

DRAFT Statement of Common Ground

Appeal by Headlands Way Limited

Land north of Chiswell Green Lane, Chiswell Green, St Albans, Hertfordshire

Ref: 5/2021/3194

Outline application (access sought) for the demolition of existing buildings and the building of up to 330 discounted affordable homes for Key Workers, including military personnel, the creation of open space and the construction of new accesses and highways works including new foot and cycle path and works to junctions.

Brian Parker
BA MSc MRTPI

November 2022



MRP Planning, 10 Orient Close, St Albans, Hertfordshire AL1 1AJ

This Statement has been structured in accordance with Government advice for Statements of Common/Uncommon Ground for Inquiries, updated March 2021.

1 Appeal Reference

1.1 Ref: 5/2021/3194

2 Site Address

2.1 Land north of Chiswell Green Lane, Chiswell Green, St Albans, nearest postcode AL2 3AJ. This was the address on the Application Form. The Council refers to it as “St Stephens Green Farm Chiswell Green Lane St Albans Hertfordshire”.

3 Agreed Description of Development

3.1 Outline application (access sought) for the demolition of existing buildings and the building of up to 330 discounted affordable homes for Key Workers, including military personnel, the creation of open space and the construction of new accesses and highways works including new foot and cycle path and works to junctions.

4 Latest iterations of the Plans on which the Council consulted

4.1 Site Plans:

- Site Location Plan Rev. D
- Indicative Proposed Site Layout Rev. C
- Existing Site Plan

All © Tom Gristwood

4.2 Transport and Highways Plans:

- Proposed Access Arrangements Ref 21086 001 B
- Proposed Foot Cycle Enhancements Sheet 1 Ref 20108 002
- Proposed Foot Cycle Enhancements Sheet 2 Ref 20108 002
- Swept Path Analysis Refuse Vehicle Ref 21086 TK1 A
- Swept Path Analysis Fire Tender Ref 21086 TK0 A
- Proposed PRow Improvements Ref 21086 003
- Proposed PRow Upgrades Ref 21086 004
- Proposed Memorial Car Parking Allocation Ref 21086 005
- Proposed Pedestrian Cycling Upgrades Toucan Crossing Ref 21086 006

5 List of any new plans not seen or consulted upon

5.1 Not applicable

6 Relevant Planning History

Application Site

6.1 Ref: 5/2011/0338 - Change of use from Sui Generis (agriculture) to Class D2 (assembly and leisure) to create school playing fields and changing rooms with associated access, car parking and landscaping (resubmission following withdrawal of 5/10/1864) – Refused – 17/01/2012.

6.2 Ref: 5/2016/3787 - Erection of agricultural barn – Conditional Permission – 10/02/2017.

6.3 Ref: 5/2020/2245 - Variation of Condition 4 (permitted use) to allow partial change of use to repair of commercial vehicles with a particular focus on agricultural machinery and equipment of planning permission 5/2016/3787 dated 10/02/2017 for Erection of agricultural barn – Refused – 22/04/2021.

6.4 5/2021/2520 - Screening Opinion - Mixed use development comprising up to 330 dwellings (Class C3), open spaces and a memorial park – Environmental Statement Not Required – 30/09/2021

Relevant Green Belt Decisions in the District

6.5 Ref: 5/2018/1324 – Land to rear of Burston Nurseries. Refused by the Council. Dismissed at Appeal, APP/B1930/W/19/3235642, 09/01/20

6.6 Ref: 5/2020/1992 – Bullens Green Lane. Not-Determined by the Council. Allowed at Appeal, Ref: APP/B1930/W/20/3265925, 14/06/21

6.7 Ref: 5/2020/3022 – Land to rear of Burston Nurseries. Refused by the Council. Allowed at Appeal, Ref: APP/B1930/W/21/3279463, 31/01/22

6.8 Ref: 5/2021/0423 – Land to rear of 111-156b Harpenden Road. Granted Conditional Permission by the Council on 26/07/21 subject to the completion of a S106 (completed 12/01/22).

6.9 Ref: 5/2021/2730 – Land off Orchard Drive, Park Street. Granted Conditional Permission by the Council on 20/12/21 subject to the completion of a S106 (completed 16/06/22).

Relevant decision-making

6.10 In respect of major schemes, the Council continues to measure the quality of its performance against guidance revoked in England in 2014. At the Planning (Development Management) Committee at which the Application was Refused, Item 7 saw the Council assess its decision-making performance against

DoE Circular 22/80, a measure that was replaced in England over 8 years ago and now only applies in Wales. The evidence demonstrates that the Council's decision-taking performance is worsening.

7 List of the most important development plan policies

7.1 1994 Local Plan

- 1 Metropolitan Green Belt
- 2 Settlement Strategy
- 8 Affordable Housing in the Metropolitan Green Belt
- 34 Highways Consideration in Development Control
- 35 Highway Improvements in Association with Development
- 39 Parking Standards, General Requirements
- 40 Residential Development Parking Standards
- 69 General Design and Layout
- 70 Design and Layout of New Housing
- 74 Landscaping and Tree Preservation
- 84 Flooding and River Catchment Management
- 84A Drainage Infrastructure
- 97 Existing Footpaths, Bridleways and Cycleways
- 102 Loss of Agricultural Land
- 106 Nature Conservation
- 143A Watling Chase Community Forest
- 143B Implementation

7.2 The St Stephen Neighbourhood Plan

- S1 Location of Development
- S2 Dwelling Mix
- S3 Character of Development
- S5 Design of Development
- S6 Minimising the Environmental Impact of Development
- S10 Green Infrastructure and Development
- S11 Improvement to Key Local Junctions and Pinch Points
- S12 Off-Street Car Parking
- S13 Bus Services and Community Transport
- S14 Provision for Walking, Cycling and Horse-Riding
- S15 Improving the Bridleway Network
- S16 Community Facilities

- S17 Leisure Facilities for Children and Teenagers
- S24 Broadband Communications

7.3 The Hertfordshire Minerals Local Plan 2007

8 Other relevant planning policy/guidance/material considerations

Policy

8.1 The National Planning Policy Framework, July 2021

Guidance

8.2 Planning Practice Guidance, online resource published March 2014 and updated since

8.3 St Albans Council Design Advice Leaflet No. 1, 1998

8.4 St Albans Council Revised Parking Policies and Standards, January 2002

8.5 St Albans Council Affordable Housing – Supplementary Planning Guidance, March 2004

Other material documents

8.6 Annual Monitoring Report, December 2021

8.7 St Albans Housing Delivery Test Action Plan, December 2021

8.8 SW Hertfordshire Local Housing Needs Assessment, GL Hearn, September 2020

8.9 St Albans Corporate Plan 2022-2027

8.10 The Draft Housing Strategy

9 Areas where the parties are working together

9.1 The Draft Section 106 Agreement.

10 Areas of agreement and disagreement

10.1 The Guidance suggests that the areas of agreement and disagreement should be set out in a Table: please see below.

Table of Agreements and Disagreements

GREEN BELT		COMMENT
The Appeal Site is entirely within the Green Belt	AGREE	
The Appeal proposal is inappropriate development for which Very Special Circumstances are required	AGREE	
Substantial harm caused by way of inappropriateness	AGREE	
Substantial harm caused by loss of openness	AGREE	
Level of harm to Green Belt purposes	DISAGREE	The level of harm is disputed.
Level of harm to visual amenity	DISAGREE	The Council doesn't support the findings of the LVIA (UBU Design).
It is appropriate to rely on the SKM Green Belt Review in decision-making	DISAGREE	In February 2022, the Council explained that it considered Spatial Planning's reliance on the Review decisive in Recommending Refusal. The Appellant's Legal Opinion is that such reliance is inconsistent and may be unlawful.
HOUSING		
The latest calculation of deliverable housing sites is 2.2 years	AGREE	
The latest measure of local housing needs is the GL Hearn study for SW Hertfordshire, September 2020	AGREE	
The 2004 Affordable Housing SPG defines Key Workers	AGREE	
The Council signed the Armed Forces Covenant in 2011 (re-signed 2021)	AGREE	
The Council has never measured the housing need of Key Workers	AGREE	
There is no Adopted Policy which sets an Affordable Housing contribution for large sites in the Green Belt	AGREE	
There is no Adopted Policy or Guidance which sets how a contribution of affordable housing should be split between tenures	AGREE	
There is no Adopted Policy or Guidance which supports one form of affordable housing over another	AGREE	
A scheme for 100% Key Worker housing is contrary to Para 63 of the NPPF	DISAGREE	The Appellant submits that Para. 63 is a district-wide concept for Plan Making not decision-making on individual applications.
DESIGN AND AMENITY		
Any concerns over design and amenity could be addressed at the Reserved Matters stage	AGREE	
MINERALS		
Suitable Conditions in respect of mineral extraction may be applied	AGREE	
LOSS OF AGRICULTURAL LAND		
Harm will be caused by the loss of such land	AGREE	
The degree of harm	DISAGREE	The Council believes the loss is so significant that the potential development of the site should only be considered as part of the Local Plan process
ECOLOGY		
The site is of no or little ecological interest	AGREE	

ARCHAEOLOGY		
Any potential harm can be mitigated by Conditions and further details at the Reserved Matters stage	AGREE	
HIGHWAYS AND SUSTAINABLE TRANSPORT		
The Highways Authority has no objection, subject to suitable Conditions and Obligations.	AGREE	
FLOODING		
This issue can be dealt with by way of suitable Conditions	AGREE	
SUSTAINABLE DRAINAGE		
The issue can be dealt with by way of suitable Conditions	AGREE	
SECURITY		
Will be subject to further consideration at the Reserved Matters stage	AGREE	
CONTAMINATION		
The issue can be dealt with by way of suitable Conditions	AGREE	
AIR QUALITY		
Generates no constraints	AGREE	
NOISE		
The issue can be dealt with by way of suitable Conditions	AGREE	
ACTIVE DESIGN		
An issue for the Reserved Matters stage	AGREE	
BIODIVERSITY NET GAIN		
An issue for the Reserved Matters stage	AGREE	
PLANNING BALANCE		
The Planning Balance demonstrates that Very Special Circumstances exist	DISAGREE	The Council considers the other considerations do not outweigh the harm and so “very special circumstances” do not exist. The Appellant submits that the Council has exaggerated the harm and underplayed the other considerations: and that “very special circumstances” do exist.

11 List of possible conditions

- 11.1 The parties will work together to provide a list of conditions ahead of the Inquiry, indicating areas of agreement and disagreement between the parties.

12 Statement of compliance with statutory and policy requirements

- 12.1 To follow.

13 Draft Heads of Terms for Section 106 Agreement

- 13.1 The latest iteration and correspondence are included with the Appeal Documents.

14 List of Core Documents

CD 1 Application Documents:

- 1.1 Affordable Housing Needs Assessment
- 1.2 Affordable Housing Statement
- 1.3 Agricultural Land Classification
- 1.4 Air Quality Assessment
- 1.5 Application Form
- 1.6 Arboricultural Report
- 1.7 Design & Access Statement
- 1.8 Draft S106 Heads of Terms
- 1.9 Ecology Appraisal
- 1.10 EIA Screening Decision Ref: 5.2021.2520
- 1.11 Flood Risk Assessment Part 1
- 1.12 Flood Risk Assessment Part 2
- 1.13 Geoenvironmental Preliminary Risk Assessment Part 1
- 1.14 Geoenvironmental Preliminary Risk Assessment Part 2
- 1.15 Geoenvironmental Preliminary Risk Assessment Part 3
- 1.16 Geoenvironmental Preliminary Risk Assessment Part 4
- 1.17 Landscape and Visual Impact Assessment
- 1.18 Local Requirements Checklist
- 1.19 Noise Assessment
- 1.20 Planning Application Plans
 - 1.20.1 Existing Site Plan

- 1.20.2 Indicative Proposed Site Layout Rev. B
- 1.20.3 Site Location Plan Rev. C
- 1.21 Planning Statement
- 1.22 Site Photos
- 1.23 Statement of Community Involvement
- 1.24 Sustainable Drainage Assessment
- 1.25 Topographical Survey
- 1.26 Transport Assessment Part 1
- 1.27 Transport Assessment Part 2
- 1.28 Transport Assessment Part 3
- 1.29 TA Plans:
 - 1.29.1 Proposed Access Arrangements Ref 21086 001 B
 - 1.29.2 Proposed Foot Cycle Enhancements Sheet 1 Ref 20108 002
 - 1.29.3 Proposed Foot Cycle Enhancements Sheet 1 Ref 20108 002
 - 1.29.4 Swept Path Analysis Fire Tender Ref 21086 TK0 A
 - 1.29.5 Swept Path Analysis Refuse Vehicle Ref 21086 TK1 A
- 1.30 Travel Plan Part 1
- 1.31 Travel Plan Part 2
- 1.32 Tree Protection Plan
- 1.33 Utilities Assessment Part 1
- 1.34 Utilities Assessment Part 2
- 1.35 Utilities Assessment Part 3
- To make Valid:
- 1.36 Plans:
 - 1.36.1 Indicative Proposed Site Layout Rev. C
 - 1.36.2 Site Location Plan Rev. D

CD2 Additional/Amended Reports and/or Plans Submitted after Validation

- 2.1 Errata to Planning Statement
- 2.2 Legal Opinion of Mr Paul Stinchcombe (now KC)
- 2.3 Leaflet for Planning Committee Councillors
- 2.4 Rebuttal of Officer Report sent to Councillors
- 2.5 Emails referred to in CD 2.3 and 2.4
- 2.6 Minerals Resource Assessment
- 2.7 Sustainable Drainage Assessment Revised
- 2.8 Transport Assessment Addendum
- 2.9 TAA Plans:

- 2.9.1 Proposed PRow Improvements Ref 21086 003
- 2.9.2 Proposed PRow Upgrades Ref 21086 004
- 2.9.3 Proposed Memorial Car Parking Allocation Ref 21086 005
- 2.9.4 Proposed Pedestrian Cycling Upgrades Toucan Crossing Ref 21086 006
- 2.10 Submission re: The St Stephen Neighbourhood Plan

CD3 Officer Report

- 3.1 Officer Report, October 2022
- 3.2 Spatial Planning recommendation to refuse
- 3.3 Officer Report, March 2022
- 3.4 Officer Report, August 2022

CD4 The Development Plan

Policy

- 4.1 The Local Plan 1994 Front Sheet
 - 4.1.1 1 – Metropolitan Green Belt
 - 4.1.2 2 – Settlement Strategy
 - 4.1.3 8 – Affordable Housing in the Metropolitan Green Belt
 - 4.1.4 34 – Highways Considerations in Development Control
 - 4.1.5 35 – Highways Improvements in Association with Development
 - 4.1.6 39 – Parking Standards, General Requirements
 - 4.1.7 40 – Residential Development Parking Standards
 - 4.1.8 69 – General Design and Layout
 - 4.1.9 70 – Design and Layout of New Housing
 - 4.1.10 74 – Landscaping and Tree Preservation
 - 4.1.11 84 – Flooding and River Catchment Management
 - 4.1.12 84a – Drainage Infrastructure
 - 4.1.13 97 – Existing Footpaths, Bridleways and Cycleways
 - 4.1.14 102 – Loss of Agricultural Land
 - 4.1.15 106 – Nature Conservation
 - 4.1.16 143a – Watling Chase Community Forest
 - 4.1.17 143b – Implementation
- 4.2 1994 Policies Saved in 2007
- 4.3 The St Stephen Neighbourhood Plan
- 4.4 The Hertfordshire Minerals Local Plan, 2007

Guidance

- 4.5 St Albans Council Design Advice Leaflet No. 1, 1998
- 4.6 St Albans Council Revised Parking Policies and Standards, January 2002
- 4.7 St Albans Council Affordable Housing – Supplementary Planning Guidance, March 2004

National Policy and Guidance

- 4.8 The National Planning Policy Framework, July 2021
- 4.9 Planning Practice Guidance – available online only

CD5 Emerging Local Plan – Not applicable at time of submission of Appeal

CD6 Relevant Appeal Decisions

- 6.1 Ref: APP/B1930/W/20/3265925 – Bullens Green Lane. Not-Determined by the Council. Allowed at Appeal, 14/06/21
 - 6.1.1 Preface

- 6.2 Ref: APP/B1930/W/21/3279463 – Land to rear of Burston Nurseries. Refused by the Council. Allowed at Appeal, 31/01/22
 - 6.2.1 Proof of Evidence of Mr Shaun Greaves of GCCP Town Planning Consultants on behalf of the Council, 2019
 - 6.2.2 Proof of Evidence of Mr Shaun Greaves of GCCP Town Planning Consultants on behalf of the Council, 2021
 - 6.2.3 Preface

- 6.3 Ref: APP/A5270/W/21/3268157 – Manor Road and Drayton Green Road, West Ealing. Allowed at Appeal (with Costs) 29/10/21
 - 6.3.1 Preface

- 6.4 Ref: APP/N5090/W/15/3132049 – Granville Road Estate, Granville Road, Childs Hill, City of London NW2 2LD. Allowed at Appeal, 08/08/16
 - 6.4.1 Preface

CD 7 Relevant Judgments

- 7.1 *Bloor Homes East Midlands Ltd v Secretary of State for Communities and Local Government and another* [2014] EWHC 754 (Admin)
 - 7.1.1 Preface

- 7.2 *R (Mansell) v Tonbridge & Malling BC* [2017] EWCA Civ 1314
 - 7.2.1 Preface

- 7.3 *R (on the application of Samuel Smith Old Brewery (Tadcaster) and others) v North Yorkshire County Council* [2020] UKSC 3
 - 7.3.1 Preface

- 7.4 *William Davis Limited and others v Charnwood Borough Council* [2017] EWHC 3006 (Admin)
 - 7.4.1 Preface

CD8 Other

- 8.1 Decision Notice
- 8.2 Statement of Case
- 8.3 Statement of Common Ground
- 8.4 Officer Report Ref: 5/2021/2730 – Land off Orchard Drive, Park Street. Granted Conditional Permission by the Council on 20/12/21 subject to the completion of a S106.
 - 8.4.1 Preface
- 8.5 LVIA for Sewell Park, Part 1
- 8.6 LVIA for Sewell Park, Part 2
- 8.7 LVIA for Sewell Park, Part 3
- 8.8 LVIA for Sewell Park, Appendices
- 8.9 Officer Report Ref: 5/2021/0423 – Land to rear of 111-156b Harpenden Road. Granted Conditional Permission by the Council on 26/07/21 subject to the completion of a S106 (completed 12/01/22).
 - 8.9.1 Preface
- 8.10 South West Hertfordshire Local Housing Needs Assessment (GL Hearn, Sept. 2020)
- 8.11 St Albans Council Authority Monitoring Report, Dec. 2021
- 8.12 The Council’s Decision-Making Performance
- 8.13 Different Approach to Similar LVIAs
- 8.14 Haringey HNA 2007
- 8.15 Fordham Research 2011
- 8.16 Bullens Green Lane SoCG

- 8.17 LPAG Work Programme June 2022
- 8.18 LPAG Work Programme September 2022
- 8.19 Keep Chiswell Green submission
- 8.20 Draft S106 Agreement
- 8.21 S106 Correspondence – request for justification
- 8.22 Spatial Manager at LPAG Jan 2022
- 8.23 Notification of Intention to Appeal
- 8.24 WMS and PPG on unmet need and VSC
- 8.25 Third Party Comments
- 8.26 Draft Housing Strategy
- 8.27 Corporate Plan 2022-2027