

proposal is contrary to Policy 7A of the St Albans District Local Plan Review 1994”.

### Reason for Grant

The proposed development would result in an efficient use of an existing building contributing towards the provision of both affordable and private dwellings in an accessible and sustainable location within the District. Overall there would be an adequate level of amenity for future occupiers, and adequate car parking is proposed. Subject to conditions the application is considered acceptable. Whilst limited harm has been identified in terms of a parking shortfall, and some undersized units the contribution this development would make towards the District’s 5 year housing land supply outweighs this limited harm. A condition is required to ensure that the development has a satisfactory impact upon drainage. Subject to a legal agreement being entered into to secure affordable housing no objections are raised to the development and it is considered to comply with the relevant policies of the Local Plan and the NPPF.

(Note: Ms H Lowe, who had given notice, spoke in favour of the application.)

7. **5/2020/1992/LSM 01.09.2020 - OUTLINE APPLICATION (ACCESS SOUGHT) - CONSTRUCTION OF UP TO 100 DWELLINGS TOGETHER WITH ALL ANCILLARY WORKS AT ROUNDHOUSE FARM, BULLENS GREEN LANE, COLNEY HEATH AL4 0FU FOR CANTON LTD**

(Note: Councillor Brazier was absent from the meeting during the discussion and vote on this application.)

It was moved by the Chairman that the Local Planning Authority, in the absence of an appeal against non-determination, would have refused planning permission for the reasons set out in the report. Upon the motion being put to the meeting it was declared CARRIED.

For (9): Councillors Clegg, Day, Gardner, Harrison, Leonard, Needham, Pawle, Wood and Yates.

### **RESOLVED**

- (i) That in the absence of an appeal against non-determination the application would have been REFUSED for the following reasons:
  1. The proposed development represents inappropriate development in the Green Belt. It would result in significant harm to and a material loss of openness in this location and represent significant encroachment into the countryside. Very special circumstances have not been demonstrated to outweigh the in principle harm and other harm identified. The proposal is therefore contrary to Policy 1 of the St Albans Local Plan Review 1994 and the NPPF 2019.
  2. The proposed development is in an unsuitable and unsustainable location. It would comprise a significant number of dwellings in an isolated location with very limited public transport links and limited existing amenities and infrastructure, the future residents would be car-dependent. This is contrary to the aims of Policy 2 of the St Albans Local Plan 1994, and the relevant provisions of the NPPF.

3. It has not been demonstrated that an acceptable form of development could be achieved on the site. The proposed development would severely detract from the character of the site and the local area, and impact negatively on landscape character, contrary to Policies 69, 70 and 74 of the St Albans Local Plan Review 1994 and the NPPF. The development would detract from the character and setting of Colney Heath as a Green Belt Settlement, contrary to Policy 2 of the St Albans Local Plan 1994.

4. Insufficient information is provided to demonstrate that the impacts of development shall not have a severe impact on the wider operation of the highway network. Insufficient information is provided to demonstrate that necessary changes to local speed limits are achievable. Visibility from the access, without speed limit changes is insufficient. The proposed access shall be prejudicial to the safety of users of the highway contrary to Policy 34 of the St Albans Local Plan 1994 and the NPPF 2019.

5. The development would cause 'less than substantial' harm to the significance and setting of a Grade II listed building adjoining the site (68 Roestock Lane) and the public benefits of the proposal would not outweigh this harm, contrary to Policy 86 of the St Albans Local Plan Review 1994 and the National Planning Policy Framework 2019.

6. Insufficient information has been submitted to enable the local planning authority to assess the impacts of the development on biodiversity. As such, it cannot be reasonably concluded that the proposal would not harm biodiversity. Furthermore, net gains for biodiversity would not be achieved. The proposal would therefore be contrary to Policy 106 of the St Albans Local Plan Review 1994 and the relevant provisions of the NPPF 2019.

7. Insufficient information has been submitted to determine whether remains of archaeological importance are likely to be present at the site. An informed decision in terms of the impact of the proposal on the historic environment cannot be made and, consequently, the proposal would be contrary to Policy 111 of the St Albans Local Plan Review and the National Planning Policy Framework 2019.

8. In the absence of a completed and signed S106 legal agreement or other suitable mechanism to secure the provision of: Fire Hydrants, Open Space, Play Spaces, Community Facilities, Sports and Recreation, Travel Plan, Highway Works, Primary Education, Secondary Education, Health, and Affordable Housing; 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 2019, and Policies 7A and 143B (Implementation) of the St. Albans District Local Plan Review 1994 and the Council's Affordable Housing Supplementary Planning Guidance.

(ii) That in an informative note issued pursuant to Part 38 of the Planning Practice Guidance March 2014, the applicant be informed of the following matters:

1. The Local Planning Authority has been positive and proactive in its consideration of this planning application. The Local Planning Authority encourages applicants to engage in pre-application discussions as advocated under paragraphs 39-46 of the NPPF. The applicant did not engage in pre-

application discussions with the Local Planning Authority and the form of development proposed fails to comply with the requirements of the Development Plan and does not improve the economic, social and environmental conditions of the District.

2. This determination was based on the following drawings and information: Site topographical survey 17981-7-855; Site location plan 17981-1002; District Boundary Line Layout 17981-1003; Proposed Parameters/Schematic plan 17981/1004; Proposed illustrative layout 17981/1005; Site access 18770-FELL-5-500; Landscape Strategy Plan (no numerical reference); Planning Statement; Design and Access Statement; Flood Risk Assessment; Transport Assessment; Travel Plan; Contaminated Land Risk Assessment; Ground Investigation Report; Arboricultural Assessment; Ecological Assessment; Self Build and Custom Build Housing Assessment; Affordable Housing Statement; Housing Land Supply Statement; Utility Assessment received on 23 September 2020 and Agricultural Land Assessment and Landscape and Visual Impact Assessment received on 17 November 2020.

8. **5/2020/2195/SSM 24.09.2020 - DEMOLITION OF EXISTING DWELLING AND CONSTRUCTION OF FOUR STOREY BUILDING CONSISTING OF SEVEN FLATS AND TWO STOREY BUILDING CONSISTING OF FOUR FLATS WITH ASSOCIATED PARKING, LANDSCAPING, CYCLE AND REFUSE STORAGE (RESUBMISSION FOLLOWING WITHDRAWAL OF 5/2019/2612) AT 258 LONDON ROAD, ST ALBANS AL1 1TJ FOR MR N SONEJI**

It was moved by the Chairman that planning permission be refused for the reasons set out in the report, subject to the deletion of the second reason. Upon the motion being put to the meeting it was declared CARRIED unanimously.

**RESOLVED**

(i) That the application be REFUSED for the following reasons:

1. By reason of the bulk, scale and massing of the proposed flat block combined with the forward projection and unsuitable materiality and design, the proposal would represent a form of development which is out of keeping with the surrounding area. In addition, the proposed layout, the restricted amenity for future occupiers, limited landscaping and adverse impact on protected trees together with the low standard of amenity space proposed, the development would represent a cramped and contrived form of development on the site to the detriment of the character of the area that would result in an overdevelopment of the site. The development proposed would be contrary to the aims of Policies 69, 70 and 74 of the St Albans District Local Plan Review 1994 and the aims of the National Planning Policy Framework 2019.

2. Insufficient information has been provided to ensure that the site will not increase flood risk to the site and elsewhere and can provide appropriate sustainable drainage techniques. As such the proposal is considered contrary to Policy 84a of the St Albans District Local Plan Review 1994 and the aims of the National Planning Policy Framework 2019.

3. Insufficient information has been provided to ensure the site can be accessed by emergency vehicles and that there is a safe route for pedestrians

<b>REGISTERED NUMBER:</b>	5/2020/1992/LSM
<b>APPLICANT:</b>	Canton Ltd
<b>PROPOSAL:</b>	Outline application (access sought) - Construction of up to 100 dwellings together with all ancillary works
<b>SITE:</b>	Roundhouse Farm Bullens Green Lane Colney Heath St Albans AL4 0FU
<b>APPLICATION VALID DATE:</b>	01/09/2020
<b>HISTORIC BUILDING GRADE:</b>	N/A
<b>CONSERVATION AREA:</b>	N/A
<b>DISTRICT PLAN REVIEW:</b>	Metropolitan Green Belt
<b>WARD</b>	Colney Heath

<b>RECOMMENDATION</b>	<b>TO RESOLVE THAT THE LOCAL PLANNING AUTHORITY, IN THE ABSENCE OF AN APPEAL AGAINST NON-DETERMINATION, WOULD HAVE REFUSED PLANNING PERMISSION</b>
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**1. Reasons for Call in to Committee**

- 1.1. This application is being reported to committee as a significant scale application within the Metropolitan Green Belt, contrary to prevailing planning policy with District wide implications.
- 1.2. The application is cross boundary with Welwyn Hatfield Borough Council, 47% of the application site is within SADC's administrative area.
- 1.3. Welwyn Hatfield Borough Council determined the application under delegated powers, and issued a notice of refusal of planning permission dated 2 December 2020.
- 1.4. The applicant has appealed against the refusal of planning permission by WHBC and against the non-determination of the application by St Albans City and District Council.
- 1.5. The application had not been determined due to Head of Service determining that the application should be reported to committee due to its significant scale and location in the Metropolitan Green Belt. The applicant had also omitted some information in error from the application and officers were in the process of assessing and consulting on this information, which it was felt it was reasonable to accept given that it linked to the principle of development and involved information which appeared to have been omitted as a genuine error on the part of the agent.
- 1.6. As a result of these issues, the applicant had been asked to agree to a short extension of time within which the application could be determined. The applicant did not respond to this request, instead giving notice of the intention to submit an appeal.

- 1.7. Accordingly, Members are not asked to make a decision on the application, but instead to resolve what their decision would have been on the application, to enable officers to prepare for the forthcoming Planning Inquiry against non-determination.

## **2. Relevant Planning History**

- 2.1. There have been a number of historic cross-boundary applications for residential development at this site, going back to 1954, with the most recent (prior to this current application), in 1987:

5/1987/0185 Residential development  
Decision: Refused and Appeal Withdrawn  
Decision Date: 10 April 1987  
Proposal: Site for residential development

5/1986/0487 – residential development  
Decision: Deemed refusal and Appeal Withdrawn  
Decision Date: 31 July 1986  
Proposal: Site for residential development

Application Number: D.673  
Decision: Refused and related appeal dismissed  
Decision Date: Not clear from historic files.  
Proposal: Site for residential development

Application Number: C.3123  
Decision: Refused and appeal dismissed  
Decision Date: Appeal dismissed 28 November 1955  
Proposal: Site for residential development

- 2.2. We are advised by WHBC of the following historic application, however, no records can be found on our system for this:

WHBC Application Number: E6/1973/3202  
Decision: Refused and Appeal Dismissed  
Decision Date: 15 October 1973  
Proposal: Site and layout for 141 dwelling houses with garages (12.8 acres)

- 2.3. There is a recent appeal decision in respect of the adjacent Roestock Depot - an Affinity Water site which lies adjacent to the site at its north-west corner, on the St Albans District side, which is predominantly previously developed land in the Green Belt. An appeal was dismissed on 26/02/16 (appeal ref APP/B1930/W/15/3137409, app ref 5/2015/0784) for

*“Demolition of existing buildings (retention of existing pumping station) and construction of 30 dwellings with associated works”*

- 2.4. The Inspector commented that;

*“10. Given the sites location in a gap between to distinctly separate built-up areas (Bullen’s Green and Roestock) and the scale of the proposed development, which would not be flanked by existing built form on both sides for much of its depth, I do*

*not consider that the development could be appropriately described as limited infilling in a village. This is notwithstanding the presence of houses either side of the site along the road frontage.”*

2.5. And that:

*“17. The existing buildings on the site undoubtedly have an impact on openness but the likely increase in volume and spread of mass and bulk across the site into areas currently absent of buildings would result in a greater impact on openness. Therefore, the development would be at odds with the Green Belts essential characteristics, openness and permanence. Furthermore, it would be in conflict with its defined purposes, specifically to assist in safeguarding the countryside from encroachment.”*

2.6. The Inspector concluded that:

*“32. I have identified that the proposed scheme would constitute inappropriate development in the Green Belt for the purposes of the Framework and would harm openness. I have considered the grounds presented in support of the development but together they do not outweigh the harm the scheme would cause. Consequently, the very special circumstances necessary to justify the development have not been demonstrated.*

*33. In light of the above, I conclude that the appeal should be dismissed.”*

2.7. There are three relevant, recent planning decisions in Colney Heath, all on land within the Green belt:

5/2017/2366 – The Cock Inn, 189 High Street, Colney Heath – Erection of a three-bedroom detached dwelling, parking and landscaping (revised scheme). Appeal dismissed 31/01/2019.

5/2018/2383 – Land Adj 167 Colney Heath Lane - Erection of a three-bedroom detached dwelling, parking and landscaping (revised scheme). Appeal dismissed 09/09/2019.

5/2018/3169 – 65 High Street, Colney Heath - Outline application (layout sought) - Erection of one two-storey three bedroom detached house. Refused 19/03/2019.

### **3. Site Description**

3.1. The site, of 5.25 hectares, straddles the boundary between St Albans City and District Council and Welwyn Hatfield Borough Council. Just under half of the site (2.48 ha) falls within the SADC area, with the remainder in WHBC. The site is located to the south west of Colney Heath. It is bounded to the north by Roestock Lane and Roestock Gardens, and to the west by the Roestock Depot and Roestock Park. To the south it is bounded by Fellowes Lane and to the east of Bullens Green lane. Bullens Green Lane, which is in WHBC’s area, is where the vehicular access to the site is proposed to be located.

3.2. The site is currently in agricultural use. A public right of way runs down the western boundary from Roestock Lane, then crosses the site from west to east to Bullens Green Lane. It is broadly flat.

- 3.3. The site is bordered by existing residential properties to the north and east and by small groupings of residential properties at the site's far corners. Elsewhere, and particularly to the south and east, it is bounded by hedgerows and open fields.
- 3.4. The site is located within the Watling Chase Community Forest.

#### **4. The Proposal**

- 4.1. The planning application is in outline, with access sought, and is for the construction of up to 100 dwellings together with all ancillary works. Affordable housing is included at 45% of the total, of which 38 would be affordable rent or intermediate tenure, and 7 would be affordable home ownership. In addition, 10% (so ten units) are proposed to be self-build. This would leave a balance of 45 open market units. No housing mix has been confirmed.
- 4.2. The plans for approval are as follows:

17981/1004 – Proposed Parameters/Schematic plan  
18770-FELL-5-500 rev A – Site Access

- 4.3. Additional plans been provided in support of the application, as follows:

17981/1005 – Proposed Illustrative Layout  
Landscape Strategy Plan (no numerical plan reference provided)

#### **5. Representations**

##### **5.1. Publicity / Advertisement**

Site Notice Displayed	Date 09/10/20 (expiry date 30/10/20)
Press Notice Displayed	Date 01/10/20 (expiry date 24/10/20)

##### **5.2. Adjoining Occupiers**

- 5.2.1. 52, 54 Roestock Lane; Bavicar Cottage, 68 Roestock Lane; 70, 72, 75, 76, 78, 80, 82, 84 Roestock Lane; Seven Oaks Cottage, 88 Roestock Lane, Cherry Green Trees, Roestock Lane; Little Orchard, Roestock Lane; 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21,22, 23, 24, 25, 26, 27, 28, 29, 30 Roestock Gardens; 30, 32, 34, 36, 38, 40, 42 Admirals Close; 42, 44, 46, 48, 50, 52 Fellows Lane; Scout and Guide Hut, Admirals Close, Colney Heath.

- 5.2.2. At the time of writing this report, representations had been received from 173 residential addresses. In addition, a number of representations were received from parties not providing their full address. These were not displayed on the website in accordance with our standard procedures.

- 5.2.3. Representations were also received from the following groups/organisations

Colney Heath Residents Association  
Campaign for the Protection of Rural England (CPRE) Hertfordshire  
St Albans Friends of the Earth  
Ramblers Association  
St Albans Footpaths Association  
North Mymms District Green Belt Society

5.3. Summary of Representations, grouped by topic area are set out below. Representations from interest groups and organisations are reported separately.

1. Green Belt issues

- a. The land is in Green belt and should be protected/not developed
- b. The development would contribute to urban sprawl
- c. Small extensions in this area are refused on green belt grounds, how can a 100 unit scheme be acceptable?
- d. The development would lead to a harmful loss of openness, visual intrusion and encroachment on the countryside
- e. The Cliffplant site on Smallford Lane already has permission for 75 dwellings
- f. Plenty of Brownfield Sites that could be used for such development
- g. Green spaces should be protected for the benefit of people and the planet
- h. The development would increase the built up area of Colney Heath by 30%
- i. St Albans DC SHLAA assessment concluded that the site should not be given further consideration for housing development as the site comprises agricultural land which is rural in character.
- j. The Very Special Circumstances provided are not convincing
- k. The site forms part of a parcel (no 54) considered by the Welwyn Hatfield local plan Stage Three Green Belt Study which concluded that its release from the Green Belt would cause moderate to high harm to the Green Belt.

2. Impact on social infrastructure

- a. Not enough school places, this application will increase pressure on local schools capacity
- b. GP practices are already heavily subscribed with doctor, nurse and hospital appointments hard to get
- c. Dentists are oversubscribed and this will add to the existing pressure
- d. Insufficient local amenities such as shops

3. Impact on physical infrastructure

- a. Impact on water and electrical supplies
- b. Impact on drainage which already has severe issues

4. Sustainable transport, highways and parking

- a. Increase in traffic is a concern - congestion and safety issues
- b. The small village roads won't be able to cope with the traffic and additional parking demand.
- c. The village is very poorly served by public transport. Residents would be car dependent.
- d. If the development necessitates road closures in Bullens Green Lane this will cause hardship for local businesses.
- e. There is a lack of safe and realistic pedestrian and cycling routes.
- f. Bullens Green lane is already congested with parked cars and lorries from the coal works.
- g. Greater pressure on the road has a harmful environmental impact
- h. Applicants transport plan is misleading
- i. Trains are not within walking/cycling distance, or safe access
- j. Concerns regarding highways, cyclists and pedestrian safety
- k. Concerns regarding the safety of the proposed accesses



- l. No evidence of what the financial contribution to cycling will go towards
  - m. How are 2/3 cars going to be provided by household?
  - n. Local authorities must also promote the use of sustainable travel and transport for all children and young people of compulsory school age
  - o. Emergency vehicle access would be impacted
5. Sustainability of location
- a. Village is poorly served by public transport, residents will be car dependent
  - b. Colney Heath has very few amenities meaning residents will have to travel further afield, with very few public transport options.
  - c. Applicants data on schools etc is misleading as it relates to the whole parish
  - d. No account has been taken of the 6000-8000 unit Garden Village on Coursers Road being actively considered by Hertsmere BC and the impact on traffic
6. Impact on character of area
- a. Detrimental impact on the character of this rural area
  - b. The village will lose its identity.
  - c. Development is out of scale with the village
  - d. Disruption during construction will be significant
  - e. Concern that local footpaths would be lost
  - f. Concern that retained footpaths would change their nature from rural to urban
  - g. The site is a beautiful setting that would be lost, with views across open countryside from the public footpath that extends from Roestock Lane
  - h. The development will be both visually and sonically intrusive
  - i. The development will have an impact on the rural setting of the Grade II listed property- Balvicar Cottage
  - j. Colney Heath has a rich environmental heritage, landscape and character and a development of this scale and nature would be of great detriment
  - k. It could also prevent the land making a positive contribution to Watling Chase Community Forest.
7. Impact on amenity of neighbours
- a. Reference to impact on Admirals close and Bullens Green Lane
  - b. Overlooking/loss of privacy to properties on Roestock Gardens
  - c. Increase in noise due to construction
  - d. Concerns regarding the impact on the addition access road on amenity
8. Environment and wildlife
- a. Negative impact on wildlife and biodiversity from developing the site.
  - b. The field is prone to flooding and local roads often flood – concern the proposal would make this worse
  - c. The development will be car dependent and will prevent St Albans achieving net zero carbon by 2030 as pledged by SADC.
  - d. This development will add to the existing burden on rare chalk stream rivers
  - e. Building more dwellings contributes to climate change

- f. There are omissions in the report relating to flora and fauna
- g. An environmental Impact assessment should have been carried out
- h. Increase in air pollution
- i. There will be inevitable sustained noise, disruption, construction traffic and pollution from the development

9. Other issues

- a. Loss of high quality agricultural land
- b. The land is workable farm land – recently large machinery has been on the field and a harvest of maize was completed.
- c. We need to preserve green spaces for recreational benefit, e.g. walking in the countryside. Reference to the pandemic having taught us how important this is.
- d. How would the development fit in with houses on the Affinity Water site, if that comes forward? Is it in addition or instead of?
- e. Brownfield sites should be developed instead of green fields or Green Belt
- f. The data presented by the applicant relates to Colney Heath Parish as a whole and not to Colney Heath village – the Parish covers a wide area and therefore this is misleading.
- g. This scheme is designed to make money rather than enhance the community
- h. New development should be sustainable and add something to the community – this one doesn't.
- i. The site is part of the Watling Chase Community Forest project, which exists to promote the regeneration of the countryside – this proposal would be contrary to that.
- j. Loss of value to properties due to overcrowding from affordable housing
- k. Land is currently used for recreation-Walking and cycling
- l. The land is marshy and the properties would have subsidence
- m. Potential for more fly tipping and trouble
- n. Negative impact on health, safety and wellbeing
- o. Layout/density is not enough for 100 homes
- p. Construction operations and material deliveries on this scale will be very disruptive.
- q. Planning permission has already been refused on this site and nothing has changed
- r. The houses will not genuinely be affordable
- s. What is the applicant planning to do to alleviate the problems and what will they be contributing to?
- t. Many of the houses with an 'A' suffix have been excluded from the consultation process. *[NB: consultation addresses have been checked to ensure one excluded]*
- u. The site address is not described correctly as the access is not from Bullens Green Lane but is from Roestock Lane
- v. The existing walked route joining Footpath Colney Heath 23 to Footpath Colney Heath 48 should be made a definitive public right of way. A definitive public right of way should also be created over the route of the HV cable from Footpath Colney Heath 48 through to the entrance to the site on Bullens Green Lane.
- w. A pump station is suggested within the site but not illustrated. What happens if this breaks down?

- x. Attenuation of water storage is suggested but not illustrated, where and how will this impact the locality?
- y. Concerns regarding light pollution;
- z. The corresponding development at WHBC has now been refused
- aa. The appeal at Roestock Depot adjacent is relevant
- bb. The loss of agricultural land should be considered significant (referring to the submitted ALC report).

#### North Mymms District Green Belt Society-

- Developing the site would be encroaching upon the countryside which would be contrary to the purpose of Para. 134 of the NPPF
- Welwyn Hatfield Local Plan concluded that its release from the Green Belt would cause moderate to high harm to the green belt
- The village would be overwhelmed
- Concerns regarding public transport and access
- Proposal of this nature should be considered in the context of the local plan and within the context of 'duty to cooperate'

#### Colney Heath Residents Association-

- Development does not meet exceptions set out in para. 145 of the NPPF
- Not considered to meet the 'Very Special Circumstances' put forward by the application as the site is not sustainable in terms of:
  - Deficiencies in social facilities
  - Inadequate transport facilities and modes of access
  - Inappropriate layout and density of building design

#### Campaign for the Protection of Rural England (CPRE) Hertfordshire

- Application is contrary to the green belt and sustainability
- The development would encroach into the countryside
- The development would not encourage the recycling of derelict and other urban land
- The absence of a five-year supply of housing land will not necessarily be conclusive in favour of the grant of planning permission
- The site is not sustainable in terms of access and modal movement
- The site is grade 3a agricultural land. Development should not be utilising best and most versatile land.

#### St Albans Footpath Association

- The development will undeniably change the public ability to enjoy views of the open countryside
- The proposal is inappropriate development within the green belt
- If the council were to approve, the existing walked route joining Footpath Colney Heath 23 to Footpath Colney Heath 48 should be made a definitive public right of way. A definitive public right of way should also be created over the route of the HV cable from Footpath Colney Heath 48 through to the entrance to the site on Bullens Green Lane

## **6. Consultations:**

### 6.1. District Archaeologist

- 6.2. Recommends refusal based on a lack of information and non-compliance with the National Planning Policy Framework (NPPF, Section 16, para.189ff., pp.55). The response concludes:

*Without understanding, what the complete loss to the finite archaeological resource would mean, it is not possible to make an informed decision. This informed decision requires data, from a full evaluation of the site which does not accompany this application. In consequence, it is not possible currently to make such a decision. If a premature decision was to be made, it could seriously impact on the development if significant archaeology was uncovered at a later date, and/or result in the loss of a finite resource without recording or protection.*

- 6.3. Further detail of the response and the issues raised is provided in the Discussion section of this report.

6.4. Community Services

- 6.5. Green Spaces commented 23/10, in respect of the contribution which would be sought should planning permission be granted:

*Due to the lack of evidence of breakdown of dwellings I have calculated the figures based on all 2 beds. We would be asking for the following contribution of £12,780 towards Roestock Park Play Area, £34,680 towards improvements in Roestock Park and £54,862 towards the Roestock Park Scout Hut. This is a total of £102,322.*

- 6.6. *Waste and recycling* commented 13/10/2020 as follows, having consulted with Veolia, SADC waste contractor.

*It is unclear which roads the freighters would drive on, the primary and secondary roads are assumed. Driving and reversing around the site as shown on the submitted layout would be time consuming and fiddly. The distances the crews would be required to walk on the private drives would be considerable.*

- 6.7. It was also queried whether there are plans to have bin collection areas at the end of each primary road.

6.8. Housing

- 6.9. Response received 15//10/2020 as follows:

*“...the Strategic Housing department is not able to offer an informed comment on this application in relation to the provision of affordable housing. This is due to there being no detail provided in relation to the mix, type, tenure and location of the proposed 45 affordable dwellings.”*

6.10. Parking

- 6.11. No comment

6.12. Environmental Compliance

- 6.13. Regulatory Services has no objection, and requested the inclusion of Informatives on any planning permission in relation to construction hours, dust, asbestos, lighting and noise.
- 6.14. No response received from Environmental services in relation to ground conditions/land contamination.
- 6.15. County Highways
- 6.16. Response dated 15/10/2020. Recommends refusal on the basis of the provision of insufficient information on the impacts of the development or on the achievability of the required speed limit changes. Also recommends refusal on the basis that visibility from the access, without the speed limit changes, is insufficient. The full response is referred to in the discussion section of this report.
- 6.17. Hertfordshire Growth and Infrastructure Unit
- 6.18. Partial response received – further details on mix were requested from the applicant in order for education contributions to be calculated, but these were not supplied, and Herts County Council has based its response on its standard formula as outlined in an extract from the response provided below:

*I am writing in respect of planning obligations sought towards library and youth services to minimise the impact of development on Hertfordshire County Council Services for the local community. We will also be seeking contributions towards primary and secondary education, however I am unable to provide these details at this time, they will follow as soon as they are finalised.*

*Based on the information to date for the development of 100 dwellings (see housing breakdown below) we would seek financial contributions towards the following projects:*

<b>HOUSES</b>		
Tenure	A) Affordable Rent	B) Open market & Intermediate
Number of bedrooms		
1	3	5
2	12	14
3	24	26
4	4	6
5 +	2	4
<b>Total</b>	<b>45</b>	<b>55</b>

**PLEASE NOTE; the tenure and mix of dwellings were not provided in full as part of this outline application, the housing mix about is indicative, based on a similar development of this size. If the tenure or mix of dwellings changes, please notify us immediately as this may alter the contributions sought**

**Library Service** towards the enhancement of Hatfield Library based on Table 2 below (index linked to PUBSEC 175)

**Youth Service** towards the increase of capacity at Hatfield Young People’s Centre based on Table 2 below (index linked to PUBSEC 175)

The CIL Regulations discourage the use of formulae to calculate contributions however, the County Council is not able to adopt a CIL charge itself. Accordingly, in areas where a CIL charge has not been introduced to date, planning obligations in their restricted form are the only route to address the impact of a development. In instances where a development is not large enough to require on site provision but is large enough to generate an impact on a particular service, an evidenced mechanism is needed to form the basis of any planning obligation sought. HCC views the calculations and figures set out within the Toolkit as appropriate base costs for the obligations sought in this instance.

HCC’s standard approach is to request Table 2 of the Toolkit (below) is referred to and included within any Section 106 deed. This approach provides the certainty of identified contribution figures with the flexibility for an applicant/developer to amend the dwelling mix at a later stage and the financial contribution to be calculated accordingly. This ensures the contributions remain appropriate to the development and thereby meet the third test of Regulation 122 of the Community Infrastructure Levy Regulations 2010 (amended 2019): “fairly and reasonably relates in scale and kind to the development”.

**Table 2: Hertfordshire County Council Services planning obligations contributions table**

<b>Bedrooms*</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5+</b>	<b>1</b>	<b>2</b>	<b>3</b>
	<b>HOUSES</b>					<b>FLATS</b>		
	<b>Market &amp; other</b>					<b>Market &amp; other</b>		
<i>Youth facilities</i>	£6	£16	£50	£82	£105	£3	£13	£41
<i>Library facilities</i>	£98	£147	£198	£241	£265	£77	£129	£164
	<b>HOUSES</b>					<b>FLATS</b>		
	<b>Social Rent</b>					<b>Social Rent</b>		
<i>Youth facilities</i>	£2	£8	£31	£51	£55	£1	£6	£21
<i>Library facilities</i>	£48	£91	£130	£156	£155	£38	£82	£107

*\*uses an assumed relationship between bedrooms and habitable rooms*

*All figures are subject to indexation and will be indexed using the PUBSEC index base figure 175*

- 6.19. In respect of provision of fire hydrants the following response was received 14/10/2020:

*All developments must be adequately served by fire hydrants in the event of fire. The County Council as the Statutory Fire Authority has a duty to ensure fire fighting facilities are provided on new developments. HCC therefore seek the provision of hydrants required to serve the proposed buildings by the developer through standard clauses set out in a Section 106 legal agreement or unilateral undertaking.*

*Buildings fitted with fire mains must have a suitable hydrant provided and sited within 18m of the hard-standing facility provided for the fire service pumping appliance.*

*The requirements for fire hydrant provision are set out with the Toolkit at paragraph 12.33 and 12.34 (page 22). In practice, the number and location of hydrants is determined at the time the water services for the development are planned in detail and the layout of the development is known, which is usually after planning permission is granted. If, at the water scheme design stage, adequate hydrants are already available no extra hydrants will be needed.*

*Section 106 planning obligation clauses can be provided on request.*

#### *Justification*

*Fire hydrant provision based on the approach set out within the Planning Obligations Guidance - Toolkit for Hertfordshire (Hertfordshire County Council's requirements) document, which was approved by Hertfordshire County Council's Cabinet Panel on 21 January 2008 and is available via the following link: [www.hertfordshire.gov.uk/planningobligationstoolkit](http://www.hertfordshire.gov.uk/planningobligationstoolkit)*

*The County Council seeks fire hydrant provisions for public adoptable fire hydrants and not private fire hydrants. Such hydrants are generally not within the building site and are not covered by Part B5 of the Building Regulations 2010 as supported by Secretary of State Guidance "Approved Document B".*

*In respect of Regulation 122 of the CIL Regulations 2010 the planning obligations sought from this proposal are:*

*(i) Necessary to make the development acceptable in planning terms.*

*Recognition that contributions should be made to mitigate the impact of development are set out in planning related policy documents. The NPPF states "Local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Conditions cannot be used cover the payment of financial contributions to mitigate the impact of a development (Circular 11/95: Use of conditions in planning permission, paragraph 83).*

*All developments must be adequately served by fire hydrants in the event of fire. The County Council as the Statutory Fire Authority has a duty to ensure fire fighting facilities are provided on new developments. The requirements for fire hydrant provision are set out with the Toolkit at paragraph 12.33 and 12.34 (page 22).*

*(ii) Directly related to the development;*

*Only those fire hydrants required to provide the necessary water supplies for fire fighting purposes to serve the proposed development are sought to be provided by the developer. The location and number of fire hydrants sought will be directly linked to the water scheme designed for this proposal.*

*(iii) Fairly and reasonable related in scale and kind to the development.*

*Only those fire hydrants required to provide the necessary water supplies for fire fighting purposes to serve the proposed development are sought to be provided by the developer. The location and number of fire hydrants sought will be directly linked to the water scheme designed for this proposal.*

6.20. Hertfordshire Ecology

6.21. Response received 16 October 2020 and concludes that:

*“...whilst I accept the outcomes in terms of several specific features (eg invertebrates, badgers, reptiles etc) I do not agree with the Ecological Assessment’s overall findings and do not believe it provides the Council with the information to determine this application at this moment in time.”*

6.22. The following actions are required, prior to the grant of any outline planning permission:

*Firstly, ecological reporting of the site should be updated. This should take the form of a formal EcIA and follow CIEEM best practice. This should accompany this outline application and should be submitted to, and approved in writing by, the local planning authority prior to any consent.*

*Secondly, the application should provide compelling evidence to ensure a meaningful biodiversity net gain can be achieved, to be submitted to and approved in writing by the local planning authority prior to any consent.*

6.23. The response also requests a Landscape and Ecological Management Plan but states that this could be submitted at the reserved matters stage (i.e. required by condition of the outline).

6.24. Local Lead Flood Authority

6.25. Response dated 19 October 2020 – no objection, the LLFA commented that:

*Following a review of the Flood Risk Assessment and Drainage Strategy (prepared by Woods Hardwick, ref: 18770/FRA and DS, dated August 2020), we can confirm that we the Lead Local Flood Authority (LLFA) have no objection in principle on flood risk grounds and can advise the Local Planning Authority (LPA) that the proposed development site can be adequately drained and can mitigate any potential existing surface water flood risk if carried out in accordance with the submitted drainage strategy.*

Conditions are required to be imposed on any grant of planning permission as follows:

**Condition 1**



*The development permitted by this planning permission shall 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:*

- 1. 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.*
- 2. 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.*
- 3. 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 occupation and subsequently 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.*

### **Reason**

- 1. To prevent flooding by ensuring the satisfactory disposal and storage of surface water from the site.*
- 2. To reduce the risk of flooding to the proposed development and future occupants.*

### **Condition 2**

*No development shall take place until the final design of the drainage scheme is completed and sent to the LPA for approval. The surface water drainage system will 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 shall also include:*

*The surface water drainage scheme should include;*

- 1. 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.*
- 2. 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.*
- 3. Exceedance flow paths for surface water for events greater than the 1 in 100 year including climate change allowance.*
- 4. 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.*
- 5. 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.*

## **Reason**

- 1. To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site.*
- 2. To reduce the risk of flooding to the proposed development and future users.*

## **Condition 3**

*Upon completion of the drainage works for each site in accordance with the timing / phasing, a management and maintenance plan for the SuDS features and drainage network must be submitted to and approved in writing by the Local Planning Authority. The scheme shall include;*

- 1. Provision of complete set of built drawings for site drainage.*
- 2. Maintenance and operational activities.*
- 3. Arrangements for adoption and any other measures to secure the operation of the scheme throughout its lifetime.*

## **Reason**

*To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site.*

### 6.26. Affinity Water

- 6.27. Response received dated 23 October objecting to the application, stating, inter alia, the following:

*You should be aware that the proposed development site is located within an Environment Agency defined groundwater Source Protection Zone 1 (SPZ1) corresponding to Roestock Pumping Station. This is a public water supply, comprising a number of Chalk abstraction boreholes, operated by Affinity Water Ltd.*

*We are writing to object to this Application because we are concerned, for the reasons set out below, that it has the potential to impact adversely the public water supply. If you are minded to approve the application, it is essential that appropriate conditions are imposed to protect the public water supply, which would need to address the following points:*

#### *1. Contamination*

*Due to the proposed development's close location to Roestock Pumping Station (<100m), the potential for construction works to displace the shallow contamination identified in the ground investigation; any works involving excavations that penetrate into the chalk aquifer below the groundwater table (for example, piling or the installation of a geothermal open/closed loop system) should be avoided. If these are necessary, then the following condition needs to be implemented:*

- A) 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 in conjunction with Affinity Water:*

*i) 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.*

*ii) A Risk Assessment identifying both the aquifer and the abstraction point(s) as potential receptor(s) of contamination including turbidity.*

*iii) 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.*

*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.*

*Reason: Excavation works such as piling have the potential to displace shallow contamination and cause water quality failures due to elevated concentrations of contaminants including turbidity. Increased concentrations of contaminants, particularly turbidity, impacts the ability to treat water for public water supply. This can cause critical abstractions to switch off resulting in the immediate need for water to be sourced from another location, which incurs significant costs and risks of loss of supply during periods of high demand.*

## *2. Contamination during construction*

*Construction works may exacerbate any known or previously unidentified contamination. If any pollution is found at the site, then works should cease immediately and appropriate monitoring and remediation will need to be undertaken to avoid any impact on water quality in the chalk aquifer.*

*B) If, during development, for any presently identified contamination as well as 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 in conjunction with Affinity Water. 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.*

## *3. Infiltration*

*Surface water should not be disposed of via direct infiltration into the ground via a soakaway.*

C) *Prior to the commencement of development, details of a Surface Water Drainage*

*Scheme that does not include infiltration shall be submitted to and approved in writing by the Local Planning Authority in conjunction with Affinity Water.*

*Reason: To provide confirmation that direct infiltration via soakaways will not be used due to the potential presence of contaminated land and the risk for contaminants to remobilise causing groundwater pollution potentially impacting public water supply.*

4. *Drainage*

*The onsite drainage system should incorporate an oil/water interceptor to prevent petrol/oil being discharged into the surface and groundwater network.*

D) *Prior to the commencement of development, details of the Drainage Scheme confirming the use of an oil/water interceptor shall be submitted to and approved in writing by the Local Planning Authority in conjunction with Affinity Water.*

*Reason: To provide confirmation that an oil/water interceptor will be used to prevent oil and hydrocarbons from particular areas of the development being discharged into surface water and/or groundwater.*

5. *Bunding*

*If any tanks, generators and filling areas are to be installed as part of the development, they will need to have secondary containment which can hold 110% of the volume the tank or generator is designed to contain.*

E) *Prior to the commencement of development, details of all substance containers confirming bunding of 110% capacity shall be submitted to and approved in writing by the Local Planning Authority in conjunction with Affinity Water.*

*Reason: To prevent contaminants being discharged into the surface and groundwater network in the event of a spill.*

6. *Substance Storage (e.g. Petrol Station or Fuel Pipeline)*

*The installation of a leak detection system should be considered, and a procedure should be adopted that includes directly notifying Affinity Water along with the Environment Agency immediately if any leak is suspected.*

F) *Prior to the commencement of development, details of all substance containers confirming the presence of a leak detection system and methodology that includes immediate notification to Affinity Water shall be submitted to and approved in writing by the Local Planning Authority in conjunction with Affinity Water.*

*Reason: To enable Affinity Water and the Environment Agency to immediately assess the impact on public water supply and implement protection measures if necessary.*

6.29. Response received 28/09 as follows:

*Waste Comments*

*With regard to SURFACE WATER drainage, Thames Water would advise that if the developer follows the sequential approach to the disposal of surface water we would have no objection. Where the developer proposes to discharge to a public sewer, prior approval from Thames Water Developer Services will be required. Should you require further information please refer to our website. <https://developers.thameswater.co.uk/Developing-a-large-site/Apply-and-pay-for-services/Wastewater-services>*

*Thames Water would advise that with regard to FOUL WATER sewerage network infrastructure capacity, we would not have any objection to the above planning application, based on the information provided.*

*Water Comments*

*With regard to water supply, this comes within the area covered by the Affinity Water Company. For your information the address to write to is - Affinity Water Company The Hub, Tamblin Way, Hatfield, Herts, AL10 9EZ - Tel - 0845 782 3333.*

6.30. Environment Agency

6.31. Response dated 12/10/2020 as follows:

*We have reviewed the following submitted documents:*

*Preliminary Contamination Risk Assessment (P20-164pra), prepared by Paddock Geo Engineering Ltd and dated July 2020.*

- *Flood Risk Assessment and Drainage Strategy (18770/FRA and DS), prepared by Woods Hardwick and dated August 2020.*
- *Groundwater is particularly sensitive in this location because the proposed development site is within Source Protection Zone 1 (SPZ1) and very close to the groundwater abstraction for the public water supply.*

*Based on the submitted reports, we are satisfied that there is a low risk of pollution to the water environment from land contamination associated with the previous site use. However, we consider there to be a potential risk to groundwater posed by the proposed infiltration drainage and piling/foundations, should these be modified from the exact submitted information during the course of detailed design and submission of reserved matters.*

*We consider that planning permission could be granted to the proposed development as submitted if the following planning conditions are included as set out below. Without these conditions, we would object to the proposal in line with paragraph 170, 178 and 179 of the National Planning Policy Framework (NPPF), Groundwater Position Statements within 'The Environment Agency's approach to groundwater protection' as well as Policy 106 (Nature Conservation) and Policy 84A (Drainage Infrastructure) of the St Alban's Local Plan (1994).*

*We ask to be consulted on the details submitted for approval to discharge these conditions and on any subsequent amendments/alterations.*

*Condition 1 - Piling/Foundation Works Piling or any other foundation designs using penetrative methods shall not be carried out other than with the written consent of the local planning authority. The development shall be carried out in accordance with the approved details.*

*Reason To protect and prevent the pollution of controlled waters from mobilised contaminants in line with NPPF paragraphs 170, 178, 179, EA Groundwater Protection Position Statement N8 (Physical disturbance of aquifers in SPZ1) and Policy 106 (Nature Conservation) of the St Alban's Local Plan (1994).*

*Advice*

*Piling or any other foundation designs using penetrative methods can result in risks to potable supplies from things such as pollution/turbidity, drilling through different aquifers and creating preferential pathways. Please note that this planning application is 'Outline' and this condition may restrict the depth of foundations, which may therefore limit the height of any residences. Please refer to 'Piling in layered ground: risks to groundwater and archaeology' (<https://www.gov.uk/government/publications/piling-in-layered-ground-risks-to-groundwater-and-archaeology>), for more information.*

*We strongly recommend you also consult Affinity Water on piling/foundation proposals, who operate the nearby public water supply abstraction.*

*Condition 2 - Surface Water Discharge No drainage systems for the infiltration of surface water to the ground are permitted other than with the written consent of the local planning authority. Any proposals for such systems must be supported by an assessment of the risks to controlled waters. The development shall be carried out in accordance with the approved details.*

*Reason To protect and prevent the pollution of controlled waters from mobilised contaminants in line with NPPF paragraphs 170, 178, 179, EA Groundwater Protection Position Statements G12 (Discharge of clean roof water to ground) and G13 (Sustainable drainage systems) and Policy 84A (Drainage Infrastructure) of the St Alban's Local Plan (1994).*

*Advice*

*Controlled waters are particularly sensitive in this location because the proposed development site is within SPZ1. As a result, we do not believe that the use of infiltration Sustainable Drainage Systems are appropriate in this location.*

6.32. Highways England

6.33. Response received 18 November 2020:

*Highways England has been appointed by the Secretary of State for Transport as strategic highway company under the provisions of the Infrastructure Act 2015 and is the highway authority, traffic authority and street authority for the strategic road network (SRN).*

*The SRN is a critical national asset and as such Highways England works to ensure that it operates and is managed in the public interest, both in respect of current activities and needs as well as in providing effective stewardship of its long-term operation and integrity. Highways England will be concerned with proposals that have the potential to impact on the safe and efficient operation of the SRN, in this case, particularly the A1(M).*

*Upon review of the documents accompanying the application, Highways England understand that the development is forecast to generate 48 two-way trips in the AM Peak and 49 two-way trips in the PM Peak. The Transport Assessment (TA) notes that the proposed development distribution has been based on the 2011 Census data for the merged local authority district 'E02004938: St Albans 015' and that Google Maps journey planner tool was used to determine the question routes to each workplace destination. However, the TA does not provide details on how the forecast trips have been assigned to the surrounding network. We would have expected the trips to have been presented within the TA itself (e.g. presented in a flow diagram or a table showing the total development trips, by route) and the Census Data provided in the Appendix, to understand the distribution of trips.*

*Nevertheless, given the site's distance from Junction 3 of the A1(M), the trips forecast to be generated by the proposals are unlikely to have an adverse impact on the SRN. However, Highways England would have expected reference to be made to the impact of construction traffic as a result of the proposals. Highways England therefore considers that a Construction Management Plan is required to ensure that construction of the proposed development does not impact the safety, reliability and / or operation of the SRN and thus recommends that such a condition is included within any planning permission. This should include details on the number and frequency of trips, vehicle types, proposed routing, timings and how these will be managed to reduce impacts on the SRN, notably during network peak hours.*

*Therefore, subject to the necessary condition, we are satisfied that the proposals will not materially affect the safety, reliability and / or operation of the SRN (the tests set out in DfT Circular 02/2013, particularly paragraphs 9 & 10, and MHCLG NPPF2019, particularly paragraphs 108 and 109), in this location and its vicinity.*

6.34. The condition is as follows:

*No development shall take place until a detailed Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority in consultation with Highways England. If the detailed Construction Management Plan demonstrates that there is the potential for a severe impact on the SRN, further assessments may be required.*

*Reason:*

*To mitigate any adverse impact from the development on the A1(M). To ensure that the A1(M) continues to be an effective part of the national system of routes for through traffic in accordance with section 10 of the Highways Act 1980 and to satisfy the reasonable requirements of road safety.*

6.35. Hertfordshire Constabulary – Architectural Liaison Officer

6.36. Response received 12/10/2020 as follows:

*Thank you for sight of this outline application. In general terms I have no objection to development at this location on the basis that it is a genuine mixed occupancy plan with a full spread of home sizes attracting a full spread of occupants. If the densities increase or more single occupancy properties are proposed, the area loses its appeal from a crime prevention perspective and will also lose my support.*

6.37. Herts Valley Clinical Commissioning Group

6.38. The NHS East and North Hertfordshire CCG commented on the application on the 20<sup>th</sup> October stating that:

*This proposed development will have an impact on several GP practices, which are either at capacity or operating in cramped conditions and therefore their ability to absorb any increase in patient population is very limited.*

*For this reason a contribution would be sought to make this scheme favourable to the NHS services commissioner and we would like to propose that a charge is applied per dwelling towards providing additional GP facilities in the area.*

*Below is our calculation based on the number of dwellings proposed and recently updated build costs (until September 2020 we have been using 2011 build costs and thus grossly underestimating the actual impact):*

*100 dwellings x 2.4= 240 new patients  
240/ 2,000 = 0.12 GP (based on ratio of 2,000 patients per 1 GP and 199m<sup>2</sup> as set out in the NHS England "Premises Principles of Best Practice Part 1 Procurement & Development")  
0.12 x 199m<sup>2</sup> = 23.88m<sup>2</sup> additional space required  
23.88 x £5,410 (build costs including land, fit out and fees) = £129,190.8  
£129,190.8 / 93 = £1,291.908 ~ £1,290 per dwelling*

*These calculations above are based on the impact of this development only, on the number of dwellings proposed.*

*In addition to the above, we would like you to consider the impact on NHS community, mental health and acute care services. Detailed calculations of the capital impact can be provided and I have summarised the cost per dwelling based on 2.4 occupancy below:*

	Cost per dwelling
Acute Care	£2,187.69
Mental Health	£201.38
Community Services	£182.03

Further details in respect of the requested contributions was provided as follows:

*GMS contribution:*

- to be made in favour of a relocation project which is being progressed to relocate Northdown Road Surgery (branch of the Wrafton House practice in Hatfield town centre) to the area known as Highview in Hatfield upon which regeneration works have I believe not long started but will not be completed until 2033 (The GP practice is planned for the final Phase, Phase 3). This is to allow the practice to almost double in size & be DDA compliant amongst other things. Northdown is currently based in a converted 1970's semi detached house which has no ability to expand and is not fit for purpose by any means under current standards. It has an elderly patient demographic which exacerbates the fact it is not DDA compliant in any sense. If the development postcode of AL4 0FU is input into the search for a GP on NHS choices Northdown comes up as the practice that is nearest at 0.8 miles from the development.*

- As an alternative for it to be made in favour of an extension to Burvill House in the centre of Hatfield with significant and worsening constraint issues and is one*



*of if not the most constrained practices in the East & North Herts patch. This has already been high level costed by the practice. Burvill House is the next nearest practice to the development according to NHS Choices at 1.7 miles away.*

*The need for “HOT” and “COLD” management of patients and those shielding under COVID is presenting practices with additional and significant challenges in terms of separate access and the advent of separate patient “Zones” in already constrained premises.*

*It would be requested that both of these projects be named as benefactors to allow the CCG flex and that a clause that contributions would be a on retrospective basis if necessary to effectively refund any upfront monies invested by East & North Herts CCG.*

*In respect of Community Services at £182.03 per dwelling the request would equate to £18,203.00 be made in favour of Hertfordshire Community Trust to be invested in their Queensway Health Centre in Hatfield town centre which is imminently due to be refurbished throughout due to expansion of services onto the 1st floor and the addition of an external lift.*

*In regard to Mental Health at £201.38 per dwelling the request would equate to £20,138 to be made in favour of Hertfordshire Partnership Foundation Trust to again be invested on a co-location basis at Queensway with an additional request that Roseanne House in Welwyn Garden City also be named where expansion is also planned.*

*A request for a retrospective funding clause is also made in respect of Community Services and Mental Health for the same reason as aforementioned.*

*In this particular case there is no application for Acute funding.*

6.39. Herts and Middlesex Wildlife Trust

6.40. Response received 2/10/2020, commenting as follows:

*Objection: This application does not demonstrate a 'measurable' net gain to biodiversity by utilising the Defra biodiversity metric.*

*This development must demonstrate that it can deliver a 'measurable' net gain in biodiversity in accordance with NPPF, BS 42020. At present it contains no objective, quantified assessment of net ecological impact and so should be refused until a calculation which utilises the DEFRA biodiversity metric has been submitted and approved. It is likely that the arable site will be able to achieve this but until a metric has been submitted this is subjective conjecture.*

The response goes on to confirm the additional information that is considered is required in order to resolve the objection, with reference to the relevant clauses in the NPPF 2019.

6.41. Ramblers Association

6.42. Response received 2 October 2020, as follows:

*We oppose this application which is for inappropriate development in the Green*

*Belt. It would seriously reduce the amenity of the public rights of way which cross the site and result in the loss of productive arable land.*

6.43. The response goes on to state that

*We welcome the following aspects of the proposal which must be mandatory in any subsequent detailed application.*

- *All existing public rights of way are maintained on their existing lines*
- *The well-used informal path linking FP44 and FP48 is preserved*
- *New footways are provided round the eastern and southern boundaries of the site with a connection to the recreation ground in the SW*

*We consider that the following measures are also essential.*

*1) At present the legal widths of the existing public rights of way are undefined. To safeguard these routes from encroachment in the future their legal widths should be defined as a minimum of 3m. Note that the surfaced width can be less than the legal width.*

*2) The existing informal path should be dedicated as a public right of way with a minimum width of 3m. This path is included as a proposal in the County Council's Rights of Way Improvement Plan with reference 6/234*

*3) If the green space in the north of the site is to remain in private ownership there need to be guarantees of public access in perpetuity. This can be achieved by registration as a Town or Village Green under section 15(8) Commons Act 2006. Registration provides the permanent protection of land under section 29 Commons Act 1876 and section 12 of the Inclosure Act 1857 and ensures local people have the right to use the land for recreation.*

6.44. St Albans and District Footpaths Society

6.45. Have commented in objection as follows:

- *The development will undeniably change the public ability to enjoy views of the open countryside*
- *The proposal is inappropriate development within the green belt*
- *If the council were to approve, the existing walked route joining Footpath Colney Heath 23 to Footpath Colney Heath 48 should be made a definitive public right of way. A definitive public right of way should also be created over the route of the HV cable from Footpath Colney Heath 48 through to the entrance to the site on Bullens Green Lane.*

6.46. UK Power Networks

6.47. No response.

## **7. Relevant Planning Policy**

7.1. National Planning Policy Framework, 2019

7.2. St. Albans District Local Plan Review 1994 – Key Policies:

POLICY 1	Metropolitan Green Belt
POLICY 102	Loss of Agricultural Land
POLICY 104	Landscape Conservation
POLICY 106	Nature Conservation
POLICY 111	Archaeological Sites

POLICY 2	Settlement Strategy
POLICY 34	Highways Consideration in Development Control
POLICY 39	Parking Standards, General Requirements
POLICY 40	Residential Development Parking Standards
POLICY 69	General Design and Layout
POLICY 70	Design and Layout of New Housing
POLICY 74	Landscaping and Tree Preservation
POLICY 8	Affordable Housing in the Metropolitan Green Belt
POLICY 86	Buildings of Special Architectural or Historic Interest
POLICY 97	Existing Footpaths, Bridleways and Cycleways

- 7.3. Supplementary planning Guidance/Documents  
Design Advice Leaflet No 1 – Design and Layout of New Housing  
Affordable Housing SPG 2004  
Revised Parking Policies and Standards January 2002
- 7.4. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that where in making any determination under the planning Acts, regard is to be had to the development plan, the determination shall be made in accordance with the plan unless material consideration indicates otherwise.
- 7.5. The development plan is the St Albans District Local Plan Review 1994.
- 7.6. The NPPF 2019 is a material consideration.
- 7.7. Paragraph 11 of the NPPF states that there is a presumption in favour of sustainable development.

For decision-taking 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, granting permission unless:
- i. the application of policies in this 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 would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework or taken as a whole.

- 7.8. Green Belt is confirmed as one such area or asset for the purposes of 11d.i).
- 7.9. Paragraphs 212 and 213 of the NPPF reads as follows:
- 7.10. The policies in this Framework are material considerations which should be taken into account in dealing with applications from the day of its publication. Plans may also need to be revised to reflect policy changes which this replacement Framework has made. This should be progressed as quickly as possible, either through a partial revision or by preparing a new plan.
- 7.11. However, existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them according to their degree of consistency with this

Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given).

- 7.12. The degree of consistency of the Local Plan policies with the framework will be referenced within the discussion section of the report where relevant.

## **8. Discussion**

- 8.1. The main issues for consideration are as follows:

1. Whether the proposed development of the land within the Metropolitan Green Belt constitutes inappropriate development and the impact of the development on openness;
2. The very special circumstances put forward by the applicant;
3. Provision of housing and affordable housing, including housing mix and tenure.
4. The suitability of the location of the site for housing when consideration is given the local and national policy regarding the location of development.
5. Access and transportation;
6. The impact of the proposed development as defined by the parameter plans, in respect of:
  - a. Character and Appearance of the surrounding area;
  - b. Impact on above and below ground heritage;
  - c. Landscaping and trees;
7. Loss of high quality agricultural land
8. Ecology and biodiversity;
9. Flood risk and drainage;
10. Impact on social infrastructure ;
11. S106 Heads of Terms;
12. Any other issues raised by the application and/or consultation responses not otherwise covered;
13. The Planning Balance.

### **“The Tilted Balance”**

- 8.2. Prior to considering these issues, it is firstly important to review and clarify the correct the application of the NPPF in this case, and most specifically, the application of paragraph 11d, and what has become known as the “tilted balance” in favour of the grant of planning permission, since this is relied upon by the applicant in making the case for this development in the Green Belt.
- 8.3. The NPPF states in Paragraph 11 that there is a presumption in favour of sustainable development. Paragraph 11 goes on to state that:

*For decision-taking 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, granting permission unless:*

*i. the application of policies in this 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 would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework or taken as a whole.*

- 8.4. The most relevant recent high court judgement in relation to this matter is *Monkhill v SoSCLG* [2019] EWHC 1993 (Admin). The judgement explains in detail the application of paragraph 11 of the NPPF, including that:

*“The presumption in favour of sustainable development in paragraph 11 does not displace s.38(6) of the 2004 Act. A planning application or appeal should be determined in accordance with the relevant policies of the development plan unless material considerations indicate otherwise”;*

- 8.5. The judgement then describes a situation where the most important policies for determining an application are out of date, which is the situation that can be accurately applied to the application subject of this officer's report to committee. The judgement states:

*Where there are relevant development plan policies, but the most important for determining the application are out-of-date, planning permission should be granted(subject to section 38(6)) unless either limb (i) or limb (ii) is satisfied;*

*Because paragraph 11(d) states that planning permission should be granted unless the requirements of either alternative is met, it follows that if either limb (i) or limb (ii) is satisfied, the presumption in favour of sustainable development ceases to apply. The application of each limb is essentially a matter of planning judgment for the decision-maker;*

*Where more than one "Footnote 6" policy is engaged, limb (i) is satisfied, and the presumption in favour of sustainable development overcome, where the individual or cumulative application of those policies produces a clear reason for refusal;*

*The object of expressing limbs (i) and (ii) as two alternative means by which the presumption in favour of granting permission is overcome (or disapplied) is that the tilted balance in limb (ii) may not be relied upon to support the grant of permission where a proposal should be refused permission by the application of one or more "Footnote 6" policies. In this way paragraph 11(d) prioritises the application of "Footnote 6" policies for the protection of the relevant "areas or assets of particular importance";*

- 8.6. In this case, the primary matter for consideration and ultimately of planning judgement is therefore whether or not the test provided by limb (i) of paragraph 11 is passed. If the application fails against limb (i), there is no justification for applying the “tilted balance” offered by limb (ii). The judgement states:

*The application of some "Footnote 6" policies (e.g. Green Belt) requires all relevant planning considerations to be weighed in the balance. In those cases because the outcome of that assessment determines whether planning should be granted or refused, there is no justification for applying limb (ii) in addition to limb (i). The same applies where the application of a legal code for the protection of a particular area or asset determines the outcome of a planning application (see, for example, the Habitats Regulations in relation to European protected sites);*

- 8.7. The judgement in Monkhill concludes that:  
*Applicants for planning permission may object that under this analysis of paragraph 11(d), the availability of the tilted balance is asymmetric. Where a proposal fails the test in limb (i), the tilted balance in limb (ii) is not applied at all. In other words, the tilted balance in limb (ii) may only be applied where the proposal either passes the test in limb (i) (and there still remain other considerations to be taken into account), or where limb (i) is not engaged at all. This analysis is wholly unobjectionable as a matter of law. It is simply the ineluctable consequence of the Secretary of State's policy expressed through the language and structure of paragraph 11(d).*
- 8.8. It follows that if the application, as a matter of planning judgement, fails limb (i) and there is a clear reason for refusal, then the tilted balance is not engaged. The application should be determined in accordance with s38 (6) of the Town and Country Planning Act in the usual way. This is the way in which this planning application has been considered by officers.
- 8.9. Whether the proposed development of the land within the Metropolitan Green Belt constitutes inappropriate development and the impact of the development on openness;
- 8.10. The site is wholly situated within the Metropolitan Green Belt, as defined within the Local Plan Review 1994. There are no existing buildings on the site, and it comprises open fields, currently put to agricultural use. The site is 5.25 hectares in total size across both local authority areas. It is on the edge of Colney Heath, to the south of the Roestock housing estate. Colney Heath is defined by Policy 2 of the St Albans Local Plan as a Green Belt Settlement. Within such areas, aside from certain exceptions not of relevance to this application, development will not normally be permitted except for housing for local needs defined by Policy 6 (Policy 6 not saved), or for local facilities and service needs of the settlement. The Policy also states that developments must not detract from the character and setting of these settlements in the Green Belt. Policy 145 of the NPPF confirms that new buildings are inappropriate in the Green Belt, subject to a number of exceptions, none of which apply to this application for development. The applicant has accepted that the development is inappropriate in the Green Belt.

#### *Green Belt Harm*

- 8.11. As set out earlier in this statement, given policies for the supply of housing are out of date within St Albans, Paragraph 11 of the NPPF is engaged. This sets a presumption in favour of sustainable development, granting permission unless:
- i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed;*

8.11.2. Green Belt is confirmed as one such asset. As outlined above, the tilted balance does not apply in this case. The proposed development is therefore required to be assessed against the development plan and other material considerations and in respect of Green Belt policy, to be assessed against the Local Plan and the NPPF. The NPPF represents the more up to date policy position, and is therefore the focus of this part of the overall assessment.

8.11.3. Paragraph 143 of the NPPF states:

*“143. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.*

*144. When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. ‘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.”*

8.11.4. The first part of the assessment is therefore to assess the extent of harm to the Green Belt that would be caused by the proposed development, before weighing this against any very special circumstances.

8.11.5. An assessment of harm should be set in the context of the purposes of including land in Green Belt. Paragraph 134 of the NPPF confirms these as:

*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.*

8.11.6. The site has previously been considered by the Council as part of its Local Plan Evidence base, which remains a material consideration. In terms of its suitability for release from the Green Belt, the site was included as part of the SKM Green Belt Review Purposes Assessment November 2013. The site forms part of parcel 34 which is known as ‘Green Belt Land Between Hatfield and London Colney’. The site is stated to be predominantly arable farm land and heathland. The site was considered to contribute towards the purposes of Green Belt (nor was it recommended for boundary adjustments. The Purposes assessment is extracted below. According to Annex 1 Parcel Assessment Sheets for SADC (2013) page 68, the contribution is summarised as follows:

*“Significant contribution towards safeguarding the countryside and maintaining the existing settlement pattern (providing gap between Hatfield and London Colney). Partial contribution towards preventing merging (of St Albans and Hatfield) and preserving the setting of London Colney, Sleafshyde and Tyttenhanger Park. Overall the parcel contributes significantly towards 2 of the 5 Green Belt purposes.”*

*The existence of built development within the parcel is low at 1.0%.*

<b>GB34 – Green Belt Purposes Assessment</b>		<b>Contribution</b>
<b>To check the unrestricted sprawl of large built-up areas</b>		<b>LIMITED / NO</b>
The parcel is located away from large built-up areas of London, Luton and Dunstable and Stevenage. It does not form a connection with a wider network of parcels to restrict sprawl.		
<b>To prevent neighbouring towns from merging</b>		<b>PARTIAL</b>
The parcel does not fully separate neighbouring 1 <sup>st</sup> tier settlements. However it contributes with GB33, 35 and 36 towards the strategic gap between St Albans and Hatfield. As a whole, the gap contains some built development and ribbon development associated to 3 <sup>rd</sup> tier settlements in the Green Belt. Overall, any minor reduction in the gap would be unlikely compromise the separation of 1 <sup>st</sup> tier settlements in physical or visual terms, or overall visual openness.		
<b>To assist in safeguarding the countryside from encroachment</b>		<b>SIGNIFICANT</b>
The parcel displays typical rural and countryside characteristics, especially to the south, in medium sized arable fields with hedgerow boundaries, sheep pasture and substantial riverine wetland habitats along the Colne, and areas of heath and semi natural grassland which are locally important at Colney Heath. Tyttenhanger Park and Hall is located to the south. There is evidence of linear built development in the north part of the parcel which contains Colney Heath and Bullens Green. The A1(M) is also a major urban influence which is audibly intrusive. Levels of openness are generally high especially to the south due to an absence of built development.		
<b>To preserve the setting and special character of historic towns</b>		<b>PARTIAL</b>
The parcel adjoins London Colney and Sleepshyde conservation areas however visual connection or views are limited by local routes and wooded areas. Tyttenhanger Park the setting of the Hall is encircled by sand and gravel working and mounds of overburden and spoil, with associated conveyor belts and plant at present but future restoration should remedy this impact in countryside character..		
<b>To maintain existing settlement pattern</b>		<b>SIGNIFICANT</b>
<p>The parcel provides a range of gaps. It provides the primary local gap between Hatfield (1<sup>st</sup>) and London Colney (2<sup>nd</sup>) and contributes with parcels GB33 to GB36 and GB43B to the overall gap with St Albans. The gap is large at 4.3km but contains ribbon development at Colney Heath (3<sup>rd</sup>) and Bullens End (3<sup>rd</sup>). The gap to the south to Colney Heath is 2.6km and well maintained (relatively free of development) however the gap to the north is more built up and narrower at 1.7km.</p> <p>Therefore any reduction in the gaps would compromise the separation of settlements in physical and visual terms to the north, and local levels of visual openness. A minor reduction to the south would lead to a less significant impact.</p>		
<b>Level of openness and countryside character</b>		
<b>Existence of built development</b> The level of built development is low at 1.0%. Some ribbon development has taken place especially around villages to the north and east of the parcel.		
<b>Visual Openness</b> The parcel is generally open to the north and more enclosed to the south where it is more wooded although there are some extensive panoramas over arable fields towards the Shenley ridge to the south.		
<b>Countryside Character</b> Riverine character with many sites subject to past gravel working now restored to pasture, lakes or water meadow along the Colne. Well wooded to the south.		

- 8.11.7. It is considered that when considering only the 5.25 ha application site, the conclusions of the Green Belt review remain valid. This is because the development of the site, due to its scale, location and extent, would still significantly undermine 2 of the 5 purposes of retaining land in Green Belt, specifically maintaining the existing settlement pattern, and presenting encroachment into the countryside.
- 8.11.8. The site was also considered as part of the Strategic Housing Land Availability Assessment. Land at Roundhouse Farm, Roestock Lane, Colney Heath (north of Fellowes Lane and West of Bullen's Green) is known as site SHLAA-GB-CH-37. It was assessed in SHLAA 2009 and subsequent updates in 2017 and 2018. In 2018 update the site is stated to be 5.34 ha.
- 8.11.9. The site was rejected for further consideration for housing development. The reason cited was:



*“The site comprises agricultural land which is rural in character. Its development would constitute visual intrusion and encroachment into open countryside. Development of this relatively large site (approx 5 ha) could have a significant adverse effect on the size and character of Colney Heath village, where infrastructure is already stretched.*

*Development would also be likely to have an adverse effect on the setting of No. 68 Roestock Lane, a Grade II listed house, which lies to the north of the site and could prevent the land from making a positive contribution to the Watling Chase Community Forest.”*

8.11.10. This confirms and reinforces the key issue of harm caused by way of visual intrusion and encroachment into the countryside, leading to loss of openness, as well as the significant adverse effect on the small Green Belt village of Colney Heath due to the proposed development’s large scale and physical extent. It is of note that in dismissing the appeal for the much smaller adjacent Roestock Depot site, the Inspector commented that:

*“17. The existing buildings on the site undoubtedly have an impact on openness but the likely increase in volume and spread of mass and bulk across the site into areas currently absent of buildings would result in a greater impact on openness. Therefore, the development would be at odds with the Green Belts essential characteristics, openness and permanence. Furthermore, it would be in conflict with its defined purposes, specifically to assist in safeguarding the countryside from encroachment.”*

8.11.11. This same conclusions are valid in relation to this proposed development, but given the much greater scale of housing proposed at 100 units, and much greater extent, those impacts and identified harms would also be proportionately greater.

8.11.12. The applicant describes the site as a “captured” site and claims it makes little or no contribution to the purposes of including land within Green Belt. This is not accepted. The assessment of the site against the purposes has been set out above. In terms of the “captured” nature of the site, the applicant describes it as being bordered by built form from its north east all the way around to its south west corner. This interpretation is not accepted. As can be seen from the submitted site location plan, there is some housing to the north of the site, and to the west, (albeit one has to cross Roestock Park to reach it). However, those houses are in themselves part of a Green Belt settlement, they are not excluded from the Green Belt. The site is completely open to the countryside to the south and east.

8.11.13. The site is considered to be a significant part of the parcel of open Green Belt countryside to the west of the A1, east of Colney Heath and south of Roestock, centred around the junction of Bullens Green Lane and Fellowes Lane. Development of the site would impact on the perception of openness of the whole parcel of land. This land helps maintain the local landscape character and the settlement boundaries are well defined.

8.11.14. Further discussion of the landscape impacts of the development are set out later in this report.

#### *Conclusion on Green Belt Harm*

8.11.15. It is concluded that the harm to the Green Belt by virtue of inappropriateness and any other harm, is very significant. There would be significant harm to the Green Belt by way of impact on openness, in addition to the harm by virtue of

inappropriateness. This is due to the scale and extent of the development, on the edge of a small village, representing significant encroachment into the countryside and significant visual intrusion and loss of openness. The proposed development would also conflict with the purpose of preventing neighbouring towns from merging, in this case in relation to Hatfield and London Colney. The scale of the proposed development would significantly detract from the character of the existing Green Belt settlement of Colney Heath, and this further contributes to the harm caused.

*NOTE: The non-Green Belt issues raised by the above, such as impact on the listed building, and impact on local infrastructure, loss of agricultural land, are dealt with later in this report. Impact on the Watling Chase Community Forest is dealt within the landscaping section of this report.*

## 8.12. The Very Special Circumstances Put Forward by the Applicant

8.12.1. The applicant lists the following as comprising very special circumstances which they say outweighs the harm to the Green Belt:

- The site is essentially “captured” Green Belt land. That is, it contributes little or nothing to the purposes of including land within the Green Belt and was essentially included by default when large swathes of the countryside between major settlements in Hertfordshire were designated as MGB over 20 years ago;
- The considerable need for new housing in both St. Albans District and Welwyn Hatfield Borough;
- The impacts of the Coronavirus pandemic on housing delivery; and
- The suitability of the site in sustainability terms.

8.12.2. These are considered in turn, with reference to later sections of this officer’s report to committee as appropriate.

*Site as “captured” land which has been included by default.*

8.12.3. Officer’s views on these matters in terms of Green Belt harm are outlined above. In terms of whether there is any contribution on this point to very special circumstances, the following points should be noted:

1. The site is in Green Belt and this is not disputed. The site has not been considered appropriate for release in the most up to date reviews of Green Belt that have been taken. The site was not recommended for allocation in the SHLAA.
2. The site is not “captured” and has a significant impact on the openness of the Green Belt in this location, as outlined earlier in this report.
3. The site’s relationship to Colney Heath needs to be considered in the context of that being a village within the Green Belt, which is afforded Green Belt protection accordingly.
4. The site has no particularly special characteristics which would justify it being considered differently, or as less important than, other Green Belt land, and certainly not to the extent that this would outweigh the harm to the Green Belt that has been identified. There is no previously developed land on the site, in fact there are no buildings, and it is not surrounded by existing built development. The applicant’s arguments on this point are not accepted for the reasons already outlined.

- 8.12.4. The representations from CPRE Hertfordshire refer to some relevant case law on the matters of openness which is helpfully summarised in the following paragraph taken from their letter, and which reinforces the arguments made above in relation to the claim that the site is “captured”:

*R (Lee Valley Regional Park Authority) v Epping Forest DC [EWCA Civ 404] held that the concept of “openness” means the state of being free from built development, i.e. the absence of buildings. Development of 100 houses will have a significant impact on the openness of the Green Belt. Similarly, Turner v Secretary of State [EWCA Civ 466] determined that openness is essentially freedom from development and relates primarily to the quantum and extent of development and its physical effect on the site. As the site is bounded by residential development to the north and east and there is a tree belt to the west approximately 100 metres distant, the applicant considers that development on it will have minimal impact on openness. However, to the south and south-east is open countryside and views from there and Fellowes Lane would be impacted, as would the public rights of way which cross the site (PROWs 023, 044, 048 and 067). From its junction with Tollgate Road until the start of residential development north of this site, Bullens Green Lane is bounded on both sides by open fields, of which this site is one. Consequently, we [CPRE] cannot reconcile the situation on the ground (in line with Tate v Northumberland County Council [2018] EWCA Civ 1519) with the view expressed by the applicant.*

- 8.12.5. To conclude, this arguments that the site does not contribute to Green Belt purposes in a material way, makes little contribution to openness, and is a result of a decades old designation, are disputed, and are not given any weight in terms of very special circumstances.

*The need for housing*

- 8.12.6. Section 8.12 of this report outlines the position in respect of the need for housing, It concludes that whilst the provision of housing carried substantial weight in favour of the application, there is insufficient information contained within the application to conclude that the development would contribute to meeting the identified need for housing in the District by reference to the latest available evidence.
- 8.12.7. In a 2013 Secretary of State Decision at Land of Glebelands, Thundersley, Essex, a severe lack of forward housing land supply was identified, but this in itself was not sufficient to outweigh the harm, caused. In the decision, the SoS concluded:

*“30. The Secretary of State concludes that the appeal proposals are inappropriate development in the Green Belt. Additionally he has identified harm to the GB’s openness and harm to the GB’s purposes of preventing urban sprawl, preventing encroachment on the countryside and preventing the merging of neighbouring settlements and, furthermore, harm to GB’s character and appearance. He considers that, together, this represents considerable harm, to which he attributes substantial weight. The Secretary of State has found that there are factors in favour of the appeal including a severe lack of a forward housing land supply and that, setting aside GB considerations, development of the appeal site would not cause demonstrable harm. He also wishes to emphasise that national policy is very clear that GB reviews should be undertaken as part of the Local Plan process. In light of all material considerations in this case the Secretary of State is concerned that a decision to allow this appeal for housing in the GB risks setting an undesirable precedent for similar developments which would seriously undermine national GB policy.*

*31. Having weighed up all material considerations, he is satisfied that the factors which weigh in favour of the proposal do not clearly outweigh the harm to the Green Belt that would arise from the proposal. The Secretary of State therefore concludes that the appeal should be dismissed.”*

8.12.8. In the Supreme Court, it was held, in *Suffolk Coastal DC v Hopkins Homes Ltd*: 2017 UKSC 37, that Local Plan policies to protect the countryside are not policies for the supply of housing and are therefore not out of date, meaning that, as CPRE confirm in their representation, the absence of a 5 year housing land supply is not necessarily conclusive in favour of the grant of planning permission. In para 61 of the judgement it is stated that:

*“61. There is nothing in the statute which enables the Secretary of State to create such a fiction, nor to distort what would otherwise be the ordinary consideration of the policies in the statutory development plan; nor is there anything in the NPPF which suggests an intention to do so. Such an approach seems particularly inappropriate as applied to fundamental policies like those in relation to the Green Belt or Areas of Outstanding Natural Beauty. No-one would naturally describe a recently approved Green Belt policy in a local plan as “out of date”, merely because the housing policies in another part of the plan fail to meet the NPPF objectives. Nor does it serve any purpose to do so, given that it is to be brought back into paragraph 14 as a specific policy under footnote 9. It is not “out of date”, but the weight to be given to it alongside other material considerations, within the balance set by paragraph 14, remains a matter for the decision-maker in accordance with ordinary principles.”*

8.12.9. In *Hunston Properties Ltd EWCA Civ 1610* (relating to a site within St Albans District), it was held that: *“the weight to be given to such a housing shortfall (and whether it constituted ‘very special circumstances’ for the purposes of the NPPF) is a matter of planning judgment. The weight to be attached to the shortfall may, as a matter of planning judgment, be reduced where a shortfall is inevitable due to a district being subject to policies which restrict development”* (such as Green Belt).

8.12.10. To conclude, the provision of housing and affordable housing carries substantial weight in favour of the proposed development, however, this is diluted by the lack of clarity in respect of housing mix and tenure and how the proposed development would directly contribute to housing need as identified in the latest published evidence in the LHNA. There is not even any certainty over how many (or indeed whether any) of the affordable units would be located in St Albans District as this has not been specified in the application.

8.12.11. The provision of housing, including affordable housing and self-build housing is therefore not considered enough in itself to constitute very special circumstances sufficient to outweigh the significant harm to the Green Belt that has been identified, and the compelling arguments against the overall suitability of the location for significant scale housing development, which are discussed below.

#### *The Impact of the Coronavirus Pandemic.*

8.12.12. The applicant refers to the coronavirus pandemic and suggests this will worsen the delivery of housing, making the proposed development all the more urgent in the applicant’s view. However, the applicant does not link this issue directly to why this site should come forward as a priority, which is necessary if it is

to be considered as a very special circumstance in favour of this particular development.

- 8.12.13. The Coronavirus pandemic is a temporary issue, albeit its impacts are large and significant, and affect all aspects of life. This proposed development would be permanent, and the loss of the Green Belt would be permanent. There are also a number of other harmful impacts from the development of this site, set out in this report, including in terms of the suitability of the location for significant additional housing and its sustainability. These impacts would also be permanent. The applicant has not made a compelling case that the coronavirus pandemic should contribute to very special circumstances to bring forward this site in this location, at this time, that would outweigh the harms identified. The coronavirus pandemic is accordingly not afforded any weight in the decision making process.

*The Suitability of the Site in Sustainability terms*

- 8.12.14. This is covered in Section 8.11 below, which concludes that the site is not considered to be a suitable or sustainable location for this scale of residential development. It is clear there are no particular characteristics in respect of sustainability which could contribute towards very special circumstances, and none have been identified by the applicant. Accordingly, this argument is afforded no weight in the decision making process.

*Conclusion on Very Special Circumstances as Put Forward by the Applicant*

- 8.12.15. In reaching a conclusion on the very special circumstances put forward and whether they outweigh green belt harm. The conclusion of the Inspector in a recent local appeal decision are helpful, Paragraph 96 of Appeal Ref: APP/B1930/W/19/3235642 (Land to the rear of Burston Garden Centre, North Orbital Road, Chiswell Green, St Albans, AL2 2DS), January 2020 states:

*The determination of whether very special circumstances exist is a matter of planning judgement based on a consideration of all relevant matters. However, very special circumstances cannot exist unless the harm to the Green Belt, and any other harm, is clearly outweighed by other considerations. Consequently, for the appeal to succeed, the overall balance would have to favour the appellants case, not just marginally, but decisively. (officer emphasis)*

- 8.12.16. A final conclusion on this will be reached at the end of the discussion section of this report, in the Planning Balance section, taking into account all material considerations in the determination of the application, not just those specific circumstances highlighted by the applicant as very special circumstances. At this point, it is sufficient to note that as a matter of planning judgement, it is not considered that the very special circumstances put forward by the applicant indicate that the harm identified would be clearly outweighed and/or that the overall balance should fall decisively in favour of the application.

- 8.13. The suitability of the location of the site for housing when consideration is given the local and national policy regarding the location of development

- 8.13.1. The settlement strategy set out in Policy 2 of the Local Plan Review 1994 is based on sustainable development principles. The policy seeks to protect and enhance the character of existing settlements, and direct development towards the most sustainable locations, i.e. cities, towns and to a lesser extent larger villages. Very limited development is supported in Green Belt settlements such as Colney Heath.

8.13.2. It is considered that this policy approach is consistent with the relevant provisions of the NPPF, and in particular:

*103. The planning system should actively manage patterns of growth in support of these objectives. 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.*

8.13.3. The application site is located at the edge of Colney Heath, Colney Heath is a small, Green Belt village, which is spread across two main settlement areas. It is one of the smaller settlements within St Albans District. Colney Heath has limited facilities and public transport. Facilities within the village, as advised by the Parish Council, can be summarised as follows:

- One primary school
- One post office/convenience store
- One takeaway
- One church with associated community facilities
- One football club
- Scout and guide units

8.13.4. Paragraph 5.68 of the applicant's Planning Statement summarises its position on the sustainability of the location as follows:

*As set out within the 'Matters of Detail' section below, and within accompanying reports supporting this application, particularly the Green Travel Plan and the Transport Assessment, it is considered the proposal is demonstrably sustainable. In particular, the Sustainability Appraisal included within the Green Travel Plan demonstrates that there are numerous facilities within walking distance of the site and an even greater number within easy cycling distance. Furthermore, the site is within walking distance of a number of bus stops on services that facilitate regular access to a range of other settlements, including Welwyn Garden City, St Albans and Hatfield, which provide a substantial range of facilities. Additionally, the site is within 3.5km of Welham Green railway station, meaning it is accessible by cycle from the site.*

8.13.5. This is not considered to be an accurate depiction of the accessibility of Colney Heath as a location. Local facilities are very limited as outlined above. Bus services are irregular as outlined above, pedestrian and cycling routes are variously not lit, on unmade ground, and/or require the use of major roads, often without footpaths. Proximity is not necessarily a pre-cursor to use of non-car modes for these reasons. These circumstances mean it is highly unlikely for new residents to opt for non-car modes of travel. Residents of the development will therefore be dependent upon the car for most of their trips away from the home, including for shopping, education and accessing other services. No off site contribution to any improvements to public transport facilities or infrastructure has been offered by the applicant.

8.13.6. These issues were raised by CRPE in their response to the application, which stated:

*NPPF para 108 requires safe and suitable access for all users and NPPF para 110 requires developments to be located and designed in order to give priority to pedestrian and cycling movements both within and beyond the site, minimising the scope for conflicts between pedestrians, cyclists and vehicles and addressing the needs of those with reduced mobility. The section of Bullens Green Lane from which the site access is to be taken, does not currently benefit from the provision of a footway or street lighting. Neither does Fellowes Lane. All three lanes which can be said to give access to the site (Bullens Green, Fellowes and Roestock are narrow, in parts only allowing single car access. Beyond the existing settlement none are suitable for safe pedestrian use or cycling, and certainly unsuitable for the elderly, disabled or children.*

8.13.7. The applicant's own information concludes that all facilities outside of Colney Heath are more than a half hour walk. Even facilities within Colney Heath are clustered within the western part of the village, requiring a significant walk along a major road to reach them, or the use of unmade footpaths.

8.13.8. CPRE helpfully advise in their consultation response that the walking distances quoted by the applicant are regularly in excess of maximum acceptable Chartered Institute of Highways and Transportation distances:

*In terms of travel distances the applicant cites the maximum walking distance of 2km in the Chartered Institute of Highways and Transportation (CIHT) publication 'Providing Journeys on Foot'. However, the CIHT 'acceptable' walking distances are 0.4km to town centres and 1km to schools and workplaces. The 'desirable' distances are half that. (Table 3.3 in Providing Journeys on Foot.) The nearest town centre with significant retail facilities is Hatfield, 3.7 km distant. London Colney is 4.3km distant and St. Albans 7.1 km. The nearest possible, (spaces may not be available), Primary School (Colney Heath JMI) is 1.2km and the nearest Secondary (Nicholas Breakspear) is 3.5km. The nearest railway station, Welham Green is 3.5km, Hatfield station 5.2km, St Albans City Station 7.8km and St Albans Abbey station 9.2km. All of these are beyond the CIHT acceptable distances and significantly beyond the desirable.*

8.13.9. For these reasons it is not considered that walking will constitute a significant part of the modal share for residents of the site.

8.13.10. Turning to cycling, the applicant's own diagrams on page 38 of the Green Travel Plan shows the limited routes available to cyclists, and the barrier posed by the A1M. Whilst routes across to Hatfield may be possible, there are no dedicated routes and it is considered unlikely that users other than experienced commuter cyclists would use this route to access Welham Green Station, or indeed Hatfield beyond.

8.13.11. The applicant's assumptions about cycling take up (paras 5.15 and 5.16) focus on proximity rather than quality, and make a host of assumptions about the users, which cannot be predicted or substantiated:

*Census data from 2011 also shows that 33.7% of 'Colney Heath: E04004802' commuters live within 5km of their place of work, where approximately 10.5% are considered to live within a walkable commute to work. Therefore, some 23.1% of residents for the aforementioned Parish area could reasonably take up cycling as a main mode of travel to work whilst maintaining a journey time that does not exceed 30 minutes. Given the percentage of residents living within this commutable distance, there is potential to increase the level of cycling amongst*

*residents of the area. As noted above, a distance of 5km is considered to be a reasonable travel distance by bicycle. The cycling speed for the average adult travelling on-road is considered to be circa 15.5kph (9.6mph); whereas a reasonably fit and proficient cyclist travelling via road bike on a fairly flat terrain is expected to be capable of speeds circa 25kph (15.5mph).*

- 8.13.12. The applicant then acknowledges that low cycle take up is likely to result from a lack of dedicated facilities, but then declines to offer a mechanism through which such facilities could be provided, stating it is beyond the remit of the development to do so. In stating this, the applicant offers a clear example of why this type of speculative, piecemeal development should be resisted:

*Considering the nature of the surrounding highways, it can be appreciated that the potential for having a relatively low percentage of residents travelling to work by bicycle could partly be due to the lack of designated cycle provision providing encouragement for this mode of travel. As such, the provision of an independent cycleway in keeping with the scale of the proposed development would only result in the termination point directing cyclists onto the main carriageway, as opposed to joining an existing provision. This provision is therefore not considered to be beneficial.*

*A financial contribution to cycle infrastructure will be made according to the levels of contribution defined in the Hertfordshire Toolkit. The standard charge for this is £750 per plot.*

- 8.13.13. It should be noted that no Heads of Terms for any s106 Agreement have been formally offered by the applicant.

- 8.13.14. It is clear from the above that there is no evidence in the applicant's submission to provide any likelihood of cycling providing a realistic and useable mode of transportation for residents, and indeed this is acknowledged by the applicant.

- 8.13.15. In respect of buses, contrary to the applicant's position, Colney Heath does not benefit from convenient, frequent bus services, as their own data confirms. The most frequent bus services are to Potters Bar and St Albans, and these only run 5 times a day. This level of frequency is unlikely to generate significant take up of bus use by new residents, and it's clearly inappropriate for commuters. Other services only run on 1 day per week, in the morning.

- 8.13.16. Train services are mentioned, and these may represented a longer distance option, or for journeys to London, but the fact remains that the only realistic way of travelling to the station for most residents will be via the private car.

- 8.13.17. The applicant rightly identifies education as an important generator of trips, and summarises provision as follows:

*The closest nursery to the site, named University Day Nursery, is located approximately 1.8km to the north of the site on Roehyde Way, and is accessible within a 22-minute walk, or 6-minute cycle. The closest primary school to the site, named Colney Heath School & Nursery, is situated approximately 1.6km to the east of the site on High Street, and is accessible within an 19-minute walk. The closest secondary school is Beaumont School, located approximately 4.8km to the west of the site on Austen Way, equating to a 17-minute cycling journey or 15-minute drive.*



- 8.13.18. It is assumed the distances are at adult pace. The distances given to pre-school and primary school are considered unrealistic for children of the age that would attend (and exceed the CIHT maximums), and therefore the motor car is likely to be used in practice by a large number of parents and carers, on the assumption those children attend the closest facility, which is not always the case. In terms of secondary school - journeys to Beaumont may well not be considered safe for children of the relevant age due to the need to use major roads with no dedicated cycling facilities. In addition; Beaumont School is known to be heavily over-subscribed so many children are likely to attend school further afield, increasing again the likelihood of travel by car.
- 8.13.19. Turning to discretionary trips for shopping and leisure, for all of the reasons outline above, it is considered highly likely that travel to these locations would be predominantly via the private car.
- 8.13.20. The Green Travel Plan offers no actual improvements to public transport or pedestrian and cycling infrastructure, all measures focus on providing information about existing facilities and services and encouraging their use. In the light of the significant barriers to non-car modes outlined in this officers report, it is not considered that these measures would measurably increase the proportion of residents opting to take up non car modes of transport.
- 8.13.21. The evidence, from officers own assessments, the material in the application, and consultation responses, clearly indicates that this site is not a suitable or sustainable location for new housing development at this scale. The proposed development would be contrary to Policy 2 of the Local Plan and the NPPF.
- 8.14. Provision of housing and affordable housing, including housing mix and tenure.
- 8.14.1. The applicant submitted a Five Year Housing Land Supply Statement (Emery Planning, Aug 2020). In the statement, the 5 year land supply calculation is based on SADC AMR (March 2020). The statement argues that SADC has a housing land supply of 1.36 years (see paragraph 11.20).
- 8.14.2. The first argument, is that windfall should not be included in 5 year land supply due to a lack of evidence. Further work has been undertaken by the Spatial Planning Department to improve the evidence behind including the windfall allowance within the 5 year land supply. This has comprised a review of past trends. This emerging draft work was published for the 3<sup>rd</sup> November 2020 Planning Policy Committee meeting and is available on the Council's website.
- 8.14.3. The second argument is that sites with outline permission, or site currently allocated in Local Plan do not meet the deliverability test as set out in the NPPG. To be included it is argued that they need further evidence. Officers are considering if evidence is available to support inclusion.
- 8.14.4. Based on draft working, it is currently considered that SADC has a housing land supply of 2.5 years from a base date 1 April 2020. However, it is acknowledged that 2.5 years is still substantially below the required 5 years. The provision of housing is therefore a matter which has substantial weight in the decision making process.
- 8.14.5. The applicant refers to the South West Joint SHMA 2018. However this has been superseded by the GL Hearn South West Herts – Local Housing Need

Assessment (LHNA) (September 2020), which is published on the Council's website. The LHNA sets out the housing need for SADC and other authorities in the SWH area, but does not include Welwyn Hatfield. It covers a period from 2020 to 2036. Based on the standard methodology as set out in the NPPF, it states that there is a required need for 893 homes per annum.

8.14.6. LHNA demonstrates a need for the following housing mix:

Size	Market	Affordable Homes to Buy	Affordable Homes to Rent
1-bedroom	5%	25%	30%
2-bedrooms	20%	40%	35%
3-bedrooms	45%	25%	25%
4+-bedrooms	30%	10%	10%

8.14.7. The proposed development has not set what mix housing will be delivered. It states in the planning application form:

Market - 45 units

Affordable for rent/ intermediate – 38

Affordable home ownership – 7

Self –build and Custom build – 10 units

8.14.8. There are no details on number of bedrooms. Neither is breakdown of affordable rent/ social rent and intermediate housing. Whilst substantial weight should be given to the provision of new homes, the applicant does not state how it will contribute to the identified need in the LHNA. Therefore, the applicant has not demonstrated how the proposed development will contribute to meeting identified need and there can be no certainty that the type of houses provided would meet that need.

#### Self-Build

8.14.9. The proposal includes 10% self-build, which equates to 10 self-build units. The applicant has submitted a Tetlow King 'Self-Build and Custom Housing Building Demand and Delivery' report. It states that there are 498 individuals on the SADC self-build register. However, the LHNA states that there are currently 450 registered on part 1 (see LHNA para 8.9). As of 2nd November 2020, the most up to date figure is 519. The PPG states that LPAs should use the demand data from the register in their area to understand and consider future need for custom and self-build housing in the area. . However it should be noted, that the Council's Self Build Register does not currently have a local connection test. Therefore it is not known how much of this demand is local to the District.

8.14.10. In terms of delivery to meet the identified demand for custom build, the report it states the following:

*"4.44 The result of this is that the shortfall in delivery against the statutory duty to address demand arising from Base Period 1 actually stands at 65, and notably this is before one even begins to consider the fact that the Council need to issue 141 suitable development consents by 30 October this year or else will fail to meet the statutory duty for the second year running."*

8.14.11. The table below shows the register by the different Base Periods. The Council has three years to meet the demand in each Base Period as set out in the regulations.

Base Period	Time period	Listings on Register
1	01 April to 30 Oct 2016	108
2	31 Oct 2016 to 30 Oct 2017	144
3	31 Oct 2017 to 30 Oct 2018	104
4	31 Oct 2018 to 30 Oct 2019	87
5	31 Oct 2019 to 30 Oct 2020	76
	Total	519

8.14.12. The Self-build and Custom Housebuilding (Time for Compliance and Fees) Regulations 2016 state that planning permissions can only count towards delivering demand for self-build and custom build after the Base Period has ended. A review has been undertaken of Appendix 3 of Tetlow King 'Self-Build and Custom Housing Building Demand and Delivery' report to ensure that only planning permissions issued after the Base Period are counted towards delivery. As far as we are aware, delivery is double counted across different Base Periods by MHCLG. Currently there are 54 count towards Base Period 1 and 48 count towards Base Period 2. It is clear that demand isn't not currently be met.

8.14.13. Some weight should be attached to the delivery of self and custom build housing. This is because it would support the Council in meeting its duty as set out in the Act.

8.14.14. It is clear that there is not a 5 year land supply and that substantial weight should be given to the delivery of housing including affordable housing and self-build homes. It is clear that the proposed development would deliver both affordable housing and custom/self-build housing. However, with regards to the affordable housing, it is unclear for the affordable elements how they would meet the identified need within the LHNA as there are no details of this. It is also unclear what level of affordable housing would be provided within St Albans District (if any) and what proportion within Welwyn Hatfield, given the two authorities have different evidence in regards to this matter. The Strategic Housing Manager has confirmed he cannot meaningfully comment on the proposal in the absence of such information. Weight should be given to these factors. There is therefore insufficient information to conclude that the development would contribute to meeting the identified need for housing in the District by reference to the latest available evidence. The contribution to self-build is afforded some weight, but this is not enough in itself outweigh the harm identified.

#### 8.15. Access and transportation issues

8.15.1. Insufficient information has been provided to reach a view as to whether appropriate number of car parking spaces could be satisfactorily provided, however, it is noted that the application is in outline.

8.15.2. Matters in relation to sustainable transportation are also contained in section 8.11 of this officer's report.

8.15.3. In terms of the site access the Highways Authority has commented as follows:

*The Highway Authority would confirm that the applicant has undertaken pre-application discussion in advance of this application. At such pre-application time*

*proposals included the formation of access to the site by way of a priority junction to Fellowes Lane, however the submitted scheme now proposes a similar but alternate arrangement to Bullens Green Lane.*

*Bullens Green Lane is a Local Access Road within the hierarchy of Hertfordshire roads. Vehicle speeds past the proposed site access are 60mph limit.*

*The Application is submitted accompanied by a Transport Assessment, Woods Hardwick August 2020.*

*Whilst pre-application advice, and the general conclusions of the Transport Assessment are that, in principle the HA are satisfied with the principle of development, it is important to clarify that the Transport Assessment conclusions (by its' own recognition) are incomplete. The Highway Authority has identified junctions for assessment to ensure transport impacts are not severe. Such assessment is not yet available, and shall be predicated on traffic counts yet to be undertaken.*

*Development proposals require the change of speed limit to 30mph, and as a minimum would require limits to be changed to a maximum of 40mph to suit the visibility splays shown as able to be provided within land within applicants control and / or highway. The County Council sets out its' approach to speed management within its' Speed Management Strategy <https://www.hertfordshire.gov.uk/media-library/documents/highways/transport-planning/local-transport-plan-live/speed-management-strategy.pdf>*

*Critically, the application provides no evidence that the proposed speed limit change is in accordance with these provisions. No speed survey data is available for Bullens Green Lane to evidence that the proposed change in speed limit is achievable, nor are any measures to introduce appropriate restrictions on speed proposed. Further, there is limited evidence within the Masterplan to the site that the frontage to Bullens Green Lane shall be in accordance with the Speed Management Strategy. All development is well screened with no active frontage to Bullens Green Lane, contrary to the SMS – the introduction of a speed limit roundel alone will do little to communicate to a driver on this route that the environment is an urban area.*

*The failure to provide a scheme and evidence to enable the Hertfordshire Speed Management Group (involving members of the Police and the Highway Authority) prevents any confirmation of acceptance of speed limit changes. Retention of existing limits (60m) means that the proposed access is not provided with adequate visibility, and shall therefore be contrary to LTP4 Policy 5 (Development Management).*

*Speed surveys, as well as a change to the masterplan principles to fundamentally change Bullens Green Lane at this location shall be required in order for the HA and Police to consider changes to limits, alternatively visibility compliant with DMRB standards shall be required for the proposed access, which is presently not the case. On the above basis the HA cannot approve or support the proposed access.*

*Whilst the masterplan (Appendix 2 of the TA) does identify opportunities for links between the site and the adjacent footway, and would therefore be reasonably addressed under Reserved Matters, the proposals do not propose any footway*

*adjacent to carriageway, and these are instead within the site. For such reasons, the HA repeats that the necessary speed limit change is unlikely to succeed.*

*The trip rates for the proposed development, derived through TRICS appear acceptable and an acceptance of the scoped junction capacity assessments is reasonable. These shall need to be conducted, as well as opportunities at such junctions and approaches to the site identify the means by which adequate footways to an acceptable standard (2m) may be delivered in order that the development is safety accessible by pedestrians and other vulnerable road users. There shall be a need, wherever footway availability (and constraints) require pedestrian movement from opposite sides of carriageway to identify opportunities for safe crossing points (minimum dropped kerb with tactile provision to enable for safe crossing points (minimum dropped kerb with tactile provision)).*

*The access in itself (provided at 5.5m carriageway width) is acceptable to the HA, but should be provided with swept path details to identify adequacy of radii given the width of Bullens Green Lane. Given that the level of use of Bullens Green Lane is significantly intensified by the now proposed sole means of access from this point, the adequacy of Bullens Green Lane for its' length (4.8m minimum shall need to be assessed with any localised widening delivered through off-site highway improvements.*

- 8.15.4. The Highways Authority has confirmed no objection in principle to the development, referring to local bus services and facilities and that the proposals may support greater viability of such services. It is also noted that the Green Travel Plan has deficiencies but that these could be rectified by a s106 Agreement.
- 8.15.5. Notwithstanding the acceptability of the scheme from the perspective of highway safety, officers do not agree with the Highways Authority that the site is a suitable location and the reasons for this are set out earlier in this report. The comments on the Green Travel Plan are noted however it is the view of officers that given the scale of the development and the nature of the location, it is inadequate in this case and will not serve to encourage travel by non-car modes in any meaningful way.
- 8.15.6. No off site highways works have been put forward by the applicant and there is currently no mechanism available to secure them, as s106 Heads of terms have not been agreed.
- 8.15.7. The applicant has stated that discussions are underway regarding linking the existing footpath to Roestock Park and through to the village at the western boundary. However, no agreement has been reached by either St Albans City and District Council or Colney Heath Parish Council on this matter, and officers are not aware of any recent or meaningful discussions.
- 8.16. The impact of the proposed development as defined by the parameter plans, on:
- a. Design and Layout, and impact on character and appearance of the Surrounding Area;
  - b. Impact on above and below ground heritage;
  - c. Landscaping and trees;

*Impact on Character and Appearance*

- 8.16.1. Noting the application is in outline, the following comments are made. Comments on the indicative masterplan are pertinent, as it has been submitted to show one way in which the capacity of development proposed could be achieved.
- 8.16.2. The access point from Bullens Green Lane is the sole car access to the development. The indicative masterplan shows a layout that is poorly connected into the surrounding area. The poor connectivity coupled with the distance to any neighbouring facilities referred to earlier in this report would be likely to result in a heavily car-dependent development.
- 8.16.3. This would be a residential estate which does not attempt to integrate into the surrounding road network. The housing placed to the east and south is outward facing, towards Bullens Green Lane and Fellowes Lane, and could be effective in integrating the development into the surrounding area. However, the heavily landscaped boundary, and enhanced planting at the corners of the site, inhibit the creation of any outward-looking active frontage. The Design and Access Statement states that the key to successfully integrating development is to minimise visual impact – hence the thickened green screens. This is a questionable approach to integration and in this case, results in an estate which is entirely unintegrated and inward looking.
- 8.16.4. The road layout within the estate does show a hierarchical approach. However, permeability within the estate is poor, the illustrative layout consists of a number of cul-de-sacs.
- 8.16.5. The major pedestrian route from the estate to Colney Heath is to the northwest of the site and necessitates crossing an open area of land (the attenuation basins) and then a pedestrian footpath to Roestock Road. This area is poorly surveyed and would be an unattractive route at night.
- 8.16.6. The pedestrian route to the south west passes into Roestock Park – another poorly surveyed route.
- 8.16.7. There is no detail on any car parking strategy, and the layout does not appear to show adequate car parking for these family houses. Landscaping to the front of the proposed dwellings is likely to be diminished when full details are worked through.
- 8.16.8. The suggested location for the play area would not benefit from adequate surveillance.
- 8.16.9. In conclusion, the illustrative layout does not indicate that an acceptable form of development could be achieved on the site. It indicates an isolated estate unintegrated with the village. This is indicative of a development which would significantly impact on the character of the village through an urbanising effect, without offering any integration with the village or improvements of facilities to offset the impact.
- 8.16.10. Turning to the parameter plan ref 17981/1004, it is not considered that this sets sufficient parameters to secure a high quality development. No height or density ranges are specified and no explanation of the proposed key or focal building is given.

*Impact on Above and Below Ground Heritage*

*Above Ground:*

- 8.16.11. The site is situated adjacent to a Grade 2 listed building (Roestock Cottage).
- 8.16.12. Chapter 16 of the National Planning Policy Framework (NPPF) sets out guidance relating to conserving and enhancing the historic environment. It notes in para 192 that local planning authorities should take into account the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation; the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and the desirability of new development making a positive contribution to local character and distinctiveness. When considering the impact of proposed development on the significance of a designated heritage asset (such as a conservation area), the NPPF notes that great weight should be given to the asset's conservation; the more important the asset, the greater the weight should be.
- 8.16.13. Section 16(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990 is also relevant as it requires local planning authorities to have special regard to the desirability of preserving a listed building or its setting.
- 8.16.14. The submitted Heritage Impact Assessment itself relies heavily on screening of the site in its conclusion that the 'immediate' setting of the listed building and the 'openness' of the directly adjacent land are the only parts which readily contribute to its significance. However, the site visit undertaken by the Assessment's author to reach this conclusion was undertaken in June, when there is heavy leaf cover, and the views provided within the Assessment are very limited.
- 8.16.15. Considering the deciduous nature of many of the trees, these views & the impact are likely to be very different in the winter months when there is less tree screening. The views already taken demonstrate that the tree screening is partial even in the summer months. There are no views taken from within the listed building itself or the grounds
- 8.16.16. Given the reliance on tree screening in the assessment, winter views, including from the listed building, should be taken so that the 'worst case' is presented and the impact can be fully assessed – that this has not been provided means that there is insufficient information within the application to make a full assessment.
- 8.16.17. The impact assessment does not include an assessment of the loss of the agricultural character of the site and focusses on openness – this does not address the historic context and association of the listed building to the surrounding agricultural landscape.
- 8.16.18. Contrary to the conclusion of the Assessment, there is evidence of the relationship between the listed building and the surrounding agricultural land:
- Both Colney Heath and the other nearby villages such as Sleapshyde were predominantly agricultural and the vast majority of the inhabitants were involved in working the land either as farmers, labourers or associated farm cottage industries such making straw plait and hats, and
  - There is no evidence provided to suggest that the inhabitants of the listed building would have been anomalous and worked in other industries (or that the building was designed as such) – census records may help clarify this.

- Paragraphs 5.8-5.9 of the submitted Assessment would appear to contradict the assertion that there is little association between the building and the surrounding agricultural land, as the listed building and some of the farmland which is located within the site boundary were owned by the same person in the 19<sup>th</sup> Century.

8.16.19. Accordingly, it is considered that the listed building does have an association with the surrounding agricultural land as its historic context and this & and the impact of the loss of this land, the last remaining agricultural land adjacent to the listed building, needs to be more fully addressed and included in the impact assessment.

8.16.20. In respect of the relationship between the proposed development as defined by the parameter plans and the adjacent listed building, the submitted heritage impact assessment assesses the harm to be very small. This appears to be primarily based on the idea that locating the proposed housing away from the land which is immediately adjacent to the listed building will maintain the openness of the buildings setting. This raises two primary concerns:

- There are no proposed height limits on the parameters plan so it is unclear on how large or prominent these buildings will be and what impact they would have;
- There are also two proposed 'landmark' buildings facing onto the 'open space' adjacent to the listed building (further commentary on above ground heritage is contained later in this section). There is no definition or explanation of how these buildings will be designed to be 'landmarks' or if this includes additional height, mass etc. The potential impact on the listed building from such landmark buildings cannot therefore be properly assessed.

8.16.21. The proposed use for the land immediately adjacent to the listed building is for attenuation basins which have not been subject to detailed design and the plans appear to show the formalisation of the footpath and surrounding land.

8.16.22. Though this is indicative, the design in the schematic plan would therefore have very a different character from the open farmland the current site has, which would be a landscaped space enclosed by built form. The impact of this upon the setting has not been fully assessed within the application.

8.16.23. In conclusion, whilst it is considered that insufficient information has been submitted to make a full assessment of impact, it can nevertheless be concluded that proposal is considered to cause 'less than substantial' harm to the significance of the listed building. Paragraph 196 of the NPPF states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal. It is not considered that any benefits of the proposal outweigh the harm, caused, based on the information submitted in support of the application.

*Below Ground:*

8.16.24. There are no nationally or locally designated areas of archaeological significance on this site. The application includes a Heritage Statement, the submission of which is good practice and compliant with the NPPF.



- 8.16.25. The applicant has undertaken a map regression exercise (Non-technical Summary, S4) with the conclusion that the archaeological potential only relates to low level agricultural practice. Whilst a geophysical survey has been undertaken, this only partially covers the area of the application, but has been considered enough representation to characterise the whole area. The next section (S5) argues that because the modern maps and a partial geophysical survey do not indicate anything of significance on site, the impact, which is considered to be total, is only likely to be limited. An assessment by Officers on Google maps appears to indicate that there are features on site, such as a field boundaries or linear tracks and possible circular features that will require testing.
- 8.16.26. The archaeological assessment work, to help define the nature and characterise the site did not include any maps held by County or aerial photographs held by the HEA based in Swindon (Archaeology and Heritage Assessment, 3.4, pp13) due to current restrictions. However, information was used from the Hertfordshire Historic Environment Record (HER), other online maps and documents and the National Heritage List for England. A one-kilometre radius was used for the search parameters which is considered to be sufficient.
- 8.16.27. The District Archaeologist was approached by the applicant prior to submission, and a trial trenching survey was recommended to the applicant to be carried out at this site. These would allow for a sound, reasoned and informed archaeological decision on any application and as good risk management would help to minimise the unexpected. Without sufficient information there is the risk that significant archaeology could be uncovered, requiring mitigation measures such as preservation in situ or excavation. This could severely impact on the timetable and overall deliverability of the proposed development. The trial trench survey has not been undertaken. Therefore, the limited geophysical survey has not been 'truth tested' which, along the varying nature of the local geology, has thereby not allowed some assurance as to the validity of the results.
- 8.16.28. A walkover had been undertaken on site. This concluded that agriculture will have had:
- "...an adverse impact on the conservation and condition of any below ground features, deposits or remains of archaeological interest that may be present; limiting their significance as a consequence." (Archaeology and Heritage Assessment, 4.50, pp.)*
- 8.16.29. However, this assumption is not founded on any below ground evidence. Likewise, it is possible to demonstrate significant survival of buried archaeology in areas of intensive agricultural practice elsewhere in the District. Without an evaluation, it is impossible to demonstrate the presence, level of survival or significance of any below ground deposits.
- 8.16.30. The Assessment concludes that:
- (the) Implementation of the (albeit illustrative) masterplan would result in the all but complete loss of any archaeological remains which may be present at the site*
- 8.16.31. Without understanding, what the complete loss to the finite archaeological resource would mean, it is not possible to make an informed decision. This informed decision requires data, from a full evaluation of the site which does not accompany this application. In consequence, it is not possible currently to make such a decision. If a premature decision was to be made, it could seriously impact

on the development if significant archaeology was uncovered at a later date, and/or result in the loss of a finite resource without recording or protection.

- 8.16.32. In the event that officers felt that planning permission could be recommended for this application, it may have been expedient to explore these issues further with the applicant. However, given the objection in principle to the development and the lack of very special circumstances, it was not considered appropriate to engage in such discussions.
- 8.16.33. As submitted, the applicant has not fully assessed the potential for loss of archaeological remains. Accordingly, officers cannot accurately assess the weight to be attached to this in considering the overall planning balance.
- 8.16.34. On this basis, and despite the fact the consultee offered conditions which could be applied if permission was to be granted, a reason for refusal is recommended which refers to the submission of insufficient information, and the inadequacy of the assessment, leading to the failure of the applicant to properly identify and assess the harm to below ground heritage that would be caused by the proposed development.

#### *Landscaping and trees*

- 8.16.35. The site lies within National Character Area 111: Northern Thames Basin; Hertfordshire Landscape Character Area 29: Mimmshall Valley; Watling Chase Community Forest and a Key Biodiversity Area. The applicant refers to the site as being in a Landscape Development Area – (ref. policy 105 1994 Local Plan Review) but this is not a saved policy.
- 8.16.36. The site is part of the Watling Chase Community Forest, saved policy 143a refers. This is not referred to or addressed in the application submission. If the principle of this type of development was to be considered, any proposal should support the objectives of WCCF in terms of planting, leisure and landscape improvement. This has not been demonstrated by the applicant.
- 8.16.37. Public Rights of Way (North Mymms 067 and Colney Heath 048) run along the northern side of the site and provide a pedestrian link to/from Bullens Green Lane and Roestock Lane. These links are proposed to be retained by the applicant.
- 8.16.38. A key characteristic of MVLCA is mixed farming and the site is in arable agricultural use. The agricultural land classification defines the land as Grade 3a. While residential development adjoins and is adjacent to the site, it has a clear rural character and is read as part of open countryside which extends to the east and south of Colney Heath. Trees and hedgerows are present along parts of the site boundaries but clear views into and across the site are available on approach from Bullens Green Lane (to the south) and Fellowes Lane.
- 8.16.39. The open rural landscape character of the site forms part of the setting of the Grade II listed 68 Roestock Lane. There are views of the rear of the building from the two public footpaths crossing the arable land in the north west part of the site, filtered by existing trees and vegetation.
- 8.16.40. The Hertfordshire Landscape Character Assessment Strategy and Guidelines for managing change for LCA Mimmshall Valley are Improve and Conserve.

- 8.16.41. There will be significant visual effects due to the proposed development and also significant landscape effects extending beyond the site resulting in a change of local landscape character. The proposed development would severely detract from the character of the site and its area. It would urbanise the site, be visually intrusive within the open countryside and fail to conserve local landscape character. The level of local objection to this application demonstrates that the site and its contribution to the local landscape is valued by the local community.
- 8.16.42. The Landscape and Visual Impact Assessment underestimates the impact of the development in visual terms. The report argues that the visual impact is limited to the immediate area and that the development would have little impact on visual openness beyond the site itself.
- 8.16.43. The impact of the proposal would affect more than the immediate area and would significantly affect the open character of the area within a wider context. A fundamental change to the landscape character of the area would inevitably result. It is considered that the proposed development would completely change the character of the site and have a significant urbanising effect on what is currently a rural landscape.
- 8.16.44. The development would permanently change the rural character of Bullens Green Lane and Fellowes Lane. The indicative landscaping around the perimeter of the site would do little to reduce the visual impact of a development of this scale in this location. The proposals rely heavily on screening which would not be complete and would not disguise or decrease the urbanising effect of the development. Highway improvements, new junction and access road, lighting, would all have an urbanising effect that could not be screened by perimeter planting.
- 8.16.45. The proposed development would not improve or conserve the local landscape character in accordance with the guidelines for landscape change in the LCA.

#### 8.17. Loss of high quality agricultural land

- 8.17.1. It has been confirmed by the applicant that the agricultural land is Grade 3A which means it is categorised as Best and Most Versatile agricultural land (BMV).
- 8.17.2. Saved Policy 102 of the St Albans Local Plan review states that development involving the loss of high quality agricultural land will normally be refused, unless an overriding need case can be made.
- 8.17.3. The NPPF does not make a similar statement. Paragraph 170 states that planning decisions should contribute to and enhance the natural and local environment by, amongst other things:

*“b) recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services - including the economic and other benefits of the best and most versatile agricultural land,. And of trees and woodland.”*

- 8.17.4. It is considered that the inconsistency between Policy 102 and the NPPF means that in this particular case, the requirement to demonstrate an overriding need carries limited weight in decision making.

8.17.5. The applicant has submitted an agricultural land report arguing that the Government defines anything under 20ha as a “smaller loss” and also arguing that given there is extensive BMV in this area, there are no suitable alternative sites where there is poorer soil quality.

8.17.6. The Council does not have any alternative evidence to refute this, and would agree that in considering suitable sites for strategic scale housing development through a local plan process, it is likely that some sites would fall on land that is BMV.

8.17.7. Therefore, it is not considered that a reason for refusal on loss of agricultural land would be sustainable at appeal. However, the Council does not accept that very special circumstances exist in this case to justify the development. Consideration of loss of agricultural land on this scale should form part of the local plan process, as opposed to being decided through ad hoc applications.

## 8.18. Ecology and Biodiversity

8.18.1. Hertfordshire Ecology have been consulted on the application. They confirmed that The Hertfordshire Environmental Records Centre does not hold any records of notable ecological significance for either the application site or its immediate surrounds, and that this observation is largely supported by the accompanying Ecological Appraisal (EA) by FPCR (August 2020).

8.18.2. However, there are significant concerns with the conclusions of the submitted Ecological Appraisal, to quote from the consultation response :

*“Firstly, the status of the EA is not made clear. Ecological reporting is guided by clear, established best practice published by the Chartered Institute of Ecology and Environmental Management (CIEEM). This strongly encourages the sequential use of a ‘Preliminary Ecological Appraisal’ (PEA) to scope ecological issues and survey requirements, followed by an Ecological Impact Assessment (EclA) to which provides the thorough scrutiny.*

*The EA here appears to take the form of a hybrid report, pitched somewhere between the PEA and EclA. Therefore, neither its status nor role are clear. The lack of any reference to CIEEM in the EA is slightly alarming. Without clarity regarding its purpose, there can be little confidence the necessary scrutiny has been applied. For instance, there does not appear to be any consideration of any limitations that could have constrained the report.*

*Secondly, the importance of the site for farmland birds has been dismissed because of the characteristics of the existing crop and the enclosed nature of the site. It is disappointing that FPCR have not acknowledged that agricultural crops (and their associated biodiversity value) frequently change from year to year; had a wheat crop been in place for instance, a significantly different outcome may have resulted. Similarly, there is no indication of the potential value of the site to overwintering farmland birds. Furthermore, the site is far from enclosed and maintains an open aspect across considerable areas.*

[However, given the lack of records of farmland birds on similar fields in the wider area, Hertfordshire Ecology is prepared to put this to one side.]

*Thirdly, the impact of increased public pressure on Colney Heath Local Nature Reserve, just 440m distant (or 500m – the report provides both figures) is rather*

*too easily dismissed. If already 'well-used' reliance on the existing footpaths alone is not adequate to justify no further scrutiny or perhaps specific mitigation to reduce this potential threat.*

*Fourthly, the assessment of the impact of the access point on the very high value (Grade 1) is superficial. Despite the arguments put forward in the EA, the loss of hedgerows is not inevitable from this type of development and it does not represent an opportunity. Rather, the mitigation hierarchy should have been employed and its outcomes made clear as to why this point was proposed and not, for instance, the area of tall ruderal vegetation.*

*The EA then appears to present contradictory information. In separate places it suggests that sections of Hedges H4 and H5 (Section 5.10) will be lost to create the access point, yet in Section 5.33 it suggests that a section of the eastern part of H6 will be lost. H6 is identified as high to very high value (Grade 1) and Important under the Hedgerow Regulations 1997, and its loss could conflict with local policy. In contrast the proposed access plan seems to suggest only H5 is to be affected, taking advantage of a convenient, existing gap in the hedgerow. The impact of the access point on the hedgerows requires clarification.*

*Again, the assessment of the value of the boundary features for bats lacks conviction. No activity survey was carried out along the hedgerows/woodland and no consideration at all was given to the fact that bats will cross open fields. There are grounds to recommend a bat activity survey is carried out in the spring/early summer to clarify this (there are records of several roosts nearby) unless considerable attention is given to the lighting strategy for the development (see further comment on this below).*

*On a similar issue, I note that the proposed layout appears to indicate dwellings in very close proximity to the existing hedgerows in places. A wider gap should ideally be adopted.*

*Lastly, and more fundamentally, however, the EA concludes that the modest landscaping proposed will satisfy the needs of biodiversity planning policy and legislation to deliver a biodiversity net gain.*

*I disagree. There is no reference to the emerging need for the use of a biodiversity metric and little other evidence is presented to support how a measurable gain will be shown. Overall, I find the arguments provided lack conviction."*

8.18.3. Accordingly, whilst Hertfordshire Ecology accepts the outcomes in terms of specific features, overall, the officer does not agree with the overall findings and does not consider it provides the Council with sufficient information to determine the application. To resolve matters, various actions are recommended, prior to the grant of planning permission:

1. Firstly, ecological reporting of the site should be updated. This should take the form of a formal EcIA and follow CIEEM best practice. This should accompany this outline application and should be submitted to, and approved in writing by, the local planning authority prior to any consent.
2. Secondly, the application should provide compelling evidence to ensure a meaningful biodiversity net gain can be achieved.
3. Thirdly, all landscaping and ecological avoidance, mitigation, net gain and other enhancement features should be presented in a Landscape and Ecological Management Plan (LEMP). This could accompany the reserved

matters application and should be submitted to, and approved in writing by, the local planning authority.

8.18.4. In the event that officers felt that planning permission could be recommended for this application, it may have been expedient to explore these issues further with the applicant. However, given the objection in principle to the development and the lack of very special circumstances, it was not considered appropriate to engage in such discussions, or to seek such further information at this time.

8.18.5. It is noteworthy that Hertfordshire and Middlesex Wildlife Trust also objected to the application, on the grounds the application does not demonstrate a measureable net gain to biodiversity.

8.18.6. In conclusion, a reason for refusal is recommended because the ecological reporting of the site is inadequate, and does not follow CIEEM best Practice. It does not provide sufficient information to allow the local planning authority to make an informed decision. The applicant has failed to demonstrate that a meaningful biodiversity net gain can be achieved, contrary to the relevant provisions of the NPPF 2019.

#### 8.19. Ground Conditions, Flood Risk and Drainage

##### *Ground Conditions*

8.19.1. At the time of writing this report, no response has been received from Environmental Services in relation to ground conditions. However, it can be noted that Welwyn Hatfield concluded that the matter could be satisfactorily addressed by way of appropriate planning conditions.

##### *Flood Risk Assessment and Drainage Strategy*

8.19.2. A Flood Risk Assessment and Drainage Strategy, dated August 2020 has been submitted in support of the application. The Local Lead Flood Authority has responded 19 October 2020 to confirm no objection in principle to the proposed development on flood risk grounds, and that the proposed development site can be adequately drained and can mitigate any potential existing surface water flood risk if carried out in accordance with the submitted drainage strategy. A number of planning conditions are recommended, which should planning permission be granted, could be applied.

8.19.3. The Environment Agency responded 12 October 2020 with no objection subject to the inclusion and compliance with the planning conditions listed in the Consultation section above.

8.19.4. Thames Water confirmed no objection on 1 October 2020.

8.19.5. Affinity Water responded 21/10/2020 stating that the proposed development site is located within an Environment Agency defined groundwater Source Protection Zone 1 (SPZ1) corresponding to Roestock Pumping Station. This is a public water supply, comprising a number of Chalk abstraction boreholes, operated by Affinity Water Ltd.

8.19.6. Affinity Water confirmed an objection because of the potential of the proposed development to impact adversely the public water supply. If the local planning

authority was minded to approve the application, Affinity stated that it is essential that appropriate conditions are imposed to protect the public water supply.

8.19.7. As it is clear that the matters could be resolved by condition, and in the light of a lack of objection from either the Local Lead Flood Authority, or the Environment Agency, it is not proposed that this objection forms a reason for refusal of the planning application.

#### 8.20. Impact on social infrastructure

8.20.1. The proposed development, by virtue of its scale and nature, will generate demand for and therefore have impacts on social infrastructure, including education, youth provision, libraries, health facilities, open space and play space, sports facilities, community facilities. This is evident in this case from consultation responses outlined earlier in this report.

8.20.2. The NPPF sets out that local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations, which are routinely sought to mitigate the impact of development on physical and social infrastructure, as well as to secure affordable and other forms of specialist housing.

8.20.3. Planning obligations should only be sought where they meet all of the following tests set out in Regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended):

- 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.

8.20.4. The Council has not adopted a Community Infrastructure Levy and therefore where a planning obligation is proposed for a development this can be dealt with by way of a s106 Legal Agreement, that is compliant with the requirements of the Community Infrastructure Levy Regulations 2010, which came into effect from 6 April 2010.

#### 8.21. S106 Heads of Terms

8.21.1. The applicant did not submit proposed s106 Heads of Terms with the application. Draft Heads of Terms were sent to the applicant on a without prejudice basis with a request for further information to enable correct sums to be calculated, i.e. on education. No response was received. The applicant has not provided sufficient information to allow the authorities to establish the social and physical impacts on infrastructure, nor has the applicant confirmed that it would be minded to enter into a s106 Agreement containing planning obligations to mitigate that impact.

8.21.2. The development is therefore unacceptable in terms of its impact on social infrastructure, physical infrastructure (e.g. highways improvements), and with no mechanism to secure affordable housing.

#### 8.22. Other issues

8.22.1. Some representations have raised the issue of loss of privacy to neighbouring residents. This report has already concluded that the applicant has not demonstrated that an acceptable layout could be achieved on the site. Detailed matters of individual house to house relationships and impacts on privacy would be

considered at the reserved matters stage, should outline planning permission be given at appeal.

8.22.2. In a similar way, detailed layouts would also allow for detailed assessments of issues such as noise, albeit it is noted that the proposed development is not considered to be one that would be a particularly high generator of noise in itself.

8.22.3. Consultation responses remain outstanding from some utilities such as UIK Power networks, Based on consultation responses to date, it is not considered that there are any overriding objections in relation to utilities provision.

### **8.23. Planning Balance**

8.23.1. The “tilted balance” does not apply in this case. The application and any appeal should be determined against Paragraph 38(6) of the Town and Country Planning Act. This means determining in accordance with the development plan unless material considerations indicate otherwise. The development is proposed within the Metropolitan Green Belt and is contrary to the Local Plan and the NPPF. Of the material considerations put forward in favour of the application, including very special circumstances suggested by the applicant, only the provision of housing, and within that self-build housing is afforded any material weight in the decision making process.

8.23.2. In addition, there are a number of other significant objections to the application, including on access arrangements, impact on landscape character, unsuitability of location, impact on social infrastructure, and the adjacent listed building, Information provided is either absent or insufficient in relation to below ground heritage and ecology and biodiversity.

8.23.3. In the light of the above, material considerations have not been identified to indicate a determination other than in accordance with the development plan. Accordingly, the planning balance falls firmly in favour of refusal.

## **9. Comment on Town/Parish Council/District Councillor Concern/s**

9.1. As referred to in this report.

## **10. Reasons for Refusal**

1. The proposed development represents inappropriate development in the Green Belt. It would result in significant harm to and a material loss of openness in this location and represent significant encroachment into the countryside. Very special circumstances have not been demonstrated to outweigh the in principle harm and other harm identified. The proposal is therefore contrary to Policy 1 of the St Albans Local Plan Review 1994 and the NPPF 2019.

2. The proposed development is in an unsuitable and unsustainable location. It would comprise a significant number of dwellings in an isolated location with very limited public transport links and limited existing amenities and infrastructure, the future residents would be car-dependent. This is contrary to the aims of Policy 2 of the St Albans Local Plan 1994, and the relevant provisions of the NPPF.

3. It has not been demonstrated that an acceptable form of development could be achieved on the site. The proposed development would severely detract from the character of the site and the local area, and impact negatively on landscape



character, contrary to Policies 69, 70 and 74 of the St Albans Local Plan Review 1994 and the NPPF. The development would detract from the character and setting of Colney Heath as a Green Belt Settlement, contrary to Policy 2 of the St Albans Local Plan 1994.

4. Insufficient information is provided to demonstrate that the impacts of development shall not have a severe impact on the wider operation of the network. Insufficient information is provided to demonstrate that necessary changes to local speed limits are achievable. Visibility from the access, without speed limit changes is insufficient. The proposed access shall be prejudicial to the safety of users of the highway contrary to Policy 34 of the St Albans Local Plan 1994 and the NPPF 2019.

5. The development would cause 'less than substantial' harm to the significance and setting of a Grade II listed building adjoining the site (68 Roestock Lane) and the public benefits of the proposal would not outweigh this harm, contrary to Policy 86 of the St Albans Local Plan Review 1994 and the National Planning Policy Framework 2019.

6. Insufficient information has been submitted to enable the local planning authority to assess the impacts of the development on biodiversity. As such, it cannot be reasonably concluded that the proposal would not harm biodiversity. Furthermore, net gains for biodiversity would not be achieved. The proposal would therefore be contrary to Policy 106 of the St Albans Local Plan Review 1994 and the relevant provisions of the NPPF 2019.

7. Insufficient information has been submitted to determine whether remains of archaeological importance are likely to be present at the site. An informed decision in terms of the impact of the proposal on the historic environment cannot be made and, consequently, the proposal would be contrary to Policy 111 of the St Albans Local Plan Review and the National Planning Policy Framework 2019.

8. In the absence of a completed and signed S106 legal agreement or other suitable mechanism to secure the provision of: Fire Hydrants, Open Space, Play Spaces, Community Facilities, Sports and Recreation, Travel Plan, Highway Works, Primary Education, Secondary Education, Health, and Affordable Housing; 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 2019, and Policies 7A and 143B (Implementation) of the St. Albans District Local Plan Review 1994 and the Council's Affordable Housing Supplementary Planning Guidance.

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<b>RECOMMENDATION:</b>	Refusal, had the application not been subject of an appeal against non-determination.	<b>Decision Code:</b>	N/A
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## 11. Reasons for Refusal

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harm and other harm identified. The proposal is therefore contrary to Policy 1 of the St Albans Local Plan Review 1994 and the NPPF 2019.

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3. It has not been demonstrated that an acceptable form of development could be achieved on the site. The proposed development would severely detract from the character of the site and the local area, and impact negatively on landscape character, contrary to Policies 69, 70 and 74 of the St Albans Local Plan Review 1994 and the NPPF. The development would detract from the character and setting of Colney Heath as a Green Belt Settlement, contrary to Policy 2 of the St Albans Local Plan 1994.

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## 12. Informatives:

1. The Local Planning Authority has been positive and proactive in its consideration of this planning application. The Local Planning Authority encourages applicants to engage in pre-application discussions as advocated under paragraphs 39-46 of the NPPF. The applicant did not engage in pre-application discussions with the Local Planning Authority and the form of development proposed fails to comply with the requirements of the Development Plan and does not improve the economic, social and environmental conditions of the District.

2. This determination was based on the following drawings and information: Site topographical survey 17981-7-855; Site location plan 17981-1002; District Boundary Line Layout 17981-1003; Proposed Parameters/Schematic plan 17981/1004; Proposed illustrative layout 17981/1005; Site access 18770-FELL-5-500; Landscape Strategy Plan (no numerical reference); Planning Statement; Design and Access Statement; Flood Risk Assessment; Transport Assessment; Travel Plan; Contaminated Land Risk Assessment; Ground Investigation Report; Arboricultural Assessment; Ecological Assessment; Self Build and Custom Build Housing Assessment; Affordable Housing Statement; Housing Land Supply Statement; Utility Assessment received 23/09/2020 and Agricultural Land Assessment and Landscape and Visual Impact Assessment received 17/11/2020.

### **LOCAL GOVERNMENT ( ACCESS TO INFORMATION ) ACT 1985**

**Officer**

**Ruth Ambrose**

**Section 65 Parties**

Maureen Smith, Little Orchard, Roestock Lane, Colney Heath, AL4 0PP

Eileen Lawrence, 22 Greyfriars Close, Bognor Regis, PO21 5RH

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**Plans on website**

<https://www.stalbans.gov.uk/view-and-track-planning-applications>