

Document: CD4.81 Planning Balance Proof

TOWN AND COUNTRY PLANNING ACT 1990

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PLANNING BALANCE**

FOR: HEADLANDS WAY LIMITED

APPEAL AGAINST THE REFUSAL OF PLANNING PERMISSION FOR:

"The demolition of existing buildings, 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."

DATE: 20 March 2023

<u>CONTENTS</u>		<u>Page</u>
1	PERSONAL BACKGROUND	2
2	THE PROPOSAL	3
3	THE DEVELOPMENT PLAN	8
4	NATIONAL PLANNING POLICY	11
5	POLICY ASSESSMENT	16
6	THE PLANNING CONTEXT IN ST ALBANS	19
7	RECENT RELEVANT DECISIONS	23
8	HARM TO THE GREEN BELT AND OTHER HARM	27
9	BENEFITS OF THE APPEAL PROPOSALS	32
10	THE PLANNING BALANCE	38
11	COMPATIBILITY WITH CALA HOMES	40
12	OTHER REPRESENTATIONS	42
13	PLANNING OBLIGATIONS AND CONDITIONS	45
14	CONCLUSIONS	48

1. PERSONAL BACKGROUND

- 1.1 My name is Steven Fidgett. I am a member of the Royal Town Planning Institute (RTPI) and have a Bachelor of Science (Honours) Degree in Town Planning Studies and Diploma (Distinction) in Town Planning.
- 1.2 I am a Director of Union4 Planning Ltd., an independent planning consultancy based in London. I was formerly the UK Head of Planning at WYG between 2014 and 2017, a multi-disciplinary consultancy and (at the time) one of the largest planning, design and heritage practices in the UK. Prior to this I was a founding Director of Alliance Planning from 1996 to 2014. I have over 30 years' experience of providing town planning advice throughout the UK and overseas for a wide variety of private and public sector clients, including Government institutions, local authorities, housing associations, landowners and developers.
- 1.3 During my career I have provided advice and support on a diverse range of planning proposals and research studies, including a significant number of planning applications and the promotion of sites through the Local Plan process. I have worked on numerous mixed use and residential development schemes, and have led multi-disciplinary teams on complex, largescale projects, including major regeneration, urban extension and new settlement proposals, as well as a number of heritage related schemes and development management roles.
- 1.4 I am familiar with the Appeal site, Chiswell Green, and the surrounding area.
- 1.5 I am instructed by McPartland Planning and Headlands Way Ltd. to represent them on planning issues in relation to these proposals.
- 1.6 The evidence that I have prepared and have set out for this Appeal in this Proof of Evidence, together the associated Summary Proof, is to the best of my knowledge true and is given in accordance with the guidance of my professional institution, the Royal Town Planning Institute (RTPI). I can confirm that the opinions expressed are my professional opinions formed after my own review of the circumstances and issues presented in the case.
- 1.7 The evidence set out within this Proof of Evidence CD4.81 should be read alongside my Summary Proof CD4.81.1, together with those other Proofs comprising the case for the Appellant, from which I have drawn and which are referenced in my evidence.

2. THE PROPOSAL

- 2.1 This Appeal is for the proposed development of Addison Park, a unique development proposal to build up to 330, discounted, affordable homes exclusively for key workers and to create new formal and informal open space. The homes will be for sale to key workers at discounts of at least a third and include First Homes, Shared Ownership Homes and Discounted Market Sales, as well as 5% self/custom build.
- 2.2 The homes proposed will help many essential local workers who fall into the housing gap of earning too much to qualify for social rented housing, but too little to afford their own homes on the open market in one of the most expensive places in the country (CD 4.21 [3.3]).
- 2.3 The only option for key workers at present is to compete with everyone else for unaffordable market housing or the (extremely limited in this case) supply of shared equity homes available through existing affordable housing delivery in St Albans. Many simply cannot do so. Last year, affordable housing delivery in St Albans was just 19% of supply, equating to 71 homes, of which only 30 were for affordable home ownership (CD 8.7 [Table 6]), a figure which, as the AMR and evidence by Annie Gingell (CD 4.80) shows, is grossly below need. The Appeal proposals address this need.
- 2.4 The site comprises an area of agricultural land in the Green Belt to the north of Chiswell Green Lane and to the west of The Croft, on the western edge of Chiswell Green.
- 2.5 The proposal will require a number of existing agricultural buildings to be demolished and a new vehicular access to be created from Chiswell Green Lane. An existing access from The Croft will be retained and extended for use by emergency vehicles only.
- 2.6 The description of development and application documents are set out in the Statement of Common Ground, which also contains a description of the site and immediate surroundings.
- 2.7 The application is supported by a draft planning obligation in the form of a s106 agreement between the Appellant, St Albans District and City Council (SADC) and Hertfordshire CC (HCC).

The Vision

- 2.8 The vision for Addison Park stems from the very inception of the planning system, with its commitment to 'homes fit for heroes' that followed the First World War. This led to the emergence of the first Housing and Planning Act in 1919, sponsored by Dr Christopher Addison.
- 2.9 The genesis of the proposals is set out in the Planning Statement that accompanied the application and in the Proofs of Evidence of Steve Collins (CD 4.76) and Brian Parker (CD 4.77).
- 2.10 The Appeal proposals are unique. They address, head on, the very real housing challenge faced by key workers in our public services. This includes healthcare and education, the police and fire services, social care, council services and military roles - even planning officers.

- 2.11 In the UK in 2019, 10.6 million of those employed (at least a third of the total workforce) were in key worker occupations and industries. The largest group of those employed in key worker occupations worked in health and social care (31%) (Source: ONS).
- 2.12 These represent a vital sector of the community on which we all depend, but who are increasingly priced out of the market for housing in areas such as St Albans - caught within a particular affordability trap; with incomes over those that would be eligible for social rented housing, but who struggle to afford to buy their own homes on open market terms. This is evidenced in the Proofs of Annie Gingell (CD 4.80) and Brian Parker (CD 4.77).
- 2.13 While the vast majority of applications deal with a mix of market housing which aims to deliver a level of affordable homes that complies with the targets set by planning policies, few seek to go beyond this. Indeed, affordable housing is often subject to viability appraisals which reduce the actual level of provision below the targets set within policy.
- 2.14 This Appeal is different. It sets, as its founding aim, the provision of homes for the public sector heroes on which society depends. As such, it proposes the commitment, secured in the draft s106 agreement, that all of the homes will be for sale to qualifying members of the local community at least a third below normal market values.
- 2.15 The practicality and impact of this is assessed in the evidence by Annie Gingell (CD 4.80) and, in particular, Brian Parker (CD 4.77).
- 2.16 This is a unique commitment. It reflects the social vision of those early Housing and Planning Acts which sought to improve the lives and living conditions of working people by making an affordable route to home ownership for local essential workers, key workers.

The Application

- 2.17 The Appeal application is in outline with all matters reserved, other than access which forms part of the Appeal proposals. The Appeal proposals were the subject of an EIA screening decision which concluded that no EIA was required (CD 4.10).
- 2.18 While an indicative layout was proposed as part of the Appeal application, this simply seeks to demonstrate the capacity of the site and its ability to offer a good living environment and level of open space. It includes part of this public open space as a Memorial Park.
- 2.19 The layout, detailed design of the development, the landscape scheme and open space, would be the subject of reserved matters submission.
- 2.20 A number of commitments have, however, been made that form some of the parameters of the development that can be secured by either condition or the accompanying s106 agreement. These are considered in section 12 of my evidence.

2.21 The indicative masterplan shows a layout of radial routes centred on a central green, with additional open space adjacent to the north and west boundaries, and a significant area of new public open space in the form of a public 'Memorial Park' adjacent to the southern boundary, served by a small public car park. A potential new public right of way is shown running through the open space which links to the existing footpaths that run on the western and northern boundaries, forming a potential circular route. A series of tree-lined streets help frame the development.

Housing Mix

2.22 The illustrative mix of housing proposed was set out in the Appeal application and includes a range of types of property that helps contribute to a balanced community. The emphasis is consistent with policy and is on smaller and family homes, including a mix of 1, 2 and 3 bedroom homes that helps address the present imbalance towards larger, more expensive, properties. This mix was based on an assessment, by the Appellant, of affordable housing need in St Stephens Parish and St Albans, and the surrounding areas of Hertfordshire.

2.23 The mix indicated in the Appeal includes detached, semi-detached and terraced dwellings, and small apartment blocks, with the intention for the dwellings to be two or a maximum of two-and-a-half storey. It is suggested the housing mix would be: 32 x 1- bed, 116 x 2-bed, and 182 x 3-bed properties, subject to any reserved matters application.

2.24 In tenure terms, the Appeal proposals are, obviously, for a 100% affordable scheme comprising 'for sale properties for key workers', offered at a discount of at least a third below market values. The Appeal proposals also include 5% self-build plots, equal to up to 16 plots. The Appeal proposals are also for a combination of First Homes, Shared Ownership dwellings, and Discount Market Sale properties (all discounted by at least a third of open market value). This is, therefore, a mixed tenure scheme.

2.25 While it was considered that the detailed mix of housing would be determined at the reserved matters stage, the Appellant is also conscious of the issue raised by the Planning Authority that the Appeal proposals are 100% affordable and hence do not represent a balanced community. I find this a bizarre criticism, one that is at odds with both the Government's aim of increasing the supply of affordable homes and the acknowledged shortfall in delivery well below the level of need (CD 8.7). I deal with this at section 9 of my evidence and do not accept this as a criticism; indeed, it is in my view a very clear benefit of the Appeal proposals.

2.26 I do, however, consider that it is consistent with the principles of good planning for there to be a mix of house sizes and styles within the Appeal scheme and we would, therefore, agree to a condition that requires a mix of dwelling sizes to include 1, 2 and 3 bedroom homes.

2.27 It is also the case that in terms of affordability, the Appeal proposals are aimed at delivering at least a third off the market value (as defined in the s106) which is of an equivalent sized home based on

the average for the District, together with First Homes which are additionally capped in accordance with national guidance at £250,000. This ensures that there are both a range of price points available to suit first time buyers and other Key Workers, and that such homes are much more accessible and are affordable. This is secured in the s106 planning obligation and is dealt with in the evidence of Brian Parker (CD 4.77) and Annie Gingell (CD 4.80).

2.28 The details of the off-site highways works agreed with HCC are set out in the SoCG and include:

- a) Provision of access via a simple priority controlled junction off the northern side of Chiswell Green Lane, (Plan 21086/001 Rev B), included within Appendix B to the SoCG, to include the narrowing of the carriageway on Chiswell Green Lane to the east of the junction to 3.5 metres;
- b) Provision of a secondary, emergency vehicular access located off the western side of The Croft that comprises a shared use tarmac surfaced facility for motorised users (emergency vehicles only), pedestrians and cyclists of circa. 5.0 metres in width and 55 metres in length (Plan 21086/003);
- c) Provision of a 3.0 metre wide shared footway / cycleway extending from the primary vehicular, pedestrian and cycle access eastwards along the northern side of Chiswell Green Lane for a distance of 385 metres to tie into existing infrastructure either side of the double mini-roundabout junction of the B4630 Watford Road / Tippendell Lane / Chiswell Green Lane (Plans 21086/002, 21086/002/1 and 21086/002/2), included within Appendix B to the SoCG;
 - i. The shared footway / cycleway infrastructure includes the provision of raised table crossing features at the side road junctions with Stanley Avenue and the service road to the shop frontages on Watford Road, with priority to pedestrians and cyclists over motorised users;
 - ii. A raised table crossing at the Chiswell Green Lane / Stanley Avenue junction to reduce rat running;
 - iii. Cycle crossing features would be added to the upgraded Zebra crossing provided on a raised table and amendments to the service road to shop frontages on the eastern side of Watford Road to deliver improved pedestrian / cycle dwell space and shared footway / cycleway facilities and raised table crossing on the entry to the service road from Tippendell Lane.
- d) In respect of footpath St Stephen 082, it is agreed with HCC that a resin-bound surface will be provided on its entire length of 85 metres between Chiswell Green Lane and The Croft (on Plan 21086/003);
- e) Provision of an upgrade to footpath St Stephen 080 to a resin-bound surface layout over a 2.0 metre width has been extended to a total of 340 metres west from Cherry Hill to the

north-west corner of the Appeal Site (shown indicatively on Plan 21086/004 Rev A);

- f) Provision of an upgrade to the existing Puffin Crossing located 80 metres north of the B4630 Watford Road / Stanmount Road junction to a Toucan Crossing facility; and
- g) New cycle signage and markings on both B4630 Watford Road approaches to the crossing and a new section of shared footway / cycleway between the crossing and West Avenue, the latter providing access to Killigrew Infant & Primary School (Plan 21086/006);

2.29 The above are referenced as part of the sustainable transport improvements in the evidence by Matt Stevens (CD 4.79).

3. DEVELOPMENT PLAN

- 3.1 Section 38 (6) of the Town and Country Planning Act 1990 requires that planning decisions are made in accordance with the development plan unless material considerations indicate otherwise. The documents that comprise the development plan are set out in the SoCG for each Appeal, as are the individual policies of relevance.
- 3.2 The development plan for St Albans that is relevant to the Appeal comprises the following documents:
- a) District Local Plan Review 1994 (Saved Policies) – CD 8.1;
 - b) St Stephens Parish Neighbourhood Plan Made 20 July 2022 – CD 8.12;
 - c) Waste Core Strategy & Development Management Policies DPD (Adopted November 2012);
 - d) Waste Site Allocations DPD (Adopted July 2014); and
 - e) Hertfordshire Minerals Local Plan Review (Adopted March 2007).
- 3.3 The Local Plan Review 1994 was the subject of a Direction in 2007 which saved certain policies set out in that Direction – CD 8.1a. These are summarised in the SoCG. Those parts of the development most relevant to the Appeal are a) and b).
- 3.4 The site lies within the area covered by the Local Plan Proposals Map 3 – CD 4.77.21.
- 3.5 The site lies within the Chiswell Green Ward of the Neighbourhood Plan.
- 3.6 Documents c)-e) above are not directly relevant to this Appeal.

St Albans City and District Local Plan Review 1994

- 3.7 The relevant policies of the St Albans City and District Local Plan (DLP) that were saved in the 2007 Direction are set out within CD 8.1.
- 3.8 As noted in the Proof of Evidence of Brian Parker (CD 4.77) and returned to in section 5 of my evidence below, the DLP is conspicuously out-of-date, the oldest Local Plan in England, and not fit-for-purpose as a framework for addressing current housing needs and other priorities.
- 3.9 Whilst the site is located in the Green Belt, the Green Belt boundaries have not been revised since 1985, and there are no up-to-date housing targets or undeveloped allocations to meet the considerable unmet housing needs of the district.
- 3.10 The imperative to replace the strategic policies within the out-of-date DLP extends not just to Green Belt boundaries and housing allocations to meet housing needs, but to meeting affordable housing too, including for key workers. In these regards:
- a) Whilst Policies 7a and 8 of the DLP sought to deliver 200 affordable homes per annum, the text stated that this target "... probably represents a considerable under-estimation of the total

need for affordable housing" (CD 8.1, [3.36]) . That was an under-statement as the evidence of Annie Gingell makes clear (CD 4.80): as long ago as 2006, the St Albans City and District Housing Needs Survey Update identified "an annual affordable housing shortfall of 822 units a year" and "1,966 existing households and 1,234 concealed households intend to leave the District over the next five years because of a lack of affordable housing" .

- b) In addition, the DLP contains no reference to key workers at all, when "essential local workers" have been specifically included in the National Planning Policy Framework (NPPF) definition of "affordable housing" since 2018 (currently in CD 7.1).

St Stephens Parish Neighbourhood Plan

- 3.11 The St Stephens Parish Neighbourhood Plan (SSPNP) (CD 8.12) was prepared in the context of the 1994 DLP and hence does not contain any housing allocations or related policies. It has been prepared on the basis that such proposals would come forward outside of the plan.
- 3.12 The first bullet point in the "Vision and Objectives" section of the SSPNP states as follows, at [3.1]:

"The high cost of property in the local area makes it increasingly difficult for first-time buyers to move into and for younger inhabitants to remain in the area. Additionally, developers' preference for building larger houses in the area restricts the opportunity for older people to release property by downsizing. This is already having an impact on St Stephen where the numbers of working-age residents is (sic) falling, despite the Parish's location being within easy reach of London."
- 3.13 Under the theme of "Housing, Character and Design of Development" (CD 8.2 [3.3]):
 - a) The first Objective of the SSPNP is to 'Encourage the development of housing that meets an identified local need'; and
 - b) The third bullet point is: "Housing suitable for and affordable to local workers".
- 3.14 The SSPNP contains Policy S1, which deals with the location of development and, as a result of the above, it limits to that within the urban area. This notwithstanding, however, it allows, in Part 2 of the policy, for development to come forward outside of this, and within the Green Belt, in either of the following circumstances:
 - a) Where this is pursuant to an allocation in a successor development plan to the St Albans District Local Plan; or
 - b) Where "residential development meets either the exceptions to inappropriate development in the Green Belt as set out in paragraphs 145 and 146 of the National Planning Policy Framework, or demonstrates very special circumstances, as set out in paragraph 147 of the National Planning Policy Framework".

- 3.15 It specifically provides, therefore, that where Very Special Circumstances can be demonstrated, development (including for affordable housing) will be supported. It also supports the development of smaller homes.

The Council's Affordable Housing Supplementary Planning Guidance

- 3.16 As covered in the evidence of Brian Parker (CD 4.77) and Annie Gingell (CD 4.80), the Council's "Affordable Housing Supplementary Planning Guidance" ("SPG") (CD 8.17) was adopted in 2004 and, at paragraphs 3.12-3.13, identified both a problem so far as the housing of key workers locally and the need to find a solution; went on to define these key workers in paragraph 5.12; and expanded upon how their needs might be met, at paragraph 5.13, including through the provision of "housing... for... low cost sale".

4. NATIONAL PLANNING POLICY

4.1 As noted above, Section 38 (6) of the Planning and Compulsory Purchase Act 2004 and Section 70 (2) of the Town and Country Planning Act 1990 require that determination must be made in accordance with the plan unless material considerations indicate otherwise. In these regards, the Courts have held that Government policy in the form of the NPPF is a material consideration in planning decisions as well as forming the context for development plan policy.

Achieving Sustainable Development

4.2 By virtue of Section 39(2) of the above Act, Local Plans must be prepared with the objective of contributing to the achievement of sustainable development. Consistent with this, paragraph 7 of the NPPF identifies the purpose of the planning system is to contribute to the achievement of sustainable development.

4.3 Paragraph 8 of the NPPF further defines three overarching and integrated objectives to achieve sustainable development, which are economic growth, social progress and environmental enhancement.

4.4 It makes it clear that these objectives should be pursued simultaneously to achieve sustainable development, and should not be considered in isolation. Well located and designed developments can, and should, meet economic, social, and environmental objectives.

4.5 In economic terms, paragraph 8 specifically notes that to help build a strong, responsive, and competitive economy, the system must ensure that sufficient land of the right type is available in the right places and at the right time to support growth, innovation and improved productivity.

4.6 As part of the social objective, it requires a sufficient number and range of homes to meet the needs of the community both now and in the future. It promotes well designed places that are healthy, and have access to open spaces and appropriate services.

4.7 As part of the environmental objective, it requires us to contribute to the protection of the natural environment and to make the most effective use of land and resources.

The Positive Presumption

4.8 Paragraph 10 requires sustainable development to be pursued in a positive way.

4.9 Paragraph 11 sets out the positive presumption in favour of sustainable development. For decision taking this requires that proposals that accord with an up-to-date development plan should be approved without delay.

4.10 Where the policies of the development plan are out-of-date, it requires that permission be granted unless:

“(i) the application of policies in this Framework that protect areas or assets of particular

importance provides a clear reason for refusing the development proposed⁷; or

(ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.”

4.11 This is known as the ‘tilted balance’.

Housing

4.12 Paragraph 60 of the NPPF makes it clear that, to support the Government’s objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed; that the needs of groups with specific housing requirements are addressed; and that land with permission is developed without unnecessary delay.

4.13 Paragraph 63 of the NPPF makes it clear that where a need for affordable housing is identified, planning policies should specify the type of affordable housing required. However, the Local Plan (CD 8.1) – which was adopted 18 years before the first version of the NPPF and effectively expired 11 years before that version of the NPPF - contains no such policy.

4.14 Paragraph 74 of the NPPF sets out the requirement for a housing trajectory to be maintained to support the rate of delivery of housing over the Plan period, and maintain a minimum of 5 years’ supply of deliverable housing sites, assessed against housing need.

4.15 Footnote 8 to paragraph 11 d) makes it clear that the ‘tilted balance’ is, in principle, engaged where proposals are for housing and the Council cannot demonstrate a 5 year supply of housing sites under the requirements of paragraph 74.

4.16 This is the case in this Appeal: the Council has a deliverable housing land supply of just 2 years (CD 8.7 [page 14]).

Green Belt

4.17 The NPPF identifies the Green Belt as one of the policies which, for the purposes of paragraph 11 d) of the NPPF and the application of the ‘tilted balance’, may indicate that development should be restricted and, therefore, it is necessary to consider the application of Green Belt policy in applying paragraph 11 d). It is the only such policy that is relevant in this Appeal.

4.18 Paragraph 137 NPPF confirms that the Government attaches great importance to Green Belts, the aim of which is to prevent urban sprawl by keeping land permanently open, and the essential characteristics of which are their openness and their permanence. Paragraph 138 sets out the five purposes of Green Belts. It is common ground that only the first three purposes are relevant to this Appeal, namely:

⁷ Specific habitats (noted in para 176), SSSI, Green Belt, local green space, AONB, National Park, Heritage Coast, irreplaceable habitats, heritage assets and areas liable to flood or coastal erosion.

- a) To check the unrestricted sprawl of large built-up areas;
- b) To prevent neighbouring towns merging into one another; and
- c) To assist in safeguarding the countryside from encroachment.

4.19 Although relative permanence is one of the attributes of Green Belts, which endure beyond normal plan periods, paragraphs 140 to 142 envisage that changes to their boundaries can occur, where exceptional circumstances exist, through the preparation and review of Local Plans. In this regard, the Council has for some years concluded that exceptional circumstances do exist to release sites from the Green Belt *via* a Local Plan in order to meet housing needs, including for those in need of affordable housing including in the 2018 draft that was subsequently withdrawn (CD 8.2). However:

- a) As explained in the evidence of Brian Parker (CD 4.77), and returned to in section 6 of my evidence below, the Council has failed to deliver a new plan and thereby also failed to ensure sufficient houses have been built, including, as elaborated upon in the evidence of Annie Gingell, affordable homes (CD 4.80).
- b) Moreover, and as also explained in the evidence of Brian Parker (CD 4.77), whilst the Council has long ago decided that exceptional circumstances require the removal of land from the Green Belt in order to meet housing needs, it has failed to produce a satisfactory District-wide study to identify which sites contribute least to the purposes of the Green Belt.

4.20 In respect of Green Belts:

- a) Paragraph 147 of the NPPF states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in Very Special Circumstances; and
- b) Paragraph 148 confirms that substantial weight is given to any harm to the Green Belt; and advises that Very Special Circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal is clearly outweighed by other considerations.

4.21 In these regards, in the past there were Ministerial Statements (CD 4.72) which indicated that the single issue of unmet demand for conventional housing was unlikely to constitute Very Special Circumstances. However:

- a) The Appeal Scheme is not for "conventional" housing, but a unique scheme which comprises 100% affordable housing for key workers;
- b) Moreover, the critical need significantly to boost the supply of housing, as required by paragraph 60 of the NPPF (CD 7.1 [60]), is such that Government policy has changed in any event - the policy approach advocated by those Ministerial Statements was not translated into either the 2019 or 2021 NPPF (and it has not appeared in the consultation version of the new

NPPF either); and associated guidance in the Planning Practice Guidance has been removed. Accordingly, and as a matter of national planning policy, meeting unmet housing needs, and especially affordable housing needs, can now amount to Very Special Circumstances justifying otherwise inappropriate development in the Green Belt.

- 4.22 Finally with regards to the Green Belt, the National Planning Practice Guidance (NPPG) states that assessing the impact of a proposal on the openness of the Green Belt requires a judgment based on the circumstances of the case. Factors may include both spatial and visual aspects as well as its permanence and other impacts.

Plan-Led

- 4.23 Section 3 relates to plan making, and states – in paragraph 15 – that the planning system should be genuinely plan-led. It requires plans to meet the needs of their area, to address economic, social and environmental priorities, and aim to contribute positively to the achievement of sustainable development. They should identify broad locations for development and specific allocations and give a clear starting-point for decision making.

- 4.24 Paragraph 35 requires plans to be positively prepared, justified, effective and consistent with Government policy.

- 4.25 For decision taking, paragraph 38 of the NPPF requires that:

“Local planning authorities should approach decisions on proposed development in a positive and creative way. They should use the full range of planning tools available, including brownfield registers and permission in principle, and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible.”

- 4.26 Paragraph 47 notes the statutory requirement that planning decisions must be made in accordance with the plan unless material considerations indicate otherwise and that decisions should be made as quickly as possible, within statutory timescales unless a longer period is agreed with the applicant.

- 4.27 Paragraph 48 considers the weight to be given to policies in an emerging plan depending on the stage reached; whether there are unresolved objections; and the degree of consistency with the NPPF. Paragraph 49 requires that prematurity is unlikely to justify a refusal in advance of such emerging policy other than in limited circumstances, that is to say where both a) the development is so substantial that to grant consent would undermine the plan making process; and b) the emerging plan is at an advanced stage.

Sustainable Transport

- 4.28 NPPF paragraphs 104 and 105 emphasise the need for sustainable transport to options to be embedded within development proposals and plan policies. Patterns of growth should reflect

sustainable transport options and focus development on locations that are or can be made sustainable, with a genuine choice of travel modes and access to goods and services.

- 4.29 Paragraph 111 states that development should only be restricted or refused on highways grounds if there would be an unacceptable impact on highway safety; or if the residual cumulative impacts on the network would be "severe". The height of the latter threshold is significant. As noted above, it is (for example) a priority of Government significantly to boost the supply of housing, a priority which necessarily will add traffic to the road network. However, Government policy clearly prioritises the delivery of housing over the risk of congestion, unless it reaches a level which is "severe"⁸.

Other Key Policies

- 4.30 Paragraph 81 requires that planning decisions should help create the conditions in which businesses can invest, expand and adapt. It advises that significant weight should be placed on the need to support economic growth. In my judgement, this applies both to direct investment in industries such as construction and related services, but also to the conditions necessary to support the retention and recruitment of staff, including the availability of affordable homes that enable them to live locally to their work.
- 4.31 Paragraph 124 encourages appropriate densities that maximise the efficient use of land; and paragraph 125 requires optimum densities to meet as much of the identified need for housing as possible, especially where there is a shortage of land.

⁸ And, plainly, also supports mitigation measures both to reduce the level of car traffic and reduce congestion to levels below that high threshold.

5 POLICY ASSESSMENT

- 5.1 As noted above, Section 38 (6) and 70 (2) of the Acts require that determination must be made in accordance with the plan unless material considerations indicate otherwise. In this Appeal, the only policies with which the Council allege there is conflict in their SoC (CD 5.1 [5.4]) are:
- a) Policy 1 – Metropolitan Green Belt (I also note that the reason for refusal also refers to Policy S1 of the SSPNP and with the Green Belt policies of the NPPF); and
 - b) Policy 143B – Implementation.
- 5.2 In respect of Policy 143B, the Council agree that, subject to agreement being reached on its detailed content, the s106 obligation will meet this requirement.
- 5.3 The Appeal proposals are therefore, judged by the Council to comply with all other policies of the development plan, apart from the Green Belt.
- 5.4 In this case, however, it is common ground that the Local Plan is of increasing antiquity and is over 28 years old, in a policy context where plans should be reviewed regularly, every 5 years (NPPF [33]). Its policies and proposals were devised at a time when the prevailing legislative, policy, economic and social context of the district was substantially different.
- 5.5 Although adopted in August 2022, it is also relevant that the SSPNP was prepared in large measure on the basis of the 1994 Local Plan and does not contemplate any housing allocations or Green Belt releases to meet housing needs, leaving this to any future Local Plan review. In the context of paragraph 14 of the NPPF, the plan does not meet criteria b) and c).
- 5.6 It is also agreed that while some early-stage work is understood to be progressing on a new Local Plan, including a call for site in January 2021, no documents have yet been published for either consultation or as the evidence base. It is common ground that no weight can be attributed to the review of the Local Plan in this Appeal.
- 5.7 Further, it is also common ground that the Council cannot show a 5-year housing land supply, with the position at circa 2 years supply (CD 8.7). Housing delivery has been perilously and persistently well below housing need. This means that those policies relevant to housing delivery are, for the purposes of this Appeal, to be considered out-of-date under the terms of the NPPF.
- 5.8 In such circumstances, there is an added presumption in favour of the grant of planning permission (the 'tilted balance') unless specific policies of the NPPF indicate otherwise. In this case, the only such policy which can potentially have this effect is that relating to the Green Belt.
- 5.9 In these regards:
- a) One of the consistent themes of Government in recent years is to boost the supply of housing to meet housing needs - the housing crisis is widely acknowledged and is particularly acute in

St Albans City and District;

- b) A separate, parallel, commitment by Government is the protection of Green Belts and the role they play in maintaining the separation of settlements and protecting the countryside from urban encroachment;
- c) The Government intend for the resolution of this tension primarily through the plan-led system, one that is designed to reconcile the competing interests for land in meeting the needs of the present without compromising the needs of the future;
- d) However, where the plan-led system fails because a Local Planning Authority fails to adopt an up-to-date Local Plan, there is scope within national planning policy to meet unmet housing needs in the Green Belt through finding that meeting such needs amounts to Very Special Circumstances.

5.10 In this case, it is clear from the evidence - and in particular that of Brian Parker (CD 4.77) - that there has been a persistent failure by St Albans District Council to grasp the nettle, to address the considerable shortage of housing in the District, and/or to plan appropriately for the review of Green Belt boundaries. The question has been ducked on repeated occasions; and the resulting, and persistent, policy vacuum has led to the necessary release of land for housing within the Green Belt through applications and Appeals, as explored in greater detail in section 7 of my evidence below.

5.11 In the context of the 1994 Local Plan, moreover, Chiswell Green is identified as a Specified Settlement, excluded from the Green Belt and comprising one of the larger villages with a local centre and a range of shops and public services, including a health centre and school. It has good access to alternative transport options, including pedestrian and cycle routes, bus routes and rail connections all within reasonable walking distance of the Appeal site. Moreover, it is one of the key settlements that had since been identified as a sustainable location for growth through the potential release of land from the Green Belt for housing in the abandoned Local Plan reviews.

5.12 It is also relevant to note that, other than its location within the Green Belt, the site is not affected by any other planning designation or the setting for such designation, including (but not exclusively):

- a) Nature conservation designations (SSSI/SPA/SNCI);
- b) Heritage Designations (listed buildings, conservation areas, SAM);
- c) Landscape designations (AONB, AGLV); and
- d) Areas liable to flood risk.

5.13 Subject to the consideration of its location within the Green Belt, the site is therefore, relatively unconstrained and an appropriate location in which development may properly be considered.

5.14 As for its Green Belt location, I have already explained that paragraph 147 of the NPPF requires that

inappropriate development should not be approved except in Very Special Circumstances; and that paragraph 148 of the NPPF requires that substantial weight is given to any harm to the Green Belt in planning decisions. This 'in principle' harm, can also be compounded by actual harm - the degree to which any development proposed also conflicts with the underlying purpose of including land within the Green Belt and its openness. It is this, together with any other harm, which must be judged against the benefits of the proposal to form a judgement as to whether Very Special Circumstances exist.

5.15 In this context, it has been agreed that the main issues in this Appeal are:

- a) The effect on the openness and purposes of the Green Belt;
- b) Landscape and visual impacts;
- c) The effect on the best and most versatile agricultural land;
- d) Highways and transport; and
- e) In this context, whether the harm by reason of inappropriateness and any other harm is clearly outweighed by other considerations so as to amount to the Very Special Circumstances necessary to justify the development.

5.16 In considering the last of these issues, it is necessary to consider the totality of benefits of the Appeal proposal, set out in my section 9, including:

- a) Housing need and supply;
- b) Affordable housing need and supply;
- c) Key worker affordable housing need and supply; and
- d) Other social, economic or environmental benefits of the Appeal proposals.

6 THE PLANNING CONTEXT IN ST ALBANS

6.1 The planning context in St Albans is one of a failing authority. There has been a persistent and continued failure to bring forward a Local Plan that accords with Government policy and provides an appropriate plan-led approach to the proper planning of the area. This has failed to meet the needs of the community and has led to a significant crisis in access to adequate housing and house prices.

6.2 It is worth noting some of the key milestones in this period, as more fully covered in the evidence of Brian Parker (CD 4.77 [3.13-3.42]):

- a) The extant Local Plan is over 28 years old having originally meant to expire in 1996, with some policies being saved in 2007 .
- b) The first attempt at review - the LDF Core Strategy 2006-2021 - failed when, in November 2009, the Inspector required decisions to be taken on the Green Belt release necessary to meet housing need and the Council ducked those decisions and, instead, withdrew the Plan rather indicate how it would meet that need (CD 4.77 [3.18-3.19]).
- c) This was followed by the Core Strategy Spatial Strategy 2011-2028 (CD 4.77 [3.20]), which was withdrawn without resolving this issue.
- d) Both the Strategic Local Plan 2011-2031 (Version 1) (CD 4.77 [3.21]) was withdrawn in 2012, again without resolving this issue (CD4.77 [3.24]).
- e) The subsequent Green Belt and Housing Needs Assessment started in 2013 ultimately led to the Local Plan 2020-2036 (CD 8.2) which proceeded to examination in September 2017, but was then withdrawn in 2020 (CD 8.34) at the invitation of the Inspectors (CD 4.77.15 and 16) for serious failings over the duty to cooperate on strategic issues. Failings in the assessment of options for the release of Green Belt sites and the related SKM study (CD 8.5) were identified by the Inspectors who noted the SKM study did not set out to meet the full level of need and that this and the Council's plan process, had failed to adequately consider the supply from small sites below 500 dwellings (CD 4.77.15 [32, 37, 45 et seq]).
- f) Also in this period:
 - i. The Secretary of State wrote to the Council on 16 November 2017, raising concerns at the persistent failure to deliver an up-to-date Local Plan and the impact this had on low levels of housing delivery in areas of housing pressure (CD 8.31), noting that priority for potential intervention was being placed on those authorities who had made least progress and where housing pressure was high, and offering the Council an opportunity to show what exceptional circumstances existed to justify the lack of a plan led approach.
 - ii. The Council responded on the 30 January 2018 and committed to preparing a policy

compliant Local Plan and addressing the failings of the previous withdrawn Plan (CD 8.32).

iii. The Secretary of State further responded on 23 March 2018 (CD 8.33) and again raised the persistent failure over many years to get a Local Plan in place and its connection with housing pressure, and, while noting some progress, noted also that the Council would be held to account for their actions and should meet their (then) published timetable.

g) While a revised LDS has now been published with an aim of achieving an adopted Local Plan sometime in 2025, no Local Plan consultation or evidence-based documents have been published and the Council consider no weight can be given to it.

- 6.3 As Brian Parker notes (CD 4.77 [3.3]) the extant Local Plan is clearly so out-of-date as to be not fit-for-purpose as a framework for addressing current housing needs and other priorities – the Green Belt boundaries have not been revised since 1985, some 38 years ago, and there are no up-to-date housing targets or undeveloped allocations.
- 6.4 Whilst it has failed to replace its 1994 Local Plan, and as noted in the commentary above, in each attempt the Council acknowledged that 'exceptional circumstances' existed that required the release of land from the Green Belt in order to meet the identified need and deliver new homes. The District comprises fully of Green Belt (CD 8.1 [P1]) outside the urban areas and therefore, given the very limited options for brownfield sites and the limited capacity of the urban areas, in order to meet housing need the release of Green Belt land is essential.
- 6.5 Furthermore, a number of subsequent Appeals have been succeeded for housing within the Green Belt, concluding in each case the Very Special Circumstances existed that justified the Appeal proposals in the context of Green Belt policy. I consider these in section 7 of my evidence below.
- 6.6 In July 2021, after losing a succession of Appeals for large housing schemes in the Green Belt, the Council have also now acknowledged that the local housing crisis is so great that they granted permission for a housing-only scheme on the basis of Very Special Circumstances (CD 9.3 and 9.5). This, too, is considered in section 7 of my evidence below.
- 6.7 While any decision on this Appeal must take account of the specific circumstances of this case, it must be concluded that the same general circumstances apply. These indicate with some consistency, the relative weight that should be afforded to each of the relevant considerations, when weighing whether Very Special Circumstances exist, sufficient to outweigh Green Belt harm, and all other harm.

5 Year Housing Land Supply

- 6.7 The agreed position with the Council and other main parties is that the Council cannot demonstrate a 5 year housing land supply. Indeed, the supply has declined and is now at a very low level of just 2 years. This is evidenced by Annie Gingell – CD 4.80.
- 6.8 This position has worsened, rather than having improved, since each of the Appeals and decisions referred to in section 7 of my evidence. In each case, the decision-maker judged the shortfall in housing land supply to be extreme, persistent, and unlikely to change in the foreseeable future.
- 6.9 The housing land supply position is likely to worsen still further with no certainty over any prospect of a Local Plan addressing this until post 2025. It can also be seen that this supply is increasingly reliant on Green Belt release: the 2022 AMR (CD 8.7) it shows that 237 of 314 homes delivered in the preceding year were on Green Belt sites, equal to 75% of delivery.

Housing Delivery Test

- 6.10 The Housing Delivery Test was introduced in 2018 in order to focus increasingly on delivery of new homes. This is also referenced in the evidence by Annie Gingell – CD 4-80.1.
- 6.11 By any measure, delivery has persistently fallen short and clearly underlines the issues in housing land supply.

Affordable Housing Delivery

- 6.12 The supply of affordable housing is even more acute, as again evidenced by Annie Gingell (CD 4.80) and the evidence of Brian Parker (CD 4.77). There has again been a persistent and extreme under delivery of all forms of affordable housing.
- 6.13 Further, there is a particular issue with the lack of provision for key workers, which, in spite of analysis at a county wide level (CD 8.17 [3.12]) and an earlier limited assessment in 2002 by SADC, still has not been addressed by an effective response, either in policy or supply terms. SADC in their Housing Needs Assessment (CD 8.17 [Annex C, page 6]) noted that at that time there was a growing need for Key Worker accommodation, with 4,400 households working in the public sector, of which 33% worked in Health, 32% in local government and 30% education. Some 37% indicated they were looking to leave the area due to a lack of affordable housing. Yet despite acknowledging the need to plan for homes for key workers in the 2004 assessment (CD 8.17 [3.13 and 5.12]) the Council have, since that time, consistently failed to acknowledge or even measure it (CD 4.77). Though dated, both in terms of time, ever declining supply rates and increasing problems of affordability (CD 4.80), these limited assessments highlight the persistent lack of key worker housing and the need for this to be urgently addressed.
- 6.14 In St Albans, the latest AMR (CD 8.7) shows that affordable housing delivery in 2021-22 was only 19%, amounting to just 37 affordable rent, 4 social rent and 30 shared ownership, a total of 71 units.

This is way below the target set by the Council of 35% of the homes delivered, which itself is below the actual level of need. As Annie Gingell shows (CD 4.80), this is way below the level required to address the issue and ignores the additional issues faced by key workers. A step change, and a different approach, is needed; one that recognises the acute need for affordable homes and homes that specifically benefit key workers.

- 6.15 The assessment of the need for key worker homes presented for this Appeal highlights the gap in housing supply for a wide spectrum of essential local workers that is causing real issues both for people and families, but also for recruitment and public service delivery (CD 4.80).

Economic and Social Impact

- 6.16 The evidence by Annie Gingell (CD4.80) highlights the widespread and serious impact that the shortage of housing, including affordable housing and key worker housing, creates for the country as a whole and for the local community. It is seriously and negatively impacting people's lives both young and old alike. It undermines the economy, the provision of public services, and the life chances of many and in many ways. It exacerbates the cost of living crisis, making the cost and availability of housing a key factor and major uncertainty in people's lives. It affects our economy, social progress and adversely impacts the quality of our environment. It undermines the principle of sustainable development and is the antithesis of what Government policies and the planning system set out to do.
- 6.17 As well as the more widely recognised issues of hidden households, people still living with parents, unable to buy or rent in the area and overcrowding, Annie Gingell's evidence underlines some of the social consequences that follow:
- a) A lack of financial security and stability;
 - b) Poor impacts on physical and mental health;
 - c) Decreased social mobility;
 - d) Negative impacts on children's education and development;
 - e) Being housed outside social support networks; and
 - f) Having to prioritise paying an unaffordable rent or mortgage over basic human needs such as food (heating or eating).

7 RECENT APPEAL DECISIONS

7.1 There have been a number of recent Appeal decisions within St Albans that are of relevance to this Appeal. These are set out in the SoCG.

A) APP/B1930/W/20/3265925 Roundhouse Farm, Bullens Green Lane, Colney Heath

7.2 The Appeal was for up to 100 homes in the Green Belt outside Colney Heath, a low order village at the bottom end of the settlement hierarchy set out in Policy 2 of the 1994 Local Plan. The main issues involved the effect on landscape character and appearance, on nearby listed buildings, on the Green Belt and its purposes, whether it was a sustainable location within a relatively remote village, and whether in the overall planning balance the benefits amounted to Very Special Circumstances.

7.3 The Appeal site comprises an open agricultural field with a number of public footpaths which traverse the site. It is entirely free from built development. The Appeal proposals would introduce built development to the site in the form of 100 dwellings with associated access roads and pavements. The precise layout and form of the development would be determined at reserved matters stage. However, even taking into account the potential for boundary treatment and landscaping, this would have the effect of a considerable reduction in the openness of the site, and this was accorded substantial weight.

7.4 At that time, however, SADC's housing supply was 2.4 years, and the position was found to be a bleak one and the shortfall considerable and significant. The Inspector could not envisage there would be any marked improvement on in the short to medium term: she considered, in particular, that the persistent under delivery of affordable housing in both local authority areas presented as a critical situation; and the then position was extremely acute. As a consequence, she afforded:

- a) Very substantial weight to the provision of market housing;
- b) Substantial weight to the provision of 10 self-build plots; and
- c) Very substantial weight to the provision of 45 affordable homes.

7.5 Notwithstanding that the Inspector found the proposals would cause harm by reason of inappropriateness and harm to openness, which both attracted substantial weight, and that she attached moderate weight to harm to the character and appearance of the area, she concluded in paragraph 78 that very substantial weight should be attached to the provision of both market housing and affordable housing and substantial weight to the provision of self-build housing, which, when considered collectively, demonstrated that Very Special Circumstances did exist.

B) APP/B1930/W/21/3279463 – Land to rear of Burston Nurseries.

7.6 The Appeal concerned a proposal for demolition and redevelopment of the site to provide a new retirement community comprising 80 assisted living apartments with community facilities and 44

bungalows that was refused by the Council and allowed at Appeal in January 22. The main issues were similar to those in the above Bullens Green Appeal and centred on whether Very Special Circumstances existed to justify the harm to the Green Belt.

- 7.7 The Inspector concluded that the development was inappropriate development that would lead to in principle harm as well as actual harm to the openness of the Green Belt. The Inspector noted that there was a degree of visual containment, and proximity to the edge of the settlement, but concluded that there would be elements of urban sprawl and merger between settlements and therefore, conflict with purposes (a) and (b), as well as (c) encroachment, as the development would involve a site that occupies a countryside location. He concluded that, in addition to its inappropriateness, the development would result in a sizeable degree of harm to the openness of the Green Belt and would conflict with three Green Belt purposes. In accordance with the NPPF, such harm to the Green Belt was afforded substantial weight.
- 7.8 It was also concluded that there would be a moderate adverse effect on landscape character and a low to moderate level of less than substantial harm to the significance of the listed buildings.
- 7.9 Set against this harm, and notwithstanding that the scheme was for 100% retirement or elderly persons' accommodation (i.e. not a mixed community), the benefits relating to the supply of general and specialist housing needs were given very substantial weight in favour of the development.
- 7.10 Other benefits arose from the economic benefits, the freeing up of other housing and health and well-being benefits. Taken together, these were considered to clearly outweigh the harm identified to the Green Belt, character and appearance of the landscape, and listed buildings.
- 7.11 The Appeal Decision is also relevant because, as explored in further detail in the evidence of Brian Parker (CD 4.77 [3.81-3.82]), it confirmed that the Council changed its position on the applicability of the SKM Green Belt Review (CD 8.5) in decision-making, following the criticisms of the Review by Planning Inspectors who Examined the draft Local Plan and assurances given to those Inspectors by the Council that a replacement Review would be commissioned starting with a clean plate and the withdrawal of that emerging Local Plan.

C) Application 5/2021/0423/LSM - Harpenden Road, St Albans

- 7.12 In addition to these Appeals, the Council have also granted permission at Harpenden Road for an outline application (access sought) for residential development of up to 150 dwellings together with associated works, including 40% affordable homes and an element of self-build. At the time the officers noted the housing land supply was 2.5 years.
- 7.13 The officer report is worth reviewing in terms of consistency of approach to this Appeal. Paragraph 8.2.4 concluded that there would be harm to openness. However, paragraphs 8.2.13 and 8.2.15 considered that because a green buffer was maintained around the perimeter, urban sprawl would be

avoided. Paragraph 8.2.16 considered there would be no impact on purpose b) of the Green Belt, as the gap between Harpenden and St Albans would remain intact.

- 7.14 The report concluded that there was significant harm to the Green Belt by definition of inappropriate development, significant harm in relation to openness, and low to moderate harm in relation to encroachment into the countryside and restricting urban sprawl. This harm carried substantial weight. Against this, however, the market and affordable housing were both afforded very substantial positive weight. The provision of self-build was also given substantial positive weight, and Biodiversity Net Gain moderate and sustainable location moderate weight⁸.

D) Application 5/2021/2730 - Land Off Orchard Drive Park Street St Albans

- 7.15 The application was for 30 dwellings on a Green Belt site between Chiswell Green and How Wood. The site was GB26 in the SKM Green Belt review and was considered to make a significant contribution towards maintaining the existing settlement pattern (providing gaps between Chiswell Green, How Wood and Bricket Wood), a partial contribution towards preventing merging, and to contribute significantly towards purposes 1 of the 5 Green Belt. The officer report to committee records (CD 9.5 [unnumbered page 14 of 66]) that the 2018 SHLAA took a different view to the SKM report and considered that the site performed no real function in separating these settlements.
- 7.16 The officer report concluded that there was significant harm to the Green Belt, by definition, because it was inappropriate development; that there was significant harm in relation to openness; and low to moderate harm in relation to preventing the merging of neighbouring towns and limited harm to character and appearance. However, Very Special Circumstances were judged to exist as a result of the benefits of the contribution to housing and affordable housing being given very substantial positive weight; the provision of self-build being given substantial positive weight; the commitment from the applicant to deliver 10% biodiversity net gain on the site being afforded moderate positive weight; and the sustainable location moderate positive weight.

- 7.17 In addition to the above St Albans's decisions, I note as follows:

E) APP/A5270/W/21/3268157 – Manor Road/Drayton Green Road, West Ealing

- 7.18 Allowed at Appeal (with costs) on 29 October 2021, this Appeal Decision (CD 9.13) is relevant because it confirms that there is no provision in national policy or guidance that justifies ranking one form of

⁸ This is a particularly noteworthy decision, in that the Council had hitherto resisted the site's development, including in the seminal case of *Hunston Properties Limited v (1) Secretary of State for Communities and Local Government and (2) St Albans City and District Council* [2013] EWCA Civ 1610 (CD 10.6), almost 10 years ago, but recently successfully defended its about-turn, and decision to grant planning permission, in *R (Save St Albans Green Belt and Others) v (1) St Albans City and District Council and (2) Hunston Properties Limited* [2022] EWHC 2087 (Admin) (CD 10.7).

affordable housing need over another. In St Albans, as in the LB of Ealing, there is no local policy or guidance that justifies an alternative conclusion.

F) APP/N5090/W/15/3132049 – Granville Road Estate, Childs Hill, City of London

- 7.19 This Appeal Decision (CD 9.14) is also relevant because it confirms that there is no requirement for individual applications to apply (even where they exist) policies that seek to deliver balanced communities across a district.

8 HARM TO THE GREEN BELT AND OTHER HARM

- 8.1 It is agreed that the site lies outside the city of St. Albans and outside the settlement of Chiswell Green, within the Green Belt. It is also agreed that, in the main, it does not comprise previously developed land; and that the proposed development of housing would be largely⁹ inappropriate in the Green Belt.
- 8.2 The first point to note, however, is that the Council have long-since concluded that there needs to be development on open land in the Green Belt if its housing needs are to be met (including in CD 8.2, CD 8.5, CD 9.3, CD9.5). It follows, inexorably, that there is bound to be a considerable impact on openness wherever that necessary development takes place; and that, pending any fresh allocations in a replacement Local Plan – and none will be possible till the end of 2025 at the earliest (CD 4.77 [8.11]) – the only way in which any of the Council’s considerable housing shortfall can be addressed will be through Very Special Circumstances being accepted, as in the St Albans’ Appeals and decisions referred to in section 7 above.
- 8.3 Indeed, it is clear from the latest AMR (CD 8.7, [table 1, page 17]) that 75% of the 314 housing completions in 2021/22 were on Green Belt sites, showing the importance of this source of supply to even the current abjectly low and worsening level of delivery.
- 8.4 In accordance with the discussions with the Council, I have categorised the degree of harm according to the following descriptors, in decreasing order of weight:
- a) Very substantial;
 - b) Substantial;
 - c) Moderate;
 - d) Limited; and
 - e) No harm.

In Principle Harm

- 8.5 Inappropriate development in the Green Belt is by definition harmful, and **substantial weight** should be given to this harm (para 148 NPPF).

Openness

- 8.6 There is an inevitable impact with any built development on the openness of the Green Belt in purely spatial terms and in terms of visibility.

⁹ Insofar as the application also proposes the Memorial Park and other public open space, footpath/cycleways and landscaping, it is not inappropriate development and these uses are consistent with Green Belt, an objective of which is the promotion of enhanced opportunities for access to its environment and recreation opportunities.

- 8.7 The application is outline and the layout, design and landscaping would be determined at reserved matters stage, subject to any conditions controlling the green buffers around the site, the memorial park and associated space. Hence, although the indicative layout shows a scheme of approximately 10ha of housing and 4ha of open space and landscaping, giving a density of circa 33dw/ha, it would be possible to increase the proportion of open space and landscaping as part of the detailed master planning and design process. At a comparable density to the other Green Belt schemes that have been consented for example, at approximately 40 dw/ha, the development would utilise approximately 8ha of land for housing and associated gardens and roads/paths and 6ha of open space and landscaping.
- 8.8 In this case the site is relatively well contained in visual terms as described in the LVIA and evidence of Paul Gray (CD 4.78). His evidence and related LVIA demonstrate that the potential effects on the visual amenity the reduction of the current openness will only be apparent at a localised level to the majority of the visual receptors and he does not consider any to cause detrimental impact in visual terms on the openness of the Green Belt. While there are locations where paths and other views would be gained, these are localised and limited in nature. His evidence runs through each of the public footpaths and vantage points and addresses the bare earth scenario sought by the Council, as well as actual visibility on the ground, in reaching this conclusion. I concur with his view.
- 8.9 Hence I consider that this limited visibility limits the harm to openness from locations outside of the site itself. As a result, I consider that there is harm to openness that attracts **moderate to substantial weight** largely as a result of the spatial component and limited visual component of openness arising from the development.

a) Checking unrestricted sprawl of large built up areas

- 8.10 The Appeal site adjoins a medium sized village comprising a specified settlement in the Local Plan and does not adjoin a large built up area as described in this purpose. The Appeal proposal has the potential, subject to the master planning and design process at reserved matters stage, to form a considered and well-contained extension to the existing settlement.
- 8.11 The Appeal site and any proposed form of development relates well to the notion of a westward area of growth for Chiswell Green, something previously considered by the Council in the proposed allocation of land south of Chiswell Green Lane. While not identified in earlier failed attempts at a new Local Plan, these had not identified sufficient housing to meet identified need. It would therefore, be a logical location that is consistent with the sustainable spatial strategy that looks to Chiswell Green for some contribution to meet housing needs.
- 8.12 While it is separated by a strip of paddock land from the existing settlement edge, the proposals are clearly a western addition to Chiswell Green and would be connected by a series of pedestrian and cycle connections through the landscape buffers.

8.13 The site is also contained by strong landscape boundaries. Given the strong boundary features and provision for an additional green buffer of open space, the Appeal would not pose any material risk of urban sprawl.

8.14 As a result, I consider there to be **no harm** in respect of checking the sprawl of large built up areas.

b) To prevent neighbouring towns merging into one another

8.15 The site lies on the western side of Chiswell Green and does not lie within an appreciable gap with any nearby settlement. The closest main urban area which was referenced in the officer report is Hemel Hempstead and this lies over 4km northwest of the site, beyond the M1. The intervening countryside includes significant landscape features, woodland and pasture mosaic, such that there is no perception of merger or coalescence. This is a much less sensitive location than many of the other urban edges that clearly contribute to the separation of settlements, the proximity of which is much physically and visually closer.

8.16 As a result, I consider there to be **no harm** in respect of towns merging.

c) To assist in safeguarding the countryside from encroachment

8.17 This purpose of Green Belts is clearly affected by any release of land from the Green Belt for housing which is by definition encroachment into the countryside. It has been a consistent feature in each of the Appeals and applications that have been permitted. All of these sites, to some degree, comprise countryside that enjoys some connection with the wider landscape.

8.18 In this case, while the proposals would extend development westwards into the countryside beyond the settlement boundary, the character of the site is relatively contained by strong boundary landscaping and, hence, its connection and perception of the wider countryside is limited until you pass beyond the site into more open farmland.

8.19 The site itself has been used for the year round grazing of horses with associated stables and barn and has been subdivided into paddocks. It is typical of many settlement fringe locations.

8.20 While it can be perceived, to some degree, from the footpaths adjoining the site, these are relatively close-range views. The development of the Appeal site in the manner proposed, with a combination of landscape buffers and a memorial park framing the housing, mean that the visual would be limited to localised views without significantly impacting the countryside extending to the west or north.

8.21 As noted above in relation to openness, the evidence of Paul Gray (CD 4.78 [7.11]) clearly underline his view, which I share, that the fundamental characteristics and appearance of the landscape will remain as is now and as described in the baseline section 2 of the landscape and visual impact assessment and the Hertfordshire Landscape Assessment, save for the very localised impact on the site itself. His view is that the proposed development will not create an unacceptable degree of harm to the landscape character and appearance such that it cannot be reduced to an acceptable level or

offset with appropriate landscape mitigation.

8.22 As a result, I consider there to be **moderate harm** in respect of safeguarding the countryside from encroachment.

8.23 It is agreed between the main parties that there is no impact on Green Belt purposes d) and e).

Agricultural Land

8.24 The reasons for refusal includes reference to harm arising from the development of high quality agricultural land. In the Council's SoC they assert, however, that only limited weight can be given to this issue.

8.25 The site comprises part 3a and part 3b land, with some non-agricultural (buildings and hardstanding) (CD 4.3). It has been used as pasture for the grazing of horses for several years and is separated from adjoining land by tree belts along its boundaries. It has been used intermittently for polo. While it retains potential for agriculture, it is not being actively farmed and has not been for some time.

8.26 The Local Plan policy is inconsistent with the NPPF (CD 7.1 [174]) which requires consideration of the economic benefits of agricultural land and that, where available, land of lesser quality should be used, but does not require overriding need or any similar test. However, all of the options for the release of land to meet housing needs outside of the urban area considered in previous versions of the Local Plan review involved the loss of grades 2 and/or 3 agricultural land (CD 8.1 [Fig 12 p154]).

8.27 While the larger the proposal, the larger the release of high-quality agricultural land, it has not been a determining or distinguishing factor in these cases and is not a distinguishing feature in this case, since there is very little choice and currently no land of lesser quality available. In my view therefore, **no or very limited weight** can be attributed to this issue.

Highways and Transport

8.28 The issue of highways and transport was raised at the CMC by Keep Chiswell Green. This is dealt with primarily in the evidence of Matt Stevens in CD 4.79.

8.29 The Appeal proposals are not the subject of any reason for refusal or objection from the Council, as planning authority, or Hertfordshire County Council as the relevant Highway Authority, or Highways England. While cumulative impacts have been raised as a concern by KCG in their SoC, as Matt Stevens notes the highway authority, HCC, required both applications to provide a robust assessment regarding the future operational capacity of the local highway network against which they reached a judgement. This included additional traffic associated with known committed developments, including the Radlett Freight Terminal (SADC Ref. 5/09/0708) and the proposed development south of the Noke Roundabout (SADC Ref. 5/2015/0722), natural growth on the network and without any discounting for modal change as a result of the Appeal schemes.

- 8.30 As we know, development should only be restricted or refused on highways grounds if there would be an unacceptable impact on highway safety or if the residual cumulative impacts on the network would be severe (NPPF [111]) and that is not the judgement made by the Highway Authority or Matt Stevens.
- 8.31 As a result, I consider that there is no harm in respect of highways and transport and therefore, this is neutral and carries **no weight**. Even were there to be some harm found in respect of cumulative or other impacts, for the reasons set out in the evidence of Matt Stevens (CD 4.79) I consider that this would be less than severe under the terms of the NPPF (CD 7.1 [111]) and hence I would accord this **limited weight**.
- 8.32 However, it is the case that the Appeal proposals provide enhancements to the rights of way network and to local accessibility through improved pedestrian and cycle provision within Chiswell Green. I deal with the benefits of this in the next section of my evidence.

9 BENEFITS OF THE APPEAL PROPOSALS

- 9.1 In considering whether Very Special Circumstances exist it is necessary to consider the benefits of the Appeal proposals.
- 9.2 In considering the weight to be attached to the issue of housing delivery, I have deliberately separated the issues into the delivery of housing, of affordable housing, and of key worker housing and self-build plots. This is so that the significance and weighting of each can be properly considered.
- 9.3 While the Council appear to consider that items a) to c) below are perhaps one and the same (and incorrectly take the view that the relative benefit should actually be discounted for being of the same tenure), in my view their approach is entirely misplaced and grossly underestimates the level of impact that the housing crisis is having in St Albans and the very substantial benefits that the Appeal proposals would deliver in directly meeting a key part of this need.
- 9.4 To conflate these benefits into a single contribution would be to miss the very special contribution that the Appeal scheme would make to the delivery of both affordable housing and key worker affordable housing in particular. This is a unique proposal that delivers 100% affordable homes for key workers, including shared equity, first homes and self-build plots, all discounted by at least a third. This addresses a specific problem in housing supply that is simply not met by traditional approaches to affordable housing delivery, which tend to be a relatively small proportion of market schemes.

a) Housing Delivery

- 9.5 The Appeal proposals are for a combination of First Homes, Shared Ownership dwellings and Discount Market Sale properties (all discounted by at least a third of open market value), together with self or custom build plots. It does, therefore, comprise a mixed tenure scheme that contributes in a significant and positive way to the choice of housing available within the local market. The proposals are also for a range of house sizes and styles, to ensure a mix of family and starter style dwellings.
- 9.6 They would, therefore, Appeal to a wide range of people in the local community, including first time buyers, individuals, couples, and families; and each has a different potential route to home ownership.
- 9.7 There is a very clear benefit in the Appeal proposals in addressing the existing undersupply of housing. This undersupply is both severe and persistent. The position has worsened since the previous Appeal decisions which have each been allowed.
- 9.8 I accord **very substantial weight** to this contribution to housing supply.

b) Affordable Housing

- 9.9 There is also a very clear benefit to the Appeal proposals in addressing the even greater shortfall of affordable homes within St Albans District. This is over and above the supply of housing as it contributes to the very clear need for affordable housing. The benefit to affordable housing is described in more detail in the evidence of Annie Gingell (CD 4.80).

- 9.10 Under the terms of the NPPF, discounted market sale housing (CD7.1 [Glossary]) is that sold at a discount of 20% below market value. In this case, the Appeal proposes 100% of the homes at least a third below market value.
- 9.11 This also exceeds the requirement for a proportion of First Homes, which under Government requirements should be 30% below market value.
- 9.12 Delivering up to 330 affordable homes, on terms which exceed the benchmarks set by Government and in circumstances where no public subsidy or intervention is required, makes the Appeal proposal both unique and exceptional.
- 9.13 I therefore accord this benefit **very substantial weight**.

d) Key Worker Affordable Housing

- 9.14 There is a particular problem with the supply of housing to meet the needs of key workers, as set out in the evidence by Annie Gingell and Mr Parker (CD 4.80 and CD 4.77).
- 9.15 Key workers are often priced out of the market, being unable to afford normal market prices but at the same time are often above the income thresholds for the limited supply of affordable homes. Even if they fit within the income bands that are eligible for normal rented or intermediate affordable housing, the supply is so limited that it does not come close to meeting affordable housing needs.
- 9.16 This creates a problem for key worker recruitment and retention to fulfil the public services on which society and the whole community depend.
- 9.17 Essential local workers are the only group of workers which the NPPF specifically identifies (Annex 2 Glossary) as being a key element of affordable housing need.
- 9.18 The approach adopted in the Council's SoC seeks to discount the benefits provided by the Appeal proposals because they are 100% affordable. This is dealt with at 6.18 of CD 5.1 which comments that as a result, although the benefit of the affordable housing is substantial, the 'weight is set at the lower-most end of the spectrum'. It says this matter is dealt with in detail in the officer's report at section 8.11 (CD 4.48).
- 9.19 Yet this reference is at odds with this statement, with:
- a) Paragraph 8.11.6 concluding "... the provision of the proposed affordable housing weighs heavily in favour of the proposals...";
 - b) Paragraph 8.11.8 commenting that "...there is no dispute that the provision of housing of the type here proposed is a very substantial benefit of the proposal which carries weight";
 - c) Paragraph 8.11.10 concluding "Accordingly, **very substantial weight** is attached to the delivery of the proposed 100% affordable housing, including the potential delivery of self-build plots, albeit it is unclear what the details for this element would be"; and

d) Paragraph 8.11.23 concluding that: "Whilst the weight is slightly reduced, it doesn't materially affect the weight to be given to affordable housing which is still **very substantial**" (my emphasis).

9.20 Notwithstanding this conclusion, I take issue with the officers' concerns of the type of development proposed and uncertainty over delivery. I do not share these concerns which are both misplaced.

9.21 In terms of the type of development, the report refers to paragraph 63 of the NPPF. That paragraph is expressly about planning policy however, and requires local policies to specify the type of affordable housing required. However, as the report proceeds to make clear there are no such policies in the Local Plan that deal with this issue. Indeed, the AMR '22 (CD8.7 table 7, page 21) expressly states that there is no target set at the local level.

9.22 The officer report ducks this inconvenience and focuses on the consultation response of the strategic housing manager, which (it seems) has not understood the nature of the proposal, and criticises the lack of contribution to the need for rented property without actually assessing the need for key worker homes, First Homes, or Discounted Market Homes, or their contribution to meeting such needs. These are assessed in the evidence by Annie Gingell (CD 4.80), which clearly establishes the very substantial benefit of the Appeal proposals in meeting real and acute needs in these regards.

9.23 The officer report then compounds the misrepresentation of paragraph 63 and proceeds to assert that the objective of creating mixed and balanced communities "may not be met" by the 100% key worker housing. This fails to acknowledge that the Council has no data on key worker needs or the issues faced by key workers, and has made no assessment of the mix of tenures and housing types within Chiswell Green, or St Albans more generally, and how the Appeal proposals would contribute to that mix.

9.24 This flies in the face of some of the data the Council does have access to, which shows a substantial shortfall below the target levels for all tenures of affordable housing. Ironically, the officer report seems to suggest that in spite of making no assessment of the mix of tenures within the area, or assessing the need for key workers (or even forming a view on the key worker evidence put forward in the application), the unsubstantiated fear that the scheme might not represent a mixed or balanced community reduces the weight that should be accorded to the provision of affordable housing in this case.

9.25 This section of the officer report then reduces further the weight to be attached to the benefit of affordable housing by the fact that it is a housing scheme and does not contain a mix of uses. It makes no sense, and does not even assess the need for such uses, or how they might comply with or be required by any Local Plan policy. It is entirely spurious.

9.26 I find the assessment in section 8.11 of the district planning officer's report to be entirely illogical and confused. It is at odds with the assessment presented by Brian Parker (CD 4.77) Annie Gingell (CD 4.80) which clearly shows that the Appeal proposals provide for a mix of options and routes into home

ownership that will ensure a mixed community and that the Appeal proposals are affordable. This is supported by the commitment in the s106 planning obligation to at least a third off comparable properties on the open market in the District for any given house type and size.

9.27 The Appeal proposals would provide a mix of options for Key Worker housing and would make a very substantial contribution to supply within the District. I therefore, accord this **very substantial weight**.

e) Self-build housing plots

9.28 Self build and custom build plots offer a different route to home ownership and allow people to control their costs and achieve a home suited to their needs at a reduced cost. They are specifically supported by Government. The Appeal includes a significant contribution to the provision of self-build or custom homes plots, equating to 5% or up to 16 plots, a substantial contribution to supply, which can be secured by condition and the s106 obligation.

9.29 I accord this benefit **substantial weight**.

f) Economic benefits

9.30 The lack of access to housing is recognised as a key factor hampering economic performance. The inability to buy homes locally reduces the ability of firms to recruit from the local labour pool and reduces the potential for people to move to the area to fill available roles. By providing more housing to meet local needs, this imbalance is (at least in part) addressed, improving overall economic conditions.

9.31 The development of 330 homes also brings with it economic benefits both directly during the construction of the development, in purchasing services from local businesses and suppliers and in the contribution that the resulting population spend within the local economy. While there are a range of potential indicators, the HBF have prepared an independent assessment of the contribution made by housebuilding in general, which includes a calculator based on the number of homes provided: "The Economic Footprint of House Building in England and Wales" (July 2018).

9.32 These benefits span a range of areas including:

- a) Capital Investment and Expenditure Benefits: this relates to the value of capital investment and expenditure generated by the industry on new housing development;
- b) Construction Benefits: this relates to the impacts of this capital investment on construction employment and associated income generation and economic output during the construction process;
- c) Direct Employment Benefits: the number of people employed directly by developers and their contractors, as well as the levels of economic output generated by these jobs;
- d) Indirect and Induced Employment Benefits: further jobs supported in the wider economy in house building supply chains and by spending amongst direct and supply chain employees on

goods and services;

- e) Resident Expenditure Benefits: levels of additional expenditure generated by residents of new housing development;
- f) Public Finances: contribution through tax revenues generated by house builders and their supply chain;
- g) Local Authority Revenue Benefits: the benefits that house building development brings in terms of local authority financial receipts from New Homes Bonus and Council Tax;
- h) Local Community Benefits: financial contributions including the investment in schools and other services through s106 contributions to fund new facilities, services and infrastructure for local communities; and
- i) Other "Softer" Benefits: this relates to other benefits that tend to be non-monetary such as open space.

9.33 In these regards, using the HBF calculator as a guide, a development of 330 new homes:

- a) Introduces a gross development value of approximately £100m into the economy, much of which stays within the local economy and 90% of which stays within the UK;
- b) Supports up to 1000 jobs, and provides 11 apprenticeships/trainees; and
- c) Generates approximately £3.9m in tax revenue and £372,000 in local council tax revenue.

9.34 An additional benefit in this case is the recruitment and retention of key workers within the community, enhancing recruitment and supporting local services, in circumstances where currently many key workers cannot afford to purchase homes in the local area. This is set out in the evidence by Annie Gingell (CD4.80).

9.35 I accord these wider economic benefits **substantial weight**.

g) Public Access

9.36 The Appeal proposals also make a contribution to public access and, specifically, access to the Green Belt that goes beyond the normal provision required to meet the needs of the development itself. This comprises access to public open space in the form of the Memorial Park, and also public access to areas of landscape buffer as informal recreation and to the footpath network that connects existing public footpath network, to create both a safe circular route and enhanced access without walking along relying on Chiswell Green Lane, where the roadway is shared with other vehicles.

9.37 The proposals are consistent with the aim within Green Belts outlined in the NPPG (002 Reference ID: 64-002-20190722) of enhancing the remaining Green Belt through enhanced green infrastructure where land is proposed to be released for housing, including through native tree planting, landscaping,

biodiversity enhancement and improved public access. These are consistent with the aims of the Appeal proposals and can all be controlled and ensured through the relevant conditions and reserved matters stage.

9.38 These enhancements provide new routes on the western side of Chiswell Green and complement the existing recreation ground to the north and footpath network running to the north and west.

9.39 This path will make access to the network of public rights of way west of Chiswell Green possible for all residents of the village without having to use Chiswell Green Lane and helps form a circular route linking the footpaths to the west and north. This was a benefit recognised by the St Albans District Footpath Society.

9.40 I accord these benefits **moderate weight**.

h) Accessibility Improvements

9.26 The Appeal proposals also contribute to the improvement of pedestrian and cycle facilities within Chiswell Green and a contribution for 5 years to enhance services on local bus routes. The pedestrian and cycle connections run the length of Chiswell Green Lane to the centre of the village and associated services, connecting the existing community and also providing an improved link from within the village to the rights of way to the west. The enhanced bus services would benefit the wider community and the duration of the contributions is to ensure subsidy in the period where enhanced patronage is developed. These measures are targeted on achieving more sustainable transport choices and behaviours are established over the next few years and clearly go beyond benefitting only those new residents within the Appeal scheme and would benefit the wider community.

9.27 I therefore, accord these benefits **moderate weight**.

10 THE PLANNING BALANCE

- 10.25 In considering whether Very Special Circumstances exist that justify the Appeal proposals, it is necessary to weigh whether the harm to the Green Belt by inappropriateness and any other harm is clearly outweighed by other considerations, so as to amount to Very Special Circumstances that justify the development.
- 10.26 It has been accepted by the Council, in the preparation of each of the failed reviews of the Local Plan, that exceptional circumstances exist that will necessitate the release of Green Belt land for housing in order to meet housing needs within the district. Indeed, it is clear from the 2022 AMR (CD8.7) that the major part of (the low level of) housing supply in the last year has come from Green Belt sites. The Council are reliant on such release to achieve even the 2 years housing land supply and current delivery rates, even though these are still substantially below the required level.
- 10.27 The Council have repeatedly failed to meet the requirements of Government policy to deliver a new Local Plan that would address housing need; and have not provided for the proper planning of the area in a plan-led manner.
- 10.28 While the Council have committed to undertaking a further review of the Green Belt to support the review of the Local Plan and address the stated failings of the earlier 2013 review, any such work is at such an early stage that no evidence based or consultation documents have been published and it is common ground that no weight can be attached to this intended Local Plan.
- 10.29 In repeated Appeal decisions and the decisions of the Council, it has been concluded that there is no prospect of this position changing in the immediate or near future.
- 10.30 It is in this context of a critical failure to meet local housing needs and to plan effectively to meet those needs in a plan led manner, that this Appeal must be considered.
- 10.31 In considering whether Very Special Circumstances exist that justify the Appeal proposals, I have concluded that:
- a) The harm due to inappropriateness should be accorded **substantial weight**;
 - b) The harm to openness attracts **moderate to substantial weight**;
 - c) Harm to the objective of preventing unrestricted sprawl of large built up areas should be accorded **no weight**;
 - d) Harm to the objective of preventing towns merging should be accorded **no weight**; and
 - e) Harm to the safeguarding of the countryside from encroachment should be accorded **moderate weight**.
- 10.32 Set against this, I have also concluded that:

- a) The contribution to meeting unmet housing need I accord **very substantial weight**;
- b) The contribution to affordable housing I attach **very substantial weight**;
- c) The contribution to key worker affordable housing I attach **very substantial weight**;
- d) The benefit of the contribution to self-build plots I accord **substantial weight**;
- e) The economic benefits I accord **substantial weight**;
- f) The benefit to public access I accord **moderate weight**; and
- g) The benefit to pedestrian and cycle accessibility within Chiswell Green I accord **moderate weight**.

10.33 In my judgement therefore, the substantial benefits of the Appeal proposals clearly outweigh the harm to the Green Belt and any other harm in this case and do constitute Very Special Circumstances that justify the Appeal being allowed.

11 COMPATIBILITY WITH CALA HOMES

- 11.1 The Appeal proposals are also being considered in the context of the conjoined Appeal for land south of Chiswell Green Lane (APP/B1930/W/22/3313110). While these comprise entirely separate and distinct applications, I have considered the relationship between the respective schemes.
- 11.2 I consider that each of the Appeals can be viewed as acceptable in their impact either individually or together and set out the reasons for this view below.
- 11.3 While each of the Appeals would make a significant contribution to housing supply and deliver other associated benefits individually, together they also make a very substantial, positive, contribution to meeting housing needs within the District in a manner that is considered and would achieve the objectives of sustainable development. Both can be viewed as necessary, individually and cumulatively, in the context of the very real and apparent need for housing within the District and the separate merits of each case.
- 11.4 On the basis of the evidence provided by the Appellants, it is also clear that there are no associated cumulative impacts that would suggest that any other conclusion should be reached.
- 11.5 In essence, I conclude that the Appeal proposals are entirely compatible and consistent with the proper planning of the area.

Sustainable Location

- 11.6 They are each based on the fact that Chiswell Green is one of the larger settlements within the district which has been identified as a sustainable location for growth. It has a good range of local shops and services and is served by both bus and train services, with a good network of pedestrian and cycle connectivity.
- 11.7 In each case, the proposals represent an extension of the settlement in a manner that is consistent with its overall form and while providing good levels of pedestrian and cycle connectivity to the village centre and key facilities.

Housing Mix

- 11.8 The housing mix within the schemes are also entirely compatible both with each other and with the wider mix of homes within Chiswell Green. The village is currently predominantly market housing with limited affordable homes. As noted in the SSPNP, the housing mix tends towards larger family homes with a shortage of smaller 1, 2 and 3 bed homes.
- 11.9 Between them, the Appeal schemes would provide a mix of market, affordable rented, intermediate, first time and key worker homes.

Public Infrastructure

- 11.10 The Appeals each provide a range of contributions to improve public services, to the extent that this

reflects the number of homes and related population yield for the scheme. Each is considered acceptable in this regard by the Council, subject to completion of the associated s106 obligation.

Landscape and Visual Context

- 11.11 The Appeal sites are visually distinct and do not have a direct relationship with shared views and each has been assessed by the relevant LVIA.
- 11.12 They each represent a westward expansion of Chiswell Green, in locations least likely to present issues of coalescence or erosion of the gap between adjoining settlements, such as St Albans, How Wood, Park Street or Frogmore.
- 11.13 The visual characteristics of each site are distinct and do not present issues related to cumulative or other impacts that would impact each other.

Green Belt

- 11.14 Each of the Appeals will have its own impact on the Green Belt and must be judged on its merits in respect of whether it meets the test of Very Special Circumstances. The contribution to Green Belt purposes and openness for each is informed by the LVIA and related assessments as to the role each site plays to Green Belt purposes. Given that there is no cumulative visual impact as a result of the relatively contained and discrete nature of each site, any cumulative impact is limited. While there will undoubtedly be common factors, in terms of the benefits to housing supply and economic growth, the planning balance will reflect the individual attributes and impacts associated with each scheme.

Transport

- 11.15 The Appeals have each been considered in the context of their own TA and Travel Plan and have been reviewed by HCC Highways in the context of the impacts associated with each scheme. Each proposes improvements to the local highway network, including pedestrian and cycle route enhancements. This is set out within the evidence of Matt Stevens (CD 4.79). In this he concludes that as a result of the mitigation proposed by each of the Appeals and the priority afforded to sustainable transport options, they are both compatible and do not raise any issues that would be considered to be severe in the context of the NPPF para 111.
- 11.16 As a result, I consider that each of the Appeals can be viewed as acceptable in their impact either individually or together.

12 OTHER REPRESENTATIONS

- 12.1 The Appeal proposal has been the subject of numerous representations at the application stage and in the context of the Appeal, the main themes from which and a response to which are summarised below. These include the case presented by Keep Chiswell Green (KCG).
- 12.2 Importantly, KCG and others acknowledge the benefit of the provision of housing, particularly affordable housing in a city whose house prices are amongst the highest in the country. This reflects some of the key aims of the SSPNP as referenced earlier in my evidence (paragraphs 3.11-3.15).

Precedent

- 12.3 KCG and others reference the risk of precedent for the release of adjoining land, notably the thin strip of paddock between the site and the urban edge. KCG term this as 'Gateway Development' which they say creates a risk of precedent for the release of adjoining land. I do not accept the risk of precedent is a material planning consideration either generally or specifically in this case. This application, as with any others, must each be determined on the merits of the case and in particular whether Very Special Circumstances exist at the time.
- 12.4 KCG refer specifically to the paddocks that lie adjacent to Cherry Hill and do not make this point in relation to any other adjoining land. Hence the implications for the Green Belt, even if the point was a good one, would be very limited.
- 12.5 However, in addition to the limitations of the point in this case, the area of Green Belt referred to forms a self-contained parcel that is already overlooked by the properties on Cherry Hill. It forms a green strip south of the recreation ground with a conifer hedge between it and the Appeal site. It is relatively visually contained and forms a buffer between the Appeal site and those properties. While any future assessment would need to consider its contribution to Green Belt and other issues, it would be wrong to prejudge the outcome of such consideration and include this as a material consideration in this Appeal.
- 12.6 I consider that the fear of precedent is not a material consideration that can be afforded any weight in this decision.

Green Belt and 'Gateway Development'

- 12.7 The question over the need to release Green Belt land for housing is a consistent theme among the representations. This breaks down into two aspects: one is the perception that housing needs can be met from the urban area and brownfield sites, or the lack of housing need itself; and the other is the actual impact of development within the Green Belt.
- 12.8 It has been stated by the Council, in the context of the failed reviews of the Local Plan, that exceptional circumstances exist to justify the release of Green Belt to meet housing needs; and this has been reflected in Appeal decisions and development management decisions which have acknowledged that

Very Special Circumstances exist in those cases that has justified the release of several Green Belt sites in order to contribute to meeting housing needs in the absence of any review of the Local Plan.

- 12.9 There can be no doubt from the evidence available that there is a national housing crisis and that there is an extremely acute and persistent housing crisis in St Albans. There can also be no doubt that there is a serious lack of capacity within the urban area or on previously developed land to meet this need. Housing delivery in the last year is below the average of the last 28 years (CD 8.7 [T2]) and well below need. The majority of homes delivered in the last year have been on Green Belt sites, underlining the reliance on this source even for the low levels of supply being achieved. The housing land supply is the lowest it has been, at 2 years.
- 12.10 Hence the decision is not whether Green Belt should be released to help meet housing needs, but whether the individual circumstances of each case meets the requirement to demonstrate Very Special Circumstances.
- 12.11 In this case, for the reasons set out in my evidence and those of the other witnesses for the Appellant, I consider that the Appeal proposals do constitute Very Special Circumstances that justify the grant of permission. They minimise the impact of development on the Green Belt and its purposes while delivering very substantial benefits that offer a unique contribution to meeting these needs.

Affordable Housing Uncertainty

- 12.12 While the significant benefit of affordable housing is acknowledged, questions are raised by KCG over the financial model and lack of a financial partner or financial information. These are not matters that are relevant planning considerations in this case, albeit that both Steve Collins (CD 4.76) and Brian Parker (CD4.77) have fully explained how the business model of Addison Park comprehensively secures delivery.
- 12.13 In addition, the planning obligation sets out the terms of the affordable housing proposal and is both clear and consistent with the NPPF. The form of the s106 is based on a standard produced by the Council, adapted to the circumstances of the proposal. The delivery of the affordable homes is, therefore, certain and the related benefits can be relied upon.
- 12.14 Further, the evidence of Brian Parker and Annie Gingell (CD 4.77 and 4.80) provide insight into the issue of affordability and clearly show that the Appeal proposals meet a pressing and urgent need for key worker homes that are affordable and which currently form a gap in local supply.

Integration

- 12.15 The SoC for KCG commented that "...the new residents are likely not to integrate well into the existing population. There is very little employment in the local area for key workers....". I cannot understand or support such a notion. Key workers are a key part of our society and provide existing services within the area but increasingly cannot afford to live in the area, making recruitment difficult for our

public services. They are no different than anyone else and, without them, our education, police, healthcare and other services could not run. Our armed forces could not live within the areas they travel the world to defend.

Transport Impacts

- 12.16 The assessment of transport impacts set out on behalf of KCG has been explored in the evidence of Matt Stevens (CD 4.79). Local concerns raised including those by KCG focus on the impact of the Appeal proposals and those of the conjoined Appeal, on the capacity of the local highway network, taking account of other committed developments, which they consider are already over capacity and hence amount to a serious adverse impact.
- 12.17 While it is not unusual for objections to be focussed on car borne transport and the associated impacts, HCC as with most other highways authorities are increasingly looking to secure modal shifts within the existing and new populations through investment in sustainable options that support changes in behaviour by making alternatives more attractive. Hence the trends towards walking and cycling, healthy lifestyles, e-bikes and improved bus services, together with increased working from home during part of the working week, reinforce the approach towards more sustainable choices.
- 12.18 In this regard, as Matt Stevens shows, any objections in relation to traffic impacts is substantially below the terms of the NPPF (CD 7.1 [111]) and in fact, the Appeal proposals both individually and when considered together, provide benefits to sustainable transport options, through pedestrian, cycle and bus connectivity that more than outweigh any impacts in terms of highway capacity.

Prematurity

- 12.19 While prematurity has also been raised as an issue in third party representations, the point appears to be conceded by KCG that this is not an issue of prematurity in the context of an emerging Local Plan, since no such plan exists in a form that could be afforded any weight, but is more a point about potential future changes in Government policy on housing and Green Belt issues. That is clearly highly speculative and is not something that can be afforded any weight in the context of this Appeal, which must be determined on the basis of current policy at the national and local level and the circumstances of the case. It does not meet the test set out in paragraph 49 of the NPPF.
- 12.20 Indeed, the consequences of deferring consideration of these issues would be a further erosion in the supply of deliverable housing sites and housing delivery, which repeated Inspectors have referenced as extreme and persistent. It simply cannot be right to defer such decisions further and watch the already dwindling supply position, with consequent issues of access to housing and affordability, to become even worse. This is highlighted in the evidence by Annie Gingell (CD4.80).

13 PLANNING OBLIGATIONS AND CONDITIONS

- 13.1 The Appeal is accompanied by a draft s106 planning obligation in the form of an agreement with SACDC and HCC and a set of draft planning conditions which have each been the subject of discussion between the Council and the Appellant and where relevant with HCC. Both are set out in the SoCG.
- 13.2 The planning obligation contains the following commitments:
- a) Affordable Housing: comprising of 100% housing units to be as defined by the National Planning Policy Framework to be provided for key workers whose needs are not met by the private market and include
 - i. Discounted Markets Sales Housing;
 - ii. First Homes;
 - iii. Self-Build and Custom House Building Plots;
 - iv. The discounted market rate to be at least 33.33%.
 - b) Biodiversity offset (if required);
 - c) Financial contributions to the following:
 - i. East of England Ambulance Service contribution;
 - ii. Leisure and Cultural Centres Contribution;
 - iii. Library contribution;
 - iv. NHS contribution;
 - v. Play area contribution;
 - vi. Primary Education Contribution;
 - vii. Secondary education contribution;
 - viii. Special Educational Need and Disabilities Contribution;
 - ix. Waste;
 - x. Youth contribution.
 - d) The management of the public open space by an open space management company according to an appropriate management scheme;
 - e) The provision of a public rights of way within the site to include a new footpath parallel to Chiswell Green Lane to be offered for adoption as a public right of way;
 - f) Provision of a Travel Plan, to include among other things:

- i. Provision of a resident travel pack setting out sustainable travel options;
 - ii. Provision to residents of the development a sustainable travel voucher;
 - g) Provision of a water scheme to include fire hydrants;
 - h) Provision of the related highway works in conjunction with an associated s278 agreement (see also proposed condition 13);
- 13.3 It should be noted that the bus contribution towards upgrading and enhancing the frequency of the local bus route 321 to the sum of £975,000 in total (£195,000 over 5 years) is committed to form part of the s278 agreement.
- 13.4 These commitments ensure that the key benefits of the Appeal proposals can be secured and incorporate the relevant clauses to ensure that these benefits will endure for the duration of development.
- 13.5 This also provides for the payment of financial contributions for the requested public infrastructure and services. While these are in an agreed form, these are subject to confirmation by the Inspector that they meet the relevant compliance tests.
- 13.6 In relation to the 'Biodiversity Offset' contribution, this is a standard clause included by the Council to ensure that where a site cannot meet the BNG commitments on site, then there is a mechanism baked into the s106 which provides for such biodiversity gains to be delivered off-site through a contribution to an appropriate District wide scheme.
- 13.7 In this case however, the Appeal site comprises predominantly improved grassland that has been tightly grazed by horses over an extended period. While no BNG metric has currently been undertaken, as this must clearly respond to the detail of any landscape and biodiversity scheme at reserved matters stage, it is reasonably concluded that a 10% BNG can be achieved on site through the inclusion of native woodland, hedgerow and meadow as part of that landscape scheme. The size of the site and the level of open space proposed allow flexibility for this to be achieved. It is therefore, assumed that the offset will not be required to ensure the BNG provision. The offset is however included as a precaution as part of the standard s106 to ensure that this is achieved.
- 13.8 The planning conditions provide, among other things, for the following:
- a) Approved plans;
 - b) Submission of reserved matters, including
 - i. Layout;
 - ii. Design;
 - iii. Landscaping;

- iv. Scale;
 - v. Appearance.
- c) Phasing;
 - d) Provision of off-site highway works;
 - e) Key infrastructure;
 - f) Housing mix;
 - g) Travel Plan;
 - h) Pre commencement archaeological evaluation; and
 - i) Minerals recovery.
- 13.9 These conditions therefore ensure that these matters can be delivered at reserved matters stage and provide the Council and stakeholders with the reassurance that the development will be undertaken in a positive manner and will be consistent with the principles of good design.
- 13.10 As such I consider the Appeal proposals to comply with Policy 143B and capable of delivering the required infrastructure, subject to completion of the draft s106 agreement.

14 CONCLUSIONS

Sustainable Development

- 15.1 Section 38 (6) of the Planning and Compulsory Purchase Act 2004 and Section 70 (2) of the Town and Country Planning Act 1990 require that determination must be made in accordance with the development plan unless material considerations indicate otherwise. The Courts have held that Government policy in the form of the NPPF is a material consideration in planning decisions as well as forming the context for development plan policy.
- 15.2 Section 39(2) of the above Act imposes a statutory duty of contributing to the achievement of sustainable development and, further to this, paragraph 7 of the NPPF identifies the purpose of the planning system as being to contribute to the achievement of sustainable development.
- 15.3 This should be a positive process. It should involve the achievement of positive progress in meeting the community's need for development in a way that integrates social, environmental and economic objectives. A key part of these fundamental principles is that housing needs should be met. While they should be met in a way that as far as possible integrates the supply of new homes with economic, social and environmental policies, as a starting point, the planning system should operate on the basis that these needs should be met.
- 15.4 This involves making the difficult decisions necessary to balance the competing interests for the use and development of land. These difficult decisions have been repeatedly ducked by St Albans City and District Council. This is recorded in the repeated comments of Inspectors and in the correspondence with the Secretary of State. It has been recognised in relevant recent Appeal decisions which have highlighted the acute and persistent under-delivery of housing within the District and which have on each occasion concluded that Very Special Circumstances exist in those cases, that justified the grant of planning permission and release of Green Belt sites as the only viable way of meeting some of these housing needs.
- 15.5 There is no plan-led system in St Albans. The Local Plan is grossly out of date, having been adopted in 1994 and with an original plan period up to 1996. It is common ground that no weight can be given to any proposed future Local Plan as no relevant documents have yet been published.
- 15.6 It is my view that the only way that this can be addressed in the short term is through the applications and Appeals process. It is in this context that this Appeal must be determined.
- 15.7 It is my further view that the Appeal proposals constitute Very Special Circumstances for the reasons set out in my evidence and by Brian Parker and Annie Gingell on behalf of the Appellant.
- 15.8 The Appeal proposals are well considered, thoughtful and offer a high-quality development achieve the aims of the NPPF in a manner that delivers very substantial planning benefits. These benefits chime with the very values that were there at the origin of the planning system in 1919.

15.9 The evidence by Annie Gingell (CD4.80) highlights the widespread and serious impact that the shortage of housing, of affordable housing and key worker housing creates for the country as a whole and for the local community. It undermines the economy, the provision of public services and the life chances of so many and in so many ways. It exacerbates the cost of living crisis, compounding problems of affordability and increasingly making the cost and availability of housing a major negative factor and uncertainty in people's lives.

15.10 The shortage of housing, especially one as acute as in this case, affects our economy, social progress and adversely impacts the quality of our environment. It undermines the principle of sustainable development and is the antithesis of what Government policies and the planning system set out to do.

15.11 In this case, to address these needs, the Appeal proposals achieve:

Economic benefits – in the supply of new homes which addresses unmet housing need, supports employers by enhanced recruitment and retention, invests in construction and the supply of goods and services which are important parts of the local (and national) economy and supports enhanced spending and tax revenues from the additional population served (which in turn supports further improvement in services).

Social benefits – improving access to decent homes and reducing the current extreme inequalities evidenced in the District, providing much needed affordable homes, enhancing access to first homes, supporting the vital role in society performed by key workers, which underpin the performance of many of the essential local services on which society depends, alleviating some of the indirect social consequences of a lack of affordable homes which adversely impacts health and wellbeing.

Environmental benefits – by focussing development in a sustainable location with ready access to a range of goods and services, where its environmental impact is minimised (the site is not the subject of any environmental, heritage, nature or landscape designations) and where the benefits can be maximised, through additional tree planting, meadow planting, the creation of a new Memorial Park and new public access and rights of way, the creation of enhanced pedestrian and cycle links within Chiswell Green and direct support for enhanced bus services that support sustainable transport choices for the whole community.

Very Special Circumstances

15.12 These broader planning considerations that underpin the assessment of sustainable development are also clearly material to the overall planning balance when considering whether Very Special Circumstances exist that would justify the Appeal proposals.

15.13 It is agreed with the Council that the policies most relevant in these Appeals are to be considered out of date and the additional presumption in paragraph 11 d) of the NPPF applies, subject only to the

consideration of whether Very Special Circumstances apply under the terms of the NPPF paragraph 147 and 148.

15.14 Part of the consideration of whether Very Special Circumstances exist must relate to the overall situation within St Albans City and District.

15.15 The age of the Local Plan, the effective lack of any form of plan led system, the repeated failure to see through past attempts to deliver a new plan and the repeated failure to grasp the nettle and take the decisions necessary to provide a coherent strategy for the review of Green Belt and policies that meet housing (and other) needs, must all be given substantial weight in any decision on this Appeal. In effect, other than this (and the conjoined) Appeal, there are no alternatives currently available to address housing needs, and in particular the need for affordable key worker housing.

15.16 I have set out my assessment of the planning balance in this case in section 10. In essence I have concluded that in respect of harm:

- a) The harm due to inappropriateness should be accorded **substantial weight**;
- b) The harm to openness attracts **moderate to substantial weight**;
- c) Harm to the objective of preventing unrestricted sprawl of large built up areas should be accorded **no weight**;
- d) Harm to the objective of preventing towns merging should be accorded **no weight**; and
- e) Harm to the safeguarding of the countryside from encroachment should be accorded **moderate weight**.

15.17 Set against this, I have also concluded that:

- a) The contribution to meeting unmet housing need I accord **very substantial weight**;
- b) The contribution to affordable housing I attach **very substantial weight**;
- c) The contribution to key worker affordable housing I attach **very substantial weight**;
- d) The benefit of the contribution to self-build plots I accord **substantial weight**;
- e) The economic benefits I accord **substantial weight**;
- f) The benefit to public access I accord **moderate weight**; and
- g) The benefit to pedestrian and cycle accessibility within Chiswell Green I accord **moderate weight**

15.18 In my judgement therefore, the very substantial benefits of the Appeal proposals clearly outweigh the harm to the Green Belt and any other harm in this case and **do clearly and convincingly constitute Very Special Circumstances** under the terms of paragraphs 147 and 148 of the NPPF that justify the

Appeal proposals.

15.19 As such, the positive presumption is engaged and for the reasons set out within my evidence and that of the other witnesses for the Appellant, I would respectfully request that the Appeal be allowed.