

**Rebuttal Planning Evidence of Russell Gray  
BA (Hons) DIP UP MRTPI**

**Appeal by Canton Ltd**

**Land off Bullens Green Lane, Colney Heath**

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

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

**Issue**

Final

**Statement prepared by**

RG

**Reviewed by**

RM & PW

**Date Issued**

16/04/2021

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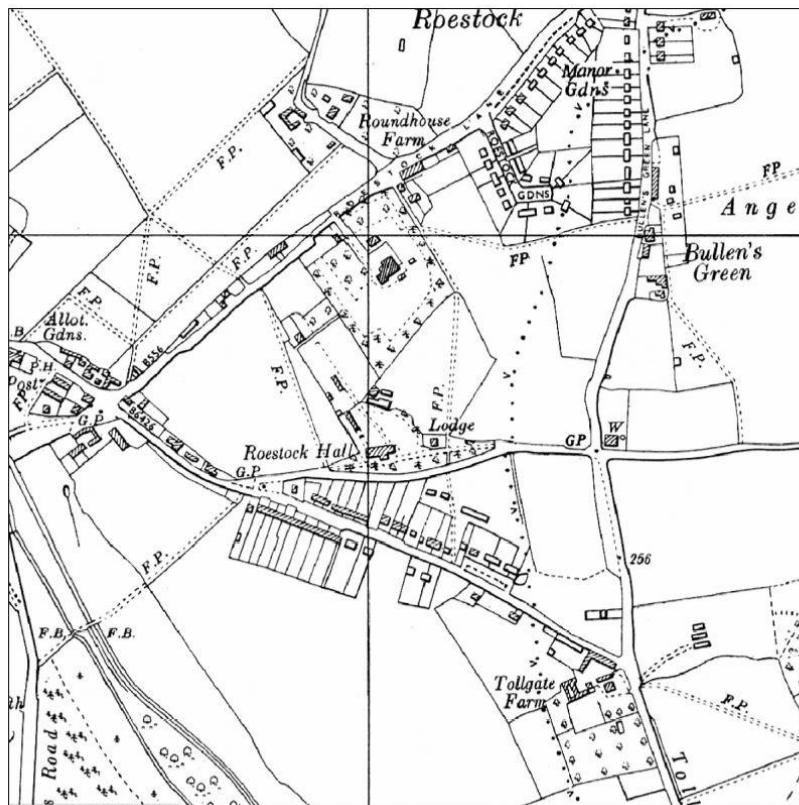
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# 1 Introduction

- 1.1 This rebuttal planning evidence is submitted in response to the Proof of Evidence of Phillip E Hughes on behalf of St Albans City and District Council (SADC) and Welwyn Hatfield Borough Council (WHBC). It responds specifically to matters raised on the planning history of the site and its relevance to the current appeals and the use of the assessment of Green Belt Parcel 34 in the SKM Consultants Green Belt Review Purposes Assessment of November 2013 (CD6.17) in determining the contribution the appeal site makes to the Green Belt purposes.

## 2 Historic Appeal Decisions relating to the Appeal Site

- 2.1 The evidence of Mr Hughes refers to two historic appeal decisions relating to the appeal site; CD10.02 dating back to 1955 and CD10.01 from 1975. These decisions are not available on either Councils' website due to their age. Despite numerous requests, copies were only provided by the Local Planning Authorities (LPAs) on 7<sup>th</sup> April 2021, hence the need to produce this rebuttal.
- 2.2 Mr Hughes uses these appeal decisions at various points in Section 5 of his evidence, asserting that they support his position on the impact of the development on the openness of the Green Belt and on the Green Belt purposes at paragraph 134 of the Framework. I do not agree with this position for the reasons set out below.
- 2.3 As noted, CD10.02 relates to an appeal decision dating back to 1955, a time when there was a completely different framework of national policy. National policy has moved on considerably in the lengthy intervening period, not least in respect of the duty on local authorities to plan for meeting their housing needs, including in respect of provision of affordable housing. At paragraph 4.17 of my Proof of Evidence I pointed to the NPPF having introduced a radical shift in national policy on housing supply, a position confirmed by Mr Justice Hickinbottom in *Gallagher Estates Ltd & Lioncourt Homes Ltd v Solihull Metropolitan Borough Council* [2014] EWHC 1283 (Admin) (CD12.06).
- 2.4 Green Belt policy itself has evolved in the time since this decision, when Circular 42/55 contained national planning policy on Green Belts. Whilst it included the requirement for there to be very special circumstances for the construction of buildings in the Green Belt other than in a number of listed exceptions, the policy did not include the instructing text on that balance that is to be undertaken by a decision-maker to determine whether very special circumstances exist that is now in paragraph 144 of the Framework. It also made no reference to the "openness" of the Green Belt, which is now one of its defining principles.
- 2.5 I also note that the settlement of Colney Heath has evolved considerably in terms of its developed form since that appeal decision, including the building of houses on Admirals Close, Hall Gardens and Fellowes Lane on what was Green Belt Land and which now forms part of the appeal sites immediate context. This is illustrated in Figure 1 below, which is an historical OS map from 1960.



**Landmark**  
INFORMATION GROUP  
 Landmark Historical Map  
 County:  
 Published Date(s): 1960  
 Originally plotted at: 1:10,000

2.6 As I have set out in detail in my own Proof of Evidence, I consider the appeal sites relationship to the built form of Colney Heath as it exists today to be an important factor when considering the contribution the site makes to the Green Belt purposes and any harm that would result from its development. That relationship is appreciably different to the situation on the ground in 1955.

2.7 In respect of the 1975 appeal decision (CD10.01), I similarly note that national planning policy has evolved considerably since then, again including in respect of provision of housing, particularly affordable housing and also in respect of Green Belt, with the policy at that time still as set out in Circular 42/55.

2.8 I also note in the 4<sup>th</sup> paragraph of the Inspectors' conclusions under '2.' in discussing argument pertaining to housing need they state that:

*".... both Councils are currently able to satisfy the requirements of Circular 102/72. In my view there is no evidence of the most exceptional circumstances which would justify overriding the strong presumption against housing in the Metropolitan Green Belt".*

- 2.9 Clearly, the circumstances are very different in the current appeal, with both Councils by their own admission unable to demonstrate the required five year housing land supply and having failed the Housing Delivery Test.
- 2.10 I therefore conclude that no weight should be placed on these historic appeal decisions relating to the site.



### 3 Green Belt Review Parcel 34

- 3.1 Mr Hughes' assessment of the contribution the appeal site makes to the purposes of the Green Belt at paragraph 134 of the Framework appears to draw considerably on the assessment of Parcel 34 in the SKM Green Belt review Purposes Assessment of November 2013 (CD6.17). I covered in detail in paragraphs 2.38 - 2.47 of my Proof of Evidence, the weighty criticisms levied at this Green Belt Review by both the Inspectors who examined the St Albans Local Plan 2020-2036 and the Inspector who is currently examining the Draft Welwyn Hatfield Local Plan, not least in respect of its failure to examine smaller scale parcels in finer detail to ascertain the extent to which these contribute to the Green Belt purposes and whether there are opportunities for smaller scale Green Belt releases as part of the strategy for meeting the housing need of these LPAs, and do not repeat this here. However, to emphasise this point I would point out that the 5.25 ha appeal site constitutes only 1.25% of the 419 ha of Parcel 34.
- 3.2 I also note that, unlike much of the wider Parcel 34, the appeal site immediately adjoins an existing settlement, and indeed, as identified in both my Proof of Evidence and that of Gary Holliday, is wrapped around by Colney Heath.
- 3.3 As a consequence, I consider the findings of the assessment undertaken in SKM Green Belt Review relating to the Parcel 34 for to be of little value when considering the contribution the appeal site makes to the Green Belt purposes.



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