessment then the supply is only 1.64 years, a shortfall of 3,612 dwellings against the requirement.

Weight to be given to market housing

- E27. Given the colossal shortfall in the deliverable supply of housing land in both LPA areas the weight to be given to the new market homes that would be delivered as part of the appeal applications (up to 55) should be reflective of the hugely desperate need for new homes in this part of Hertfordshire.
- E28. In allowing a called in application at land to the west of Burley-in-Wharfedale at Sun Lane and Ilkley Road on 3rd March 2021 (CD11.01), which is located in the Green Belt, the Secretary of State and the Inspector both gave very substantial weight to the provision of housing generally, noting also the significant shortfall that exists in the area.
- E29. The main SoCG confirms that the LPAs consider the provision of market housing in these appeals should be given substantial weight. I consider that it should in fact be given very substantial weight in the planning balance following the approach of the Secretary of State in above case and given the huge shortfall of housing in both WHBC and SADC.

The need for affordable housing

- E30. As is demonstrated in detail in the Proof of Evidence of James Stacey and which I do not repeat at length here, there is an irrefutable body of evidence that shows the UK is in the throes of a national housing crisis which has invariably damaged the lives of millions across many generations and social strata, due to their being unable to meet their housing needs, with many many people and families continuing to experience a very real prospect of being subject to unaffordable housing costs.
- E31. Mr Stacey notes that despite very clear acknowledgement of this crisis by previous Governments, as a country we have continued to fail to build enough new homes, particularly affordable homes.
- E32. He points to the widely accepted requirement to build 300,000 homes a year, which is accepted by Government, to meet housing need nationally, a level of house-building output that was last achieved in 1969. He notes that whilst housebuilding rates have

increased since around 2011, they are still a long way short of the 300,000 new homes per annum target, that desperately needs to be met if the housing crisis is to be addressed.

- E33. In respect of affordable housing need in WHBC and SADC, Mr Stacey's evidence is compelling and demonstrates that there is an acute and pressing need for affordable housing in both Welwyn Hatfield Borough and St Albans City and District.
- E34. In WHBC, when comparative analysis is undertaken with net affordable housing delivery since the base date of the 2017 SHMA Update and the full affordable housing needs identified by the SHMA, a shortfall of -4,090 net affordable homes has accumulated in just five years. Even when the 'policy-on' figure of 160 affordable dwellings per annum over the period is used, in that same period there is still a shortfall of -687 affordable dwellings.
- E35. The scale of the affordability problem that WHBC is facing is evident. Were the backlog to be addressed within the next five years (the 'Sedgefield Method') it would require delivery of 1,397 affordable homes per annum, yet delivery over the past five years has amounted to just 23 net affordable dwellings per annum.
- E36. Within St Albans, in the period since 2012/13 a total of 244 net affordable homes have been delivered at an average rate of just 35 net per annum. When compared with the objectively assessed need for a least 617 affordable dwellings per annum over the same period, a shortfall of some -4,075 affordable homes compared to the need has resulted.
- E37. Were this backlog to be addressed within the next five years using the Sedgefield approach, there would be a need for 1,185 affordable dwellings per annum. As noted this compares to an actual rate of delivery over the period since 2012/13.

The consequential impact on affordability

- E38. Unsurprisingly, given this dreadful performance in delivering both market and affordable homes, the affordability indicators in both LPA areas paint a depressing picture. Mr Stacey covers this in detail in his proof, however, I note some of the key findings in the following paragraphs.
- E39. Mr Stacey has found that the average house price to average income ratio in Welwyn Hatfield increased from 11.9 in 2015/16 to 15 in 2018/19 (a 26% increase) based on the National Housing Federation (NHF) Home Truths report. In St Albans the same ratio increased from 10.5 in 2013/14 to 13 in 2018/19.
- E40. He found the lower quartile affordability position (typically considered to be the 'more affordable' segment of the housing market) is similarly bleak in both LPA areas, but particularly so in St Albans. In WHBC the lower quartile house price to incomes ratio is

shown to have increased by 27% from 9.08 in 2015/16 to 11.54 in 2019/20. In St Albans the lower quartile house price to income ratio has increased by 24%, from 13.23 in 2013/14 to 16.92 in 2019/20.

- E41. With regard to the LPA's Housing Registers, Mr Stacey points out that at 1st April 2020 there were a total of 2,286 households on WHBC's Household Register and at February 2021 there were 532 households on St Albans. He also points to the fact that since the changes introduced by the Localism Act 2011, which allow Local Housing Authorities to set their own Housing Register criteria, St Albans have published new Housing Allocations Policies, reducing eligibility so that fewer and fewer people are eligible to join the register. He adds that such an approach does not reduce the need for affordable housing, it simply makes it even harder for those unable to access open market housing to find a suitable place to live.
- E42. In Welwyn Hatfield, Mr Stacey's evidence shows that there were 98 households being housed in temporary accommodation within the Borough and a further 13 outside it at 1st April 2020, a 7% increase on the previous year.
- E43. Mr Stacey concludes by noting that by any measure of affordability, both St Albans and Welwyn Hatfield are authorities in the midst of an affordable housing crises, which requires urgent action. It should not be forgotten that all of these statistics relate to real people and families.

Weight to be given to affordable housing provision

- E44. Having regard to Mr Stacey's evidence referred to above and to the recent Secretary of State appeal decisions at Cheadle Hulme, Stockport (CD11.03, Oxford Brookes University Wheatley Campus (CD11.02 and Burley-in-Wharfedale (CD11.01), where he gives the provision of affordable housing very substantial weight, I consider that the provision of affordable housing here should also be given very substantial weight.

The need for self-build

- E45. The Proof of Evidence of Andy Moger covers in detail the evolution of national policy on self and custom build housing. He notes that paragraph 59 of the current Framework places a requirement on LPAs to make sufficient provision of land with permission without delay to meet the needs of different groups.
- E46. Paragraph 60 sets out that in determining the minimum number of homes needed, strategic policies should be informed by a local housing need assessment. Paragraph 61 goes on to state that within this context, the size, type and tenure of housing needed for

different groups should be assessed and reflected in policy, including “people wishing to commission or build their own homes”.

- E47. Neither WHBC, nor SADC has an adopted policy specifically related to the provision or delivery of self-build and custom housebuilding. Again, this is reflective of how dated both plans are. Mr Moger also points out that the most recent assessments of housing need in both LPAs provide no evaluation of likely future demand for self-build in their areas.
- E48. He goes on to demonstrate a shortfall in provision in both LPA areas. WHBC now has until 30 October 2021 to address the shortfall from the Base Periods 1 and 2 of 249 plots, together with demand for a further 68 plots that arose within Base Period 3, meaning 317 plots are needed. SADC has until 30 October 2021 to address the combined shortfall of 176 plots, together with demand for a further 104 plots that arose within Base Period 3, meaning a total of 280 plots are required.
- E49. Mr Moger concludes that the 10% provision of serviced plots for self-build and customhouse building included in the appeal proposals (up to 10 units) will contribute towards helping to address the identified need and addressing the shortfalls in both LPA areas and that nothing less than substantial weight should be afforded to this provision.

Green Belt

- E50. It is acknowledged that any harm to the Green Belt should be given substantial weight as mandated by paragraph 144 of the Framework. Before the very special circumstances balance can be undertaken it is necessary to understand the nature of the harm to the openness of the Green Belt and purposes of including land in it set out at paragraph 134 of the Framework, having regard to the contribution the site makes to those purposes in its current state, which is set in out Section 2.
- E51. Gary Holliday covers the visual aspect of the proposed development’s impact on openness in his Proof of Evidence. He acknowledges that within the site itself, there will inevitably be a loss of openness in a visual sense, as an agricultural field will be replaced by housing. However, he also notes that the scheme includes some mitigation measures, with the illustrative layout (CD2.03) and landscape strategy plan (CD2.04) indicating retained and new footpaths across the site, set within new landscaping and greenspace and kept free from
- E52. Overall Mr Holliday considers the site to be wrapped around by the existing settlement to a high degree and that it has a very limited role as part of the wider open countryside. He identifies that the effects on the wider area are much more limited, with the photo viewpoints in the LVA (CD1.29) and appended to his proof, demonstrating this. He

concludes that in terms of impact on visual openness, there would be a limited effect beyond the boundaries of the site itself.

- E53. Therefore, whilst there would inevitably be a loss of openness in visual terms here, from the development of houses on an open agricultural field, the impact of that loss is minimised to a very local area, thus limiting the extent of the harm involved.
- E54. In terms of the spatial dimension of openness, I acknowledge there would clearly be a loss of openness spatially from development on what is currently an open field, however again I consider this to be limited by the appeal sites relationship with the existing settlement of Colney Heath. As has been described already, it is wrapped around by the settlement to the north, west and partly to the south, which gives it a sense of enclosure spatially. I also consider it to be highly contained by its relationship with both Bullens Green Lane and Fellowes Lane, with these roads forming the sites outer boundaries to the east and south, and therefore having the effect of physically containing the site, a sense that is furthered by the extent of landscaping along the site's frontages with these roads. This also adds to the site's containment spatially.
- E55. This containment and relationship with the existing built form of Colney, along with the separation from wider open and non-developed land to the east, south east and south would limit the harm in terms of the spatial dimension of loss of openness, from development of the site. I also consider that the proposed landscaping along the sites eastern and southern boundary would assist with this by adding to the sites containment and create a soft transition to open Green Belt Land beyond.
- E56. I turn now to impact on the purposes of including land in the Green Belt at paragraph 134 of the Framework. In assessing this regard needs to be had to the contribution that the site makes to the purposes of including land within the Green Belt. I set out my position on this in Section 2 of this proof, noting that I consider the site makes no real contribution to purposes, a), b) and d) and that this is corroborated by the Councils' own evidence based prepared to support the WHLP and the withdrawn St Albans Local Plan.
- E57. In terms of Green Belt purpose c) 'to assist in safeguarding the countryside from encroachment' in Section 2 I again highlighted the appeal sites relationship with the surrounding settlement, which wraps around it to the north, west and partly to the south, and also level of containment created by Bullens Green Lane and Fellowes Lane, which help separate it from the wider countryside beyond. I set out my position, that the combined effect of this means that the sites contribution to this purpose is actually relatively limited.

- E58. Consequentially, I consider the harm from the loss of what is currently an agricultural field to residential development is reduced and I disagree with the LPAs' suggestion in the SoC that the encroachment is substantial when properly considered in context. Whilst I acknowledge there would clearly be encroachment, the impact of that is largely limited to the appeal site in terms of loss of openness both spatially and visually because of the site's physical relationship with Colney Heath, because of the extent of containment created by its relationship with Bullens Green Lane and Fellowes Lane, including the landscaping along their frontages, which separate the site from the open countryside beyond give the sense of containment both Mr Holliday and I have referred to and as is demonstrated by the evidence of Mr Holliday, because the visual appreciation of loss of openness is very much limited to the site and its immediate confines, rather than extending to wider views from a broader surrounding area.
- E59. Whilst development of the site would not assist urban regeneration by encouraging the recycling of derelict and urban land, the harm associated must be diminished by the lack of availability of such land in the area. The Inspector's Interim Report on the WHLP (CD6.02) confirms at paragraphs 45 and 46 that insufficient land within the existing developed areas of the district exists to meet housing need and that there are exceptional circumstances for releasing Green Belt to meet housing need.
- E60. In addition, I would also point out that the scale of the site is such that its development is not large enough that it would have the effect of preventing the recycling of urban/brownfield and in the area, for example by saturating the housing market, particularly given the substantial shortfall in housing evidenced above. This further reduces the harm to this Green Belt purpose from development of the site in my view.

Draft Welwyn Hatfield Local Plan 2016 - 2036

- E61. According to WHBCs website, preparation on the evidence base for this Local Plan commenced in 2005 following adoption of the current Local Plan. That is some 16 years ago, an inordinate amount of time, even for plan-making in this country.
- E62. It was eventually submitted for examination on 17th May 2017. Despite this being nearly 4 years ago, the examination remains ongoing, with Stage 9 hearing sessions having taken place in February and March 2021.
- E63. It is still far from a certainty that the WHLP will be found sound. The Inspector's Interim Report (IR; CD6.02) setting out his preliminary conclusions and advice outlines that a number of questions and also fundamental concerns over the soundness of the Plan remain, despite the length of time the examination has been ongoing. The correspondence

between the examining Inspector and WHBC, does suggest that that is in no small part down to the reluctance of the Council to address the former's concerns.

- E64. The fact that a draft Plan that has been so long in the making and whose passage through examination has been so drawn-out already, remains seemingly so far from being in a position whereby the Inspector can conclude that it is sound does seem to epitomise the inability of plan-making in this area to address the acute challenges faced by the Council, particularly in respect of desperate need for new housing and the consequential affordability issues that are manifest and that I have documented above with reference to Mr Stacey's evidence.
- E65. In respect of the weight to be given to WHLP, the SoCG confirms that the main parties are in agreement this should be "limited" due to the stage of the Plan and the fact that there remain outstanding concerns over such fundamental matters as the FOAHN and the housing supply.

Planning Balance

Heritage Balance (NPPF Para. 196)

- E66. It is common ground between the main parties that the appeal would cause less than substantial harm to the significance of the grade II listed dwelling at no. 68 Roestock Lane due to a change to its wider setting, although the parties disagree on where on that spectrum the harm actually sits. The LPAs suggest the harm is low - medium. Mr Crutchley's evidence for the Appellant demonstrates it is actually at the very bottom on of the less than substantial harm spectrum.
- E67. The LPAs' Statement of Case now accepts that the public benefits of the scheme, particularly in respect of providing housing, outweigh even its higher assessment of low - moderate harm to the setting of this heritage asset, and that if this were the only harm identified from the appeal scheme I would not justify a refusal. The NPPF para. 196 balance is passed therefore.

Very Special Circumstances Balance (NPPF Para. 144)

- E68. It is common ground that the appeal proposal constitutes inappropriate development in the Green Belt, which is by definition harmful. It therefore needs to be assessed using the very special circumstances balance at paragraph 144 of the Framework.
- E69. Having regard to my assessment of the contribution the site currently makes to the Green Belt purposes, I also conclude that there would be limited harm to the purpose of safeguarding the countryside from encroachment, again due to its relationship to Colney

Heath, its level of containment generally and the sense of separation from the wider countryside this gives. WHBC's Green Belt Study Stage 3 acknowledges in its assessment of the wider parcel of land that part of the site lies within, that the impact upon the integrity of the wider Green Belt from its development would be limited.

- E70. Whilst there would also be harm in terms of purpose e), I consider this should be reduced on account of the lack of available previously developed land in area and also as development of the appeal site is not of a scale that it would prejudice such sites from coming forward in the future if they do become available.
- E71. Therefore, whilst substantial harm must be given to inappropriate development in the Green Belt, that harm in this case is limited by the particular characteristics of the site and its relationship with the adjoining settlement and countryside.
- E72. To this harm then needs to be added any other harm resulting from the appeal proposal. I have acknowledged above, that there would be 'less than substantial harm' to the significance of a heritage asset and Mr Crutchley's evidence demonstrates that this harm is at the very bottom end of that spectrum. Mr Holliday's evidence demonstrates that there would be a moderate landscape impact at the year of completion, but this would reduce over time as proposed green infrastructure matures, strengthening existing tree belts and hedgerows along Bullens Green Lane and Fellowes Lane, to a moderate/minor landscape effect. There would also be limited economic impact to agricultural production from the loss of what is a small arable field.
- E73. In my view, this harm is clearly outweighed by other considerations in this case, which have been set out in detail in the preceding sections. These considerations include the fundamental failure in plan-making in this area and the inability of the two LPAs in question to bring forward an up-to-date plan to meet housing and other needs as required by the NPPF.
- E74. Whilst I acknowledge that each case had its own unique set of very special circumstances (as is always the case by the very nature of the balancing exercise required), the commonality in the Secretary of State decisions in the Green Belt referred to at Burley-in-Wharfedale (11.01), Oxford Brookes University Wheatley Campus (CD11.02), and Cheadle Hulme, Stockport (CD11.03) is that each case involved a LPA where plan-making had been either considerably delayed or was very problematic. The same was also the case in the York decision (CD10.05), which not a Secretary of State case, also involved development in the Green Belt where there was not an up-to-date plan. As I have outlined in detail, York aside, SADC has the oldest local plan in the country and has failed twice now in

attempts to replace it. WHBC's attempt to replace its 2005 local plan shows now sign of being close to a sound verdict, despite its examination commencing nearly 4 years ago.

- E75. A direct consequence of this failure in plan-making is that both LPAs have appalling track-records in terms of delivering housing, achieving only 63% of the delivery required in the latest Housing Delivery Test results (CD9.20). Both also have substantial shortfalls in their respective 5 year housing land supplies by their own admission. The updated Report prepared by Emery Planning for the Appellant included at Appendix 2 demonstrates that the position is worse even than that claimed by the LPAs, with WHBC having only 1.85 years supply and a current shortfall of some 3,303 dwellings and SADC only 1.64 years supply and a shortfall of 3,612 dwellings.
- E76. The aforementioned failures in plan-making mean that the only mechanism for resolving these supply positions in the foreseeable future is through applications for windfall developments such as this. As noted in the preceding Section, given the diabolical housing supply position that exists here, I consider that the provision of market housing at the site should be given very substantial weight, in doing so I referred to the fact that the Secretary of State afforded the contribution to market housing supply that level of weight in the Burley-in-Wharfedale appeal (CD11.01) where a similar shortfall existed.
- E77. We have a housing crisis nationally, which is the consequence of a failure, year on year extending back decades, to build enough homes in the places they are needed, a situation that has been acknowledged by successive Governments. As is demonstrated unequivocally in Mr Stacey's proof of evidence there are acute affordability issues in both of these LPA areas, which exhibit some of the worst affordability ratios anywhere in the country.
- E78. Again this is a situation that has come about directly from lack of delivery year after year and through a lack of deliverable supply. Mr Stacey demonstrates that in WHBC there is a net shortfall of 4,090 affordable homes and in SADC, the shortfall is 4,075 affordable home. Given this situation the affordable housing provision from the scheme (45%), which is above the policy requirements of both LPAs, should be given very substantial weight.
- E79. Mr Moger's evidence demonstrates that there is also a pressing for self-build and custom housebuilding plots in both LPA areas to meet their statutory duty and that the contribution the appeal scheme would make should be attributed substantial weight.
- E80. There are other benefits to the scheme, such as the achievement of a net gain to biodiversity, as acknowledged by the County Ecologist (See Appendix 3), provision of additional footpaths and new landscaped areas and the economic boost to the local

economy that would result both from the short term construction period and through the new custom residents would bring to the area.

- E81. In conclusion then, the other considerations in this case clearly outweigh the limited harm to the Green Belt that would result, together with the other harm identified above. Very special circumstances therefore exist and justify the granting of planning permission.

Para 11d(ii) - The tilted balance

- E82. It is common ground between the parties that the tilted balance at paragraph 11d) of the Framework is engaged in these appeals as neither LPA, by their own admission, can demonstrate a five year housing land supply. Furthermore, both only achieved 63% of the required housing delivery in the 2020 Housing Delivery Test.
- E83. I have demonstrated above that limb i. of paragraph 11d) does not apply as neither heritage nor Green Belt provides a clear reason for reusing the development proposed. In the case of heritage the public benefits far outweigh the harm. In the case of Green Belt, the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the appeal proposal, is clearly outweighed by other considerations.
- E84. Limb ii. under paragraph 11d) requires an assessment as to whether any adverse impacts of granting permission for the development, would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework, taken together.
- E85. It follows from the very special circumstances balance already undertaken above that the harm resulting to from the scheme (both to the Green Belt and other harm), which I have acknowledged and set above, and do not repeat here, is clearly outweighed by other circumstances here and therefore that harm does not significantly and demonstrably outweigh the benefits of the scheme, also outlined above and note repeated here.
- E86. Therefore, in accordance with the tilted balance, planning permission should be granted.

S.38(6) balance

- E87. Having regard to all of the above, if my position on the balance required by paragraph 144 of the Framework is supported, and it is accepted that very special circumstance exist for development in the Green Belt, then the conclusion should also be that the appeal proposals comply with the development plans when read as a whole. Both refer to the very special circumstances exception for development in the Green Belt.

- E88. In Section 3 above, I have demonstrated that the appeal proposal complies with the other most important policies for the determination of the appeals in the respective plans and the plans taken as a whole. There are no material considerations that warrant a decision other than in accordance with the development plans in these circumstances and planning permission should be granted.



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