

CD 3.24

**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

Rebuttal Proof of Evidence – Planning

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

April 2023

TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED)

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

TOWN AND COUNTRY PLANNING (INQUIRIES PROCEDURE) (ENGLAND)

RULES 2000

APPEAL AGAINST THE REFUSAL OF PLANNING APPLICATION BY ST ALBANS CITY
AND DISTRICT COUNCIL - PLANNING APPLICATION REFERENCE: 5/2022/0927

LAND SOUTH OF CHISWELL GREEN LAND, CHISWELL GREEN, ST ALBANS

REBUTTAL PROOF OF EVIDENCE – PLANNING

JUSTIN MATTEW KENWORTHY

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1.0 INTRODUCTION

1.1 I have prepared this Rebuttal Proof of Evidence (RPOE) in relation to an appeal (reference: APP/B1930/W/22/3313110) submitted by the Appellants¹ to the Planning Inspectorate (PINS), 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.

1.2 This RPOE (**CD 3.24**) sits alongside the evidence I have already submitted to PINS, which sets out my main planning evidence at the forthcoming Public Inquiry, and comprises:

- Proof of Evidence (POE) (**CD 3.18a**);
- POE Appendices (**CD 3.18b**); and
- Summary POE (**CD 3.18c**).

Scope of My RPOE

1.3 This RPOE provides my response to the planning-related evidence already prepared by:

- Mr Connell (**CD 5.4**) prepared on behalf of the Council;
- Mr Friend (**CD 5.33**) prepared on behalf of the Council;
- Mr Fray (**CD 6.15**) prepared on behalf of the Rule 6 Party - Keep Chiswell Green (KCG);
- Mr Sault (**CD 6.17**) on behalf of KCG;
- Ms St Ledger McCarthy (**CD 6.20**) on behalf of KCG; and
- Mr Walpole (**CD 6.12**) on behalf of KCG.

1.4 This RPOE does not respond to the POE prepared by any other witnesses put forward by the Council or the Rule 6 Party as they will be the subject of cross-examination only. I have focused on what appear to me to be the main points of dispute and therefore my silence on any particular issue should not be taken to indicate agreement.

Other RPOE

1.5 This RPOE should be read alongside the RPOE prepared by:

- Miss Toyne (**CD 3.25**) in response to the Green Belt and landscape POE prepared by Mr Friend (**CD 5.33**) on behalf of the Council; and
- Mr Jones (**CD 3.26**) in response to the transport matters prepared by:
 - Mr Sault (**CD 6.17**) on behalf of KCG;
 - Ms St. Ledger McCarthy (**CD 6.20**) on behalf of KCG;
 - The Fray (**CD 6.15**) on behalf of KCG; and
 - Mr Walpole (**CD 6.12**) on behalf of KCG.

¹ Alban Developments Limited and Alban Peter Pearson, CALA Homes (Chiltern) Ltd and Redington Capital Ltd (“the Appellants”)

2.0 RESPONSE TO MR CONNELL'S EVIDENCE

- 2.1 This section of my RPOE (**CD 3.24**) provides my response to the POE of Mr Connell (**CD 5.4**), the Council's Planning expert witness.
- 2.2 I note that Mr Connell was not advising the Council at the time planning permission was refused and therefore his analysis cannot have been in the minds of Planning Committee Members when they rejected officer advice and resolved to refuse planning permission. Further, in multiple respects his evidence strays outside the Council's full statement of case (contrary to the Inquiries Procedure Rules and the PINS Procedure Guide).
- 2.3 Although there are several matters contained within Mr Connell's POE I fundamentally disagree with, and which will be tested through cross-examination, I set out below the key matters that I consider the Inspector should consider at the Inquiry.

Defining Weight given to Benefits

- 2.4 Mr Connell's explanation of the weight to be given to market housing and affordable housing is not clear and requires further explanation at the Inquiry. At paragraphs 4.47, 4.48 and 4.47 of Mr Connell's POE (**CD 5.4**) he concludes that the following weight should be given to these benefits:
- Market Housing – Substantial weight (higher end of spectrum – Very Substantial)
 - Affordable Housing – Substantial weight (higher end of spectrum – Very Substantial)
- 2.5 However, on page 30 of the overarching SOCG (**CD 3.12**) Mr Connell indicates that 'very substantial weight' can be attributed to market housing and 'very substantial weight' can be attributed to affordable housing, individually.
- 2.6 I consider that very substantial weight should be given a clearly greater level of weight when compared to substantial weight. However, Mr Connell appears to suggest that very substantial weight and substantial weight are to be given a similar level of weight, albeit at the higher end of the spectrum. I request that the Inspector seeks clarity from Mr Connell on this matter, which is confusing as it stands.

Defining Weight given to Green Belt Harm

2.7 Paragraph 148 of the NPPF explains that:

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

2.8 I interpret this to mean that Green Belt harm resulting from development can be considered in respect of definitional, openness and purposes, however, when considering the weight to be given to this harm, it should be expressed 'cumulatively' as having 'substantial weight'.

2.9 Mr Connell appears to depart from this by:

- Giving the harm resulting from the Appeal Proposals on the openness its own individual weighting (paragraph 4.8, **CD 5.4**)²; and
- Elevating Green Belt harm from substantial to 'very substantial weight' to the harm to the Green Belt when it is combined to other harm(s).

2.10 Mr Connell's approach is contrary to paragraph 148 of the NPPF (as discussed above) where the NPPF clearly explains that substantial weight should be applied to harm to the Green Belt individual or cumulatively (definitional harm, openness harm and harm to proposes).

2.11 Mr Connell seeks support for this approach by referring to the appeal decision at Smallford Works in St Albans (**CD 5.18**). However, in paragraph 102 of the Smallford Works appeal the Inspector sets out his view that weight is to be applied to:

- The totality of Green Belt harm; and
- Other harm(s).

2.12 The appeal decisions and Council decisions highlighted in my evidence and summarised in **Appendix JK5 (CD 3.18b)** highlight that Inspectors and the Council have consistently used the term 'substantial weight' in the cumulative context as the highest level of weight to be given to Green Belt harm.

² Also see the table on page 30 of the overarching SOCG (CD 3.12)

Cumulative Harm

2.13 Mr Connell concludes at paragraph 4.66 of his POE (**CD 5.4**) that one 'consolidated weight' should be considered when assessing harm in the context of the Planning Balance. In this case, the weight I give to the harms³ are:

- Green Belt – Limited harm (definitional, openness and purposes) = Substantial weight;
- Landscape character – Limited harm = Limited weight; and
- Agricultural land – Limited (at most) harm = Limited weight.

2.14 I disagree with Mr Connell's approach. These three topic areas should be considered independently from each other in the Planning Balance, not consolidated together, as set out on page 30⁴ of the overarching SOCG (**CD 3.12**). The NPPF does not indicate that the 'sum of harms' should be used when considering the planning balance judgement. The appeal decisions and Council decisions highlighted in my evidence and summarised in **Appendix JK5 (CD 3.18b)**, demonstrate that Inspectors and the Council have consistently used the approach I have outlined above.

2.15 Mr Connell seeks support for this approach by referring to the appeal decision at Smallford Works in St Albans (**CD 5.18**). In that case, the Inspector (Mr Aston) does not define the 'sum of harms' when he considers his planning balance judgment. The single exercise of planning judgement undertaken by that Inspector (and referred to at paragraphs 102 and 104 of the IR) is whether or not VSC exist to justify the development.

Cumulative Benefits

2.16 Mr Connell concludes at paragraph 4.66 of his POE (**CD 5.4**) that one 'consolidated weight' should be attributed to the benefits of the Appeal Proposals when considering the Planning Balance. In this case, the weight I give to the benefits⁵ are:

- Market Homes – very substantial weight;

³ I also disagree with the weight given by Mr Connell to these harms.

⁴ See Appellants' Opinion and Planning Officer's Opinion (not Council's Expert Witness Opinion)

⁵ I also disagree with the weight given by Mr Connell to these benefits.

- Affordable Homes (full range) – very substantial weight;
- Self-build and custom-build plots – substantial weight;
- Socio-economic benefits – substantial weight;
- Open space, playspace & improving access to PROW – moderate weight;
- Ecology Improvements – moderate (at least) weight;
- Provision of land for new school – substantial weight⁶; and
- Raising the standard of design – significant weight.

2.17 I disagree with Mr Connell's approach. These above benefits should be considered independently from each other in the Planning Balance, not consolidated together, into one overall weighting. They should be considered alongside each other as set out on page 30 of the SOCG (**CD 3.12**). As explained above, the NPPF does not indicate that the 'sum of benefits' should be used when considering the planning balance judgement. The appeal decisions and Council decisions highlighted in my evidence and summarised in **Appendix JK5 (CD 3.18b)** highlight that Inspectors and the Council have consistently used the approach I have outlined above.

2.18 Again, Mr Connell seeks support for this approach by referring to the appeal decision at Smallford Works in St Albans (**CD 5.18**). In that case, the Inspector (Mr Aston) does not define the 'sum of benefits' when he considers his planning balance judgment. The single exercise of planning judgement undertaken by that Inspector (and referred to at paragraphs 102 and 104 of the IR) is whether or not VSC exist to justify the development.

SKM Green Belt Review

2.19 At paragraph 4.18 of Mr Connell's POE (**CD 5.4**), he re-categorised the Green Belt purposes contained within the Council's Green Belt Review 2013 (paragraph 5.5.1 of **CD 8.4**) prepared by SKM, as follows:

- A "significant contribution" in the SKM report should be translated into meaning a "substantial contribution";
- A "partial contribution" in the SKM report should be translated into meaning a "moderate contribution".

2.20 Mr Connell does not explain the rationale behind the above translation, other than to

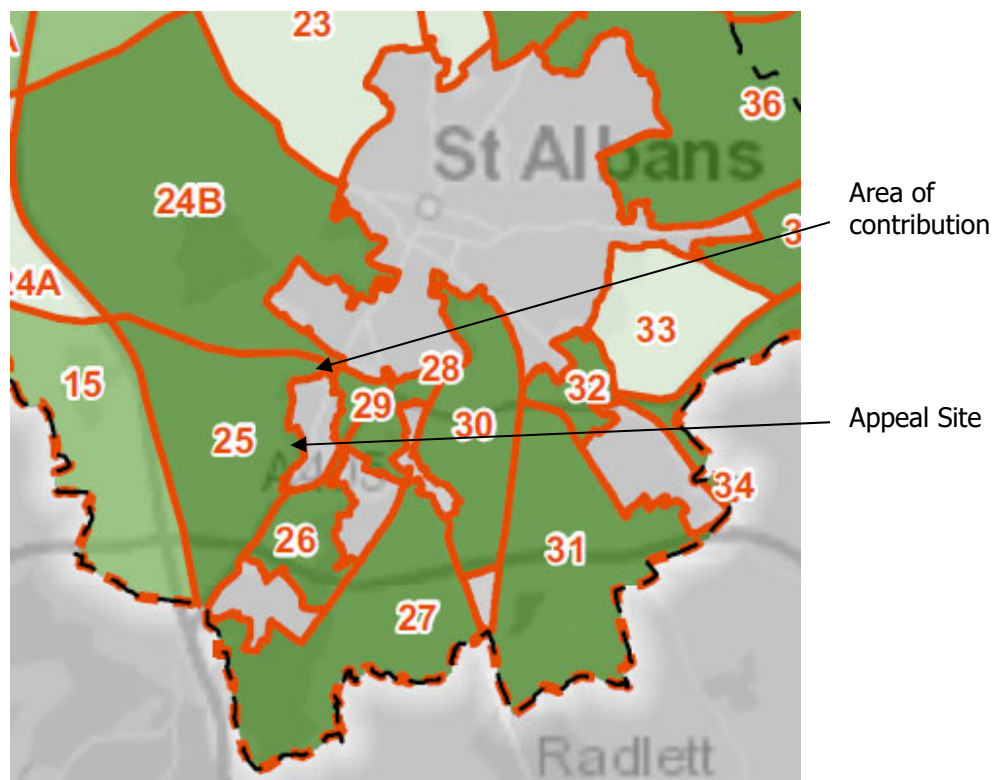
⁶ Substantial weight was also recently given to the provision of education facilities at North Lodge Farm in Effingham, Leatherhead, KT24 5JP (APP/Y3615/W/22/3298341) (CD 9.22)

say that this is his professional opinion. This rationale is not clear and requires further explanation at the Inquiry. Without this explanation, the findings of Mr Connell's opinion, set out in paragraph 4.20 of his POE, cannot be given any weight.

2.21 In addition to the above, at paragraph 4.20 of his POE, Mr Connell has omitted text when referring to paragraph 10.1.4 of the Green Belt Review 2014 (**CD 8.5**). The text 'providing a gap between St Albans and Chiswell Green' has been deleted, as illustrated below:

- It contributions to safeguarding the countryside from encroachment and maintaining the existing settlement pattern (~~providing a gap between St Albans and Chiswell Green~~).

2.22 The deleted text is important in providing context⁷. It explains that the contribution to maintaining existing settlement patterns does not relate to the Appeal Site, it relates to the land in the northern most part of the parcel GB25, as illustrated below⁸.



2.23 At paragraph 4.25 of his POE (**CD 5.4**) Mr Connell explains that in his opinion the

⁷ Albeit retained in the quote provided at paragraph 4.22 of Mr Connell's POE.

⁸ Extract from Figure 7.6 of the Green Belt Review (2013)

Appeal Site does not create a physical barrier to the open countryside to the same extent that was assessed as part of the Green Belt Reviews (**CDs 8.4** and **8.5**). I note that these reviews do not explain that the Appeal Site in isolation creates a physical barrier, it is the combination of the Appeal Site in proximity to the settlement edge, Butterfly World and Miriam Road to the west that creates a physical barrier to the open countryside (as explained in paragraph 10.1.4 of **CD 8.5**). This conclusion was reached by SKM in 2013 and 2014 in the context of the original extant permission at Butterfly World⁹ and not the subsequent temporary permissions that have now expired. I also note that at paragraph 2.1.3 of Mr Friend's POE (**CD 5.32**) he regards Miriam Lane forms a physical barrier to the fields beyond. This should be considered when assessing how the Appeal Proposals perform against the Green Belt purposes.

Policy References – RFR No.1

- 2.24 Mr Connell has indicated in paragraph 3.15 of his POE (**CD 5.4**) that Policy 102 (loss of agriculture) of the Local Plan Review (**CD 8.1**) is cited in reason for refusal no.1. This is not the case.

Paragraph 174, NPPF

- 2.25 In paragraph 3.21 of Mr Connell's POE (**CD 5.4**) he says:

"Whilst LP Policy 1 do not match up with the categories of paragraphs 149 & 150 of the NPPF, but this is not material on the facts of the case since there is no dispute that the development is inappropriate. The policy requirement to integrate with the landscape is consistent with paragraph 174 (b) of the NPPF. Therefore, I consider that full weight should be given to LP Policy 1 at this appeal. I am aware of appeal decisions that acknowledge that Policy 1 is broadly consistent with the NPPF"

- 2.26 I disagree. Full weight should not be given to Policy 1 of the Local Plan Review at this appeal. As explained in paragraphs 4.17 of my POE (**CD 3.18a**), paragraph 8.2.11 of the Council's Committee Report (**CD 3.4**) and paragraph 5.17 of the Council's SOC (**CD 5.2**) explain that the policies which are most important for determining the application (now the Appeal Proposals) are regarded to be out-of-date (and thus must be given reduced weight) on the basis of national policy guidance set out in paragraph 11, footnote 8 of the NPPF (**CD 7.1**). Indeed this is the case for multiple reasons:

⁹ Ref: 5/2003/1343 (CD 5.13)

- a. The lack of a 5-year housing land supply;
- b. The Council's chronic under-delivery of market sale homes, affordable homes and SB/CB homes;
- c. The Council's failure to meet the Housing Delivery Test since 2015/16; and
- d. The most important policies in the development plan, the centrepiece of which is the Local Plan Review, is now nearly 30 years old (including Policy 1). It is not the age of plan that is the issue, it is the inconsistency¹⁰ with the NPPF that is the issue. For example, the Local Plan Review was prepared and reviewed at points in time when housing need levels and targets were much lower and when more urban capacity was greater to accommodate housing and infrastructure needs. Consequently, the boundaries around its settlements (drawn to reflect its needs at the time of preparation and review) now prevent its current housing needs from being met. Therefore, the Local Plan Review does not¹¹ take into account that 'things have changed' since it was adopted and reviewed and the application of Policy 1 serves to constrain economic growth in the district and does not support the Government's objective of significantly boosting the supply of homes, thereby being 'inconsistent' with the NPPF, including the objectives of paragraphs 60, 81 and 82 of the NPPF.

Policy References – RFR No.2

- 2.27 I note that Mr Connell has indicated in paragraph 4.35 of his POE (**CD 5.4**) that Policy 1 (Green Belt) of the Local Plan Review (**CD 8.1**) is cited in reasons for refusal no.2. I point out that this is not the case.

5-YHLS

- 2.28 Mr Connell explains at paragraph 4.47 of his evidence that the Council only benefits from 2.0 YHLS, but then indicates in paragraph 4.79 that this is 2.36 YHLS. The former is correct (2.0 YHLS), as explained in the Council's AMR (**CD 8.7**).

¹⁰ In the Court of Appeal judgement (dated 3rd Sept 2020) relating to *Peel Investments (North) Ltd v Secretary of State for Housing, Communities & Local Government* [2020] EWCA Civ 1175, it was explained that policies are "out-of-date" for the purposes of para. 11d of the NPPF if they have been overtaken by things that have happened since the plan was adopted, either on the ground or through a change in national policy, or for some other reason. *Peel Investments (North) Ltd v Secretary of State for Housing, Communities And Local Government & Anor* [2020] EWCA Civ 1175 (03 September 2020) (bailii.org).

¹¹ The word 'not' is missing from this sentence in my POE by mistake – para 4.17, page 27.

BNG

2.29 Mr Connell refers to the moderate weight given to the on-site BNG provision in the appeal decision at Burston Nurseries (**CD 5.7**). I conclude that moderate weight should be given to the Appeal Proposals' 10% BNG, which is a lower level of weight (significant) given to the delivery of 10% BNG at Maitland Lodge (**CD 9.8**) appeal. At paragraph 42, the Inspector correctly points out that the NPPF only requires 'a' net gain, rather than a gain of 10%, and then places significant positive weight to this benefit.

2.30 I have explained in paragraph 6.79 of my POE that the delivery of a 10% BNG¹² as part of the Appeal Proposals should be given at least 'moderate weight' on the basis that:

- There is no current requirement in national and local policy terms to secure a minimum percentage 'net gain' (let alone 10%) in biodiversity from development proposals;
- The Appeal Proposals will deliver a 10% BNG early, ahead of the requirements that are expected to be introduced in November 2023 under the Environment Act 2021¹³; and
- It will deliver enhancements (Eco Rocket Bat Boxes, Bat Tubes, Habitat 001 bat boxes and bird boxes) that will be in place along green corridors through the Appeal Site which are not included on the BNG calculations.

2.31 At paragraph 6.72 of my POE, I explain that the Appeal Proposals will achieve a 10% BNG using on-site and off-site mitigation measures, comprising:

- On-site: an increase in the amount of hedgerow planting, new tree planting, flowering lawns, native wildlife grasslands, native scrub mix, traditional orchards, integrated bate features and bird boxes; and
- Off-site: a financial contribution that will be used to deliver a sufficient number Biodiversity Units (BU) off-site so to achieve, in combination with the on-site enhancements, an overall 10% BNG. The Appellants propose to deliver this off-site provision by either:
 - Paying the contribution to one of the following to implement the BNG improvements:
 - the Council; or

¹² Source: Appellant's Biodiversity Net Gain Assessment (CD 2.18)

¹³ [Environment Act 2021 \(legislation.gov.uk\)](https://www.legislation.gov.uk)

- the "Environment Bank"; or
- another approved body who will.

or

- Delivering the BNG units on land within the Appellants' or Developers' ownership.

2.32 I can confirm that land is available within the Appellants' or Developers' ownership. This is located at the Former BT site, Smallford, in St Albans, details of which can be found in **Appendix JK9** which is bound to this RPOE. This information has been prepared and verified by the Ecology Partnership.

3.0 RESPONSE TO MR FRIEND'S EVIDENCE

3.1 This section of my RPOE (**CD 3.24**) provides my response to the POE of Mr Friend (**CD 5.33**), the Council's landscape expert witness. I note that Mr Friend was not advising the Council at the time planning permission was refused and therefore his analysis cannot have been in the minds of Planning Committee Members when they rejected officer advice and resolved to refuse planning permission. Further, in multiple respects his evidence strays significantly beyond what, in law, are the Council's "full" reasons for refusal (Article 35(1) DMPO) and beyond the Council's full statement of case (contrary to the Inquiries Procedure Rules and the PINS Procedure Guide).

3.2 The RPOE of Miss Toyne (**CD 3.25**) responds directly to the Green Belt and landscape POE prepared by Mr Friend (**CD 6.15**). Miss Toyne explains that there are matters of agreement between Miss Toyne and Mr Friend. In terms of the areas of disagreement, Miss Toyne concludes that:

- Contrary to paragraphs 2.1.5 and 2.1.6 of Mr Friend's POE, the Appeal Site currently exhibits only limited tranquillity and there are only partial visual links to the wider landscape to the south-west.
- In terms of 'landscape effects':
 - Paragraph 4.1.21 of Mr Friend's POE underplays the benefit of the additional substantial hedgerow planting and positive management of the retained and proposed planting, and that the judgement set out within the BWnS LVIA¹⁴, that is of Moderate Beneficial significance is correct;
 - Paragraph 4.1.13 of Mr Friend's POE underplays the balance of the positive benefits of the landscape strategy accompanying the Proposed Development, and that the judgement set out within the BWnS LVIA, that is of Neutral significance at Year 15 is correct;
 - Notwithstanding the above, it should be noted that in any event, neither of these landscape effects would be considered 'significant';
- In terms of 'visual effects':
 - Contrary to paragraphs 5.1.4 and 5.1.5 of Mr Friend's POE, providing shelter is not the type of quality attributed to the value of a view, but more likely to fall within the attributes of susceptibility. Correctly, the residential properties on the edge of Chiswell Green have been

¹⁴ Barton Willmore, now Stantec's, Landscape & Visual Impact Assessment (CD 2.5)

- afforded a 'High Susceptibility' (the highest criteria) to the type of development proposed in Miss Toyne's POE;
- Contrary to paragraph 5.1.6 of Mr Friend's POE, the value of the residential views is considered to be 'Low' in accordance with the GLVIA methodology, which means that the sensitivity of the residential views would be of 'Medium Sensitivity', and consequently the significance of the Visual effects would remain at Moderate Adverse at Year 1 and Negligible at Year 15 (as set out in the BWnS LVIA) and would not be elevated to Major Adverse at Year 1 and Minor Adverse at Year 15, as Mr Friend alleges;
 - Paragraph 5.1.8 of Mr Friend's POE overinflates the sensitivity of views from residential roads, with only glimpses out over the Appeal Site, between existing residential properties, and in views that are substantially characterised by surrounding existing houses. These views can only be of Low Value, as they are from a location not designated in landscape terms, with minimal or no cultural associations. Receptors in these locations are people travelling along suburban cul-de-sacs who have a Low susceptibility to the type of development proposed. Therefore, considering the combination of Low value and Low susceptibility, this results in an Low Sensitivity (as set out in paragraph 6.30 of the BWnS LVIA) and the significance of the Visual effects would remain at Neutral at Year 1 and Minor Beneficial at Year 15 (as set out in Paragraphs 8.20 and 8.21 of the BWnS LVIA) and would not be elevated to Negligible Adverse at Year 1 and Negligible Beneficial Year 15, as Mr Friend alleges.
 - Notwithstanding the above, it should be noted that in any event, neither of these visual effects would be considered 'significant'.
- In terms of pedestrians using PROWs:
 - Contrary to paragraph 5.1.6 of Mr Friend's POE, Green Belt is not a landscape designation, but primarily a spatial function and not a visual amenity function, and therefore does not contribute to the value of a view. Therefore:
 - The assessment of value of views experienced by users of PROWs 082, 028 and 022 is Low, which combined with a High susceptibility, results in Medium Sensitivity;
 - The significance effect on views experienced by users of PROW 082 remains as Negligible Adverse at Year 1, not Minor Adverse as suggested by Mr Friend; and

- The significance of effect on views experienced by users of PROW 082 remains as Neutral at Year 15.
- Notwithstanding the above, it should be noted that in any event, neither of these visual effects would be considered 'significant'.
- In terms of the Green Belt:
 - Mr Friend's evidence is at odds with the Council's Green Belt Review, on which the case officer's report relied, as well as the case officer's report itself. However, there is no indication in the reasons for refusal that Members disagreed with the officer's report in this respect;
 - Contrary to paragraph 6.1.7 of Mr Friend's POE, in considering visual openness, it is very relevant to consider the extent to which the Appeal Site is enclosed and the extent to which the perceived openness is already influenced by built form, both on the Appeal Site and visible surrounding it as is considered in Miss Toyne's assessment of the openness of the Green Belt.
 - In paragraphs 6.1.7 and 6.1.18 of Mr Friend's POE, he appears to have undertaken a very superficial assessment of the loss of spatial openness, which fails to acknowledge in terms of 'spatial openness' the proportion of the Appeal Site that will remain 'spatially open', as committed to in the Parameters Plans, in particular the Land Use Parameter Plan, and is largely unsubstantiated. However, Miss Toyne provided qualifying evidence in her evidence.

3.3 I agree with this Miss Toyne's RPOE and confirm that the conclusions set out in paragraph 6.8 of my POE (**CD 3.18a**) in respect of 'weight' to be given to the harms identified resulting from the Appeal Proposals remain unchanged.

4.0 RESPONSE TO MR FRAY'S EVIDENCE

4.1 This section of my RPOE (**CD 3.24**) provides my response to the POE of Mr Fray (**CD 6.15**) prepared on behalf of KCG.

4.2 Although there are a number of matters contained within Mr Fray's POE I fundamentally disagree with, and which will be tested through cross-examination, I set out below the key matters I consider the Inspector should investigate at the Inquiry.

Qualifications

4.3 Mr Fray provides his qualifications and experience in paragraph 1.1 of his POE. His professional career involved working with Bosch, Polaroid, Photo-Me and SanDisk, before he retired. I note that Mr Fray is not a qualified transport planner or highways consultant, nor is he a qualified air quality consultant. As a consequence, Mr Fray's comments on highway and air quality matters are to be given little or no weight in the determination of the Inquiry.

4.4 I am not an expert in these areas either. I therefore draw upon the conclusions of the following consultants when responding to Mr Fray's comments:

- The evidence presented in Mr Jones' RPOE (**CD 3.26**) prepared on behalf of the Appellants' relating to land south of Chiswell Green Lane; and
- The Air Quality Assessment (**CD 2.22**) prepared on behalf of the Appellants relating to the land south of Chiswell Green Lane as submitted as part of the original outline planning application.

Highway Response

4.5 The RPOE evidence of Mr Jones' RPOE (**CD 3.26**), a qualified¹⁵ transport consultant with the relevant and suitable qualifications, explains that:

- Little or no weight should be given to the evidence submitted by Mr Fray;
- The individual impact of the appeal scheme at the Watford Road double mini-roundabout junction does not justify the need for highway capacity

improvements instead of, or in addition to, the agreed mitigation package;
and

- Subject to the proposed mitigation of the Watford Road double mini roundabout, there would not be any material impact on the existing operation of both the local and strategic road networks associated with the cumulative impact of the appeal and Polo School schemes.

4.6 I agree with this conclusion and confirm that the conclusions set out in paragraphs 7.35 and 8.4 of my POE (**CD 3.18a**) that there is no additional harm purported by third party comments that can be used to not allow this appeal. Therefore, the comments of Mr Fray weigh neutrally in the planning balance.

Air Quality / Pollution Response

4.7 Section 3.0 of Mr Fray's evidence (**CD 6.15**) includes samples of pollution data download from a website called "AddressPollution.Org". However, there is:

- No data provided by Mr Fray to help explain these samples;
- No methodology provided to confirm the accuracy of the data; and
- No information on the date / time of the samples.

4.8 Without the provision of the above, the findings of Mr Fray's comments cannot be given any credibility or weight in the determination of the Inquiry.

4.9 On the other hand, the Air Quality Assessment (**CD 2.22**) submitted by the Appellants as part of the original outline planning application was prepared by RPS, whom benefit from a specialist and suitably qualified Air Quality Team. I note those that prepared the AQA were:

- Mr Hunt (BSc (Hons), AMIEnvSc¹⁶) – An Air Quality Consultant;
- Ms Barker (MSc, BSc (Hons), MIAQM, AMIEnvSc – A Principal Consultant; and
- Ms Prissall (MSc, BSc (Hons), CEnv, FIAQM, MIEnvSC) – A Technical Director.

4.10 The AQA explains that impacts during construction, such as dust generation and plant vehicle emissions, are predicted to be of short duration and, following

¹⁵ Mr Jones benefits from a Bachelor of Science Degree with Honours in Environmental Assessment in the Construction Industry. He is also a Member of the Chartered Institute of Highways and Transportation (CIHT) and Transport Planning Society

mitigation measures described in the Institute of Air Quality Management (IAQM) guidance, should be reduced to a level categorised as 'not significant'.

- 4.11 The air quality impacts during the construction phase of the Appeal Scheme will also be controlled to within specified hours and acceptable levels, in accordance with the Construction Environmental Management Plan (CEMP) required to be approved by the Council via Condition 16. The details of this condition are set out in Appendix 1 of the overarching SOCG (**CD 3.12**) and require the submission of the following:

"xvii. mechanisms to deal with environmental impacts such as noise and vibration, air quality and dust, light and odour".

- 4.12 This means that the Council, working in the interests of the local community, will have an invested interest in the implementation of a satisfactory CEMP.

- 4.13 The Appellants' Air Quality Assessment (AQA) (**CD 2.22**) also considers the air quality impact during the operational phase of the Appeal Scheme. Sections 6 and 8 of the AQA consider the key pollutants associated with the development traffic of the Appeal Scheme and concludes:

- Using detailed atmospheric dispersion modelling, the operational impact of the Appeal Scheme on existing receptors in the local area is predicted to be 'negligible' or 'not significant' (see paragraphs 6.5, 6.9, 6.12, 6.23, 7.4, 7.5, 8.2, 8.3 and 8.5 of the AQA); and
- The Appeal Scheme does not, in air quality terms, conflict with national or local policies, or with the measures set out in the Council's Air Quality Action Plan (AQAP) (see paragraph 8.8 of the AQA).

- 4.14 I also note that the Council's committee report (**CD 3.4**) explains that:

- There is no objection from Environmental Compliance officer;
- Air quality is not considered to represent a planning constraint in this case (paragraph 8.17.6); and
- The Appeal Scheme will not result in additional harm purported by third party comments and this is considered to weigh 'neutrally' in the planning balance (paragraph 8.19.7).

¹⁶ Associate Member of the Institute of Environmental Science (AMIEEnvSc); Member of the Institute of Air Quality Management (MIAQM); Fellow of the Institute of Air Quality Management (FIAQM).

Conclusion

4.15 I conclude that:

- The findings of Mr Fray's evidence can be given little or no material weight in the determination of the Inquiry;
- The impact of the Appeal Scheme on the local highway network and on background air levels (during construction and operational phases) cannot be used to justify refusing the Appeal Scheme on its individual merits or cumulatively; and
- The Appeal Scheme will accord with the objectives of paragraphs 8c), 174 and 186 of the NPPF for the reasons explained in my main POE.

5.0 RESPONSE TO MR SAULT'S EVIDENCE

5.1 This section of my RPOE (**CD 3.24**) provides my response to the POE of Mr Sault (**CD 6.17**) prepared on behalf of KCG.

5.2 The RPOE evidence of Mr Jones' RPOE (**CD 3.26**), a qualified transport consultant with the relevant and suitable qualifications¹⁷, explains that:

- Little or no weight should be given to the evidence submitted by Mr Sault;
- Mr Sault's evidence is highly subjective using historic material, out of date material or no evidence to support his views;
- The supporting transport work submitted to support the outline planning application was based on an agreed scope with the highway authority at Hertfordshire County Council; and
- Extensive liaisons were also carried out with National Highways.

5.3 I agree with Mr Jones' RPOE and confirm that the conclusions set out in paragraphs 7.35 and 8.4 of my POE (**CD 3.18a**) that there is no additional harm purported by third party comments that can be used to not allow this appeal. Therefore, the comments of Mr Sault weigh neutrally in the planning balance.

¹⁷ See footnote 14 above.

6.0 RESPONSE TO MS ST LEDGER MCCARTHY'S EVIDENCE

- 6.1 This section of my RPOE (**CD 3.24**) provides my response to the POE of Ms St Ledger McCarthy (**CD 6.20**) prepared on behalf of KCG.
- 6.2 The RPOE evidence of Mr Jones' RPOE (**CD 3.26**), a qualified transport consultant with the relevant and suitable qualifications¹⁸, explains that no weight should be given to the evidence submitted by Ms St Ledger McCarthy.
- 6.3 I agree with Mr Jones' RPOE and confirm that the conclusions set out in paragraphs 7.35 and 8.4 of my POE (**CD 3.18a**) that there is no additional harm purported by third party comments that can be used to not allow this appeal. Therefore, the comments of Ms St Ledger McCarthy weigh neutrally in the planning balance.

¹⁸ See footnote 14 above.

7.0 RESPONSE TO MR WALPOLE'S EVIDENCE

7.1 This section of my RPOE (**CD 3.24**) provides my response to the POE of Mr Walpole (**CD 6.12**) prepared on behalf of KCG.

7.2 The RPOE evidence of Mr Jones' RPOE (**CD 3.26**), a qualified transport consultant with the relevant and suitable qualifications¹⁹, explains that:

Sustainable location

- The Appeal Site is accessibly located and provides the opportunity for both future and existing residents to travel to amenities and facilities required on a daily basis by sustainable transport modes other than single occupancy car travel;
- There is a comprehensive suite of public transport options including mainline rail and commercial public transport services available for future residents of the Appeal Site within reasonable walking and cycling distance of the site. The public transport options will also be enhanced as part of the agreed mitigation package. In my view, these provide a real choice to future residents of the application scheme to use public transport to travel to education, employment, shops and services in nearby settlements and further afield as a genuine alternative to journeys by car.

Highway safety

- If the highway authority considered that there were outstanding highway safety issues concerning the operation of Chiswell Green Lane and / or the appropriateness of the proposed cycle improvement schemes on both Chiswell Green Lane and Watford Road and the wider operation of the local highway network it would have asked us to address these;
- The Stage 1 Road Safety Audit (RSA) did not raise any material highway safety issues that cannot be addressed by way of detailed design in the normal way, should planning consent be granted for the appeal scheme;

No consideration of 'cumulative impacts'

- Both applications were discussed with the highway authority at Hertfordshire County Council and that whilst acknowledging that there would be a reduction in the operational performance of the B4630 Watford Road / Tippendell Lane / Chiswell Green double mini-roundabout it considered that the agreed mitigation package was proportionate to mitigate the impact of the appeal scheme;

Travel Plan robustness

- The target to reduce single occupancy trips and achieve a modal shift target of ten percent (not accounting for those residents who choose to work from home) is ten percent. In real terms, these targets seek that 16 residents walk, 21 cycle and 21 using public transport in the morning peak hours. It also seeks to achieve an increase in ten residents walking, ten residents cycling, and ten residents using public transport in the PM peak hours. I do not consider the numbers set out above to transfer from single occupancy car travel to other sustainable transport modes are unrealistic;
- I therefore consider that a robust Travel Plan is capable of being provided that will be monitored by the highway authority should planning consent be granted alongside the comprehensive active travel / sustainable transport package;

Appeal Proposals' impact on highway network

- It is my view, and one shared with the highway authority, the individual impact of the appeal scheme does not change how the Watford Road double mini roundabout junction operates. It does not gridlock, and minor arms are allowed to exit where priority dictates by drivers exercising common sense. It is also considered that the impact of providing a Tiger crossing over and above the existing Zebra unlikely to materially affect the forecast operation of the double mini roundabout;

Cumulative impact on highway network

- A feasible mitigation scheme by way of a staggered signalised junction is required to mitigate the cumulative impact of both appeal schemes anticipated to operate similarly to the levels of queues and delay forecast for the existing double mini roundabout for a 2027 design year without development;
- The cumulative impact assessment also shows that there is no material impact to the adjacent junctions or Strategic Highway Network; and
- A Stage One RSA of the proposed signalised junction design has not raised any material issues that cannot be addressed by a detailed design of the preliminary scheme.

7.3 I agree with Mr Jones' RPOE and confirm that the conclusions set out in paragraphs 7.35 and 8.4 of my POE (**CD 3.18a**) that there is no additional harm purported by third party comments that can be used to not allow this appeal. Therefore, the comments of Mr Walpole weigh neutrally in the planning balance.

¹⁹ See footnote 14 above.

8.0 CONCLUSION

- 8.1 I conclude that the evidence prepared by the Council and KCG does not change the conclusion I have reached in Section 10 my POE. There is a clear and compelling VSC case in favour of the Appeal Proposals and, when considering the planning balance, there are overwhelming reasons to allow outline planning permission to proceed.

APPENDIX JK9

James Delafield
Carter Jonas

By email only: James.Delafield@Carterjonas.co.uk
5th April 2023

Biodiversity Net-gain offsetting for Land South of Chiswell Green - Former BT Site, Smallford, St Albans

Dear James,

Following the initial biodiversity net-gain (BNG) assessment of the planning application at 'Land South of Chiswell Green', it was determined that the proposals would result in an estimated net-loss of -29.39% (15.97 units). As such, in order to achieve a 10% net-gain, an offsite uplift of 21.4 units of grassland or high distinctiveness habitat would be required. Since this assessment a potential site for offsetting has been identified at the former BP site, Smallford St Albans (See Figure 1 below), referred to hereafter as 'the site'. A habitat survey and condition assessment were subsequently carried out of the site by The Ecology Partnership on 3rd April in order to inform the metric, and determine the potential for biodiversity uplift, the results of which are summarised in this letter.



Figure 1: Redline boundary of the offsetting site

The habitats recorded on site and their condition is detailed in Table 1 and Figure 2 below and the full condition assessment can be found in Appendix 1:

Table 1: Summary of habitats within the existing site¹

Habitat	Area (ha)	Condition and comments
Other neutral grassland	13.06	Poor - Unmanaged grassland covering most of the site
Bramble scrub	0.21	Poor - Small patches of bramble dominated scrub
Mixed scrub	0.25	Moderate - Patches of mixed scrub along the northern and eastern boundaries of the site.
Mixed scrub	0.36	Good - Diverse mix of native shrub species planted along the western boundary of the site c.2018.
Ruderal/ephemeral	0.03	Moderate - Recolonizing areas of building rubble
Hard standing	0.4	n/a - Asphalt/concrete paths running through the site, as well as concrete foundations of historic buildings.
Other broad-leaved woodland	0.04	Poor - Small copse of wild cherry trees in the center of the site.



Figure 2: Habitat map of existing site.

¹ Excludes linear habitats, as no linear offsetting is required

The baseline data was input into the previously submitted Defra 3.0 metric used to calculate the change in value of the Chiswell Green application site. Although newer versions of the metric have since been released, to maintain consistency, it was decided that the version at the time of submission should be used. A scenario in where all grassland in the offsetting site was enhanced from poor to moderate condition was applied to the metric. This resulted in an increase of 36.58 units, and combined with the change in value of the application site creates a net-gain in biodiversity of +37.94% (+20.61 units). The updated headline results are presented in Figure 3 below:

On-site baseline	Habitat units	54.34
	Hedgerow units	6.42
	River units	0.00
On-site post-intervention (Including habitat retention, creation & enhancement)	Habitat units	38.37
	Hedgerow units	9.14
	River units	0.00
On-site net % change (Including habitat retention, creation & enhancement)	Habitat units	-29.39%
	Hedgerow units	42.32%
	River units	0.00%
Off-site baseline	Habitat units	59.68
	Hedgerow units	0.00
	River units	0.00
Off-site post-intervention (Including habitat retention, creation & enhancement)	Habitat units	96.26
	Hedgerow units	0.00
	River units	0.00
Total net unit change (including all on-site & off-site habitat retention, creation & enhancement)	Habitat units	20.61
	Hedgerow units	2.72
	River units	0.00
Total on-site net % change plus off-site surplus (including all on-site & off-site habitat retention, creation & enhancement)	Habitat units	37.94%
	Hedgerow units	42.32%
	River units	0.00%
Trading rules Satisfied?	Yes	

Figure 3: Screenshot of the updated headline results in the Defra 3.0 Metric for the application site

This demonstrates that this site does provide sufficient opportunities for net-gain to offset the losses within the application site and achieve an overall net-gain of greater than 10%. It is recommended that a detailed landscape and ecology management plan (LEMP) is created for the site detailing the ecological enhancements, and how they will be implemented and maintained over a period of 30 years. The final enhancement plan for the site may not be limited to grassland enhancement as depicted in this scenario, and may also include pond and orchard creation for example. However, the majority of the enhancement will come from the grassland.

It is anticipated the following requirements will be needed to increase the condition of the grassland:

- Initial flail cut and collection to decrease the biomass and nutrients within the soil
- Scarification of soil and seeding of suitable wildflower seed-mix to boost the species-richness of the grassland.
- Introduction of livestock such as sheep or cattle over part of the year on an annual basis, to suppress the grasses and taller ruderal vegetation, maintaining biodiversity
- Targeted flail for any excessive scrub encroachment into the grassland.

In conclusion, this assessment confirms the viability of the former BP site to be used for biodiversity offsetting for the application site at Land South of Chiswell Green, to ensure an overall biodiversity net-gain of greater than 10%.

Kind regards

A handwritten signature in black ink, reading "Alexia Tamblyn". The signature is written in a cursive style with a long, sweeping underline that extends across the width of the text.

Alexia Tamblyn MA (Oxon) MSc CEnv MCIEEM FRGS
Managing Director

Appendix 1 – Condition Assessments

Condition Sheet: GRASSLAND Habitat Type (medium, high & very high distinctiveness)		
UKHab Habitat Type(s): All other grassland types and tall ruderal (ie. not amenity/modified)		
Condition Assessment Criteria		Grassland 1
1	The appearance and composition of the vegetation closely matches characteristics of the specific grassland habitat type (see UKHab definition). Wildflowers, sedges and indicator species for the specific grassland habitat type are very clearly and easily visible throughout the sward.	Pass – Grassland most closely aligns with MG1 owing to abundance of false-oatgrass and red fescue, however, was a very species-poor example of this habitat type.
2	Sward height is varied (at least 20% of the sward is less than 7 cm and at least 20 per cent is more than 7 cm) creating microclimates which provide opportunities for insects, birds and small mammals to live and breed.	Fail - Over 80% of the sward is over 7cm in height.
3	Cover of bare ground between 1% and 5%, including localised areas, for example, rabbit warrens.	Fail - Bare ground less than 1% coverage. Dense thatch present throughout majority of grassland
4	Cover of bracken less than 20% and cover of scrub (including bramble) less than 5%.	Pass – No bracken, and scrub currently less than 5% but hawthorn saplings are beginning to establish in parts of the site.
5	There is an absence of invasive non-native species (as listed on Schedule 9 of WCA, 1981). Combined cover of undesirable species ¹ and physical damage (such as excessive poaching, damage from machinery use or storage, damaging levels of access, or any other damaging management activities) accounts for less than 5% of total area.	Fail – Thistles, docks, nettles, white clover and cow parsley account for greater than 5% of grassland cover.
		Condition
		Poor
Condition Assessment Result		
Good	Passes 5 of 5 criteria	
Moderate	Passes 3 or 4 of 5 criteria	
Poor	Passes 0, 1 or 2 of 5 criteria	
Notes: Species considered undesirable for this habitat type include: Creeping thistle <i>Cirsium arvense</i> , spear thistle <i>Cirsium vulgare</i> , curled dock <i>Rumex crispus</i> , broad-leaved dock <i>Rumex obtusifolius</i> , common nettle <i>Urtica dioica</i> , greater plantain <i>Plantago major</i> , white clover <i>Trifolium repens</i> , cow parsley <i>Anthriscus sylvestris</i> .		

Condition Sheet: SCRUB Habitat Type					
UKHab Habitat Type(s): All forms of scrub					
Condition Assessment Criteria		Western planted scrub	Established mixed scrub	Bramble scrub	
1	Habitat is representative of UKHab description (where in its natural range). There are at least three woody species, with no one species comprising more than 75% of the cover (except common juniper, sea buckthorn or box, which can be up to 100% cover).	Pass	Pass	Fail	
2	There is a good age range – all of the following are present: seedlings, young shrubs and mature shrubs.	Pass	Pass	Fail	
3	There is an absence of invasive non-native species (as listed on Schedule 9 of WCA, 1981) and undesirable species ¹ make up less than 5% of ground cover.	Pass	Fail – Nettles greater than 5% cover	Pass	
4	The scrub has a well-developed edge with scattered scrub and tall grassland and/or herbs present between the scrub and adjacent habitat(s).	Pass	Pass	Pass	
5	There are clearings, glades or rides present within the scrub, providing sheltered edges.	Pass	Fail	Fail	
		Condition	Good	Moderate	Poor
Condition Assessment Result					
Good	Passes 5 of 5 criteria				
Moderate	Passes 3 or 4 of 5 criteria				
Poor	Passes 0, 1 or 2 of 5 criteria				
Footnote 1 - Species considered undesirable for this habitat type include: creeping thistle <i>Cirsium arvense</i> , common nettle <i>Urtica dioica</i> , cherry laurel <i>Prunus laurocerasus</i> , snowberry <i>Symphoricarpos</i> spp., buddleia <i>Buddleja</i> spp., cotoneaster <i>Cotoneaster</i> spp., Spanish bluebell <i>Hyacinthoides hispanica</i> (or hybrids).					

Condition Sheet: WOODLAND Habitat Type					
UKHab Habitat Type(s): All woodlands (except wood pasture)					
Condition Assessment Criteria					
Indicator		Good (3 points)	Moderate (2 points)	Poor (1 point)	Score per indicator
					Cherry tree copse
1	Age distribution of trees¹	Three age classes present	Two age classes present	One age class present	1
2	Wild, domestic and feral herbivore damage	No significant browsing damage evident in woodland ²	Evidence of significant browsing pressure is present in 40% or less of whole woodland	Evidence of significant browsing pressure is present in 40% or more of whole woodland	3
3	Invasive plant species³	No invasive species present in woodland	Rhododendron or laurel not present, other invasive species < 10% cover	Rhododendron or laurel present, or other invasive species > 10% cover	3
4	Number of native tree species	Five or more native tree or shrub species found across woodland parcel	Three to four native tree or shrub species found across woodland parcel	None to two native tree or shrub species across woodland parcel	1
5	Cover of native tree and shrub species	> 80% of canopy trees and >80% of understory shrubs are native	50-80% of canopy trees and 50-80% of understory shrubs are native	< 50% of canopy trees and <50% of understory shrubs are native	3
6	Open space within woodland⁴	10 – 20% of woodland has areas of temporary open space, unless woodland is <10ha in which case lower threshold of 10% does not apply	21- 40% of woodland has areas of temporary open space	More than 40% of woodland has areas of temporary open space	1

7	Woodland regeneration ⁵	All three classes present in woodland; trees 4-7cm dbh, saplings and seedlings or advanced coppice regrowth	One or two classes only present in woodland	No classes or coppice regrowth present in woodland	1
8	Tree health	Tree mortality less than 10%, no pests or diseases and no crown dieback	11% to 25% mortality and/or crown dieback or low risk pest or disease present	Greater than 25% tree mortality and or any high risk pest or disease present	3
9	Vegetation and ground flora	Ancient woodland flora indicators present	Recognisable NVC plant community present	No recognisable NVC community	1
10	Woodland vertical structure ⁶	Three or more storeys across all survey plots or a complex woodland	Two storeys across all survey plots	One or less storey across all survey plots	1
11	Veteran trees ⁷	Two or more veteran trees per hectare	One veteran tree per hectare	No veteran trees present in woodland	1
12	Amount of deadwood	50% of all survey plots within the woodland parcel have standing deadwood, large dead branches/ stems and stumps	Between 25% and 50% of all survey plots within the woodland parcel have standing deadwood, large dead branches/ stems and stumps	Less than 25% of all survey plots within the woodland parcel have standing deadwood, large dead branches/ stems and stumps	1
13	Woodland disturbance ⁸	No nutrient enrichment or damaged ground evident	Less than 1 hectare in total of nutrient enrichment across woodland area and/or less than 20% of woodland area has damaged ground	More than 1 hectare of nutrient enrichment and/or more than 20% of woodland area has damaged ground	2
Total score (out of a possible 39)					22 (poor)
Condition Assessment Score					
Good	Total score >32 (33 to 39)				
Moderate	Total score 26 to 32				
Poor	Total score <26 (13 to 25)				

Notes

Footnote 1 - If tree species is not a birch, cherry or Sorbus: 0 – 20 years (Young); 21 - 150 years (Intermediate); and >150 years (Old). A recognisable age class should be a consistent recognisable layer across the woodland or stand being assessed. Presence of a few saplings would not indicate that the woodland has an 'age class' of young trees.

Footnote 2 - Browsing pressure is considered to be significant where >20% of vegetation visible within each survey plot shows damage from any type of browsing pressure listed.

Footnote 3 - Check for presence of the following invasive non-native species: American skunk cabbage *Lysichiton americanus*; Himalayan balsam *Impatiens glandulifera*; Japanese knotweed *Fallopia japonica*; Cherry Laurel *Prunus laurocerasus*; Shallow *Gaultheria shallon*; Snowberry *Symphoricarpos albus*; Variegated yellow archangel *Lamiastrum galeobdolon subsp. argentatum*; and Rhododendron *Rhododendron ponticum*.

Footnote 4 - Open space within woodland in this context is temporary open space in which trees can be expected to regenerate (e.g. glades, rides, footpaths, areas of clear-fell). This differs from permanent open space where tree regeneration is not possible or desirable (e.g. tarmac, buildings, rivers). Area is at least 10m wide with less than 20% covered by shrubs or trees.

Footnote 5 - This indicator measures regeneration potential of the woodland by considering three classes: seedlings; saplings; and young trees of 4-7 cm DBH. All three classes would fall in the 'young' category of the 'age distribution of trees' indicator, the regeneration indicator is gathers additional information by considering regeneration potential i.e. if seedlings, saplings and young trees are all present that means natural regeneration processes are happening.

Footnote 6 - This indicator is looking at structural diversity and is useful to understand in conjunction with the age of trees in a woodland. Vertical structure is defined as the number of canopy storeys present. Possible storey values are: 1) Upper; 2) Complex: recorded when the stand is composed of multiple tree heights that cannot easily be stratified into broad height bands (such as upper, middle or lower); 3) Middle; 4) Lower; and 5) Shrub layer.

Footnote 7- Veteran trees can be classified if they have four out of the five following features:

1. Rot sites associated with wounds which are decaying >400 cm²;
2. Holes and water pockets in the trunk and mature crown >5 cm diameter;
3. Dead branches or stems >15 cm diameter;
4. Any hollowing in the trunk or major limbs;
5. Fruit bodies of fungi known to cause wood decay.

Footnote 8 - Examples of disturbance are: significant nutrient enrichment; soil compaction from trampling, machinery or animal poaching; litter.

Condition Sheet: URBAN - NON PRIORITY Habitat Type		
UKHab Habitat Type(s): Sparsely vegetated land - Ruderal/ephemeral; Urban – Allotments/Bioswale/Cemeteries and churchyards/Open mosaic habitats on previously developed land(OMH)/Rain garden/SUDs/bare ground/all green walls and roofs		
Condition Assessment Criteria		Ephemeral vegetation
1	Vegetation structure is varied, providing opportunities for insects, birds and bats to live and breed. A single ecotone (i.e. scrub, grassland, herbs) should not account for more than 80% of the total habitat area.	Fail
2	There is a diverse range of flowering plant species, providing nectar sources for insects. These species may be either native, or non-native but beneficial to wildlife. NB - To achieve GOOD condition, criterion 2 must be satisfied by native species only (rather than non-natives beneficial to wildlife).	Pass
3	Invasive non-native species (Schedule 9 of WCA) cover less than 5% of total vegetated area. NB - To achieve GOOD condition, criterion 3 must be satisfied by a complete absence of invasive non-native species (rather than <5% cover).	Pass
4a	OMH only: The site shows spatial variation, forming a mosaic of at least four early successional communities (a) to (h) PLUS bare substrate AND pools. (a) annuals; (b) mosses/liverworts; (c) lichens; (d) ruderals; (e) inundation species; (f) open grassland; (g) flower-rich grassland; (h) heathland.	n/a
4b	SUDs/Bioswales only: The water table is at or near the surface throughout the year. This could be open water or saturation of soil at the surface.	n/a
		Condition
		Moderate
Condition Assessment Result		
Good	Passes 3 of 3 core criteria; AND Meets the requirements for good condition within criteria 2 and 3	Passes 3 of 3 core criteria; AND Meets the requirements for good condition within criteria 2 and 3; AND Passes additional criterion 4a or 4b
Moderate	Passes 2 of 3 core criteria; OR Passes 3 of 3 core criteria but does not meet the requirements for good condition within criteria 2 and 3	Passes 2 of 3 of 4 criteria; OR Passes 4 of 4 criteria but does not meet the requirements for good condition within criteria 2 and 3
Poor	Passes 0 or 1 of 3 core criteria	Passes 0 or 1 of 4 criteria