

**Document: CD 4.81.1 Summary Proof - Planning Balance**

**TOWN AND COUNTRY PLANNING ACT 1990**

**APPEAL REFERENCE: Appeal APP/B1930/W/22/3312277**

**LPA REFERENCE: 5/2021/3194**

**PROOF OF EVIDENCE OF: STEVEN FIDGETT BSc (Hons) DipTP (Dist) MRTPI  
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**

## **1. PERSONAL BACKGROUND**

- 1.1 My name is Steven Fidgett. I am a member of the RTPI and have a Bachelor of Science (Honours) Degree in Town Planning Studies and Diploma (Distinction) in Town Planning. I am a Director of Union4 Planning, an independent planning consultancy based in London.
- 1.2 I am familiar with the appeal site and the surrounding area. I am instructed by McPartland Planning and Headlands Way Ltd. The evidence I have prepared and set out for this appeal in this Summary Proof of Evidence and Proof (CD 4.81), is to the best of my knowledge true and given in accordance with the guidance of my professional institution, the 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.
- 1.3 The evidence set out within this Proof of Evidence CD4.81.1 should be read alongside my main Proof CD4.81, 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 a mix of First Homes, Shared Ownership Homes and Discounted Market Sales, as well as 5% self/custom build.
- 2.2 The vision for Addison Park stems from the very inception of the planning system, with its commitment to 'homes fit for heroes'. This was behind the emergence of the first Housing and Planning Act in 1919, sponsored by Dr Christopher Addison. 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).
- 2.3 The appeal proposals are in my view, 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. 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.

## **3. THE 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 development plan 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;
- 3.2 The Local Plan in this case is however, 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.
- 3.3 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.
- 3.4 The St Stephens Parish Neighbourhood Plan (SSPNP) was prepared in the context of the 1994 Local Plan and 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 SSPNP.
- 3.5 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.

#### **4. NATIONAL PLANNING POLICY**

- 4.1 The purpose of the planning system is to contribute to the achievement of sustainable development. The NPPF defines three overarching and integrated objectives to achieve sustainable development, which are economic growth, social progress and environmental enhancement. These should be integrated such that development achieves each objective.
- 4.2 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.
- 4.3 Paragraph 60 of the NPPF makes 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.
- 4.4 It is common ground that there is no 5 year housing land supply and that the relevant policies of the development plan are therefore out of date. Under the terms of paragraph 11 of the NPPF, where this is the case, permission should be granted unless specific policies of the NPPF indicate otherwise, the 'tilted balance'.

- 4.5 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.
- 4.6 Paragraph 137 NPPF confirms that the Government attaches great importance to Green Belts and their purposes. 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:
- 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.
- 4.7 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.
- 4.8 I consider that the Appeal proposals do constitute Very Special Circumstances for the reasons set out in section 10 of my evidence.

## **5. POLICY ASSESSMENT**

- 5.1 The only policies with which the Council allege there is conflict in their SoC (CD 5.1 [5.4]) are:
- 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
  - Policy 143B – Implementation.
- 5.2 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 relevant policies are out of date.
- 5.3 It is common ground in respect of any new Local Plan review that:
- a) no weight can be attributed to the review of the Local Plan in this Appeal; and that
  - b) the Council cannot show a 5-year housing land supply, with the position at 2 years supply (CD 8.7).
  - c) Housing delivery has been persistently well below housing need.
  - d) 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.
- 5.4 It is clear from the evidence (CD 4.77) that there has been a persistent failure by the 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 fumbled or 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.

5.5 In the 1994 Local Plan, Chiswell Green is identified as a Specified Settlement, excluded from the Green Belt, one of the larger villages with a local centre and range of shops and public services. It has good access to sustainable transport options, including pedestrian and cycle routes, bus routes and rail connections all within walking distance of the Appeal site. 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. The Appeal site is not subject to any designation for landscape, ecology, flood risk or other purposes.

5.6 It has thus, 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.

5.7 I consider these issues in sections 8, 9 and 10 of my evidence.

## **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 failure to bring forward a Local Plan that accords with Government policy and provides for a plan-led approach to the proper planning of the area. It has failed to meet housing needs and has led to a significant crisis in local access to housing and increasingly unaffordable house prices. I have set out the considerations that lead me to this conclusion in section 6 of my evidence.

## **7. RECENT RELEVANT DECISIONS**

7.1 I have referred in section 7 of my evidence to a number of recent Appeal and Council decisions that are relevant to this Appeal and which support my assessment of the circumstances and issues in this case. These underline the scale of the local housing crisis and evidence the presence of Very Special Circumstances in those cases.

## **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 largely<sup>1</sup> inappropriate in the Green Belt.

8.2 I have in section 8 of my evidence considered in principle harm as well as actual harm to the purposes of the Green Belt and its openness. I have also considered the impact on agricultural land and transport issues.

8.3 I summarise the impact on the Green Belt and any other harm arising from the Appeal proposals in section 10 below.

## **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. On 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.

9.2 I summarise the main benefits of the Appeal proposals in section 10 below.

## **10. THE PLANNING BALANCE**

10.1 It is agreed 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 exist, under the terms of the NPPF paragraph 147 and 148.

10.2 Part of the consideration of whether Very Special Circumstances exist relates to the situation within St Albans City and District. The age of the Local Plan, the lack of any form of plan led system, the failure to deliver a new plan and lack of a coherent strategy for the review of Green Belt and policies that meet housing needs, must 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.

10.3 I have set out my assessment of the planning balance in this case in section 10 of my evidence. 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**;

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<sup>1</sup> 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.

- 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**.

10.4 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**

10.5 In my judgement therefore, the very substantial benefits of the Appeal proposals 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.

10.6 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 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 Appeals, I have considered the relationship between the respective schemes. 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 in my evidence. 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.

## **12. OTHER REPRESENTATIONS**

12.1 I have assessed the main themes arising from representations including KCG. This includes precedent or 'gateway development', affordable housing uncertainty, integration in the community, transport, prematurity and related issues. I conclude that the Appeal proposals are acceptable and that there are no issues which would form a basis for withholding planning consent in this case.

**13. PLANNING OBLIGATIONS AND CONDITIONS**

13.1 The Appeal is accompanied by a set of proposed conditions and a draft s106 agreement which set out the measures that will deliver the associated infrastructure and controls necessary to ensure a high quality of development that is sustainable.

**14. CONCLUSIONS**

14.1 There is a statutory duty to contribute to the achievement of sustainable development, reinforced in the NPPF. This should be a positive process that sets out to meet 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.

14.2 This requires difficult decisions necessary to balance the competing interests for the use of land.

14.3 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.

14.4 The only way that this can be addressed in the short term is through this Appeals process. There are no current alternatives. It is in this context that this Appeal must be determined.

14.5 It is my view that the Appeal proposals constitute Very Special Circumstances for the reasons set out in the evidence for the Appellant.

14.6 The 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. They are sustainable development.

14.7 The evidence by Brian Parker and Annie Gingell (CD4.77 and CD4.80) highlights the serious impact that the shortage of housing, of affordable housing and key worker housing creates for the community and the country. The shortage of housing, especially one as acute as in this case, affects the 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 policy and the planning system set out to achieve.

14.8 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 through enhanced recruitment and retention, invests in construction and the supply chain in important parts of the 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 homes and reducing the inequalities evidenced in the District, providing much needed affordable homes, enhancing access to First Homes, supporting the role in society performed by key workers, who underpin the performance of many essential local services and alleviating some of the indirect social consequences that a lack of affordable homes causes for health and wellbeing.

**Environmental benefits** – by focussing development in a sustainable location with access to a range of services, where environmental impact is minimised 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.

14.9 I conclude that the Appeal proposals do constitute Very Special Circumstances under the terms of the NPPF and the positive presumption is engaged. For the reasons set out within my evidence and that of the other witnesses for the Appellant, I would respectfully request therefore, that the Appeal be allowed.