

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 MR STEVE COLLINS of HEADLANDS WAY LIMITED

**LAND NORTH OF CHISWELL GREEN LANE, CHISWELL GREEN ST ALBANS
HERTFORDSHIRE AL2 3AJ**

JANUARY 2023

PLANNING INSPECTORATE REFERENCE: APP/B1930/W/22/3312277

LPA REFERENCE: 5/2021/3194

1.0 PROCEDURAL MATTERS

1.1 The Appellant describes the site as: Land North of Chiswell Green Lane, Chiswell Green St Albans Hertfordshire AL2 3AJ. St Albans City and District Council describe the site as: St Stephens Green Farm Chiswell Green Lane St Albans Hertfordshire. The Planning Inspectorate describe the site the same as the Appellants. The Statement of Common Ground (“SoCG”) will agree that the site address should be read as: Land North of Chiswell Green Lane, Chiswell Green, St Albans Hertfordshire AL2 3AJ.

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 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 works including new foot and cycle path and works to junctions (“Appeal Proposals: North”) 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 validated by the Council on the 24 November 2011 and given the reference 5/2021/3194. The application was reported to the Council's Planning Development Management Committee which resolved to accept the recommendation of Officers to refuse planning permission. The decision notice was issued on the 25th October 2022.
- 2.3 The Reasons for Refusal ("RfR") are set out in the Decision Notice attached to [CD 8.1].
- 2.4 This statement should be read in conjunction with the Council's Committee Report.
- 2.5 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, the Council considers the Council's Committee Report sets this out in full.

3.2 There have been many applications and appeal decisions received in the past for developments at the site and 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:

- 330 discounted affordable housing to include an element of self-build homes which will also include public open space and pedestrian and cycle paths.

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.

Affordable housing

5.13 ID: 67-005-20190722 -All Households whose needs are not met by the market and which are eligible for one or more types of affordable housing set out in the definition of affordable housing in Annex 2 of the NPPF are considered to be in affordable housing need

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 draft Local Plan 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 provides 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, 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 (North) 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 several purposes of the Green Belt;

Openness

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

6.7 The proposal would introduce a substantial amount of built form that would be urban in character and appearance which would lead to a 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 (North) 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 (North) 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 prevent neighbouring towns merging into one another and (3) 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 result in the loss of the site which sits removed from the settlement edge to the west. This will lead to the extension of the current settlement edge into the countryside that is currently undeveloped and exhibits characteristics that will be substantially adversely affected by the proposals, both physically and experientially.

- 6.12 The site close to the footpath network, users of which will be directly and substantially affected by the proposals. The development will be visible and result in the introduction of development on a greenfield site. Views are characterised by longer range views to the north west and west from within the site and by filtered views of the settlement edge to the east that is physically separated by fields in agricultural use.
- 6.13 When both sites, 'Appeal Proposal North and Appeal Proposal South' are considered as a whole, they will form a larger impact 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.
- 6.14 The assessment process that has been undertaken in the submitted LVIA has not fully identified the potential effects that will be substantial and adverse.

Loss of Agricultural Land

- 6.15 A submitted Agricultural Land Classification report identifies the majority of the site as being in Class 3A, 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. Limited weight is given to this harm.

Infrastructure

- 6.16 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.
- 6.17 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 (North).

Planning Balance

Benefits

- 6.18 Weighing in favour of the development consist of the provision of up to 330 affordable housing units to include some self-build plots which would contribute to the housing needs of the Council. Substantial weight is given to this provision. However, as the Appeal Proposal (North) is for 100% affordable housing the Council consider that the weight is set at the lower-most end of the spectrum. This matter is dealt with in detail in the officer's report ("OR") Paragraph 8.11[CD 3.1].
- 6.19 The Appeal Proposal (North) 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 consider that substantial weight should be awarded to this provision. However, the Council considers that weight should be attributed to the Memorial Park open space and paths as other landscaping and open space would be considered as mitigation to the impacts. Overall limited weight is given to this provision.

Balancing exercise and VSC

- 6.20 The Council will demonstrate that the Appeal Site is not PDL and that the current use of the site is not inappropriate development.
- 6.21 It is common ground that the Appeal Proposals (North), 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.
- 6.22 The Appeal Proposal (North) would also result in loss of openness and conflict with three of the five purposes of the Green Belt set out at paragraph 138 of the Framework.
- 6.23 The Appeal Proposal (North) by reason of the quantum of development would also result in harm on landscape character and loss of agricultural land.
- 6.24 In the absence of an agreed legal agreement, the Appeal Proposal (North) would have adverse impact upon the infrastructure. However, it is assumed this matter will be resolved.
- 6.25 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.

6.26 Furthermore, the harm by definition and otherwise would be exacerbated when assessed cumulatively with the harm caused in relation to the Appeal Proposal (South)¹ which is conjoined with the Appeal Proposal (North) the subject of this Statement of Case.

6.27 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.

¹ APP/B1930/W/22/3313110

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