

CD 3.18c

**Land south of Chiswell Green Lane,
Chiswell Green, St Albans**

TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED)

SECTION 78 APPEAL REF: APP/B1930/W/22/3313110

Summary Proof of Evidence – Planning

Prepared by Justin Matthew Kenworthy

MA (Hons) Town Planning, MA Urban Design, MRTPI

**On behalf of
Alban Developments Limited and Alban Peter Pearson, CALA
Homes (Chiltern) Ltd and Redington Capital Ltd**

March 2023

- 1.1 My name is Justin Matthew Kenworthy. I am a Planning Director at Barton Willmore, now Stantec. I benefit from an MA (Hons) in Town Planning, an MA in Urban Design in 1999 and over 20 years of practical experience. I became a Member of the Royal Institute of Town Planning (MRTPI) in 2002.
- 1.2 I have prepared my Proof of Evidence (PoE) on behalf of the Appellants (Alban Developments Limited and Alban Peter Pearson, CALA Homes (Chiltern) Ltd and Redington Capital Ltd) in respect of the appeal lodged under Section 78 of the Town and Country Planning Act 1990 (as amended) ('the 1990 Act') against St Albans City and District Council's ('the Council') refusal of outline planning application reference 5/2022/0927.

The Appeal Site

- 1.3 The Appeal Site is located within the Metropolitan Green Belt, on the western edge of Chiswell Green and to the southwest of St. Albans City. Local views across the Appeal Site are dominated by buildings and structures, fences and debris, as well as the rear elevations of the properties that front onto Forge End and Long Fallow. The Appeal Site is enclosed on all four sides by development or mature hedging and mature trees that screen the Appeal Site from views from the wider countryside. The Council's Green Belt Review (2014) locates the Appeal Site within Sub-Area 8 and concludes that it displays 'particular urban fringe characteristic' (see Figure a) below). The current edge to the settlement is a 'hard edge'. These characteristics represent the baseline position when considering the effect of the Appeal Proposals on the Green Belt and the character of the landscape.

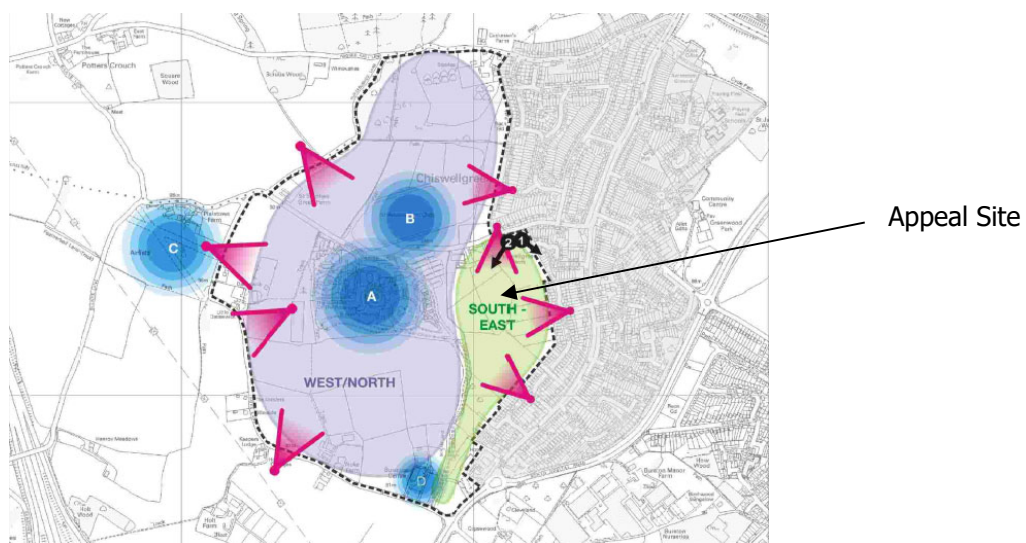


Figure a): Sub-Area 8

- 1.4 Parts of the Appeal Site are classified as Grade 3A and 3B land by the Provisional Agricultural Land Classification (ALC) post-1988 ALC surveys¹, where Grade 1, 2 and 3a are Best and Most Versatile (BMV) Agricultural Land and grade five is poorest quality.
- 1.5 The Appeal Site was identified by the Council proposed as a strategic site allocation (Broad Location S6x) in the now withdrawn Publication Draft St Albans Local Plan (Sept 2018):

Policy S6 x) – West of Chiswell Green Broad Location

Objective

To provide an urban extension of Chiswell Green.

Proposals

The development will be required to deliver:

- 1 Masterplanned development led by the Council in collaboration with local communities, landowners and other stakeholders
- 2 Minimum capacity 365 dwellings
- 3 Minimum 40% Affordable Housing in accordance with Policy L3
- 4 Minimum overall net density 40 dwellings per hectare
- 5 Housing size, type and mix as set out in Policy L1 and Appendix 6.
- 6 Retention of important trees and landscape features
- 7 Recreation space and public open space
- 8 A site for and appropriate contributions towards a 2 Fe primary school, including Early Years provision
- 9 Transport network (including walking and cycling links) and public transport services upgrades/improvements
- 10 3% of homes provided to be self-build housing
- 11 Sufficient assets to provide sustainable management of community facilities, open spaces and parklands
- 12 Excellence in design, energy efficiency and water management
- 13 Appropriate renewable energy production and supply mechanisms

- 1.6 The Appellants seek outline planning permission for:

- Demolition of existing structures and construction of up to 391 homes;
- 40% affordable homes provision, of which:
 - 30% Social Rent;
 - 19% Affordable Rent;
 - 26% Intermediate;
 - 25% First Homes²
- 3% self-build and custom-build plots;
- The provision of land for a new school;

¹ The Agricultural Land Classification system established by the Ministry of Agriculture, Fisheries and Food (Agricultural Land Classification of England and Wales - Revised guidelines and criteria for the grading of the quality of agricultural land (1988), accessed online: <http://publications.naturalengland.org.uk/file/5526580165083136>) classifies agricultural land into five categories to establish the best and most versatile agricultural land.

- 2.92 ha of publicly accessible amenity space;
- 0.82 ha of formal play space for children of all ages and 295sqm for playspace for toddlers;
- New access arrangements into the Appeal Site from Chiswell Green Lane, Long Fallow and Forge End, including the provision of new public rights of way (PROW) through the Appeal Site;
- Adjustments to existing car parking, footpath, cycle path and highway arrangements along Chiswell Green Lane, Watford Road, Long Fallow, Forge End, Farringford Close; and
- New on-site habitat and a financial contribution³ to enhance habitat off-site (to achieve a 10% biodiversity net gain).

1.7 The Other financial⁴ and non-financial obligations agreed comprise:

- Primary Education (including Nursery and Childcare) - £4,031,284.00;
- Secondary Education (including post-16 education) - £3,796,425.00;
- Specialist Education (Primary & Secondary) - £436,248.00;
- Transport improvements - £2,668,966.00;
- Youth Facilities - £110,387.00;
- NHS Herts Valley CCG (Healthcare) - £504,921.00;
- Library Facilities - £128,368.00;
- Local Sport Facilities and Parks - £298,355.00
- Additional Ambulance Capacity - £95,013.00;
- Waste Collection – £23,014.00
- HCC monitoring fees - £3,060.00

1.8 The Council refused the outline application on 6th December 2022, against officers' advice. Shortened extracts of the reasons for refusal are set out below:

1. The proposed development comprises inappropriate development, for which permission can only be granted in very special circumstances, these being if the harm to the Green Belt and any other harm is clearly outweighed by other considerations (paragraph 148 NPPF 2021). We do not consider that the benefits outweigh the harm caused by this proposed development due to the harm to the Green Belt openness and purposes relating to encroachment

² As defined by the Government

³ The financial contributions quoted in my evidence are initial costs based on the outline proposals and will be subject to review at the reserved matters stage through formula that form part of the S106 Agreement

⁴ As above

to the countryside, urban sprawl and merging of towns. The harm also relates to landscape character and the loss of agricultural land...

2. In the absence of a completed and signed S106 legal agreement or other suitable mechanism to secure the provision of 40% affordable housing provision; 3% self-build dwellings; 10% biodiversity new gain; provision of open space and play space; health contributions (towards ambulance services and GP provision); education contributions (primary, secondary and Special Education Needs and Disabilities); library service contribution; youth service contribution; leisure and cultural centres contribution; provision of highways improvements and sustainable transport measures; and safeguarding of land at the site for a new two form entry primary school, the infrastructure needs of the development and benefits put forward to justify Very Special Circumstances would not be met and the impacts of the proposal would not be sufficiently mitigated...

Responding to the Reasons for Refusal

- 1.9 In relation to reason for refusal 1, my evidence concludes that the Appeal Proposals constitute inappropriate development that would result in:

- Definitional harm and limited harm to openness and two purposes of the Green Belt (**substantial weight**);
- Limited harm to local landscape character (**limited weight**);
- Limited harm (at most) to agricultural land (**limited weight**) (at most); and
- No other harm that cannot be mitigated that would need to be weighed in the balance.

- 1.10 I also conclude that a compelling VSC case in favour of the Appeal Proposals, in the form of numerous benefits that outweigh the abovementioned harm(s), which include:

- Delivery of market sale homes (**very substantial weight**);
- Delivery of affordable homes, including social rent, intermediate and first homes tenures (**very substantial weight**);
- Delivery of self-build or custom-build homes (**substantial weight**);
- Delivery of land for a new School (**substantial weight**);
- Delivery of open space, children's play space and access to PROW (**moderate weight**);

- Delivery of ecology improvements (10% BNG) (**moderate weight**) (at least);
- Delivery of socio-economic improvements (**substantial weight**); and
- Helping to raise the standard of design more generally in the area (**significant weight**).

1.11 This appeal case and the weighting behind the benefits of the Appeal Proposals is to be considered in the context of matters listed below:

- The need to significantly boost the supply of homes nationally;
- The Council's development plan is one of the oldest plans in the Country;
- The local plan is out-of-date (and inconsistent with the NPPF) and Council only benefits from a 2-year housing land supply;
- The Council has failed its Housing Delivery Test since 2015/16 and the 'presumption in favour' is engaged (via the HDT and paragraph 11 of the NPPF);
- A chronic and persistent under-delivery of market homes and affordable homes;
- A chronic under-delivery of SB/CB homes for which there is a statutory duty to deliver but a lack of policy basis to secure;
- The Council's acknowledged lack of available urban land and, therefore, the recognised need for Green Belt release to meet its housing needs;
- The Council's own Green Belt Review evidence confirming that the Appeal Site displays urban fringe characteristics and would have the least harm to the Green Belt if released for housing;
- The Council had identified the Appeal Site for development in its now unsound local plan;
- The need by the education authority to deliver new primary and SEND school facilities;
- The lack of policy basis to secure BNG and SB/CB provisions;
- The suitability, availability and immediate deliverability of the Appeal Site which will deliver high-quality development and design benefits; and
- The planning officer's recommended that the outline application should be granted.

1.12 In relation to reason for refusal 2, the Appellants, HCC and the Council will agree a S106 Agreement which will mean this reason should no longer be relevant to the determination of the appeal.

Rebutting Rule 6 Party Comments & Third Party Comments

1.13 My evidence concludes that there are no sound technical reasons raised by Keep Chiswell Green (KCG) and third parties that can be used to not allow the Appeal Proposals.

Conclusion

1.14 When considering the 'planning balance' there are overwhelming reasons to allow the Appeal Proposals. In my opinion:

- The harm to the Green Belt, by reason of inappropriateness, and any other harm resulting from the Appeal Proposals, will be clearly outweighed by other considerations in accordance with paragraph 148 of the NPPF, Policy 1 of SACDC's Local Plan (1994) and Policy S1 of the St Stephen Neighbourhood Plan (2022); and
- Any adverse impact of granting permission would not significantly and demonstrably outweigh these substantial benefits when assessed against the NPPF taken as a whole.

1.15 The Council's Planning Officer also came to the same conclusion.

1.16 The Council has got to stop 'bury its head in the sand' and start addressing its eye-watering chronic under-delivery issues by approving sites that it has previously identified using robust evidence as being appropriate for development purposes. It clearly cannot reply on its failed plan-making process to resolve its delivery issues. The Appeal Site is one of these sites where a truly deserving VSC cases can be supported by the NPPF, the Planning Inspectorate and the Government.

End