

CIL COMPLIANCE STATEMENT

PRODUCED JOINTLY BY ST ALBANS CITY AND DISTRICT COUNCIL (SADC) AND
WELWYN HATFIELD BOROUGH COUNCIL (WHBC).

Appeal By: Canton Ltd

LPA Refs: 5/2020/1992 & 6/2020/2248/OUTLINE

PINS References: APP/B1930/W/20/3265925 & APP/C1950/W/20/3265926

Site: Roundhouse Farm, Land off Bullens Green Lane, Colney Heath, St Albans.

Date: 16 April 2021

A. Description:

- A.1 Outline planning application for a residential development of up to 100 dwellings, including 45% affordable and 10% self or custom build, together with all ancillary works (All matters are reserved except access).

B. Background

- B.1 Regulation 122 of the Community Infrastructure Levy Regulations 2010 Statutory Instrument 2010/948 makes it unlawful for any planning obligation to be taken into account as a reason to grant a planning permission if it does not meet the three tests set out in the Regulation.
- B.2 The National Planning Policy Framework 2019 (NPPF) sets out at paragraph 54, three policy tests which mirror the tests in the Regulations.
- a) necessary to make the development acceptable in planning terms;
 - b) directly related to the development; and
 - c) fairly and reasonably related in scale and kind to the development.
- B.3 This statement should also be read in conjunction with the statement of Martin Wells of Hertfordshire County Council's Growth and Infrastructure Unit.

C. Relevant Policy

- C.1 The policies for seeking the contributions sought by Hertfordshire County Council are set out in Hertfordshire County Council Obligations Tool Kit. See the statement of the Growth and Infrastructure Unit for further detail.

APPENDIX 1 – COUNTY COUNCIL STATEMENT

- C.2 The policies for seeking the contributions sought by SADC are set out in the Local Plan Review 1994 and NPPF. In particular, saved Policy 143B of the St Albans Local Plan Review provides that:

“The District Council will expect planning applications for the development of sites to include within them, provision for the infrastructure consequences. Such provisions may include:

(i) on-site facilities directly related to the proposed use in the interests of comprehensive planning.

(ii) off-site facilities necessary as a result of the development, in order to avoid placing an additional burden on the existing community.

...”

C.3 The policies for seeking the contributions sought by WHBC are set out in the WHBC Planning Obligations Supplementary Planning Document February 2012 (Planning Obligations SPD), Policy IM2 of the Welwyn Hatfield District Plan 2005 and the NPPF.

C.4 Relevant policies in relation to specific contributions are referenced as appropriate below.

D. Justification for the contributions:

D.1 Justification is set out below in the order the contributions are set out in the draft s106 Agreement.

1. County Council Contributions

1.1 Library Contribution

1.1.1 See County Council Statement at Appendix 1

1.2 Primary Education Contribution

1.2.1 See County Council Statement at Appendix 1

1.3 Secondary Education Contribution

1.3.1 See County Council Statement at Appendix 1

1.4 Travel Plan Evaluation and Support Contribution

1.4.1 Travel plans are an essential tool for enabling development by creating sustainable transport access to, from and around the site. They are effective in managing travel demand, with the potential to contribute to significant reduction in national and local traffic. The NPPF requires in paragraph 111 that:

“All developments that will generate significant amounts of movement should be required to provide a travel plan, and the application should be supported by a transport statement or transport assessment so that the likely impacts of the proposal can be assessed.”

1.4.2 Travel Plans are a requirement under Policy M3 of the Welwyn Hatfield District Plan 2005.

1.4.3 In May 2014 the County Council formally adopted new Travel Plan Guidance entitled ‘Hertfordshire’s Travel Plan Guidance for Business and Residential Development’ (https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/business-and-developer-information/development-management/highways-development-management.aspx#DynamicJumpMenuManager_1_Anchor_5), supporting the Highway Authorities policy on Travel Plans as set out in its Local Transport Plan 4 (<https://www.hertfordshire.gov.uk/services/recycling-waste-and-environment/planning-in-hertfordshire/transport-planning/local-transport-plan.aspx>)

and Roads in Hertfordshire – Highways Design Guide
(https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/business-and-developer-information/development-management/highways-development-management.aspx#DynamicJumpMenuManager_1_Anchor_6).

- 1.4.4 For residential developments, the Highway Authority requirement for a full Travel Plan has been set at 80 or more dwellings. A Travel Plan Statement is required for developments between 50 and 79 dwellings. These thresholds are based on 'Good Practice Guidelines, Delivering Travel Plans through the Planning Process' (DCLG 2009). Whilst it is recognised that this document has recently been revoked, it is still considered to represent a good basis for determining trigger points.
- 1.4.5 Concurrent with the obligation for a Travel Plan, the Highway Authority considers a contribution towards the ongoing cost of monitoring and supporting the Travel Plan is appropriate.
- 1.4.6 The requirement for a Travel Plan monitoring fee was introduced within the County Council's new guidance. This outlines a monitoring fee of £6,000 for a full Travel Plan and £2,000 for a Travel Plan Statement. The monitoring fee was introduced to enable the County Council to be proactive in ensuring that approved Travel Plans are being complied with. The cost includes assessment of the annual monitoring, annual site visits and annual monitoring meetings with the Travel Plan Coordinator. Ongoing engagement with the Travel Plan Coordinator of changes relevant to the site is also included. Planning Practice Guidance states that authorities can charge a monitoring fee through section 106 planning obligations, to cover the cost of monitoring and reporting on delivery of that section 106 obligation. Monitoring fees can be used to monitor and report on any type of planning obligation, for the lifetime of that obligation (Paragraph: 036 Reference ID: 23b-036-20190901)
- 1.4.7 Ensuring monitoring is gathered by new developments can assist Hertfordshire County Council and the individual districts to assess the impact that individual developments, or developments over a specific area, are having on the road network, and the take up of sustainable modes. The monitoring engagement also allows for developments (businesses, residential, community, educational) to feed back to the council their needs with regards to better understanding where people are travelling from/to, by what mode, and for what reason.
- 1.4.8 The monitoring of Travel Plans is not a statutory function of the County Council. The Travel Plan contribution is not a single payment towards monitoring/administrative costs of the Travel Plan but is a cost to enable active engagement of the County Council in the Travel Plan implementation. It enables ongoing reviews of the Travel Plan and engagement between the County Council and the Developer to take place as any travel plan will require continuing management and review. The contribution value has been calculated on such basis.
- 1.4.9 A full travel plan will be required for the site to be in place from first occupation to 5 years post full occupation. A £1,200 per annum Evaluation and Support Fee should be secured by section 106 agreement in accordance with Hertfordshire County Council's Travel Plan Guidance. This should incorporate measures to promote sustainable transport, an appointed travel plan co-ordinator and an appropriate monitoring programme. Residential developments are also required to provide Residential Travel Vouchers for each unit (£100 per house/£50 per flat) to encourage the take up of sustainable modes

1.4.10 Full guidance is available at: www.hertfordshire.gov.uk/travelplans.

1.4.11 It follows that this contribution is:

a) necessary to make the development acceptable in planning terms, to ensure compliance with para 111 NPPF and Policies M3 and IM2 of the Welwyn Hatfield District Plan 2005;

b) directly related to the development, because it relates to the direct impact of the development in terms of the amount of movements that will be generated and maximising the use of sustainable modes; and

c) fairly and reasonably related in scale and kind to the development because of the approach to thresholds adopted by the Highway Authority and explained in this note.

1.5 Youth Contribution

1.5.1 See County Council Statement at Appendix 1

1.6 Fire Hydrants

1.6.1 See County Council Statement at Appendix 1

1.7 Off Site Highways Works

1.7.1 Off-site highways works may be required for a number of reasons associated with new development, and to comply with paragraph 108 to 110 of the NPPF. Paragraph 108 states:

“In assessing sites that may be allocated for development in plans, or specific applications for development, it should be ensured that:

a) appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location;

b) safe and suitable access to the site can be achieved for all users; and

c) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.

1.7.2 The St Albans Local Plan review 1994 Policy 35 confirms that:

In order to mitigate the highway effects of development proposals the District Council, in conjunction with the County Council where appropriate, will seek highway improvements or contributions to highway improvements and /improvements to the public transport system from developers whose proposals would otherwise result in detrimental highway conditions.

1.7.3 Policies M4, M5 and IM2 of the Welwyn Hatfield District Plan 2005 are also relevant.

1.7.4 Policy M4 outlines that development necessitating the provision of new transport infrastructure or services Policy M5 will be granted only if those works are environmentally acceptable and if the applicant agrees to meet, or where appropriate contribute to, the cost of the works or services.

1.7.5 Policy M5 outlines that, wherever possible and practical, the Council will seek improvements in facilities for the safe and convenient movement of pedestrians and

that developers may be required to provide or contribute towards off-site pedestrian facilities where this would be necessary to integrate it with surrounding areas.

- 1.7.6 Policy IM2 requires off-site improvements to mitigate any possible adverse environmental impact arising from the development and that developers will be required to provide or finance the cost of all such provision which is fairly and reasonably related in scale and kind to the development.
- 1.7.7 Policy 34, Highways Considerations in Development Control requires developments to be acceptable in highways terms, including in respect of highway safety.
- 1.7.8 In this case, the Highways Authority has identified a requirement for the following:
 1. Site Access and associated Speed Limit Change and changes to the highway (Drawing No. 18770-FELL-5-500 Rev B or any subsequent plan to be agreed pursuant to proposed conditions on the grant of planning permission) are to be implemented prior to first occupation.
 2. Fellowes Lane Pedestrian Link/Footway Provision from the site, along the southern boundary of Fellowes Lane to the existing network Admirals Close. This is required to be complete prior to first occupation.
 3. Kassel Kerbs (£8000 each) to improve the accessibility of bus stops at Colney Heath, Hall Gardens (S-bound) and (N-bound) stops. Prior to first occupation.
- 1.7.9 Item 1 is required in order to comply with SADC Policies 34 and 35 and the NPPF. Items 2 and 3 are required to comply with Policy 35 and the NPPF.
- 1.7.10 These obligations are considered to be:
 - a) Necessary to make the development acceptable in planning terms, by virtue of Policies 34, 35 of the St Albans Local Plan review 1994; Policies M4, M5 and IM2 of the Welwyn Hatfield District Plan 2005 and the NPPF
 - b) Directly related to the development, by virtue of the fact they are directly required to mitigate for highways impacts, encourage travel by sustainable modes from the site, and ensure a safe access.
 - c) Fairly and reasonably related in scale and kind, for the reasons outlined above.

2. Biodiversity Offsetting Contribution

- 2.1 The NPPF at paragraph 175 states:

175. When determining planning applications, local planning authorities should apply the following principles:

a) if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused;

- 2.2 In this case, it is common ground that there will be a net loss of biodiversity at the site that cannot be fully mitigated on site. Therefore, compensation is required to accord with paragraph 175 of the NPPF. This has been calculated by way of the use of the

Biodiversity Net Gain Matrix, by FPCR, ecologists for the appellant, and is attached at Appendix 2. It has been agreed that the identified net loss can be compensated for by way of a financial contribution based on the parameters for a Biodiversity Unit proposed by DEFRA with such sum to be paid to the District and Borough Councils or Nominee by the Owner to be used towards the creation of new habitats.

APPENDIX 2 – BIODIVERSITY MARTIX CALCULATION BY FPCR

- 2.3 The s106 Agreement requires a Biodiversity Offsetting Scheme to be approved prior to the commencement of development. Combined with the On Site Compensation secured through the s106 Agreement, this provides the necessary compensation required by the NPPF to ensure no significant biodiversity harm (paragraph 175a). The scheme will include the required contribution to off-site mitigation and the identification of a site, as well as details of on-site mitigation, to ensure on-site biodiversity loss is fully compensated. The s106 agreement allows for a calculation of the matrix when full details of the scheme are known, to ensure the correct level of compensation is provided as required by the NPPF.
- 2.4 The terms of the s106 Agreement are derived from a similar biodiversity offsetting obligation in respect of employment development on land at Brickhill Street, South Caldecotte, Milton Keynes, granted permission on appeal on 14 October 2020 by Inspector David Prentis (APP/Y0435/W/20/3251121).

APPENDIX 3 – MILTON KEYNES APPEAL DECISION

- 2.5 The reasons for requiring a financial contribution at this stage, as opposed to identifying a project are as follows:
- a) whilst it may be possible to identify a site now, it is the view of Hertfordshire Ecology as ecological advisers to the local planning authorities, that this might not necessarily represent the most effective type of ecological compensation, or represent the right amount of compensation for any loss. This can best be identified at reserved matters stage/prior to commencement, when full details of the proposed development, including landscaping and open space proposals and on site mitigation details are known. The s106 clauses contain within them flexibility to allow these matters to be defined and the scheme identified prior to commencement.
 - b) this approach is therefore the preferred approach of Hertfordshire Ecology, in their role as ecological advisers to the local planning authorities,
 - c) the approach is reflected in the above recent appeal decision at Milton Keynes, the details of which are appended to this statement.
- 2.6 It follows that this contribution is:
- a) necessary to make the development acceptable in planning terms, to ensure compliance with para 175 NPPF;
 - b) directly related to the development, because it relates to the direct impact of the development on biodiversity; and
 - c) fairly and reasonably related in scale and kind to the development because of metric approach adopted to the calculation of the compensation required.

3. Welwyn Hatfield Borough Council Contributions:

3.1 Community Healthcare Contribution

- 3.1.1 Policy IM2 of the Welwyn Hatfield District Plan 2005 provides for off-site improvements, services and facilities necessary as a result of developments in order to avoid placing an additional burden on the existing community.
- 3.1.2 The NHS request £182.03 per dwelling, equating 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. The figure of £182.03 per dwelling is calculated through capital costs, estimated ten year population growth and estimated number of new dwellings over this period. Calculations are appended to this statement.
- 3.1.3 This contribution is therefore:
- a) Necessary to make the development acceptable in planning terms, by virtue of Policy IM2;
 - b) Directly related to the development, by virtue of its proximity and the likelihood that the new residents will use and have an impact on this community health facility; and
 - c) Fairly and reasonably related in scale and kind, by virtue of the use of the formula approach in this instance, for the reasons outlined above.

3.2 General Medical Service Contribution

- 3.2.1 Policy IM2 of the Welwyn Hatfield District Plan 2005 provides for off-site improvements, services and facilities necessary as a result of developments in order to avoid placing an additional burden on the existing community.
- 3.2.2 The 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.
- 3.2.3 For this reason a contribution would be sought to make this scheme favourable to the NHS services commissioner and provide additional GP facilities in the area.
- 3.2.4 The NHS request that such a contribution is made in favour of either two options. Their calculation is attached as Appendix 4

APPENDIX 4 – NHS CCG CALCULATIONS

- 3.2.5 The first option is a relocation project which is being progressed to relocate Northdown Road Surgery (branch of the Wrafton House practice in Hatfield town centre) within a regeneration scheme in Highview, Hatfield. Planning permission was since granted in July 2020 for the re-development of High View (6/2019/1067/MAJ) and the site is now under construction. The GP practice is planned for the final Phase (Phase 3) and will allow the practice to almost double in size & be DDA

compliant amongst other things. Northdown Road Surgery 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. Northdown Road Surgery is the nearest practice to the site (0.8 miles by foot and 3.9 miles by car). High View is in very close proximity to the Northdown Road Practice.

- 3.2.6 The alternative option is for the contribution to be made in favour of an extension to Burvill House in the centre of Hatfield. Burvill House has 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 site (2.1 miles by foot and 5 miles by car).
- 3.2.7 It is therefore expected that residents of the proposed development would use either GP Practice.
- 3.2.8 The HNS request £1,290 per dwelling. This calculation is based on the number of dwellings proposed and recently updated build costs. This is set out in the S106 Agreement.
- 3.2.9 This contribution is therefore:
- a) Necessary to make the development acceptable in planning terms, by virtue of Policy IM2;
 - b) Directly related to the development, by virtue of its proximity and the likelihood that the new residents will use either GP Practice; and
 - c) Fairly and reasonably related in scale and kind, by virtue of the use of the formula approach in this instance, for the reasons outlined above.

3.3 Green Space Contribution

- 3.3.1 Policy IM2 of the Welwyn Hatfield District Plan 2005 provides for off-site improvements, services and facilities necessary as a result of developments in order to avoid placing an additional burden on the existing community and to mitigate adverse environmental impact arising from the development.
- 3.3.2 The Planning Obligations SPD outlines that Green Space forms an important part of the borough's infrastructure, as it is increasingly recognised as a cornerstone of sustainable development, and a 'must have' for communities, due to the many social, environmental, and health benefits it offers.
- 3.3.3 Paragraph 3.20 of the Planning Obligations SPD states that the council will expect all new development within the borough to provide green space and landscaping on site, in accordance with the council's adopted local standards, as set out in the Open Space, Outdoor Sport and Recreation Strategy.
- 3.3.4 Paragraph 3.21 of the same document goes on to state that, further to this, where there is the potential to implement either the actions identified in the council's Open Space Strategy Action Plan 2010 - 2020, and/or the projects set out in the Green Infrastructure Plan (2011), in the vicinity of the development site, then the council will seek a contribution from that development, by means of a standard charge, and this

money would then be put towards implementing one or more of these projects (as applicable).

- 3.3.5 The Green Infrastructure Plan (2011) remains in effect.
- 3.3.6 The financial contribution would be applied towards a project to create a wildflower meadow also with spring bulb planting at Angerland public open space off of Bishops Rise, South Hatfield. The projects falls within 'Project 4: Woodland and Heathland/grassland Landscape Links' as identified in the Green Infrastructure Plan 2011. Angerland public open space is separated from the appeal site by 0.7 miles on foot. Given its proximity it would likely be an open recreation choice for residents of the proposed development.
- 3.3.7 A precise financial contribution cannot be calculated because the housing mix is not part of the application at outline stage, and therefore the population arising from the development, and totality of the impact on community facilities, cannot be accurately calculated or defined. Therefore the Borough Council has suggested a formula approach in this case, with the formula to be applied at Reserved Matters stage. The formula is set out in the s106 Agreement.
- 3.3.8 This contribution is therefore:
- a) Necessary to make the development acceptable in planning terms, by virtue of Policy IM2 and the Planning Obligation SPD;
 - b) Directly related to the development, by virtue of its proximity and the likelihood that the new residents will use the open space; and
 - c) Fairly and reasonably related in scale and kind, by virtue of the use of the formula approach in this instance, for the reasons outlined above.

3.4 Indoor and Outdoor Sports Facilities Contribution

- 3.4.1 Policy IM2 of the Welwyn Hatfield District Plan 2005 provides for off-site improvements, services and facilities necessary as a result of developments in order to avoid placing an additional burden on the existing community.
- 3.4.2 The Planning Obligations SPD outlines that The Welwyn Hatfield Sports Facilities Study (2011) provides an assessment of indoor and outdoor sports facilities in the borough now and up to 2026. The study has identified that based on the findings of the playing pitch model and initial club feedback, the following total/additional pitch requirements should be planned for to 2026.
- 3.4.3 The study also identified issues with the quality of existing sports facilities, and highlights the need to invest in the maintenance and enhancement of existing sports facilities in the borough to ensure they remain fit for purpose.
- 3.4.4 The financial contribution would be applied toward maintenance and enhancement of the University of Hertfordshire and/or Hatfield Swimming Pool; improved drainage at the Welham Green Recreation Ground grass pitches; and towards repairs to the bowls ground at the Welham Green Recreation Ground. It is likely that residents of

the proposed development would use such indoor and outdoor sport facilities given the close proximity of both Welham Green and Hatfield to the appeal site.

3.4.5 A precise financial contribution cannot be calculated because the housing mix is not part of the application at outline stage, and therefore the population arising from the development, and totality of the impact on sports facilities, cannot be accurately calculated or defined. The sums would be calculated using the Sports Facility Calculator as stated in the s106 Agreement.

3.4.6 This contribution is therefore:

- a) Necessary to make the development acceptable in planning terms, by virtue of Policy IM2 and the Planning Obligation SPD;
- b) Directly related to the development, by virtue of its proximity and the likelihood that the new residents will use such sports facilities;
- c) Fairly and reasonably related in scale and kind, by virtue of the use of the formula approach in this instance, for the reasons outlined above.

3.5 Mental Health Contribution

3.5.1 Policy IM2 of the Welwyn Hatfield District Plan 2005 provides for off-site improvements, services and facilities necessary as a result of developments in order to avoid placing an additional burden on the existing community.

3.5.2 The NHS request £201.38 per dwelling the request, equating to £20,138 to be made in favour of Hertfordshire Partnership Foundation Trust to again be invested on a co-location basis at Queensway Health Centre in Hatfield Roseanne House in Welwyn Garden City to enable increased services capacity. The figure of £201.38 per dwelling is calculated through capital costs, estimated ten year population growth and estimated number of new dwellings over this period. Calculations are appended to this statement.

3.5.3 This contribution is therefore:

- a) Necessary to make the development acceptable in planning terms, by virtue of Policy IM2;
- b) Directly related to the development, by virtue of its proximity and the likelihood that the new residents will use and have an impact on this community health facility; and
- c) Fairly and reasonably related in scale and kind, by virtue of the use of the formula approach in this instance, for the reasons outlined above.

3.6 Waste and Recycling Contribution

3.6.1 Policy IM2 of the Welwyn Hatfield District Plan 2005 provides for off-site improvements, services and facilities necessary as a result of developments in order to avoid placing an additional burden on the existing community.

3.6.2 The Planning Obligations SPD outlines that the council will employ a standard charge approach to secure planning obligations from residential development in the borough

for the delivery of waste and recycling facilities.

- 3.6.3 A standard charge has been developed here on the grounds that the provision of waste and recycling bins is a one-off capital cost which is directly attributable to the impact of a new development
- 3.6.4 A precise financial contribution cannot be calculated because the housing mix is not part of the application at outline stage, and therefore the population arising from the development, and totality of the impact on community facilities, cannot be accurately calculated or defined. Therefore the Borough Council has suggested a formula approach in this case, with the formula to be applied at Reserved Matters stage. The formula is set out in the s106 Agreement.
- 3.6.5 This contribution is therefore:
- a) Necessary to make the development acceptable in planning terms, by virtue of Policy IM2 and the Planning Obligations SPD;
 - b) Directly related to the development; and
 - c) Fairly and reasonably related in scale and kind, by virtue of the use of the formula approach in this instance, for the reasons outlined above.

3.7 Monitoring Fee

- 3.7.1 The Borough Council charges Planning Obligation Monitoring Fees on all monetary s106 Agreements/Unilateral Undertaking's. This is sought towards the costs associated with continuous administering, monitoring and ensuring compliance of each agreement. The Fee is equivalent to 5% of the total value of contributions, capped at a maximum of £5,000.
- 3.7.2 Planning Practice Guidance states that authorities can charge a monitoring fee through section 106 planning obligations, to cover the cost of monitoring and reporting on delivery of that section 106 obligation. Monitoring fees can be used to monitor and report on any type of planning obligation, for the lifetime of that obligation (Paragraph: 036 Reference ID: 23b-036-20190901)
- 3.7.3 The monitoring fees are proportionate and reasonable and reflect the actual cost of monitoring. A cap is set to ensure that any fees are not excessive.

4 St Albans City and District Council Contribution

4.1 Community Facilities Contribution

- 4.1.1 As noted above, Policy 143B of the St Albans Local Plan Review provides for contributions towards infrastructure consequences. Community facilities represent one such form of infrastructure which would be impacted by the proposals, though additional demands on their use and consequential wear and tear.
- 4.1.2 A precise financial contribution cannot be calculated because the housing mix is not part of the application at outline stage, and therefore the population arising from the development, and totality of the impact on community facilities, cannot be accurately

calculated or defined. Therefore the District Council has suggested a formula approach in this case, with the formula to be applied at Reserved Matters stage. The formula is set out in the s106 Agreement.

- 4.1.3 The financial contribution sought would be directed towards improvements to the Roestock Park Scout Hut. The Scout Hut is located within Roestock Park, directly to the west of the appeal site. It is therefore expected that residents of the proposed development would make use of the Scout Hut as a community facility.
- 4.1.4 The scout hut is not currently used because of urgent repair works required, for which funding has not yet been secured. The s106 monies would be put towards these identified improvement works. The Scout Hut is in the ownership of Colney Heath Parish Council. The Parish Council is in receipt of a report detailing the works required and has confirmed they would use s106 monies for this purpose.
- 4.1.5 This contribution is therefore:
 - 1) Necessary to make the development acceptable in planning terms, by virtue of 143B;
 - 2) Directly related to the development, by virtue of its proximity and the likelihood that the new residents will make use of this important local community facility;
 - 3) Fairly and reasonably related in scale and kind, by virtue of the use of the formula approach in this instance, for the reasons outlined above.

5 Management of Open Space

- 5.1 Policy 70 of the St Albans Local Plan Review requires the provision of public open space on site.
- 5.2 Policy OS3 of the Welwyn Hatfield District Plan 2005 requires the provision of informal open space on substantial new residential developments (of 0.4 hectares or more).
- 5.3 The submitted parameter plan allows for this provision, which is expected to form part of submissions for reserved matters approval.
- 5.4 However, it is reasonable and necessary to ensure that the management of the open space is secured, to ensure that its provision is sustained over the lifetime of the development. A condition would not be capable of securing all of the provisions required to secure the management company.
- 5.5 The obligation is therefore:
 - a) Necessary to make the development acceptable in planning terms, by securing the long term retention and management of open space required by policy
 - b) Directly related to the development, because it relates to provision on site
 - c) Fairly and reasonably related in scale and kind, because it refers only to the open space as proposed on site by the appellant.

6 Affordable Housing

- 6.1 Policy 7a of the Local Plan and the Supplementary Planning Guidance Affordable Housing, March 2004 seek 35% affordable housing on site of 25 units or more. Paragraph 1.11 of the SOPG confirms that it applies to open market housing

developments that may be permitted in the Green Belt (in addition to its application to developments within specified settlements).

- 6.2 Policy H7 of the District Plan states that the Council will expect the site to include the provision of affordable housing. That policy requires a minimum of 30% to be sought which should comprise subsidised housing. The proportion type and mix will however be based on the latest housing needs survey. Policy SP7 of the emerging Local Plan requires a target of 35% affordable housing in excluded villages. The progress of the emerging Policy SP7 is something the Council must have regard to pursuant to paragraph 48 of the NPPF. Given the stage of the emerging Local Plan and high degree of consistency with paragraph 63 of the NPPF, this policy is given significant weight. Irrefutable need for affordable housing is also identified in the Local Plan evidence base. For this reason the on-site delivery targets for affordable housing in the Emerging Local Plan are now being applied rather than the baseline percentage identified in the District Plan.
- 6.3 The application proposes 45% affordable housing. It is considered reasonable and necessary to secure the provision of 45% affordable housing by way of the legal agreement given the policy requirement and the level of proposed provision which is a central element of the Appellant's case.
- 6.4 A condition would not be capable of securing the provision and retention of the housing in line with an appropriate tenure mix and other detailed requirements.
- 6.5 The obligation is therefore:
 - a) Necessary to make the development acceptable in planning terms, since affordable housing is a local policy requirement of both SADC and WHBC.
 - b) Directly related to the development, because the affordable housing is secured on site
 - c) Fairly related in scale and kind because the affordable housing provided for is at the proportion proposed by the appellant.