

Affordable Housing Rebuttal Proof of Evidence of Annie Gingell BSc (Hons) MSc MRTPI

St Stephens Green Farm, Chiswell Green Lane, St
Albans, Hertfordshire

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

St Stephens Green Farm, Chiswell Green Lane, St Albans, Hertfordshire

Mr S Collins, Headlands Way Limited

April 2023

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Contents

Section 1	Introduction	1
Section 2	Rebuttal Evidence	2

Appendices

Appendix AGr1	Jubilee Square Press Release (17 March 2023)	
Appendix AGr2	ONS Annual full-time gross pay by occupation (April 2022)	

Introduction

Section 1

- 1.1 This short rebuttal evidence is submitted in response to the St Albans City and District Council's Planning Proof of Evidence of Mr Stephen Connell.
- 1.2 The specific concerns which necessitate this rebuttal evidence relate to the need to clarify the evidence provided in respect of:
- The affordable housing offer;
 - Key worker affordable housing needs;
 - Key worker affordability; and
 - The weight to be attributed to the proposed affordable housing provision.
- 1.3 I do not comment on other matters contained within the Council's Proofs of Evidence, but the lack of comment should not be construed as agreement.
- 1.4 I have to say the Council's lack of engagement with the appellants on the terms of Section 106 agreement ("S.106") is disappointing. Much of Mr Connell's comments are fully addressed by the proposed definitions and clauses contained therein.

Rebuttal Evidence

Section 2

Affordable Housing Offer

- 2.1 Mr Connell sets out at his paragraph 4.45 (**CD5.2**) that the 330 affordable homes proposed at the appeal site *“would be discounted by a third from market rates.”* To clarify, each of the properties will be discounted by at least a third of open market value, as clearly set out in the accompanying S.106.
- 2.2 At paragraph 4.46 it is noted that:
- “The ‘Key Workers’ for whom the housing would be provided would meet the NPPF definition of ‘essential local workers’, being “Public sector employees who provide frontline services in areas including health, education and community safety – such as NHS staff, teachers, police, firefighters and military personnel, social care and childcare workers.”*
- 2.3 Whilst Mr Connell recognises that the proposed key workers meet the NPPF¹ definition of ‘essential local workers’, he fails to set out that, in the context of the appeal proposals, the key worker households eligible for the proposed dwellings are defined in the S.106 as *“Members of the Armed Forces and Key Workers as defined in paragraph 5.12 of the Council’s Affordable Housing Supplementary Planning Guidance (March 2004)”*.
- 2.4 Furthermore, the proposed S.106 includes the following system of priority and order of preference for households who meet the key worker eligibility criteria:
- a) *“Key Workers living or working in St Albans or members of the armed forces;*
 - b) *Key Workers living or working in Dacorum or Watford;*
 - c) *Key Workers living or working in Three Rivers or Hertsmere;*
 - d) *Key Workers living or working in Hertfordshire; and*

¹ National Planning Policy Framework (2021)

e) *In the event that no eligible Key Workers apply to purchase a home ownership affordable house it will be made available on a Shared Ownership basis via the AHP.”*

- 2.5 The appellants have deliberately sought to include the above system of priority and order of preference to ensure that the proposed dwellings are occupied exclusively by eligible key worker households. This clause also ensures that key workers living and/or working in St Albans District are prioritised in the first instance.
- 2.6 Paragraph 4.46 goes on to note that 25% of the properties (up to 83 units) will be provided as First Homes in line with the PPG². Mr Connell does not, however, acknowledge that the remaining 247 properties will be provided as a mix of Shared Ownership dwellings, and Discount Market Sale properties as set out in the S.106.
- 2.7 For clarity, the offer comprises:
- 25% First Homes (discounted by at least a third of open market value);
 - Shared Ownership dwellings (discounted by at least a third of open market value); and
 - Discount Market Sale properties (discounted by at least a third of open market value).

Key Worker Affordable Housing Needs

- 2.8 At paragraph 4.48, Mr Connell seeks to criticise the Affordable Housing Needs Assessment submitted by the appellant at application stage. As set out at paragraph 9.7 of my main Proof of Evidence (**CD4.80**), I do not seek to rely upon this assessment, instead relying upon my own analysis in Section 11 of my main Proof of Evidence.
- 2.9 For the avoidance of doubt, my analysis finds that many key worker households do not earn enough to be able to purchase a property on the open housing market. It also demonstrates that many key worker households earn too much to be eligible for social / affordable rented housing.
- 2.10 These people represent the hidden middle whose needs have largely been forgotten about by the Council. My analysis estimates that within the St Albans Local Authority area alone there are as many as 27,089 key workers falling within this gap. Across Hertfordshire, this figure could be as high as c. 250,000 key workers.

² Planning Policy Guidance (on going updates)

2.11 This demographic of people clearly makes up a significant proportion of the population for the area and whose needs the Council is currently failing address. With this in mind, it is worth reiterating that Annex 2 of the NPPF clearly defines affordable housing as:

“housing for sale or rent, for those whose needs are not met by the market (including housing that provides a subsidised route to home ownership and/or is for essential local workers)” (my emphasis).

2.12 Paragraph 4.49 of Mr Connell’s evidence notes that *“The Appellant criticizes the Council for not attempting to measure housing needs of Key Workers, however there is no requirement to carry out a separate assessment for key workers in national policy or guidance.”*

2.13 Whilst not explicitly stated, paragraph 62 of the NPPF is clear that:

“the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies (including, but not limited to, those who require affordable housing...”

2.14 When this is viewed in light of the fact that *“essential local workers”* (aka key workers) are the only demographic of people explicitly cited in the Annex 2 definition of *“affordable housing”*, it is reasonable to conclude that national policy does in fact imply the Council should be seeking to understand the housing needs of key workers, when setting policies in local plans to meet their needs. This Council has no way of knowing the level of need and no policy to address the needs.

2.15 Irrespective of this, Mr Connell’s paragraph 4.49 is clear that *“there is no dispute that there is a need for housing for key workers”*, a position the appellants wholeheartedly agree with, concluding that *“The question is whether this development will help meet that need or not.”* I deal with the issue of affordability at the appeal site in the subsequent section.

Key Worker Affordability

2.16 At paragraph 4.50, Mr Connell provides the following extract from the Council’s Strategic Housing Manager’s consultation response to the planning application:

“... there is no evidence that these homes will be meet the demand for affordable rented properties or that there is a demand for such a large development or how genuinely affordable these properties will be in an area of such high house prices.”

- 2.17 It is unclear why the Strategic Housing Manager sought evidence that the proposals would meet demand for affordable rented properties given that the development has always been proposed wholly as routes to affordable home ownership. Furthermore, there is no adopted nor emerging policy requiring the appeal proposals to provide affordable rented properties.
- 2.18 When this is viewed in light of the fact that neither the NPPF nor the PPG seek to rank provision of one form of affordable housing over another, as recognised by Inspector Manning in the Hawkhurst decision (**CD9.19**, p22, [114]) and Inspector Griffiths in the Manor Road decision (**CD9.13**, p7, [34]), it is clear that the Council has not sought to apply local and national policy correctly.
- 2.19 Evidently, the Council has not engaged with the appeal proposals in any meaningful way. This perhaps explains the current lack of engagement with the S.106 discussions.
- 2.20 In respect of the comments made regarding the location of the appeal site in a high value area, it is the appellants' view that the fact Chiswell Green is a high value area³ makes it more important that affordable tenures of various types (as proposed) are provided at this location. The importance of providing affordable tenures in high value areas for housing was recognised by the Inspector in the Filands Road/Jenner Lane appeal decision (**CD9.18**, p17, [78-79]), where a colleague at Tetlow King Planning provided the affordable housing evidence on behalf of the appellants.
- 2.21 Mr Connell's paragraph's 4.51 states that "*it has not been evidenced that key workers will be able to obtain a home even with a discount of 33%*", going on to note that the 2020 LHNA⁴ (**CD8.35**) finds that a discount above 33% would be required to make discounted market sale properties affordable.
- 2.22 Once again, the S.106 is clear that the properties will be discounted by at least a third of open market value. As such the proposed dwellings at the appeal site will provide a level of discount in line with the 2020 LHNA's recommendations. In any case, the 2020 LHNA, has not been subject to peer review, is yet to be tested at examination, maybe subject to updates and, therefore, I consider its findings should be afforded limited weight in the planning balance.
- 2.23 Paragraph 4.52 of Mr Connell's evidence asserts that "*It is not clear at the point of writing whether the development proposes Shared Ownership Housing*". It would appear that Mr Connell did not read the draft S.106 before writing his evidence, as

³ See Section 10 of my main Proof of Evidence (4.80)

⁴ South West Hertfordshire Local Housing Need Assessment published in September 2020 by GL Hearn

Shared Ownership is clearly provided for within that document, once again demonstrating the Council's lack of true engagement.

- 2.24 The paragraph goes on to cite paragraph 5.193 of the 2020 LHNA, which states that:
- “... the likely OMV of housing makes it difficult to see how a shared ownership product could have a level of outgoings equivalent to accessing the private rented sector. This does not mean that shared ownership should not be provided in St. Albans (clearly such a product has some advantages, such as lower deposit requirements). However, it does suggest that shared ownership schemes are likely to mainly be available to households with higher incomes (within the rent/buy gap)”* (my emphasis).
- 2.25 Section 11 of my evidence clearly demonstrates that many key worker households cannot afford to buy on the open market, nor do they qualify for social / affordable rented accommodation due to higher household income levels. The appeal proposals are therefore *“likely to mainly be available to households with higher incomes (within the rent/buy gap)”*.
- 2.26 It is worth noting that, on 17 March 2023, the Council published a press release (**Appendix AGr1**) announcing that the Council was in the final stages of negotiating the sale of all the residential properties at the Jubilee Square development (Ref: 5/2020/1773) to Watford Community Housing; who plan to make 33 available for social rent and sell 60 of the 93 apartments on a shared-ownership basis with support from Homes England.
- 2.27 In the press release Councillor Chris White, the Council Leader, said:
- “I am pleased that we have been able to sell the apartments to Watford Community Housing as it is an excellent deal for our residents.*
- It provides an opportunity for young people and key workers to be able to purchase some of the flats on shared ownership terms, something we were unable to do as a Council”* (my emphasis).
- 2.28 This statement directly contradicts the views expressed by the Council at this Inquiry in respect of the affordability of Shared Ownership properties for key worker households at appeal site. Furthermore, as far as I can see, there is no legal agreement for Jubilee Square that explicitly restricts the proposed development to key worker households, or “young people” for that matter.

2.29 Moreover, Councillor White’s statement is potentially misleading in that it is claimed that this development represents “*an excellent deal for our residents*”, without making it clear that the properties will be available to any household who meets the standard Shared Ownership criteria, and that there is no local connection criteria, meaning there is a possibility that *all the dwellings could be occupied by households who do not currently reside within the District.* (my emphasis).

2.30 It is also noteworthy that there is no proposed discount from open market value for the Shared Ownership properties at the Jubilee Square development. Figure 2.1 below compares the sale price and eligibility criteria for the Shared Ownership properties at the two sites.

Figure 2.1: Shared Ownership sale price and eligibility criteria comparison

Criteria	Addison Park	Jubilee Square
Discount	At least 33% of Open Market Value	None
Sale Price	Open market value at point of sale (minus discount)	Open market value at point of sale
Eligibility	<ul style="list-style-type: none"> • Must be Key Worker household. • Must meet local connection criteria. • Combined annual household income must not exceed £80,000. • Eligibility must be confirmed by relevant Help to Buy Agent. 	<ul style="list-style-type: none"> • Combined annual household income must not exceed £80,000. • Eligibility must be confirmed by relevant Help to Buy Agent.

Source: Government Capital Funding Guide (April 2022)

2.31 It is wholly unclear how the Council can consider the full value properties at Jubilee Square to be affordable to key workers, yet also take the view that the discounted properties at the appeal site will be unaffordable.

2.32 Figure 2.2 below compares the 2022 median house prices for St Stephen Ward⁵ and MSOA⁶ St Albans 020 (where the appeal site is located) with St Peters Ward and MSOA St Albans 012 (where Jubilee Square is located). It also shows the house prices for St Stephen Ward and MSOA St Albans 020 with the minimum discount of 33% deducted.

⁵ A division of a city or town, for representative, electoral, or administrative purposes.

⁶ Middle Layer Super Output Area’s (“MSOA”): A geographic hierarchy designed to improve the reporting of small area statistics in England and Wales. MSOAs have a minimum population of 5,000 households and a mean population of 7,200 households.

Figure 2.2: MOSA and Ward Median House Price Comparison

St Peters Ward	St Stephen Ward	Difference	
	Median (minus 33%)	Numerical	Percentage
£515,000	£700,000 (£469,000)	-£46,000	-9%
MSOA St Albans 012	MOSA St Albans 020	Difference	
	Median (minus 33%)	Numerical	Percentage
£515,000	£687,500 (£460,625)	-£54,375	-11%

Source: ONS HPSSA Datasets

- 2.33 The above figures demonstrate that once the minimum discount of 33% at Addison Park is applied, the median house price in St Stephen Ward is 9% lower than in St Peters Ward. Similarly, the median house price in MOSA St Albans 020 is 11% lower than in MOSA St Albans 012. The higher the discount the larger this disparity will get.
- 2.34 The importance of providing truly affordable properties for key workers is paramount to the appellant. With this in mind the appellant has proposed an additional clause in the S.106 seeking to tie the open market valuation of the Shared Ownership and Discount Market Sale properties to district the median house price, less the minimum discount of 33%.
- 2.35 Figure 2.3 below compares the 2022 median house price for St Albans District (with the minimum discount of 33% deducted) with St Peters Ward (where Jubilee Square is located). It demonstrates that the affordable properties at Addison Park will cost c. £395,300 which is 23% lower than the median house price in St Peters Ward.

Figure 2.3: Median House Price Comparison

St Peters Ward	St Albans	Difference	
	Median (minus 33%)	Numerical	Percentage
£515,000	£590,000 (£395,300)	-£119,700	-23%

Source: ONS HPSSA Datasets

- 2.36 If open market value Shared Ownership properties are affordable to key workers at Jubilee Square, they are manifestly affordable to them at Addison Park; especially given they will be discounted by at least a third of open market value. Once again this demonstrates the Council has failed to properly engage with the appeal proposals.
- 2.37 It also appears that Mr Connell has incorrectly applied the 2020 LHNA income thresholds in his paragraph 4.53. Whilst paragraph 5.50 of the 2020 LHNA does

state that a 35% affordability threshold has been used, the subsequent paragraphs are clear that this to establish households in need of social/affordable rented housing.

2.38 In respect owner occupation affordability paragraph 5.53 is clear that:

“For the purposes of this assessment, the income thresholds for owner-occupation assume a household has a 10% deposit and can secure a mortgage for four and a half times their salary. These assumptions are considered to be broadly in line with typical lending practices although it is recognised that there will be differences on a case by case basis.”

2.39 Mr Connell’s paragraph 4.54 quotes a range of key worker salaries from a senior care worker on £19,983 to a nurse on £39,135 as a basis for asserting that *“even with a 33% discount, anything larger than a one-bedroom unit will be unaffordable for key workers”*. There are two fundamental problems with this approach:

1. Mr Connell only considers salaries at the lower end of the key worker salary spectrum; and
2. Mr Connell only considers individual salaries.

2.40 There is also a third point that some of those key workers may have been able to save for a deposit.

2.41 Regarding the first point, many key workers earn more than the highest salary quoted by Mr Connell. For example, Figure 11.1 of my main Proof of Evidence demonstrates that NHS salaries range from £20,270 up to £91,787. It appears Mr Connell has deliberately selected the occupations quoted in his evidence because they are salaries at the lower end of the pay scale.

2.42 This same source, which can be found at **Appendix AGr2**, also demonstrates that:

- Specialist medical practitioners earn £68,614;
- Head teachers and principals earn £66,686;
- Senior police officers earn £59,141;
- Health services and public health managers and directors earn £50,789;
- Paramedics earn £49,909; and
- Higher education teaching professionals earn £47,300.

2.43 In respect of the second point, my evidence clearly demonstrates at paragraph 11.14 that, in 2021/22 38%, of first-time buyer households were couples without dependent children and 24% were couples with dependent children. Similarly, the Council’s own

Housing Allocations Policy (**CD8.28**, p34) determines eligibility on combined household income. ONS⁷ themselves recognise this approach stating:

“Household income estimates, [...] are a better reflection of the mortgage a household could obtain than individual earnings are⁸.”

2.44 Figure 2.4 below seeks to understand the maximum mortgage available for each of the occupations listed above at paragraph 2.42, using 4.5x income multipliers as set out in the 2020 LHNA. It identifies the combined income for a couple by adding the gross median earnings in 2022 for St Albans.

Figure 2.4: Key worker household incomes

Occupation	Salary	Median Income	Combined Household Income	Maximum Mortgage
Specialist medical practitioner	£68,614	£33,895	£102,509	£461,290.50
Head teacher/principal	£66,686	£33,895	£100,581	£452,614.50
Senior police officer	£59,141	£33,895	£93,036	£418,662.00
Health service/public health manager/director	£50,789	£33,895	£84,684	£381,078.00
Paramedic	£49,909	£33,895	£83,804	£377,118.00
Higher education teaching professional	£47,300	£33,895	£81,195	£365,377.50

Source: ONS Figure 10 – Annual full time gross pay by occupation and ONS Ratio of House Price to Work-place Based Earnings (2022).

2.45 Figure 2.3 demonstrates that each of these key worker household incomes exceed the gross household income limits⁹ for social/ affordable rented housing, but also fall below the income required to purchase a median/ lower quartile priced property¹⁰. Evidently, the appeal proposals would give these households an opportunity to get on the housing ladder. Without the appeal proposals, these households will remain in the rent/buy gap.

2.46 It is particularly noteworthy that once the assumption of a 10% deposit is applied, each of the key worker households in Figure 2.4 would be able to afford a property costing £395,300.

2.47 At paragraph 4.55, Mr Connell notes that there is uncertainty over the extent to which the final housing mix would reflect the type of homes most needed as identified in the 2020 LHNA. As I have already stated, there is no adopted nor emerging policy that

⁷ Office for National Statistics

⁸ Office for National Statistics, Housing Purchase Affordability, Great Britain: 2021

⁹ See Figure 11.4 of my main Proof of Evidence (**4.80**)

¹⁰ See Figures 11.2 and 11.3 of my main Proof of Evidence (**4.80**)

requires the development to comply with the findings of the untested 2020 LHNA. Mr Connell's comment further demonstrates the Council's unwillingness to engage with the appeal proposals.

- 2.48 Mr Connell considers at his paragraph 4.56 that the NPPF's objective to create mixed and balanced communities would not be met as the *"the provision would be solely for 'Key Workers'"*. This is a rather odd position to take as the evidence clearly demonstrates that key workers encompass a wide range of professions at a variety of pay scales. In my opinion, this would intrinsically create a mixed and balance community.
- 2.49 In any case, 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), which does in fact comprise a mixed tenure scheme. This fact seems to have been lost on Mr Connell.

Weight to be Attributed to the Proposed Affordable Housing Provision

- 2.50 Following Mr Connell's wide ranging and unfounded criticisms of the appeal scheme, he concludes, in paragraph 4.57, that whilst the proposed affordable housing provision should be afforded substantial weight, this should be at the lower end of the scale. This statement directly conflicts with the comments made in the Officer Report (**CD4.48**) which states, at paragraph 8.11.23, that:

"Taking the above discussion into account, although the provision of discounted market housing which meets the NPPF definition of 'Affordable housing' is a significant benefit of the scheme and is given very substantial positive weight; the amount of positive weight is slightly reduced due to the factors outlined above. 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).

- 2.51 It is therefore clear that the Council have deliberately sought to downplay the provision of up to 330 affordable homes at the appeal site. It is my view that provision of affordable housing is a clear benefit which should be afforded **very substantial weight** in the determination of this appeal.

Conclusion

- 2.52 Overall, and considering the key findings of my main evidence and the acute need for affordable housing across the St Albans administrative area, coupled with the lack of suitable alternatives for key worker households, I remain of the firm opinion that the affordable homes to be provided as part of the appeal proposals should be afforded **very substantial weight** in the determination of this appeal.