

TOWN AND COUNTRY PLANNING ACT 1990 (as amended)
Town and Country Planning (Inquiry Procedure) (England) Rules 2000

**STATEMENT OF CASE OF ST. ALBANS CITY AND
DISTRICT COUNCIL**

**APPEAL BY Alban Developments Limited and Alban Peter
Pearson, CALA Homes (Chiltern) Ltd and Redington
Capital Ltd**

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

JANUARY 2023

PLANNING INSPECTORATE REFERENCE: APP/B1930/W/22/3313110

LPA REFERENCE: 5/2022/0927

2.0 INTRODUCTION AND BACKGROUND

- 2.1 This Statement of Case is submitted on behalf of the Local Planning Authority, St. Albans City and District Council (“the Council”). The appeal is against the decision of the Council to refuse an application for Outline planning permission (access sought) for the demolition of existing structures and construction of up to 391 dwellings (Use Class C3), provision of land for a new 2FE Primary School, Open Space provision and associated landscaping internal roads parking footpaths cycleways drainage utilities and service infrastructure and new access arrangements on a site that lies outside the settlement limits of Chiswell Green, within the open countryside designated as Green Belt.
- 2.2 The application was reported to the Council’s Planning Development Management Committee which resolved not to accept the recommendation of Officers to approve planning permission. The permission was refused on 6th December 2022.
- 2.3 The Reasons for Refusal (“RfR”) are set out in the Decision Notice attached to [CD 3.7].
- 2.4 For the sake of consistency, the Council will seek to agree with the Appellant the range of weight to be given to planning considerations.

3.0 THE SITE AND ITS SURROUNDINGS AND PLANNING HISTORY

3.1 The Council will seek to agree a full description of the site and its surroundings in the SoCG. However, it is considered that the description in the Committee Report sets this out in full.

3.2 There have been many applications and appeal decisions received in the past for developments within the immediate and wider area. These matters will be dealt with in full within the SoCG and/ or Proof of Evidence(s).

4.0 THE PROPOSAL

- 4.1 The application, the subject of this appeal, seeks outline permission for the following:

Outline planning permission (access sought) for the demolition of existing structures and construction of up to 391 dwellings (Use Class C3), provision of land for a new 2FE Primary School, Open Space provision and associated landscaping internal roads parking footpaths cycleways drainage utilities and service infrastructure and new access arrangements.

5.0 PLANNING POLICY CONTEXT

- 5.1 The development plan for St. Albans comprises the saved policies of the St Albans Local Plan (1994).
- 5.2 Other relevant planning policies that are material considerations in the determination of this appeal those within the National Planning Policy Framework recently revised in July 2021. There is also relevant guidance within the National Planning Practice Guidance.

St Albans District Local Plan Review 1994 (LP)

5.3 Relevant policies are listed below:

Policy 1 – *Metropolitan Green Belt*;

Policy 34 – Highways Considerations in Development Control;

Policy 35 – Highways Improvements In Association with Development

Policy 39 – Parking Standards, General Requirements;

Policy 69 – General Design and Layout;

Policy 70 – Design and Layout of New Housing;

Policy 74 – Landscaping and Trees Preservation;

Policy 84a Drainage Infrastructure;

Policy 97 – Existing Footpaths, Bridleways and Cycleways;

Policy 102 – Loss of Agricultural Land

Policy 106 – Nature Conservation;

Policy 111 – Archaeological Sites;

Policy 143b – Implementation; and

Revised Parking Policies and Standards, January 2002.

5.4 The Council considers that the proposed development conflicts with the following policies:

Policy 1 – Metropolitan Green Belt;

Policy 143B - Implementation

St Stephen Parish Neighbourhood Plan

5.5 The St Stephen Parish Neighbourhood Plan (“NP”) has been fully adopted on 20th July 2022 and form parts of the Development Plan for the Council. The relevant policy is -

- *S1: Location of development*

National Planning Policy Framework

5.6 This document sets out the Government’s policies for the delivery of sustainable development.

5.7 The following sections of the Framework are of relevance to the appeal proposal.

- Section 1 – Introduction
- Section 2 - Achieving sustainable development
- Section 5 – Delivering a sufficient supply of homes
- Section 12 – Achieving well-designed places
- Section 13 – Protecting Green Belt land

- Section 15 – Conserving and enhancing the natural environment
- Section 16 – Conserving and enhancing the historic environment

5.8 Paragraph 11 sets out the presumption in favour of sustainable development. Paragraph 11d indicates that the presumption means for decision making:

“where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date⁸, granting permission 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.”*

5.9 Footnote 8 states that in the situation where the local planning authority is unable to demonstrate a five-year supply of deliverable housing land then the policies which are most important for determining the application are deemed to be out of date. Footnote 7 indicates, where relevant:

“the policies referred to are those in this Framework (rather than those in development plans) relating to... land designated as Green Belt...designated heritage assets...”

5.10 Therefore, for decision-taking relating to land the Green Belt or affecting a designated heritage asset, it is first necessary to determine whether the application of Green Belt policies and heritage policies in the Framework provide a clear reason for refusal under paragraph 11 (d) (i). If they do, the application is not assessed against the tilted balance set out in paragraph 11(d)(ii) of the Framework.

5.11 The Framework stipulates at paragraph 147 that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in Very Special Circumstances. Paragraph 148 confirms that substantial weight is given to any harm to the Green Belt. ‘Very Special Circumstances (“VSC”) 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.

National Planning Practice Guidance

Green Belt

5.12 ID 64-001-20190722 – what factors can be taken into account when considering the potential impact of development on the openness of the Green Belt – include but are not limited to:

- Openness is capable of having both spatial and visual aspects – in other words, the visual impact of the proposal may be relevant as could its volume;
- The duration of the development, and its remediability – taking into account any provisions to return land to its original state or to an equivalent (or improved) state of openness; and
- The degree of activity likely to be generated, such as traffic generation.

Emerging Local Plan

- 5.14 The Framework identifies the weight that may be attributed to emerging Local Plan policies by decision-takers at Paragraph 213. Weight is attributed to the stage of preparation of the emerging plan; the more advanced the preparation, the greater the weight that may be given. The extent to which there are unresolved objections to relevant policies is also a consideration; the less significant the unresolved objections, the greater weight that may be given. Finally, the degree of consistency of the relevant policies in the emerging plan to policies in the Framework is another consideration; the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given.
- 5.15 The previous Local Plan submission was withdrawn following concerns raised by the Examining Inspectors.
- 5.16 Work is being undertaken on a new Local Plan, but at this stage no weight can be attributed to it in the making of planning decisions.

Housing Land Supply

5.17 The Council accept that they are unable to demonstrate a five-year supply of deliverable housing land (2.2 years from a base date of 1st April 2022). Therefore, the policies which are most important for determining the application are deemed out of date by virtue of Footnote 8 of the Framework. The Council position is that the application of Green Belt policies provide a clear reason for refusal and per Footnote 7 of the Framework and therefore the 'tilted balance' in paragraph 11 (d)(ii) is not engaged.

6.0 THE COUNCIL'S CASE

6.1 The site lies outside the city of St. Albans . The site is located on land outside the settlement of Chiswell Green and is therefore within the open countryside and the Metropolitan Green Belt.

6.2 The Council will present evidence to show that the Appeal Site is, largely, not previously developed land (“PDL”).

6.3 Under the provisions of paragraph 149 the proposed development would be inappropriate in the Green Belt.

Effect upon Green Belt Openness and Purposes

6.4 The Appeal Proposal (South) would be inappropriate within the Green Belt. The Council will set out the policy position relating to development within the Green Belt and will demonstrate that the Appeal Proposals should be regarded as inappropriate development in the Green Belt. It will be shown that the proposed development would not meet any of the exceptions to the definition of inappropriate development in the Green Belt as set out at paragraph 149 of the Framework.

6.5 Evidence will be presented at the Inquiry to show that in addition to harm that would be caused to the Green Belt by reason of inappropriateness there would be other harm resulting from the Appeal Proposal, including:

- Impact of the proposed urban form upon the openness of the area in spatial and visual terms;
- Conflict with two purposes of the Green Belt;

Openness

6.6 The Council will show that the Appeal Proposal (South) would result in an increase in the amount of built form when compared to the existing situation.

6.7 The proposal would introduce built form that would be urban in character and appearance which would lead to the loss of openness in spatial terms.

6.8 In visual terms there would be a loss in openness of the site and the Council will show that this would constitute harm to the Green Belt in addition to inappropriateness resulting in harm to the openness of the Green Belt.

Purposes

- 6.9 It will be demonstrated that the Appeal Proposal (South) would constitute urban encroachment into the countryside designated as Green Belt and would result in significant erosion of the openness close to the edge of the settlement contributing towards urban sprawl in this part of the Green Belt.
- 6.10 Therefore, it will be demonstrated that the Appeal Proposal (South) would conflict with purposes of the Green Belt as set out at Paragraph 138 of the Framework: (1) to check the unrestricted sprawl of large built-up areas, (2) to assist in safeguarding the countryside from encroachment. The proposal is contrary to the Development Plan & NPPF.

Other Harm

Landscape Character

- 6.11 The development will be visible and result in the introduction of development on a greenfield site. The site is located with views that exhibit elements of the existing settlement edge that sits to the east. The landscape evidence will demonstrate that the landscape and visual impacts would appear in the context of the existing built form that sits

locally but will be visible in local views and will affect the current baseline adversely.

- 6.12 When both sites, Appeal Proposal North and Appeal Proposal South are considered as a whole, they will form a larger effect cumulatively than if the sites are considered individually. This cumulative change will be noticeable over a larger area due to the scale of the overall development area.

Loss of Agricultural Land

- 6.13 A submitted Agricultural Land Classification report identifies the majority of the site as being in Class 3A &b, which falls under the classification of the best and most versatile agricultural land. On this basis it will be demonstrated that there is additional harm.

Infrastructure

- 6.14 The second RfR relates to the absence of a legal agreement to secure contributions. The Council will present evidence to show that in the absence of a S106 agreement the development would fail to adequately mitigate its effect upon local services and infrastructure. As such the proposal would fail to comply with Policies 1 and 143B of the

Local Plan and the Framework 2021. Parties are in discussions with a view of securing a legal agreement. It is assumed this element will be resolved.

- 6.15 In summary, the Council is of the view and will demonstrate that VSC do not exist to the extent that they would clearly outweigh the harm to the Green Belt by reason of inappropriateness and other harm that would result from the Appeal Proposal (South) .

Planning Balance

Benefits

- 6.16 Weighing in favour of the development consist of the provision of up to 391 housing units including affordable housing and some self-build plots which would contribute to the housing needs of the Council. Substantial weight is attributed to this provision which takes into consideration its social and economic benefits.
- 6.17 The Appeal Proposal (South) will consist of public open space including cycle and foot path which also has the potential to provide a net increase in Biodiversity. The Appellant considers Moderate weight should be accorded to this provision. It is noted that the Committee report weighs the provision of public open space and children's play space as Limited and bio-diversity enhancements as Moderate.

However, overall, the Council consider limited weight is given to this provision given the quantum and quality increase BNG and that part of the BNG will be off-site contributions (8.15.5 of the Committee Report). In terms of open space provision, no weight is attributed to general landscape mitigation.

6.18 In terms of the provision of land for a new 2FE Primary School. It is noted that the Appellant and the content of the Committee Report consider this benefit to attract Substantial weight. However, the Council considers that Moderate weight should be attributed to this benefit. This is based on the current placement needs, the uncertainty relating to future need (in terms of placements & site specific requirements) and whether this provision should be proposed in this location in any event given the Local Plan is at such an early stage in its preparation.

Balancing exercise and VSC

6.19 The Council will demonstrate that the Appeal Site is not largely PDL and that the current use of the site is not inappropriate development.

6.20 It is common ground that the Appeal Proposals, is inappropriate development in the Green Belt and that, by definition, the proposed development would be harmful to the Green Belt and should not be approved except in VSC.

- 6.21 The Appeal Proposal (South) would also result in loss of openness conflict with two of the five purposes of the Green Belt set out at paragraph 138 of the Framework.
- 6.22 The Appeal Proposal (South) by reason of the quantum of development would also result in harm to landscape character and loss of agricultural land.
- 6.23 In the absence of an agreed legal agreement, the Appeal Proposal (South) would have adverse impact upon the infrastructure. However, it is assumed this matter will be resolved.
- 6.24 The Council will present evidence to show that the acknowledged benefits of the proposed development, which are material considerations, would not constitute VSC that would *clearly* outweigh the harm to the Green Belt by reason of inappropriateness and other harm.
- 6.25 Furthermore, the harm by definition and otherwise would be exacerbated when assessed cumulatively with the harm caused in relation to the Appeal Proposal (North)¹ which is conjoined with the Appeal Proposal (South) the subject of this Statement of Case.

¹ APP/B1930/W/22/3312277

6.26 It will be submitted by the Council that the benefits of the proposed development would not clearly outweigh the identified harm and that the application of the Planning Balance should lead to the refusal of planning permission.

7.0 Documents

7.1 The following documents may be referred to by the Council:

- St Albans Local Plan 1994
- St Albans Annual Monitoring Report
- Housing Delivery Test Action Plan
- Planning obligations guidance – toolkit for Hertfordshire January 2008
- National Planning Policy Framework 2021
- Planning application files
- Photographs and images of the site and area
- Relevant Planning Appeal Decisions & judgements of the courts