

Appeals in relation to:
Land off Bullens Green Lane, Colney Heath

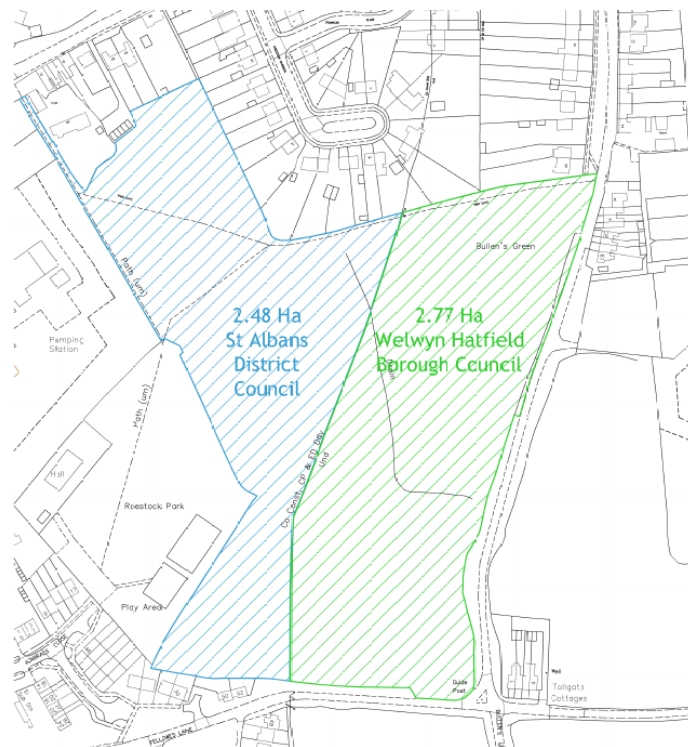
Main Statement of Common Ground between Canton
Ltd, Welwyn Hatfield Borough Council and St Albans
City & District Council

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

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

1 Appeal References

1.1 This Statement of Common Ground (“SoCG”) relates to two linked appeals submitted by Canton Ltd (“The Appellant”) in respect of land off Bullens Green Lane, Colney Heath (“The appeal site”). The site straddles the boundary between Welwyn Hatfield Borough Council (“WHBC”) and St Albans City & District Council (“SADC”), as indicated by Figure 1 below. Separate but identical outline applications were submitted to both Local Planning Authorities and this is the reason there are two appeal references here.



1.2 The two appeal references are as follows:

- WHBC - APP/B1930/W/20/3265925; and
- SADC - APP/C1950/W/20/3265926.

2 Site Address

- 2.1 The appeal site address is “*Roundhouse Farm, Land off Bullens Green Lane, Colney Heath, Hertfordshire*”.

3 Agreed Description of Development

- 3.1 The parties agree that the following description of development accurately describes the proposals:

“Outline planning application for a residential development of up to 100 dwellings, including 45% affordable and 10% self or custom build, together with all ancillary works (All matters are reserved except access).”

4 List of Plans Informing the Council's Decision

4.1 The parties agree that the following plans and documents comprises the latest iterations of plans and documents that informed WHBC's decision to refuse the grant of planning permission and upon which SADC determined that had they been in a position to do they would have refused planning permission.

Application Plans

- 17981 1002 - Site Location Plan (CD1.04);
- 17981-1003 District Boundary Line Plan (CD1.05);
- 17981 1004 - Land use Parameters Plan (CD1.06);
- 17981 1005 - Illustrative Site Layout Plan (CD1.07);
- 17981-7-855 Topographic Survey Overall Plan (CD1.08);
- 17981-7-851 Topographic Survey 1 (CD1.09);
- 17981-7-852 Topographic Survey 2 (CD1.10);
- 17981-7-853 Topographic Survey 3 (CD1.11);
- 17981-7-854 Topographic Survey 4 (CD1.12);
- Landscape Strategy Plan (CD1.13); and
- 18770-FELL-5-500 A - Access Plan (CD1.14).

Application Documents

- Planning application forms (CD1.01 & CD1.02);
- Planning Statement (CD1.15);
- Housing Land Supply Statement (CD1.16);
- Affordable Housing Statement (CD1.17);
- Preliminary Ecological Appraisal (CD1.18);
- Archaeological Assessment & Heritage Statement (CD1.19);
- Design & Access Statement (CD1.20);
- Noise Assessment (CD1.21);
- Tree Survey & Arboricultural Impact Assessment (CD1.22);
- Transport Assessment (CD1.23);
- Travel Plan (CD1.24);
- Utilities & Foul Assessment (CD1.25);

- Flood Risk Assessment & Surface Water Drainage Strategy (CD1.26);
- Site Investigation Report (CD1.27);
- Agricultural Land Classification Report (CD1.28);
- Landscape & Visual Impact Assessment (CD1.29); and
- Self and Custom Build Housing Statement (CD1.30).

5 List Of New Plans And Documents Not Previously Seen Or Consulted On By The LPAs

5.1 The Appellant has produced a number of amended plans and documents due to a need for an alternative pedestrian access at the southern end of the site to that proposed in those submitted with the application connecting to Roestock Park, as it has not been possible to reach agreement with Colney Heath Parish Council, who have a long-term lease on the park, over this point of connection.

5.2 These updated plans and documents are as follows:

- 18770-FELL-5-501 Rev A - Proposed Footpath Connection (CD2.01);
- 17981/1004 Rev E - Proposed Parameters/Schematic Plan (CD2.02);
- 17981/1005 Rev F - Proposed Illustrative Layout (CD2.03);
- Landscape Strategy Plan Rev B (CD2.04); and
- Updated Arboricultural Assessment (CD2.05).

5.3 The only amendments made to the Parameters Plan, Illustrative Layout and Landscape Strategy Plan are to reflect this alternative pedestrian access onto Fellowes Lane. The Arboricultural Assessment has been updated to cover any impact on trees from the creation of the pedestrian access and the section of footpath proposed on Fellowes Lane within Highways controlled land.

5.4 Since the appeals were lodged, further additional information has been submitted to the LPAs seeking to address some of the reasons for refusal. This comprises the following:

- Transport Assessment Addendum (CD2.06);
- 18770-FELL-5-500 Rev B - revised Site Access (CD2.07);
- 18770-FELL-5-502 - Refuse Vehicle Tracking (CD2.08);
- 17981/1008 - Building heights limit parameters plan (CD2.09);
- Updated Ecological Impact Assessment (CD2.10); and
- Archaeological Trial Trenching Report (CD2.11).

- 5.5 The Appellant is undertaking a consultation exercise on these amended and additional plans and documents, having discussed the scope of this with the LPAs. Responses to this consultation exercise will be submitted to the Inquiry. WHBC and SADC do not object to the Inspector considering the appeal on the basis of the amended plans, given the minor nature of the changes, or the updated supporting material. The parties agree that it is for the Inspector to determine whether the inclusion of the additional and replacement information and plans would lead to prejudice to any parties having regard to the Wheatcroft principles.
- 5.6 Detailed matters such as layout, scale, appearance and landscaping are reserved matters to be agreed at a later stage.
- 5.7 The relevant plans upon which the decision should be made are therefore as follows:
- 17981 1002 - Site Location Plan (CD1.04);
 - 18770-FELL-5-500 Rev B - Revised Site Access (CD2.07);
 - 18770-FELL-5-501 Rev A - Proposed Footpath Connection (CD2.01);
- 5.8 The following plans are also offered for consideration by the Appellant and could be the subject of a suitably worded condition:
- 17981/1004 Rev E - Proposed Parameters/Schematic Plan (CD2.02); and
 - 17981/1008 - Building heights limit parameters plan (CD2.09).

6 Relevant Planning History

6.1 Both parties agree that the below list comprises of the appeal site's planning history:

- Application Reference: S6/1980037/OP
 - Decision: Refused and Appeal Withdrawn
 - Decision Date: 10 April 1987
 - Proposal: Site for Residential Development
- Application Reference: S6/1986.0225/FP
 - Decision: Refused and Appeal Withdrawn
 - Decision Date: 31 July 1986
 - Proposal: Site for Residential Development
- Application Reference: E6/1973/3202/ (CD10.1)
 - Decision: Refused and Appeal Dismissed
 - Decision Date: 15 October 1973
 - Proposal: Site and layout for 141 dwelling houses with garages (12.8 acres)
- Application Reference: E6/1966/0202/
 - Decision: Refused
 - Decision Date: 9 March 1966
 - Proposal: Site for Residential Development
- Application Reference: E6/1954/0860/ (CD10.2)
 - Decision: Refused and Appeal Dismissed
 - Decision Date: 21 October 1954
 - Proposal: Site for Residential Development

7 List Of The Most Important Development Plan Policies For Determining The Application

7.1 In accordance with Section 70(2) of the Town and Country Planning 1990 and Section 38(6) of the Planning and Compulsory Purchase Act 2004, local planning authorities and other decision makers should first have regard to the development plan; the determination shall be made in accordance with the plan unless material consideration indicates otherwise. Paragraph 11 of the NPPF states that development proposals that accord with the development plan should be approved without delay, and paragraph 12 states that a planning application which conflicts with an up-to-date development plan should not usually be granted.

Welwyn Hatfield

7.2 The adopted development plan for WHBC currently comprises of the saved policies of the Welwyn Hatfield District Plan 2005 (WHDP).

7.3 The parties agree that the following policies are relevant for the purposes of this appeal having been referred to in the reasons for refusal:(Copies provided at CD 5.01):

- SD1 - Sustainable Development
- R1 - Maximising the use of previously developed land
- R11 - Biodiversity and Development
- R29 - Archaeology
- M1 - Integrating Transport and Land Use
- M5 - Pedestrian Facilities
- M9 - Bus and Taxi Facilities
- IM2 - Planning Obligations
- H2 - Location of Windfall Residential Development
- H7 - Affordable Housing
- D1 - Quality of Design
- D2 - Character and Context
- RA10 - Landscape Regions and Character Areas
- RA11 - Watling Chase Community Forest
- GBSP2 - Towns and Specified settlements

7.4 The parties agree that of the above, SD1, R1, H2, D2, RA10, RA11 and GBSP2 are most important policies for the determination of this appeal.

- 7.5 WHBC also consider policy D1 to be most important and ahead of the completion of a satisfactory obligation and resolution of biodiversity and highway issues, policies R11, M1, M5 M9 and IM2 to be most important policies. The Appellant does not.
- 7.6 The parties are continuing to work together on issues of highways and S106 Agreement that may result in further refinement of the most important policies for the purposes of this appeal.

St Albans

- 7.7 The adopted development for SADC is the St Albans District Local Plan Review 1994 (SADLPR).
- 7.8 The parties agree that the following saved policies are relevant for the purposes of this appeal having been referred to in the putative reasons for refusal (Copies provided at CD5.02):

POLICY 1 - Metropolitan Green Belt
POLICY 2 - Settlement Strategy
POLICY 7a - Affordable Housing in Towns and Specified Settlements
POLICY 34 - Highways Considerations in Development Control
POLICY 69 - General Design and Layout
POLICY 70 - Design and Layout of New Housing
POLICY 74 - Landscaping and Tree Preservation
POLICY 86 - Buildings of Special Architectural or Historic Interest
POLICY 106 - Nature Conservation
POLICY 111 - Archaeological Sites
POLICY 143b - Implementation

- 7.9 The parties agree that of the above, policies 1, 2, 69 and 86 are most important policies for the determination of this appeal.
- 7.10 SADC also consider, ahead of the completion of a satisfactory obligation and resolution of biodiversity and highway issues, policies 7a, 34, and 143b to be most important policies. The Appellant does not.
- 7.11 The parties are continuing to work together on issues of highways and S106 Agreement and that may result in further refinement of the most important policies for the purposes of this appeal.

8 Other Relevant Planning Policy / Guidance / Material Consideration

National Planning Policy Framework (2019)

- 8.1 The revised NPPF came into effect in February 2019 and is a material consideration in the determination of all planning applications. Paragraph 3 of the NPPF confirms that the Framework should be read as a whole, including all footnotes and annexes.
- 8.2 The evidence of the parties will make reference to the NPPF.

Planning Practice Guidance (PPG)

- 8.3 The Planning Practice Guidance was first published in March 2014 and is a material consideration. It will be referred to in proofs of evidence where appropriate.

Emerging Welwyn Hatfield Local Plan 2016 - 2036 (WHLP)

- 8.4 The emerging WHLP was submitted for examination on 15th May 2017. The Inspector examining the Plan published an Interim Report dated 16th October 2020 (CD6.01), which confirmed that there remains a number of outstanding soundness issues. It set a series of deadlines for the submission of further information to try and overcome these concerns.
- 8.5 At the time of agreeing this statement, the position is that further hearings on the additional information submitted, which relates to matters including, implications of the 2018 household projections on the objectively assessed housing need, windfall, Green Belt and additional sites', were to be held during week commencing 22nd February 2021.
- 8.6 The appeal site was not promoted at the as part of any Call for Sites and will not be discussed at the forthcoming Hearing session.
- 8.7 The parties will provide an update on the progress of the emerging WHLP through the agreement of an addendum to this SoCG and/or in evidence.
- 8.8 The following draft policies are considered relevant to the reasons for refusal in respect of this appeal: SP1, SP3, SADM1, SP4, SADM15, SADM16, SP13 and SADM34 (Copies provided at CD6.02)

8.9 It is agreed that the policies of the WHLP should carry only limited weight in the determination of this appeal.

St Albans Emerging Local Plan

8.10 There is not an emerging Local Plan for St Albans at a stage where draft policies have been published that would be a material consideration at this appeal.

9 Areas Where The Parties Are Working Together

9.1 As noted in Section 5, since these appeals were submitted further additional information has been submitted to the LPAs seeking to address some of the reasons for refusal. This is explained below and the position at the time of agreeing this statement is set out.

Highways

9.2 In response to RfR on highways (Reason 3 of WHBC's DN (CD4.01) and putative Reason 4 as set out in the SADC Officer's Report to its Planning Referrals Committee (CD4.02) the following additional information has been submitted to the Councils who are consulting with Hertfordshire County Council as Local Highway Authority.

- Transport Assessment Addendum (CD2.06);
- 18770-FELL-5-500 Rev B - revised Site Access (CD2.07); and
- 18770-FELL-5-502 - Refuse Vehicle Tracking (CD2.08).

9.3 Hertfordshire County Council has requested a Stage 1 Safety Audit be undertaken on the proposed footway to be created within the highway of Fellowes Lane. This is in the process of being carried out and an update will be provided either in an Addendum to this SoCG, or in a separate Highways SoCG, prior to, or at the Inquiry.

Archaeology

9.4 Since the applications were originally submitted further archaeological investigation has taken place at the site, including the completion of Geophysical Survey on areas previously not surveyed and trial trenching in locations agreed with the archaeological advisers for the two LPAs. A trial trenching report (CD2.11) has been submitted and subject to the inclusion of pre commencement condition(s) to ensure further archaeological investigation takes place prior to development commencing, the parties agree that this addresses RfR 7 of WHBC's DN and putative RfR 7 set out in the SADC Officer's Report to its Planning Referrals Committee. Therefore the parties agree that a pre commencement condition is necessary and meets the tests of NPPF paragraph 55 and on that basis evidence will no longer need to be presented to the inquiry.

The parties will seek to agree the wording of a suitable condition(s) and will include this in the schedule of conditions to follow.

Ecology

- 9.5 An updated Ecological Impact Assessment (CD2.10) has been submitted to the Councils and considered by their respective Ecology Officers. The parties agree, subject to imposition of suitably worded conditions, that this addresses the first part of RfR 6 of WNDC's decision notice (CD4.01) and SADC's putative RfR 6 (CD4.02).
- 9.6 With regard to offsetting Biodiversity losses and providing net gains the parties are looking to resolve the position through the inclusion of a CIL compliant obligation in the S106 Agreement requiring a scheme for compensatory provision for the biodiversity units lost at the appeal site should the appeal be allowed. The parties agree that a mechanism to achieve the compensatory off site provision is necessary.

Planning Obligations

- 9.7 A Section 106 undertaking has been provided and the parties are in the process of discussing its provisions and the agreed Draft Heads of Terms below. Provision of a satisfactory undertaking to secure delivery of the necessary infrastructure as well as the 45% affordable housing proposed will address RfR 8 of WHBC's DN and SADC's putative RfR 8.
- 9.6 The parties agree that the following infrastructure is necessary to make the proposed development acceptable should all other matters be resolved, discussion about the quantum of contributions and the formulae to secure such provisions is anticipated to result in a further statement setting out areas of agreement and disagreement.

- Affordable Housing at 45% plus appropriate tenure split
- Open space/Green space;
- Play spaces;
- Community facilities;
- Local indoor and outdoor sports facilities; and
- Waste and recycling
- Library Service (towards the enhancement of Hatfield Library);

- Youth Service (towards the increase of capacity at Hatfield Young People's Centre);
- primary education;
- secondary education; and
- fire hydrants
- NHS and Health Care
- Management of Open Space on site
- Travel Plan and monitoring fee
- Off-site highway works
- Off-site sustainable transport improvements
- Biodiversity Off Site Contribution
- Monitoring Fee

10 Areas of Agreement

Green Belt

- 10.1 The proposals would comprise inappropriate development and would not benefit from any of the exceptions in paragraph 145 NPPF.
- 10.2 The loss of the existing open agricultural field to a development of up to 100 dwellings would comprise a loss of openness in both a visual and spatial context.
- 10.3 The development of open countryside for 100 dwellings would lead to encroachment into the countryside
- 10.4 Any harm to the Green Belt should be given substantial weight as set out in paragraph 144 of the NPPF.
- 10.5 Inappropriate development should not be approved except in very special circumstances, which will not exist unless the harm by way of inappropriateness and any other harm is clearly outweighed by other considerations.
- 10.6 The planning balance is required to be undertaken having regard to the Green Belt balance and in the context of footnote 6 NPPF Green Belt policy is capable of providing a clear reason for refusing the development proposed, unless it is found that very special circumstances exist.

Status of Development Plan

- 10.7 Both the WHDP (2005) and the SADLPR (1994) predate the current and previous versions of the NPPF.
- 10.8 The housing requirements in both plans do not amount to an assessment of housing need in accordance with the NPPF (2019).
- 10.9 The policies which are most important for determining the appeal applications are out-of-date by virtue of footnote ⁷ of the NPPF.

Housing Land Supply and Housing Delivery Test

- 10.10 Neither Council can demonstrate a five year housing land supply. The Councils consider their housing land supply position to be 2.4 years (SADC) and 2.58 years (WHDC). The Housing Land Supply Report submitted with the applications suggested the positions to be 1.36 years (SADC) and 2.02 years (WHDC) respectively. The Appellant will provide an updated position on the extent of the shortfall having regard to the LPAs latest position statements, which post-date the Housing Land Supply report submitted with the application, however, the figures are expected to be broadly similar to those in the submitted Housing Land Supply Report.
- 10.11 The 2020 Housing Delivery Test (“HDT”) results were published on 19th January 2021 and confirm that the presumption in favour of sustainable development is engaged in both LPA areas, with WHBC’s result 63% and SADC’s also 63%.

Contribution to Housing Supply

- 10.12 The parties agree that whether the Councils housing supply position or that of the Appellant is used significant weight should be given to the provision of housing. The Appellant now considers the weight to be given should be very substantial.
- 10.13 The parties agree that the proposed 45% affordable housing provision in each Council area exceeds the 35% policy requirement of both Councils and such matters. The Appellant considers that this should carry very substantial weight. The Councils consider it carries substantial weight.
- 10.14 In this context the parties agree that it is not necessary to examine the quantitative housing supply evidence at the Inquiry.

Self and Custom Build

- 10.15 10% of the houses in each of the LPAs area are proposed to be self and custom build housing contributing towards the need for such housing in both LPA areas.

Landscape

- 10.16 The parties agree that the site is not a valued landscape under the NPPF 170 and no other landscape designations relate to the appeal site.
- 10.17 The parties agree the site is located within National Character Area 111: Northern Thames Basin; Hertfordshire Landscape Character Area 29: Mimmshall Valley; Watling Chase Community Forest and a Key Biodiversity Area.
- 10.18 The viewpoint locations and listing of receptors are agreed to be a fair representation, though the Councils consider that views into the site from Bullens Green Lane and Fellowes Lane are more frequent and open than suggested in the LVIA.

Flood Risk & Surface Water Drainage

- 10.19 The site falls within Flood Zone 1, which indicates that there is less than 0.1 per cent (1 in 1000 year) chance of flooding occurring each year. A Flood Risk Assessment and Surface Water Drainage Strategy were submitted in support of the proposal.
- 10.20 Subject to the imposition of suitably worded conditions the parties agree that flooding and surface water drainage are not reasons to withhold permission.

Best and Most Versatile Land

- 10.21 The parties agree that the appeal site comprises Grade 3a and is thus good quality agricultural land and comprises the best and most versatile land. The parties agree that the appeal site falls below the threshold for referral to DEFRA for the loss of agricultural land. The parties agree that the economic impact resulting from the loss of agricultural land would not be significant but should be weighed in any assessment of economic benefits.

Heritage Assets

10.22 The site does not contain any designated heritage assets. There are no previously recorded non-designated heritage assets within the boundary of the appeal site.

10.23 68 Roestock Lane is a Grade II listed building located adjacent to the northern boundary of the site. It is agreed that the proposed development would lead to “less than substantial harm” to the significance of No. 68, Roestock Lane. The parties disagree on where in the overall spectrum of “less than substantial harm” the harm lies.

Highways

10.24 In light of additional information submitted by the Appellant these matters are being considered by the Councils and the Highway Authority and the parties will update the Inspector when there is additional information.

11 Areas of Disagreement

Housing Supply

- 11.1 The extent of the shortfall in the housing land supply position of both LPAs. However, the parties agree that it will not be necessary to examine their positions in respect of supply and neither party will be presenting witnesses for examination on this issue.

Location of the Appeal Site

- 11.2 Whether the appeal site is well located in terms of access to services and facilities.

Green Belt

- 11.3 The contribution of the appeal site to the purposes of the Green Belt. The parties disagree on the extent and impact of that encroachment and will provide evidence on this.
- 11.4 The degree of harm to the visual and spatial component of the openness of the Green Belt. The parties disagree on the nature, extent and impact of the loss of openness in both visual and spatial terms and will provide evidence on this.
- 11.5 Whether the other considerations relied on by the Appellant clearly outweigh the harm by way of inappropriateness and any other harm such that very special circumstances exist.

Heritage Impact

- 11.6 The impact on the significance of the Grade II listed building, 68 Roestock Lane. The Appellant considers the harm is at the very lowest end of the spectrum of “less than significant harm” whilst the Councils consider the harm to be low to moderate.

Landscape and Visual Impact

- 11.7 The Appellant considers that the development of the site would have only a

moderate landscape effect on the year of completion reducing to moderate/minor once the proposed planting becomes established. The Councils consider the urbanisation of the appeal site adversely affects receptors leading to an irreversible impact on the landscape character of a wider parcel of open countryside. On the details before the appeal there would be severe effects on the year of completion which is capable of being mitigated to moderate adverse once a successful landscape scheme has been carried out and established after 10 - 15 years.

- 11.8 Visual effects would be very restricted and largely limited to the site and its immediate confines. However, whilst the Councils agree that the visual effects are largely limited to the site and surrounding area they will be significant and permanent .

12 List of possible conditions

- 12.1 The parties will work together to provide a list of conditions ahead of the Inquiry, indicating agreement and areas of disagreement between the parties

13 Statement of Compliance with Statutory and Policy Requirements for the conditions and S106 Agreement

To follow

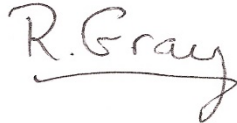
14 Core Documents List

14.1 The parties will prepare a full list of Core Documents utilising the index below.

FOLDER 1 - ESSENTIAL SUPPORTING DOCUMENTS	
CD1	Submitted Planning Application Documents
CD2	Additional Documents
CD3	Consultation Responses
CD4	Committee Reports
FOLDER 2 - POLICIES	
CD5	Current Development Plans
CD6	Documents relevant to the preparation of the Emerging Welwyn Hatfield Local Plan 2013-2032
CD7	Documents relevant to the preparation of the now withdrawn Draft St Albans City and District Local Plan 2020-2038
CD8	WHBC and SADC Five Year Land Supply Documents
CD9	Additional Policy Information and Guidance
FOLDER 3 - APPEAL DECISIONS AND COURT JUDGEMENTS	
CD10	Appeal Decisions
CD11	Secretary of State Decisions
CD12	Court Judgements
FOLDER 4 - MISCELLANEOUS	
CD13	Miscellaneous
CD14	Inquiry Documents

Signatures

Signed on behalf of Canton Ltd

A handwritten signature in black ink that reads "R. Gray". The signature is written in a cursive style with a horizontal line underneath the name.

Russell Gray

Director

Woods Hardwick Planning Ltd

Date: 05 March 2021

Planning Consultant for Canton Ltd

Signed on behalf of Welwyn Hatfield Borough Council and St Albans City and District Council

A handwritten signature in blue ink. The signature is highly stylized and cursive, starting with a large loop on the left and ending with a wavy tail on the right.

Director

PHD Chartered Town Planners Ltd

Date: 05 March 2021

Planning Consultant for the Local Planning Authorities