

# **ADDISON PARK**

## **SECTION 78 APPEAL BY HEADLANDS WAY LIMITED**

### **LAND NORTH OF CHISWELL GREEN LANE, CHISWELL GREEN, ST ALBANS**

**Planning Inspectorate Ref: APP/B1930/W/22/3312277**

**LPA Ref: 5/2021/3194**

## **CLOSING SUBMISSIONS ON BEHALF OF THE** **APPELLANTS**

### **1. INTRODUCTION**

1. In 1919, the first Housing and Town Planning Act received Royal Assent, a direct response to the nation's demand for "homes fit for heroes" following the Great War (CD 4.21 [2.1]). A century later, millions stood outside their homes to applaud our own, modern-day, "heroes", those who had been fighting on the frontline against the Covid pandemic. It is a bitter irony that, in St Albans, many of the local heroes being applauded could not afford homes of their own to stand outside.
2. "Addison Park" is an equally direct response to the affordable housing crisis made manifest by that sad truth. Named after the Minister for Health who brought in the 1919 Act, it will deliver 330 homes – all of them affordable, and all for Key Workers<sup>1</sup> – offering a route to home ownership for the nurses at St Albans, Watford, and Hemel Hempstead Hospitals; the teachers in the town's Primary and Secondary Schools; the police officers who keep the streets of St Albans safe; and the firefighters who rush to the rescue of local residents.

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<sup>1</sup> Save that the cascade mechanism in the S106 allows, in the highly unlikely event that any Key Worker housing remains unsold 12 months after completion, for sale as Discounted Market Homes without the Key Worker restriction, in order to ensure that there will be no empty homes in the Green Belt, only affordable ones – see: paragraph 54 below.

3. That is, of course, precisely what national planning policy anticipates: the only people specifically identified in the definition of “affordable housing” in the National Planning Policy Framework (“NPPF”) (CD 7.1) are “essential local workers”; and they are identified, moreover, in the particular context of providing them with a subsidised route to home ownership (CD 7.1 [Glossary]).

“Affordable housing is ... 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.”

## 2. ST ALBANS’ PLANNING CRISES

4. I will come on to the extent and nature of the affordable housing crisis in St Albans in greater detail in Sections 4 and 5 below, and how that translates into a housing crisis for Key Workers specifically in Section 6. However, those crises are a direct consequence of other, fundamental, planning and housing crises in St Albans, a place in which the Council is failing not only to deliver the right homes for the right people and in the right places, but failing even to deliver an up-to-date Local Plan in what is meant to be a genuinely Plan-led system (CD 7.1 [15]).

### The Plan-Making Crisis

5. The facts are stark. The extant Local Plan in St Albans, the District Local Plan Review 1994, is the oldest Local Plan in the country<sup>2</sup>. To put its age into context:
  - a. When paragraph 33 of the NPPF (CD 7.1 [33]) states that Local Plans are meant to be reviewed every 5 Years, the St Albans Local Plan effectively expired 22 years ago (Parker CD 4.77 [3.10]).
  - b. It is comprised of policies which have been un-reviewed since they were adopted in 1994 – that is to say:

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<sup>2</sup> At least, Mr Connell could not point to any which are older (Stinchcombe XX).

- i. 27 years before the current version of the NPPF was issued (**Parker CD 4.77 [3.4.iii]**);
    - ii. 23 years before the Government published *“Fixing Our Broken Housing Market”* (CD 7.3) (**Parker CD 4.77 [3.4.ii]**); and
    - iii. 20 years before the Planning Practice Guidance (“PPG”) went online (**Parker CD 4.77 [3.4.i]**).
  - c. Most important of all, the Green Belt boundaries in St Albans have not been revised since 1985, and there are no up-to-date housing targets or undeveloped allocations to meet unmet housing needs (**Parker 4.77 [3.4.ii]**).
- 6. And so, when paragraph 15 of the NPPF (CD 7.1 [15]) states that the Local Plan should “provide a positive vision for the future of each area; a framework for addressing housing needs and other ... social ... priorities; and a platform for local people to shape their surroundings”, in St Albans the Local Plan fails to deliver in all of these regards (**Parker CD 4.77 [3.5]**):
  - a. It provides no sort of vision for the future;
  - b. It contains no framework for addressing current housing needs, still less those needs looking forward; and
  - c. It has not acted as a platform for local people to shape their surroundings since it was consulted upon in the early 1990s.
- 7. More worrying still for the future of planning in St Albans, however, are the reasons which lie behind the repeat failures of the Council to fulfil its statutory duty to adopt a replacement Local Plan:

- a. An unwillingness to undertake necessary planning assessments on obviously important issues;
  - b. An unwillingness to accept independent advice when, eventually, it is commissioned;
  - c. An unwillingness promptly to make the hard, potentially unpopular, decisions which that advice compels, when decisions are urgently needed; and
  - d. A failure to co-operate on matters of strategic importance across the wider, local area.
8. The facts speak for themselves. As Mr Parker explained, four attempts have been made to replace the extant, out-of-date, Local Plan and none of them have come to anything:
- a. The Local Development Framework Core Strategy 2006-2021 was withdrawn in January 2010 after the Council rejected an Inspector's advice that it had to confront the need to find sites in the Green Belt (**Parker CD 4.77 [3.13]-[3.19]**).
  - b. The Strategic Local Plan 2011-2031 (Version 1) was voted down by Members in 2013 after the Council received a petition from a Residents Association that demanded the Plan be paused for a Housing Needs Assessment and Green Belt Review, studies that any competent Plan-making Authority would already have commissioned (**Parker CD 4.77 [3.23]-[3.24]**).
  - c. The Strategic Local Plan 2011-2031 (Version 2) was found unlawful by the Examining Inspector in 2016 because of the Council's failure to comply with the duty to co-operate (**Parker CD 4.77 [3.33]-[3.44]**) (**CD 4.77.11 [46]**). In addition to this, however, the Plan also had a flawed evidence-base - whilst, unlike Version 1, it was at least 'informed' by a Housing Needs Assessment

(CD 8.18) and a Green Belt Review (CD 8.3a), the Council saw fit flatly to reject key recommendations of both of them:

- i. The Council dismissed the recommendation that the “Objectively Assessed Housing Needs” (“OAN”) in St Albans was 586 dwellings per annum (“dpa”) (CD 8.18 [6.27]) (Parker CD 4.77 [3.30]), deciding instead that the Council’s housing target should be 450 dpa (Parker CD 4.77 [3.31]), meaning that the Council was knowingly planning for an accumulative shortfall of 2,700 dwellings over the 20-year Plan period (Parker CD 4.77 [3.31]), a planned shortfall which rose to just under 3,000 (2,700 + (14x20)), when the Council reduced its proposed housing target yet further, to just 436 dpa (Parker CD 4.77 [3.32]); and
  - ii. The Council also rejected the advice of the SKM Green Belt Review to assess not just larger, strategic sites, but smaller-scale sites also, which ultimately meant that sites which were less than 14ha in extent and/or accommodated less than 500 dwellings were excluded from the Local Plan process (CD 8.3a [8.3.1]) (Parker CD 4.77 [3.27]).
- d. Finally, the Council’s most recent attempt at a replacement, the Local Plan 2020-2036, was withdrawn in 2020 (Parker CD 4.77 [3.42]) (CD 8.34) on the invitation of Examining Inspectors (CD 4.77.16) following their findings that:
- i. The Council had once again failed to comply with the duty to co-operate (Parker CD 4.77 [3.42]) (CD 4.77.15 [92]);
  - ii. The Plan prevented delivery of a Strategic Rail Freight Interchange which the Secretary of State had personally permitted (Parker CD 4.77 [3.42]) (CD 4.77.15 [8]-[14]); and

iii. The Plan's spatial strategy was premised upon a flawed Green Belt Review (**CD 8.3a**), stating as follows (in terms which directly reflect the concerns earlier expressed by SKM, but ignored by the Council) (**Parker CD 4.77 [3.41]**) (**CD 4.77.15 [45]**):

"45. ... [S]maller sites have been disregarded as part of the plan making process. It is our view that this approach has ruled out an important potential source of housing that may have been found to have a lesser impact on the purposes of the Green Belt than the sites selected without sufficient justification."

9. And to add insult to injury, there has now been further slippage in the timeline to the adoption of the next version of a proposed replacement Local Plan:

a. The Council's December 2020 Local Development Scheme ("LDS") promised a Regulation 18 consultation in January/February 2022, and adoption in 2023 (**Parker CD 4.77 [3.43.i]**);

b. However, the Council's September 2022 LDS put back the Regulation 18 consultation to July/September 2023, with adoption in late 2025.

10. That means there will be no new housing allocations in St Albans until the end of 2025 at the very earliest (**CD 4.77 [3.49]**), with the delivery of actual houses to live in some years later still. And that is if the Plan does not fail like all of those that preceded it; and that it is not further delayed either, which is a real risk - whilst a Regulation 18 Local Plan is due to be published in July 2023, just two months' time, no documents relating to the new evidence have yet been published (**Fidgett Rebuttal CD4.84 [2.24]**). Little wonder that Mr Connell accepted further delay was possible (**Banner XX**).

### **The Housing Crisis**

11. All the while, from 2001 onwards, the Council has had no up-to-date Local Plan; no up-to-date housing target; and no up-to-date housing allocations. And the direct consequence of the Council's failure to adopt new housing allocations in line with the

NPPF is nothing less than a housing crisis in St Albans - so much so that the Council has long-since acknowledged that the housing shortage in St Albans is so severe that there are “exceptional circumstances” to justify removal of land from the Green Belt in accordance with paragraph 140 of the NPPF (**CD 7.1 [140]**).

12. Put shortly, and as agreed by Mr Connell (**Stinchcombe XX**), from 2013 onwards, a whole decade, the Council has been unable to demonstrate the 5-year housing land supply (“5 YHLS”) required by paragraph 74 of the NPPF (**CD 7.1 [74]**); and the Council can currently demonstrate just 2.0 YHLS, the worst housing land supply position since the extant Local Plan was adopted<sup>3</sup>. And with the housing shortfall growing bigger and bigger, and demand increasingly outstripping supply, the house price to earnings affordability ratio in St Albans has, of course, grown higher and higher also:
  - a. In 2003, it was 10.28 – already the highest in the East of England (**Parker CD 4.77 [3.16]**);
  - b. By 2010, it had grown to 12.36 (**Parker CD 4.77 [3.20]**);
  - c. By 2012, it had grown yet further to 12.47 (**Parker CD 4.77 [3.23]**);
  - d. By 2017, it was 16.62 (**Parker CD 4.77 [3.36]**); and
  - e. In July 2021, it was 17.32 (**Parker CD 4.77 [3.44]**).
  
13. To put that into context, it means that individuals on median incomes now need to find more than 17 times their annual salary to buy a median priced property in St Albans (**Gingell CD 4.80 [10.5]**). That is the housing reality facing ordinary people on ordinary earnings, hoping to buy a home of their own in St Albans today.

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<sup>3</sup> As confirmed in the 2021/2022 Authority’s Monitoring Report (“AMR”) (**CD 8.7 Table 2 [p.18]**).

### The Affordable Housing Crisis

14. Moreover, and as again agreed by Mr Connell (**Stinchcombe XX**), given that the only model St Albans has for the delivery of affordable housing is for it to come alongside, and parasitic upon, open market housing on an aspirational<sup>4</sup>, albeit undelivered, 60:40 split<sup>5</sup>, it necessarily follows that, with a massive undersupply of market housing, comes a massive shortfall in affordable housing too, and an additional crisis in that regard also - one which has recently described, on appeal<sup>6</sup>, as a “critical situation” and an “extremely acute affordable housing position”. Ms Gingell’s terminology was even more emphatic – she described the situation in St Albans as an “affordable housing emergency” (**Gingell CD 4.80 [12.28]**). Given the figures I come on to in Section 4 below, she was quite right to do so – it undoubtedly is an emergency.

### The Consequences of the Housing Crises for Decision-Making

15. These planning and housing crises have, of course, necessary consequences for decision-making on housing proposals in St Albans. In particular, until the end of 2025 at the earliest, the shortfalls in both housing land supply and affordable housing can only be met through decision-makers accepting that very special circumstances exist, in accordance with paragraph 147 of the NPPF (**CD 7.1 [147]**). In the past, of course, there were Ministerial Statements (**CD 4.72**)<sup>7</sup> which indicated that the single issue of unmet demand for conventional housing was unlikely to satisfy this test. However, and importantly, not only is the Appeal Scheme far from for "conventional" housing in any event, but a unique scheme comprising 100% affordable housing for Key Workers (**Fidgett CD4.81 [4.21.a]**), national planning policy has all changed since those early Ministerial Statements were made, as Daisy Cooper MP openly recognised in her evidence to this Inquiry (**ID12**). The critical need significantly to boost the supply of housing, expressly recognised in paragraph 60 of the NPPF (**CD 7.1 [60]**), is such that

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<sup>4</sup> There is no policy support for this in the Local Plan (**CD 8.1**).

<sup>5</sup> Which means, of course, that despite assertions to the contrary, social rented housing is not the Council’s priority, rather open market housing is and by 50% on a 60:40 split.

<sup>6</sup> Land off Bullens Green Lane, Colney Heath (**CD 9.2**), *per* Inspector Masters, at [54].

<sup>7</sup> Made by Brandon Lewis MP on 2<sup>nd</sup> July 2013, 17<sup>th</sup> January 2014, and 17<sup>th</sup> December 2015.



the policy approach of those Ministerial Statements, made as long ago as 2013-2015, was not translated into either the 2019 or 2021 NPPF; has not appeared in the consultation version of the new NPPF; and all associated guidance in the PPG has been removed (**Fidgett CD4.81 [4.21.b]**).

16. Accordingly, and as a matter of up-to-date 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 (**Fidgett CD4.81 [4.21.b]**). Furthermore, this is not just the view of Mr Fidgett, it has all recently been confirmed, both on Appeal in St Albans and by the Council itself, in the following two decisions<sup>8</sup>: Inspector Masters' decision letter allowing 100 dwellings on Green Belt land off Bullens Green Lane, Colney Heath (**CD 9.2 [47]-[49]; [52]-[54]**); and the Council's own grant of permission for 150 dwellings on Green Belt land to rear of 112-156b Harpenden Road (**CD 9.3 [8.7.1]-[8.7.4]**).
17. As for the former, in the Bullens Green Lane decision letter (**CD 9.2**) Inspector Masters held as follows:
  - a. The earlier Ministerial Statements which indicated that meeting unmet needs was unlikely to establish very special circumstances had not been incorporated in the NPPF, had been removed from the PPG, and should be given little weight (**CD 9.2 [47]**);
  - b. The Council could not demonstrate a 5 YHLS, and even if the Council's asserted supply of 2.4 YHLS was accepted (it is now even lower at 2.0 YHLS),

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<sup>8</sup> Noting, in passing, that consistency in planning decisions is highly important, as has been recognised in multiple leading cases. The seminal case is *North Wiltshire v Secretary of State for the Environment* [1993] 65 P&CR 13, in which Mann LJ gave his reasons, as follows: "One important reason why previous decisions are capable of being material is that like cases should be decided in a like manner so that there is consistency in the appellate process. Consistency is self-evidently important to both developers and development control authorities. But it is also important for the purpose of securing public confidence in the operation of the development control system."

the position was bleak one and the shortfall considerable and significant (CD 9.2 [48]);

- c. Very substantial weight was to be afforded to the provision of market housing (CD 9.2 [49]);
- d. As referred to already, the uncontested evidence on affordable housing presented as a “critical situation” and an “extremely acute” position, such that “very substantial weight” should additionally be attached to the delivery of up to 45 affordable homes (CD 9.2 [53]-[54]); and
- e. Substantial weight should also be afforded to self-build plots as a discrete element of housing supply (CD 9.2 [52]).

18. As for the Council’s decision to permit housing on land to rear of Harpenden Road, the Officer’s Report stated, explicitly, that there was no material reason to apply a different weighting to those proposals than had been applied by Inspector Masters at Bullens Green Lane - (CD 9.3 [8.7.4]), including, therefore: “very substantial weight” for affordable housing; and “substantial weight” for self-build plots.

19. And these are not the only decisions, either on appeal or made by the Council itself, where the same approach has been followed and very special circumstances found:

- a. Inspectors came to the same conclusion with regard to Green Belt housing proposals at both Oaklands College (348 dwellings) (CD 9.1) and Burston Nurseries (124 dwellings) (CD 9.4); and
- b. The Council has also so decided with regard to housing proposals at both Park Street (30 dwellings) (CD 9.5) and Beaumont School (75 dwellings) (CD 4.21 [3.6]).

20. Notably, all of these decisions were sites of fewer than 14 hectares/500 dwellings, which underlines that SKM's advice, and the Examining Inspectors' criticisms of the Council's rejection of that advice, were both valid. More importantly, however, they all properly understand that if housing needs are to be met in St Albans, including affordable housing needs, there will have to be substantial development on open land in the Green Belt. As agreed by Mr Connell (**Stinchcombe XX**) there is, quite simply, no alternative. The only questions are: *Where and How?*

### 3. AFFORDABLE HOUSING POLICY

21. Before turning to the Appeal Scheme's answer to those questions, however, it is necessary to understand the full extent of the affordable housing crisis in which St Albans finds itself, and to do so against the backdrop of both national and local planning policy with regard to the imperative to provide that housing. I take those two tiers of applicable planning policy in turn.

#### National Policy on Affordable Housing

22. So far as national planning policy is concerned, it is agreed by Mr Connell that nothing in the NPPF definition of affordable housing ranks one form of affordable housing over any other (**Stinchcombe XX**). That is plain from PPG Paragraph: 005 Reference ID: 67-005-20190722<sup>9</sup>; and it was confirmed in the decision letter, dated 29<sup>th</sup> October 2021, concerning 53-55 Drayton Green Road, West Ealing (**CD 9.13 [34]**)<sup>10</sup> and the Hawkhurst decision letter also (**CD9.19 [114]**). There is, therefore, no national planning policy which favours affordable rented accommodation over affordable home ownership (**Gingell XIC**). Far from it, indeed. The only group of people specifically

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<sup>9</sup> "All households whose needs are not met by the market and which are eligible for one or more of the 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."

<sup>10</sup> "34. ... There is no provision in local or national policy or guidance that justifies ranking one form of affordable housing need over another. Indeed, Planning Practice Guidance makes clear that all households whose needs are not met by the market and who are eligible for one or more of the types of affordable housing specified in the Glossary to the Framework are in affordable housing need."

identified in the NPPF definition of affordable housing are “essential local workers” (CD 7.1 [Glossary]), and in terms which expressly reference a need to provide them with a subsidised route to home ownership. That wording is deliberate and it tells us:

- a. Who to house (amongst others in housing need) - *Key Workers* whose needs are not met by the market;
  - b. How to house them – *Affordably*, including through housing that provides a subsidised route to home ownership;
  - c. The priority to be attached to housing them affordably - *Essential*; and
  - d. Where they need to be housed – *Locally*.
23. Consistent with all of this, of course, and as Mr Connell again agreed (**Stinchcombe XX**), for the last 22 years the Government has promoted policies which are explicitly aimed at helping Key Workers achieve local home ownership - from the ‘Starter Home’ Initiative in 2001 (CD 4.77.4 [p.53]) to the ‘First Homes’ policy of today. The reason for this special treatment for essential local workers – both as matter of definition in the NPPF and in a succession of bespoke national Government policy initiatives directed at them - is obvious. The essential services which Key Workers deliver are themselves put at risk if they are priced out of local housing and have to live elsewhere.
24. As Mr Parker pointed out (**Parker CD 4.77 [2.16]; [2.17]**), this was correctly understood, and expressly stated, in the Conclusions and Recommendations of the House of Commons’ Health and Social Care Committee in its July 2022 Report, “*Workforce: Recruitment, Training and Retention in Health and Social Care*” (CD 4.77.5 [66]), in terms which were equally applicable to all categories of Key Workers<sup>11</sup>; and given the high

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<sup>11</sup> “Wider market forces, including ... a lack of affordable housing ... are having an impact on the recruitment and retention of health and social care workers. These issues manifest differently across the country, and it is clear that without action to address these wider issues, the NHS and social care sectors will continue to struggle to recruit and retain staff.”

house prices in St Albans, the struggle to recruit and retain Key Workers will be at least as severe here as it is anywhere in the country.

25. It is against the backdrop of all of this, that the substantive national planning policy for affordable housing, set out in NPPF (CD 7.1), falls to be considered:
- a Paragraph 20(a) (CD 7.1 [20(a)]) states that strategic Local Plan policies should make sufficient provision to meet housing needs, including for affordable housing;
  - b Paragraph 34 (CD 7.1 [34]) states that Local Plans should set out the levels and types of the affordable housing required; and
  - c Paragraph 63 (CD 7.1 [63]) states that where a need for affordable housing is identified, Local Plan policies should specify the type of affordable housing required.
26. However, despite these imperatives, the out-of-date Local Plan in St Albans (CD 8.1) makes manifestly insufficient provision for affordable housing; and contains no policy at all specifying the type of affordable housing required.

#### **Local Plan Policy on Affordable Housing**

27. So far as the affordable housing target in the Local Plan is concerned:
- a. Whilst Policies 7a and 8 of the St Albans District Local Plan Review 1994 (CD 8.1 [pp.35; 36]) do support low-cost housing for sale, the Plan seeks to deliver a total of just 200 affordable homes per annum, which paragraph 3.36 of the supporting text recognised (even then) "... probably represents a considerable under-estimation of the total need for affordable housing" (CD 8.1 [3.36]); and

- b. Some 17 years ago, the 2006 DCA “St Albans City & District Housing Needs Survey Update” (CD 4.77.2), identified an annual affordable housing shortfall of 822 units a year (CD 4.77.2 [7.3.2])<sup>12</sup>.

28. The 1994 Local Plan target for affordable housing is obviously out-of-date, therefore, and no weight can be attached to it. Moreover, that Local Plan also contains no reference to Key Workers, an omission which of itself demonstrates the age of the Local Plan, given the specific inclusion since 2018<sup>13</sup> of “essential local workers” in the NPPF definition of “affordable housing”; and given, also, the consideration of these needs in both the Council’s Affordable Housing Supplementary Planning Guidance 2004 (“SPG”) (CD 8.17) and DCA’s 2006 District Housing Needs Survey Update (CD 4.77.2).

*St Albans Affordable Housing SPG 2004*

29. As long ago as 2004, the Council’s Affordable Housing SPG (CD 8.17) identified both a growing problem with regard to Key Worker housing and the need to devise a strategy to address that (CD 8.17 [3.12]-[3.13]):

“3.12 There are growing difficulties in the provision of housing for workers on lower incomes necessary for the economic health of the County. Hertfordshire County Council has concluded that if nothing is done then the most likely scenario is one of growing polarisation, more and longer commuting, and poorer personal and public service sectors. A specific research study of the housing needs of Key Workers across the County has been undertaken. Housing problems are predicted to worsen both in terms of affordability and access.

3.13 A strategy to provide affordable housing will increasingly have to address the provision of housing for these Key Workers.”

30. Furthermore, the Affordable Homes SPG both defined “Key Workers” (CD 8.17 [5.12]); and expanded upon what the “strategy to provide affordable housing ... for

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<sup>12</sup> It also identified that 1,966 existing households and 1,234 concealed households intended to leave the District over the next five years because of a lack of affordable housing (CD 4.77.2 [7.3.3]).

<sup>13</sup> In other words, 5 years ago, the period within which all Local Plans are meant to be reviewed (CD 7.1 [33]).

these Key Workers” (CD 8.17 [3.13]) potentially entailed (CD 8.17 5.13]. So far as the SPG’s definition is concerned, that has been adopted in the S106 with the addition of military personnel, an addition which accords with both the Council signing up to the Armed Forces Covenant (CD 4.77.3 [4.3]), and national planning policy: the Ministerial Statement of 24<sup>th</sup> April 2021, referred to and hyperlinked in the PPG’s explanation of the eligibility criteria for First Homes<sup>14</sup>, states as follows:

“In recognition of the unique nature of their circumstances, members of the Armed Forces, the divorced or separated spouse or civil partner of a member of the Armed Forces, the spouse or civil partner of a deceased member of the Armed Forces (if their death was caused wholly or partly by their service) or veterans within five years of leaving the Armed Forces should be exempt from any local connection testing restrictions.”

31. Given this express recognition of the importance of providing affordable housing to military personnel and their families, including those without a local connection, it was highly disappointing (to say the least) that Mr Connell called into question the undoubted benefit of Addison Park addressing these needs (**Connell Rebuttal CD 5.40 [12]-[20]**). He was quite wrong to do so.
32. Further, and so far as the called-for “strategy” to provide Key Workers with affordable housing is concerned (CD 8.17 [3.13]), paragraph 5.13 of the SPG went on expressly to anticipate that this could include the provision of housing for low-cost sale, exactly as Addison Park proposes (CD 8.17 5.13]:

*DCA’s St Albans City and District Housing Needs Survey 2006*

33. As for DCA’s 2006 Housing Needs Survey Update (CD 4.77.2), this also defined Key Workers, and it did so in terms which made their importance to the maintenance of a balanced community quite clear (CD 4.77.2 [Glossary p.42]):

“A Key Worker is “any person who directly provides services that are essential for the balanced and sustainable development of the local community and local economy, where recruitment or retention difficulties apply’, and includes teachers,

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<sup>14</sup> Paragraph: 002 Reference ID: 70-002-20210524.

nurses, other public sector workers and employees of businesses considered vital to sustaining the economy of an area””.

### St Stephen Neighbourhood Plan

34. The St Stephen Neighbourhood Plan (CD 8.12) is also part of the Development Plan for St Albans. Moreover, it is not only much more up to date than the Local Plan, it directly addresses housing needs in the immediate vicinity of the Appeal Site:
- a. The first bullet point in its “Vision and Objectives” section expressly recognises that the high cost of property makes it increasingly difficult to move into and remain in the area (CD 8.12 [3.1]); and
  - b. The first objective under the theme of “Housing, Character and Design of Development” is to encourage the development of housing that meets an identified local need, including through housing which is affordable to local workers (CD 8.12 [3.3]).
35. Given that “essential local workers” are the only group specified in the NPPF definition of “affordable housing (CD 7.1 [Glossary]), that must mean that the Neighbourhood Plan positively encourages affordable housing for them. Indeed:
- a. Cllr Parry of the Parish Council expressed “sympathy with the stated objectives of the proposal” (ID 5 [3.1]);
  - b. The Opening Statement of Keep Chiswell Green (“KCG”) (ID4 [p.1]) fairly recognised “the altruistic motives” of the Appellants; and
  - c. Mr Moreland also acknowledged that “Addison Park is an applaudable concept” (ID 10 [p.7])<sup>15</sup>.

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<sup>15</sup> And whilst Mr Moreland expressed understandable frustration that Addison Park might not meet the immediate concerns of his own Key Worker daughter, Ms Gingell demonstrated



4. **AFFORDABLE HOUSING NEEDS IN ST ALBANS**

36. As already noted, the Local Plan policy target of 200 affordable dwellings per annum is considerably out-of-date. For the purposes of these appeals, however, all of the assessments in Ms Gingell's Proof of Evidence (**Gingell CD 4.80**) have been agreed in the Statement of Common Ground on Affordable Housing ("SOCG") (**CD 3.27**), and it is this which provides the up-to-date evidence of affordable housing needs for St Albans. Since all of this is now agreed, I can take the matter very quickly:

- a. GL Hearn's 2020 LHNA (**CD 8.35**) assessed that, in St Albans and over the 16-year period 2020-2036, there is a need for 13,248 affordable dwellings, equivalent to 828 per annum (**CD 3.27 [2.7]**);
- b. Over the nine-year period between 2013/14 and 2021/22, there was a shortfall against that need of 5,053 affordable dwellings, equivalent to 561 per annum; (**CD 3.27 [Figure 4]**);
- c. In the first two years of the 2020 LHNA period since 2020/21, there has been an additional shortfall of 1,428 affordable dwellings, equivalent to 714 per annum (**CD 3.27 [Figure 5]**);
- d. The agreed approach is that any shortfall in delivery should be dealt with in the next five years, (**CD 3.27 [7.1]**);
- e. When the 1,428 dwelling affordable housing shortfall which has accumulated since 2020/21 is factored into the need of 828 affordable dwellings per annum for the period 2020 to 2036, the number of affordable homes that the Council needs to deliver in the period 5-year period from 2022/23 to 2026/27 is 5,570, or 1,114 per annum (**CD 3.27 [7.2]**);

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that - if she worked locally - this was not actually the case: she could afford to live there (**Gingell XIC**).

- f. The Council's current supply figure for the next five years is, however, just 39 affordable dwellings per annum; and
  - g. That means there will be a shortfall of 1,075 affordable dwellings per annum, and a total shortfall of 5,375 affordable dwellings over the next five years (**CD 3.27 [8.5]**).
37. The conclusion is absolutely irrefutable. In St Albans, the delivery of affordable housing has collapsed (**Gingell XIC**). Worse still, in refusing permission for the Appeal application, 330 affordable homes in one quick hit, the Council has given up on even attempting to address this affordable housing emergency.

**5. HOME OWNERSHIP AFFORDABILITY IN ST ALBANS**

38. As for the affordability of home ownership in St Albans, I have already set out the exponential rise in the affordability ratio in St Albans, and you have seen the detail underpinning those figures in the evidence of Ms Gingell, evidence which I invite you to accept in its entirety (**Gingell CD 4.80**). The real take-away points from that evidence are, however, that:
- a. The median house price across St Albans as a whole has risen by 63%, from £362,500 to £590,000, since the start of the 2016 SHMA period in 2013 (**Gingell CD 4.80 [10.8]-[10.9]**);
  - b. The median affordability ratio in St Albans is currently 17.32, and stands significantly above the East of England average of 10.53 (+64%), and very substantially above the national average of 9.05 (+91%) (**Gingell CD 4.80 [10.4]**); and

- c. This is at a time when mortgage lending is typically offered on the basis of up to just 4.5 times household earnings, an assumption which both Ms Gingell and GL Hearn have adopted (**Gingell CD 4.80 [10.15]**) (**CD 8.35 [5.53]**).
  
39. Put shortly, the prospect of home ownership for those on average, or less than average, earnings is becoming a very distant dream in St Albans, as is quite apparent from the evidence upon which the Council itself relies, the September 2020 GL Hearn LHNA (**CD 8.35**):
  - a. GL Hearn's Table 29 (**CD 8.35 [5.53]**) tells us that a household income of £75,400 is required to buy in St Albans;
  - b. However, GL Hearn's Table 28 (**CD 8.35 [5.40]**) tells us that the median household income in St Albans is just £51,400;
  - c. Accordingly, on GL Hearn's data, home ownership in St Albans is currently out of reach for households with median earnings of £51,400 all the way up to household earnings of £75,400.
  
40. Moreover, the brutal reality of all of this has to be seen in the context of the thresholds for eligibility to seek affordable rented accommodation in St Albans (**CD 8.28**):
  - a. For a 1-Bed Property, the limit is £36,295;
  - b. For a 2-Bed Property, it is £48,173;
  - c. For a 3-Bed Property, it is £56,152; and
  - d. For a 4-Bed Property, the limit is: £69,608.

41. It follows that if household income exceeds £70,000 in St Albans, that household has no access to affordable housing for rent in St Albans at all; and household income of just £50,000 excludes access to even 2-bed housing. However, such a household, one earning between £50,000 and £70,000, would be unable to buy as well - it would be excluded from social rented housing in St Albans, but could not afford to purchase an open market family home either. The only choices are to move away, out of St Albans altogether - as recommended by paragraph 3.4 of the Council's Housing Allocations Policy (**CD 8.28 [3.4]**); pay high market rents in St Albans; or try to access affordable home ownership in St Albans – if any is available, that is.
42. Unfortunately, however, the Council's failure to deliver affordable housing extends to affordable home ownership also:
- a. Table 42 of the GL Hearn 2020 LHNA (**CD 8.35**) identifies a need for 385 net affordable home ownership homes per annum over the period 2020 to 2036;
  - b. The Council's 2021 and 2022 AMR (**CD 8.7**) breaks down the Council's gross affordable housing completions figure by tenure;
  - c. Ms Gingell's Figure 7.5 (**Gingell CD 4.80 [7.18] [Figure 7.5]**) shows that in the first two years of the 2020 period, between 2020/21 and 2021/22, gross affordable home ownership completions averaged just 29 dwellings per annum, against the need of 385 per annum, a shortfall of 356 affordable home ownership dwellings per annum;
  - d. A shortfall of 712 affordable home ownership dwellings has therefore arisen in just the first two years of the 2020 LHNA period (a shortfall which would be even higher if demolitions were taken into account).
43. At present, therefore, there is simply not a supply of affordable home ownership dwellings in St Albans to meet the needs of such a household. Moreover, and, as I

come on to immediately below, that will include many Key Worker households. However, because the Council refuses not only to address these needs, but to assess them at all, the Appellants have had to do the Council's work for them.

## 6. HOME OWNERSHIP NEEDS OF KEY WORKERS IN ST ALBANS

### The Council's Refusal to Assess

44. As I have just alluded to, despite the role that Key Workers play in the delivery of essential local services to the communities of St Albans, the Council has never endeavoured even to assess the extent of their housing needs, or the consequences of not meeting them; and they have failed to do so even though the need to develop a strategy provide affordable housing for Key Workers is expressly acknowledged in its own Affordable Housing SPG (CD 8.17 [3.12]-[3.13]).
45. Other Local Planning Authorities have, of course, done what this Council has failed to do. The Housing Needs Assessment by Fordham Research for Haringey Council (**Parker CD 4.77 [3.56]**) is an example which is before us. It contains a "needs assessment model" for Key Workers (CD 4.63 [Chapter 15]), which looks at the number of Key Workers in the Borough; their housing and household characteristics; the income and affordability of those Key Worker households; and their housing preferences. Notably, the Haringey HNA demonstrated owner occupation to be the clear preference for 83.8% of them (CD 4.63 [15.5]), a conclusion similarly reached in a 2003 study by DCA for Dacorum Borough Council (CD 4.77.17 [6.2.8]). Mr Connell readily accepted that the same would be true for St Albans (**Stinchcombe XX**).
46. Mr Connell also agreed that St Albans could have commissioned a similar Assessment to Haringey's had it wanted to (**Stinchcombe XX**). St Albans Council has, however, refused to do so. Whilst the Council's Local Plan Advisory Group ("LPAG") were told at a meeting on 1<sup>st</sup> March 2022 that a report on housing for Key Workers was due in September 2022 (**Parker CD 4.77 [3.46]**), and this was confirmed in the June 2022 LPAG Work Programme (**Parker CD 4.77 [3.47]**) (CD 4.66), no report was ever produced. The issue was simply dropped by the Council.

47. As you heard on Day 3 of the Inquiry, Mr Connell sought to justify this upon the basis that “there is no requirement to carry out a separate assessment for key workers in national policy or guidance” (**Connell CD 5.3 [4.49]**). That, however, is both extraordinary, and extraordinarily complacent. Paragraph 62 of the NPPF (**CD 7.1 [62]**) requires Councils to assess the housing needs of different groups and Mr Connell agreed that the list of examples in paragraph 62 is open not closed, and expressly includes “service families” (**Stinchcombe XX**). Mr Connell also agreed that it was perfectly open, therefore, to the Council to measure the need of essential local workers, including military personnel and their families, but that the Council simply chose not to (**Stinchcombe XX**). And Mr Connell also agreed that the Council chose not to:
- a. Despite the fact that essential local workers are singled out in the NPPF definition of affordable housing (**CD 7.1 [Glossary]**);
  - b. Despite the fact that essential local services in St Albans depend upon them;
  - c. Despite the Council’s SPG on Affordable Housing stating that “a strategy to provide affordable housing will increasingly have to address the provision of housing for these Key Workers” (**CD 8.17 [3.13]**); and
  - d. Despite the fact that the Council cannot devise any strategy to address the provision of affordable housing for Key Workers without attempting to assess the extent of their housing needs (**Stinchcombe XX**).
48. Ms Gingell’s Proof of Evidence and Rebuttal Proof (**Gingell CD 4.80 [Section 11]**) (**Gingell Rebuttal CD 4.82**) is, then, not only the best and most up-to-date evidence on Key Worker housing needs in St Albans but, as Mr Connell agreed, it is the *only* evidence on those needs available at this Inquiry (**Stinchcombe XX**). Moreover, it has been prepared by the expert witness whose other evidence on affordable housing has been readily agreed by all parties (**CD 3.27**). You can undoubtedly rely upon it.

### The Appellants' Key Worker Housing Needs Evidence

49. The starting-point is the ONS Data (2021), which shows that there are c.27,000 Key Workers in St Albans; and c.250,000 in Hertfordshire as a whole (**Gingell CD 4.80 [10.36]-[10.37]**). That is the potential catchment of Key Worker households for Addison Park and it is a very substantial number and a sizeable proportion of the local population.
50. As for the earnings of Key Workers, Ms Gingell set out sample pay scales in her Figure 11.1 (**Gingell CD 4.80 [11.15] [Figure 11.1]**). Importantly, because many Key Worker households will have more than one salary income and seek mortgages on that basis, Ms Gingell included the 'combined' Key Worker household earnings of a Key Worker together with another median income-earner, and the mortgage to which such households will be entitled<sup>16</sup> (**Gingell CD 4.80 [11.15]**). Upon this basis, her Figure 11.1 indicates<sup>17</sup>, as Mr Connell agreed (**Stinchcombe XX**):
- a. Key Worker household earnings ranging from, broadly, £55,000 to £80,000; and
  - b. A corresponding range of mortgage entitlement from, broadly, £245,000 to £350,000.
51. The first point to take from Ms Gingell's Figure 11.1 (**Gingell CD 4.80 [11.15] [Figure 11.1]**) is the limited eligibility of any of those households for social rented accommodation in St Albans. I have set out the relevant limits (**CD 8.28**) in paragraph 40 above, and it is readily apparent that in every scenario set out in Ms Gingell's Figure 11.1 (**Gingell CD 4.80 [11.15] [Figure 11.1]**), the combined incomes exceed the gross household incomes limit for 1 and 2-bed properties. Indeed, the majority exceed the gross household limit for 3 and 4-bed properties also (**Gingell CD 4.80 [11.30]**).

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<sup>16</sup> At the standard multiplier of 4.5 times household income.

<sup>17</sup> Figure 11.1 has to be seen and considered alongside the additional evidence in Ms Gingell's Rebuttal Proof (**Gingell Rebuttal CD 4.82 [2.39]-[2.46]**).

52. The second point to take from Ms Gingell's Figure 11.1 (**Gingell CD 4.80 [11.15]** [**Figure 11.1**]) is the unaffordability of open market homes in St Albans to Key Worker households:
- a. To purchase a median priced property in St Albans at £590,000 (**Gingell CD 4.80 [10.8]-[10.9]**), a minimum household income of £118,000 is required (so as to obtain a mortgage of c.£530,000 to supplement a 10% deposit of c.£60,000) (**Gingell CD 4.80 [11.18]** [**Figure 11.2**]);
  - b. To purchase a lower quartile priced property at £415,000, the required household income is £83,000 (to obtain a mortgage of c£375,000 plus a 10% deposit of c.£40,000) (**Gingell CD 4.80 [11.21]** [**Figure11.3**]); and
  - c. It is quite obvious from Ms Gingell's Figure 11.1 (**Gingell CD 4.80 [Figure 11.15]** **11.1**), therefore, that an alarming number of Key Worker households are priced out of home ownership altogether.
53. In the St Albans Local Authority area alone, there are as many as 27,000 Key Workers, and up to 250,000 in the County, falling in this gap – ineligible for social rented housing and yet unable to buy as well. These Key Workers represent “the hidden middle”, those whose needs have been ignored by the Council (**Gingell CD 4.80 [11.45]**), and they are among the most valuable members of the local community. It is precisely to fill the gap into which many Key Workers fall that Addison Park has been promoted.

## 7. ADDISON PARK RESPONSE

### The Concept and Business Model

54. To qualify as affordable housing, First Homes and Discounted Market Sales Housing must be discounted by at least 30% and 20%, respectively, but Shared Ownership Housing is not subject to a specific discount. However, because of Mr Collins' insistence on providing something genuinely affordable in the context of the high



house prices in St Albans, all of the dwellings at Addison Park, including Shared Ownership, will be discounted by at least a third, and against the median price of comparable properties in St Albans as a whole rather than the more expensive St Stephen Ward. Furthermore, all of those homes will be dedicated to local Key Workers. (Save that, in the highly unlikely event that any Key Worker housing remains unsold 12 months after completion, sale as Discounted Market Homes without the Key Worker restriction will be permitted, in order to ensure that there will be no empty homes in the Green Belt, only affordable ones<sup>18</sup>).

55. As both Mr Collins (CD 4.76) and Mr Parker (CD 4.77) (XIC) explained, this heavy discounting is possible because Addison Park does not follow the traditional business model, whereby an owner sells land to a national housebuilder which recoups its costs by selling the majority of them at the open market prices. Under that model, the national housebuilder must pay for the land, pay for the build, make S106 contributions, and also make a profit (typically 15-20%<sup>19</sup>), all of which will be reflected in the ultimate sale price of the dwellings. However, because Mr Collins already owns the land, and will commission the build of the houses himself, the land costs are nil. It is that simple model which enables prices to be discounted by at least a third without threatening viability. And, as I now come on to, that will make home ownership possible in St Albans for many of the Key Worker households who are currently unable to access the property ladder in the community that they serve.

#### **Key Worker Home Ownership Affordability in St Albans with a 33% Discount**

56. We have seen that there are very many essential local worker households who are simply unable to buy a home of their own in St Albans. However, the picture changes

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<sup>18</sup> See fn1 above.

<sup>19</sup> Paragraph: 018 Reference ID: 10-018-20190509 of the PPG advises as follows with regard to the profit range to be taken into account in a Viability Assessment: "... 15-20% of gross development value (GDV) may be considered a suitable return to developers in order to establish the viability of plan policies."

dramatically when the Addison Park discount is taken into account. That can be demonstrated very simply by the following sums<sup>20</sup>.

57. With a 33%<sup>21</sup> discount from the median priced property in St Albans:
- a. The median house price falls from £590,000 to £395,300 (**Gingell Rebuttal CD 4.82 [2.35] [Figure 2.3]**), and now requires a household income of £80,000 for the mortgage, with a 10% deposit ( $£80,000 \times 4.5 = £360,000 + £39,530$  (10% deposit) = £399,330+);
  - b. The lower quartile house price falls to £275,000, and now requires a household income of £55,000 for the mortgage, with a 10% deposit ( $£55,000 \times 4.5 = £247,500 + £27,500$  (10% deposit) = £275,000); and
  - c. As Mr Connell agreed (**Stinchcombe XX**), all of those Key Worker households with an income range of £55,000-£80,000 in Ms Gingell's Figure 11.1 (**Gingell CD 4.80 [Figure [11.15] 11.1]**), would, therefore, potentially have access to an affordable home of their own at Addison Park (**Gingell CD 4.80 [11.45]**).
58. And one gets to the same conclusion from the evidence upon which Mr Connell himself relies at (**CD 5.3 [4.53]**), the GL Hearn 2020 LHNA (**CD 8.35**). As already noted, GL Hearn's Table 29 (**CD 8.35 [5.53]**) states that a household income of £75,400 is required to buy in St Albans, and GL Hearn's Table 28 (**CD 8.35 [5.40]**) gives a median household income in St Albans of just £51,400, so the above property, at open market, is out of reach. However, that all changes with a 33% discount:

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<sup>20</sup> All the arithmetic sums below are summarised in (**ID 14**).

<sup>21</sup> Which is less than the minimum discount to which the S106 commits, which is "at least" 33.33%.

- a. A household earnings' requirement of £75,400 to purchase a property indicates a house price of £377,000 ( $£377,000 - £37,700$  (10% deposit) = £339,300) and ( $£75,400 \times 4.5 = £339,300^{22}$ );
  - b. Discounted by 33%, that house price of £377,000 falls to £251,333 which, minus a 10% deposit of £25,133, requires a mortgage of just £226,200; and
  - c. To obtain that mortgage requires a household income of £50,267 ( $£50,267 \times 4.5 = £226,200$ ), which is *lower* than the median GL Hearn household income in St Albans of £51,400.
59. Moreover, you also have the absolutely compelling evidence of the affordability of Addison Park to very many local Key Workers in Ms Gingell's Rebuttal (**Gingell Rebuttal CD 4.82**) and in her evidence in chief also (**Gingell XIC**).
60. In Ms Gingell's Rebuttal, she directly addresses Mr Connell's questioning of the affordability of Addison Park to Key Workers in paragraphs 2.6 to 2.46 (**Gingell Rebuttal CD 4.82 [2.16]-[2.46]**), in which she notes that, *unlike the Jubilee Square scheme which the Council are trumpeting<sup>23</sup>*, the Appeal Scheme not only discounts the affordable housing proposed, but does so by at least a third against the median price of housing in St Albans as a whole, not the particularly expensive part of St Albans in which the Appeal Site is located. Moreover, that is not just very powerful testament to the paramount importance attributed by the Appellants to the provision of truly affordable properties to Key Workers in St Albans, it really matters:
- a. As we have seen, when a 33% discount is deducted from the median house price for properties in St Albans as a whole (£590,000), the sales price at Addison Park becomes £395,300, which is £119,700 (£23%) *lower* than the

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<sup>22</sup> Assuming a 10% deposit and a mortgage for 4.5 x income (CD 8.35 [5.53]).

<sup>23</sup> Gingell Rebuttal (CD 4.82 [Appendix AGr1])

median house price in St Peters Ward, where Jubilee Square is located (**Gingell Rebuttal CD 4.82 [2.35] [Figure 2.3]**); and

- b. Applying the mortgages available to the household incomes for the range of Key Worker occupations Ms Gingell has listed in paragraph 2.42 of her Rebuttal Proof, once the assumption of a 10% deposit is applied, each of those Key Worker households would be able to afford a property costing £395,300 (**Gingell Rebuttal CD 4.82 [2.42] [Figure 2.4]**).

61. As for Ms Gingell's evidence in chief (**Gingell XIC**) (**ID 17**), that is to be seen against the backcloth of paragraphs 5.150 and 5.158 of the GL Hearn LHNA (**CD 5.20 [5.150]; [5.158]**), which make it clear that will be for the developer to choose the mix of subsidised routes to home ownership they wished to provide from the wide range listed Annex 2 of the NPPF. With that in mind, Ms Gingell took you through the affordability of the Addison Park 'chosen mix', tenure by tenure.

#### *First Homes*

62. As for 'First Homes', the sale price is capped at £250,000<sup>24</sup> (including discount). Assuming 10% deposit, a minimum income of £50,000 required to obtain the resultant £225,000 mortgage ( $£250,000 - £25,000 = £225,000 / 4.5 = £50,000$ ); and all of the Key Worker household incomes in Ms Gingell's Figure 11.1 (**Gingell CD 4.80 [11.15] [Figure 11.1]**) exceed £50,000.

#### *Shared Ownership Homes*

63. As for 'Shared Ownership Homes', the minimum purchase share is 10%, with a minimum deposit of 5% of that share. Using Mr Connell's figures in his Rebuttal (**Connell Rebuttal CD 4.40 [4]**), the cost of a 10% share would be £39,530. Once the 5% minimum deposit is deducted, all of the Key Worker households in Ms Gingell's

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<sup>24</sup> No stamp duty is required as exempt under the First Homes' policy and also under £250,000.

Figure 11.1 (**Gingell CD 4.80 [Figure 11.1]**) could secure a mortgage for the remaining sum of £37,553<sup>25</sup>.

64. Moreover, purchasing the minimum share would not mean unaffordable rents on the remaining sharer. If one deducts the 10% minimum purchase from the overall house prices this gives a remaining share of £355,770. The rent to be paid is usually 2.75% of the property value per year (**Gingell CD 4.80 [11.41] [Figure 11.6]**), which gives an annual rent of £9,783.68 and a monthly rent of £815.31; and this is considerably below both the median private rent of £1,250 for St Albans in 2021/22 (**Gingell CD 4.80 [10.24]**) and the lower quartile rent of £995 (**Gingell CD 4.80 10.27**):

- a. £815.31 is 34.77% lower than the monthly median rent of £1,250, a saving of £434.69 per month and £5,216 per annum; and
- b. Compared with lower quartile of £995, the Addison Park rent is 18.05% lower, yielding a monthly saving of £179.69 and £2,156 per annum.

#### *Discount Market Sale Homes*

65. So far as the 'Discount Market Sale' properties are concerned, all of the households in Figure 2.4 of Ms Gingell's Rebuttal (**Gingell Rebuttal CD 4.82 [Figure 2.4]**) could obtain a mortgage sufficient to buy at the indicative District house price of £355,770 set out in Mr Connell's Rebuttal Proof (**Connell Rebuttal CD 5.40 [4]**), as could NHS Bands 7 and 8 in Figure 11.1 of her main Proof (**Gingell CD 4.80 [Figure 11.1]**).

#### **Mr Connell's Rebuttal**

66. The remaining contents of Mr Connell's Rebuttal (**Connell Rebuttal CD 5.40**) get the Council absolutely nowhere also, and for three principal reasons:

- a. Firstly, Mr Connell seeks to demonstrate the unaffordability of the discounted housing proposed at Addison Park by applying the discount to prices in the

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<sup>25</sup> Stamp Duty is typically deferred until 80% share is held.

expensive St Stephens Ward in which the Appeal Site is located (**Connell Rebuttal CD 5.40 [5]-[9]**), when the S106 ties the open market valuation of the Shared Ownership and Discount Market Sale properties to the median house prices of St Albans as a whole, which is considerably lower than the Ward price (**Gingell Rebuttal CD 4.82 [2.34]-[2.35]**)<sup>26</sup>;

- b. Secondly, what Mr Connell does highlight by pointing out the expensive location in which the Appeal Site is located, is the added benefit of providing heavily discounted homes in a high value area (**Gingell Rebuttal CD 4.82 [2.20]**), as recognised in the Malmesbury decision letter (**CD 9.18 [78]**):

“78. ... I do not diminish the weight to be provided to this provision because such housing might be even cheaper in a theoretical location elsewhere. In fact, that Malmesbury is a relatively high value area for housing adds more weight to the need for affordable housing products.”

- c. Thirdly, insofar as Mr Connell still seeks to argue that the homes proposed at Addison Park will not be affordable to Key Workers, he ignores entirely that the Council have trumpeted the affordability of the homes at Jubilee Square to Key Workers when those homes are not discounted by a penny and will be considerably more expensive than at Addison Park (**Gingell Rebuttal CD 4.82 [2.35] [Figure 2.3]**).

### **Conclusions on the Affordability of Addison Park**

67. In the end, the sums speak for themselves. For very many Key Worker households, home ownership in St Albans is, currently, not only a distant dream, but an impossibility. Addison Park would, however, give very many of them access to the

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<sup>26</sup> Whilst this has been mis-described by the Council as a late change in approach by the Appellants, that is far from the case - it was precisely as anticipated from the very outset in paragraph 3.3 of the Planning Statement accompanying the Appeal application (**CD 4.21 [3.3]**)<sup>26</sup>. Rather, the change to the proposed S106 was a drafting point only, reflecting the fact that the draft prepared by the Council did not adopt the approach, which was always intended, because it was innovative and not within the Council's standard terms.

property ladder and a chance to buy a home of their own – something which all of the available survey data<sup>27</sup> indicates is their clear preference. Moreover, the recent announcement by the Council with regard to Jubilee Square (**Gingell Rebuttal CD 4.82 [Appendix AGr1]**), positively celebrating a scheme that offers Key Workers routes to home ownership, proves the merit of the current Appeal Scheme also. Put shortly, Addison Park is a comprehensive offer, providing a mix of tenures affordably to meet a wide range of housing need; and it should be applauded for its unique approach, responding to those needs in such an innovative and imaginative way.

8. **A BALANCED COMMUNITY**

68. Moreover, far from creating an imbalanced community as the Council allege, through offering home ownership to Key Workers at these high discounts, Addison Park will begin to redress some of the imbalance inherent to the current situation - one in which large numbers of essential local workers are priced out of home ownership in St Albans, whilst being ineligible for affordable rented accommodation also.

69. It will do so by building the right homes for the right people in the right place:

- a. The “right homes” for the “right people” are those which, by definition, provide “affordable housing” for “essential local workers”; and
- b. Although I come on to the site-specific locational benefits of the Appeal Scheme in Section 9 below, as a matter of first principle, the “right place” to house essential local workers, again by definition, must be “locally”.

70. These are wholly uncontroversial conclusions that have been drawn by others – as demonstrated by the following statement in *“Key Issues for Key Workers - affordable housing in London”*, published by the Greater London Authority (**CD 4.77.26 [3.8]**):

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<sup>27</sup> The Fordham Assessment for Haringey (**CD 4.63 [15.5]**) and the DCA Assessment for Dacorum (**CD 4.77.17 [6.2.8]**)

“Another important strand in the vision relates to the benefits of maintaining key workers in the local community. This was not just about ensuring that those working shifts or unsocial hours could live near their work but focused on the wider benefits of ensuring balanced communities and the long-term maintenance of mixed neighbourhoods.”

71. And yet, bizarrely, Mr Connell asserts the opposite, stating that the Appeal Scheme leads to an unbalanced community (**CD 53 [4.56]**), saying so in words lifted verbatim from the Officer’s Report (**CD 4.48 [8.11.18]**):

“It is considered that a mixture of general market housing and affordable rent, plus the proposed discounted Key Worker dwellings, would be more likely to lead to a mixed and balanced community as sought in policy.”

72. However, the Council’s approach omits multiple critical matters (quite apart from the simple point that 100% affordable housing schemes are positively contemplated by national planning policy through paragraph 65 d) of the NPPF (**CD 7.1 [65 d]**)):

- a. First, as made clear in the definition in the DCA 2006 Housing Needs Study (**CD 4.77.2**), Key Workers “... are essential for the balanced and sustainable development of the local community” (**Parker CD 4.77 [3.73.ii]**). Nurses, teachers, police officers, fire fighters, local government officers and the like are not just part of a balanced community, they provide the local services upon which a properly balanced community actually depends.
- b. Second, insofar as the Officer Report expresses support for a mixed scheme comprising social rented accommodation as the affordable element, that entirely ignores:
  - i. That part of the NPPF definition of affordable housing (**CD 7.1 [Glossary]**) which expressly refers to “housing that provides a subsidised route to home ownership ... for essential local workers”; and



- ii. The findings of both Fordham Research in Haringey (CD 4.63 [Chapter 15]) and DCA in Dacorum (CD 4.77.17 [6.2.8]), that the overwhelming majority of Key Workers want to own their own home if that can be made affordable for them; and
  - iii. That part of the Council’s Affordable Homes SPG (CD 8.17 [5.13]) which expressly recognises that affordable housing for Key Workers “could be for ... low-cost sale” (Parker CD 4.77 [3.75]).
- c. Third, there is no support in policy, either nationally or locally, for the extraordinary approach the Council has taken (Parker CD 4.77 [3.76]):
- i. As earlier noted, Mr Connell agreed (Stinchcombe XX) that nothing in the NPPF definition of affordable housing ranks one form of affordable housing over any other;
  - ii. Furthermore, and unlike the Former Imperial College Private Ground decision letter which Mr Parkinson put to Ms Gingell in cross-examination (CD 5.38), *nothing* in the Local Plan ranks one form of affordable housing over any other either.
- d. Fourth, insofar as Mr Connell sought to rely on the GL Hearn LHNA (CD 8.35), that is not policy at all<sup>28</sup>, as the LHNA itself made clear, and it also leaves to the developer the choice as to the mix of affordable home ownership housing which is proposed:
- i. Paragraph 2.5 expressly states as follows (CD 8.35 [1.5]):

“To be clear this Local Housing Needs Assessment does not set housing targets. It provides an assessment of the need for housing,

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<sup>28</sup> It is evidence only and, indeed, evidence which is both untested at examination and incomplete because it fails to address the housing needs of Key Workers.

making no judgements regarding future policy decisions which the Councils may take”;

ii. Paragraph 6.51 reiterates this (CD 8.35 [6.51]):

“Within the 40% affordable/affordable home ownership a split of 75:25 has been used; this means an estimated total of 30% of completions as affordable housing (rented) and 10% as affordable home ownership. It should be stressed that these figures are not policy targets”;

iii. Moreover, paragraphs 5.150 and 5.158 of the GL Hearn LHNA (CD 5.20 [5.150]; [5.158]) make it very clear that it will be for the developer to choose the mix of subsidised routes to home ownership they provide.

e. Fifth, the mix proposed in this Appeal Scheme Appeal Scheme will provide for a balanced development in any event:

i. It includes a range of types of property - detached, semi-detached and terraced dwellings. and small apartment blocks, and a range of dwelling size also - 1-bed, 2-bed, and 3-bed properties;

ii. It is a mixed tenure scheme also, comprising a combination of First Homes, Shared Ownership Homes, Discount Market Sale, and Self-Build properties, all discounted by at least a third of open market value; and

iii. As explained already, that mix comprises a broad offer, one which is affordable to different households on different incomes.

f. Sixth, and most important of all, the existing community in St Albans is already unbalanced because many Key Workers cannot afford to live there – they are priced out of owning a home and ineligible for affordable rented accommodation as well.

73. The Key Worker households at whom Addison Park is directed will not, for example, be able to live in the Cala Homes development, should it be permitted: they could not afford the open market housing; and they would not be able to access the affordable housing either. It is a peculiar view to consider that a development which cannot readily accommodate nurses, teachers, police officers, firefighters – the very workers upon which we all depend – affords a social balance to aspire to; and one that meets their needs is somehow imbalanced. That simply cannot be right - essential local workers should be able to live locally, in the very heart of the place they serve.

## 9. THE RIGHT LOCATION

74. As noted already, if the housing needs in St Albans are to be met, there will have to be very substantial development in open Green Belt land – the only question is ‘How’ and ‘Where’. I have addressed ‘How’ already; I now turn to ‘Where’. I can deal with this matter very quickly, however, given that:

- a. Council Officers have already assessed the broad location of land on the west side of Chiswell Green as a sustainable and acceptable location for development through the recommendation to approve the Cala Homes scheme; and
- b. The current Appeal Site, on the other side of Chiswell Green Lane, is in an equally sustainable location.

75. In particular, and as Mr Stevens explained (**Stevens CD 4.79**)<sup>29</sup>:

- a. Nearby Chiswell Green is served by a good mix of services, facilities, and amenities within easy walking and cycling distance (**Stevens CD 4.79 [3.29]-[3.33]**);

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<sup>29</sup> And this is entirely consistent with that of the evidence of Anthony Jones (**Jones CD 3.23**), as adopted by Justine Kenworthy (**Kenworthy CD 3.18.a [7.26]**), for Cala Homes.

- b. There are 5 bus stops within a 10-minute walk, offering access to nearby settlements, including How Wood, Park Street, St Albans and Watford (**Stevens CD 4.79 [3.34]**); and
- c. The package of sustainable transport mitigation measures agreed with the Highway Authority is comprehensive and will further encourage sustainable travel, benefitting both existing and future residents (**Stevens CD 4.79 [3.24]-[3.27]; [3.40-3.42]**).

76. I come on to other highways related matters, raised by Third Parties in Section 10 below. Suffice it to say at this stage, however, that:

- a. For good reasons of sustainability, Council Officers have already identified the settlement of Chiswell Green as appropriate for expansion in order to address the Council's chronic, and serious, unmet housing needs; and
- b. Neither the Local Planning Authority nor the Highway Authority has any highways objection to the Appeal Scheme itself, or the Appeal Scheme coming forward together with the Cala Homes proposal.

77. As for landscape, I need make the following six comments only:

- a. First, whilst the Appeal Site lies in the Green Belt, this is a spatial designation only - not a landscape designation at all.
- b. Second, whilst any reliance on the SKM Green Belt Review (**CD 8.3a**) has to be seen against the backdrop of the examining Inspectors' conclusion that it was seriously flawed (**Parker CD 4.77 [3.26]-[3.27]; [3.41]; [3.80]-[3.84]**), to the extent that it is to be attributed weight, that Review identified the whole of Sub-Area SA8, including the Appeal Site, as the least sensitive in the District in terms of

its contribution to Green Belt purposes, and the Appeal Site is therefore part of the best Sub-Area, sitting top of the league table in the SKM Review (CD 8.5 [Table 9.1]).

- c. Third, it is agreed that the Appeal Site is not in any nationally protected designated landscape area and is neither part of, nor contributes to, a “valued” landscape for the purposes of paragraph 174(a) of the NPPF (CD 7.1 [104(a)]).
- d. Fourth, given that the Council has accepted that housing needs can only be met through development on open Green Belt land, there will be an unavoidable detrimental impact, *somewhere*, on the openness of the Green Belt and encroachment into the countryside, and a consequential impact on landscape character and appearance as well (Gray CD 4.78 [8.2]). Mr Friend confirmed his understanding that this was the case (Stinchcombe XX).
- a. Fifth, whilst Mr Friend comes to marginally different judgements to Mr Gray on the impacts on landscape character and appearance, the differences of opinion are all at the lowest end of the scale:
  - i. In terms of landscape sensitivity and condition, from low to medium (CD 5.32 [4.1.8]; [4.1.9]; [4.1.15]; [4.1.18]; [4.1.20]);
  - ii. The change in landscape character in the Landscape Character Area is agreed to be small, and it reduces to slight as planting matures (CD 5.32 [5.1.8]); and
  - iii. The height of Mr Friend’s criticisms is that, at landscape scale, the effects are localised and slight; at site level, moderate; and with regard to setting, moderate also (CD 5.32 [5.1.24]) – that is hardly damning in a District which needs to build in the Green Belt to meet urgent housing needs.

- b. Sixth, if those detrimental impacts are going to be occasioned somewhere in any event, it must be an advantage that this particular Appeal Site can be developed without breaching any landscape policy at all – national or local - and no such allegation has even been made.

78. Moreover, it is worth noting that to deliver 330 affordable homes in accordance with the Council’s model of a 40:60 split, would require an additional 495 open market houses on top of the 330 affordable units which are proposed (**Fidgett XIC**). At the Council’s preferred density of 24 dwellings per hectare, 34 hectares of Green Belt land would be needed to achieve that, when the Addison Park model of 100% affordable homes, delivers 330 on just 14 hectares – that is a very considerable Green Belt saving in terms of openness and represents an extremely efficient use of greenfield land.

#### 10. **THIRD PARTY REPRESENTATIONS**

79. I come, then, to the Third-Party representations, including those by KCG.

##### **Precedent**

80. KCG (and others) reference the risk of precedent for the release of adjoining land. However, this application must be determined on its own merits and the question as to whether very special circumstances exist with regard to this *unique* proposal (**Fidgett CD 4.81 [12.3]**). Furthermore, in *Poundstretcher Ltd v Secretary of State for the Environment* [1988] 3 PLR 69, it was held that for precedent to be material, more than the “mere fear or a generalised concern” upon which KGC (and others) exclusively rely, is required.

##### **Green Belt and ‘Gateway Development’**

81. The question over the need to release Green Belt land for housing is a consistent theme among the representations. However:

- a. As Mr Fidgett explained (**Fidgett CD 4.81 [12.8]**), the Council has long-since acknowledged that exceptional circumstances exist to justify the release of Green Belt to meet housing needs;
- b. This has been reflected in recent decisions which have acknowledged that very special circumstances justify development of Green Belt sites in order to contribute to meeting housing needs<sup>30</sup>;
- c. Indeed, as Mr Fidgett explained, 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 currently being achieved (**Fidgett CD 4.81 [10.26]; [12.9]**) (CD 8.7).

#### **Affordable Housing Uncertainty**

82. While the significant benefit of affordable housing is acknowledged by KCG, questions have been raised over the financial model to deliver this. However:
- a. Both Mr Collins (**Collins CD 4.76**) and Mr Parker (**Parker CD 4.77**) have fully explained how the business model of Addison Park comprehensively secures delivery (**Fidgett CD 4.81 [12.12]**); and
  - b. In any event, the S106 Planning Obligation sets out the terms of the affordable housing proposal, and the delivery of the affordable homes is, therefore, certain and can be relied upon (**Fidgett CD 4.81 [12.13]**).

#### **Integration**

83. KCG also express a concern that the new residents are likely not to integrate well into the existing population. However, as already explained, Key Workers are an essential

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<sup>30</sup> Not the least of which are the Bullens Green Lane decision letter (**CD 9.2**) and the subsequent decision of the Council to grant planning permission for development to the rear of Harpenden Road (**CD 9.3**).

part of our society, not excluded from it. They are no different than anyone else; and our education, police, healthcare, and other services could not run without them (**Fidgett CD 4.81 [12.15]**).

### **Transport Impacts**

84. So far as the transport issues raised in the Proofs of Evidence of Mr Walpole, Mr Fray and Ms St Ledger McCarthy are concerned, the following five points fall to be made:
- a. First, as Mr Fidgett explained (**Fidgett CD 4.81 [4.29]**), paragraph 111 of the NPPF (**CD 7.1 [111]**) states that development should only be 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”.
  - b. Second, the height of this latter threshold is significant. It is Government policy significantly to boost the supply of housing (**CD 7.1 [60]**), a policy objective which necessarily will add traffic to the road network, and planning policy plainly prioritises the delivery of housing over the risk of sitting a little longer than is comfortable in a traffic queue.
  - c. Third, so far as highway safety is concerned:
    - i. As agreed with the Highway Authority, there is no evidence to suggest that any increased traffic demand attributable to the Appeal Scheme, with or without the Cala Homes proposal proceeding, will cause a road safety problem (**Stevens CD 4.79 [3.11]-[3.12]**) (**Stevens Rebuttal CD 4.83 [2.19]-[2.20]**);
    - ii. Further, insofar as Mr Walpole has any residual concern (**Henderson XX**), that relates exclusively to the shared pedestrian/cycle way which is suitable to accommodate up to 300 pedestrians and 300 cyclists per hour and, even together with the Cala Homes proposal, there is more than



sufficient capacity safely to cater for prospective trips (**Stevens Rebuttal CD 4.83 [2.26]**)

d. Fourth, based on the Transport Assessment submitted in support of the Appeal application (**CD 4.27; CD 27; CD 4.38**), the Highway Authority concluded that the impacts arising from the Appeal Scheme on the operational characteristics of the Chiswell Green Lane double mini roundabout, were not “severe” and did not warrant a refusal of permission (**Stevens CD 4.79 [3.7]**).

e. Fifth, and finally, the cumulative impacts of the two Appeal Schemes together have also been addressed by both Mr Stevens (**Stevens Rebuttal CD 4.83 [2.16]-[2.18]**) and Mr Jones for Cala Homes (**Jones CD 3.23a [6.29]; [6.46]**) and, now, by Red Wilson Associates (**ID 16.1-2**) and the Highway Authority (**ID 21**), and all agree that mitigation to an acceptable level is readily possible through a staggered, signalised junction (**Jones CD 3.23a [6.29]; [6.46]**). Indeed, even Mr Walpole agreed that this was possible (**Henderson XX**).

### **Prematurity**

85. Finally, whilst “prematurity” has also been raised as an issue, this is not in the context of an emerging Local Plan (since no such plan exists), but as a point about potential future changes in Government policy (**Fidgett CD 4.81 [12.19]**)<sup>31</sup>. However, this decision must be made on *extant* planning policy. Besides, it cannot be right to sit back and watch the dwindling supply position become even worse, with a consequential worsening of both access to and the affordability of housing (**Fidgett CD 4.81 [12.20]**).

## **11. PLANNING OVERVIEW AND BALANCE**

### **The Correct Approach**

86. Paragraph 74 of the NPPF (**CD 7.1 [74]**) sets out the requirement to maintain a minimum 5 YHLS of deliverable housing sites assessed against housing need. Footnote 8 to paragraph 11 d) of the NPPF (**CD 7.1 [11d]<sup>8</sup>**) makes it clear that where,

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<sup>31</sup> This was the whole point of the intervention by Daisy Cooper MP (**ID12**).

as here, there is not a 5 YHLS, the “tilted balance” is engaged (CD 7.1 [11d]). This requires:

“... for decision taking ... granting permission unless:

- Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against policies in this Framework taken as a whole;
- or
- Specific policies in this Framework indicate development should be restricted.”

87. The NPPF identifies the Green Belt as one of the policies which may indicate that development should be restricted and, therefore, it is necessary to consider whether very special circumstances exist, sufficient clearly to outweigh the definitional harm to the Green Belt by reason of inappropriateness and any other harm. In these regards, however:

- a. First, the past Ministerial Statements (CD 4.72) which indicated that the single issue of unmet demand for conventional housing<sup>32</sup> was unlikely to constitute very special circumstances is no longer policy, and meeting unmet housing needs, and especially affordable housing needs, can now amount to very special circumstances, as Inspector Master made clear in the Green Lane decision letter (CD 9.2 [47]);
- b. Second, given that the Council has long-since concluded that there needs to be development on open land in the Green Belt if its housing needs are to be met, it necessarily follows that there is bound to be a considerable impact on openness (and an encroachment into the countryside) wherever that necessary development takes place; and
- c. Third, pending any fresh allocations in a replacement Local Plan – and none will be possible till the end of 2025 at the earliest – the *only* way in which any of the Council’s considerable housing shortfall can be addressed is through

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<sup>32</sup> As also noted above, the Appeal Scheme is not for "conventional" housing in any event, but a unique scheme which comprises 100% affordable housing for Key Workers.

very special circumstances being accepted, as in the Bullens Green Lane decision letter (CD 9.2) and the subsequent decision of the Council to permit housing on land to the rear of Harpenden Road (CD 9.3).

88. It is against the backcloth of all the above, that I summarise Mr Fidgett's conclusions below, dealing first with the harms, then the benefits, and, finally, the weighing of the balance itself.

### **Green Belt Harms**

#### *In Principle Harm*

89. As Mr Fidgett accepted (Fidgett CD 4.81 [8.5]), inappropriate development in the Green Belt is by definition harmful, and **Substantial Weight** should be given to this harm (CD 7.1 [148]).

#### *Openness*

90. Given that there will have to be considerable housing development on open Green Belt sites to meet the Council's housing needs, a considerable impact on openness is inevitable (Gray CD 4.78 [8.2]). That said, however, the Appeal Site is relatively well contained in visual terms, and while there are locations where views would be gained, these are localised and limited in nature (Fidgett CD 4.81 [8.8]). As a result, Mr Fidgett considered that there is harm to openness which attracts **Moderate to Substantial Weight** (Fidgett CD 4.81 [8.9]), and I commend that judgement to you.

#### *Checking the Unrestricted Sprawl of Large Built-Up Areas*

91. As for checking unrestricted sprawl, the Appeal Site adjoins a medium sized village only, not a large built-up area. Further, the Appeal Scheme plainly has the potential, subject to the masterplanning and design at the Reserved Matters stage, to form a well-contained extension to the existing settlement (Fidgett CD 4.81 [8.10]). The Appeal Site relates well to the notion of a westward area of growth for Chiswell Green, something supported by the Council in its proposed allocation of land south of Chiswell Green Lane (Fidgett CD 4.81 [8.11]); and whilst separated by a strip of paddock land from

the existing settlement edge, the Appeal Scheme would both function, and be perceived as, a western addition to Chiswell Green, joined by a series of pedestrian and cycle connections through the landscape buffers (**Fidgett CD 4.81 [8.12]**).

92. Furthermore, the Appeal Site is already contained by strong landscape boundaries and, given the provision of an additional green buffer of open space, the Appeal Scheme would not pose any risk of urban sprawl (**Fidgett CD 4.81 [8.13]**). As a result, Mr Fidgett considered there to be no harm in respect of checking the sprawl of large built-up area (**Fidgett CD 4.81 [8.14]**), such that **No Weight** falls to be attached. Once again, I commend his judgement to you.

*Preventing Neighbouring Towns Merging into One Another*

93. As for the risk of neighbouring towns merging, Mr Connell openly conceded that “a significant gap” would be maintained between Chiswell Green and Hemel Hempstead, which is over 4 km northwest of the site, beyond the M1 (**Fidgett CD 4.81 [8.15]**), and that the Appeal Scheme would not lead to any merger of the two (**Connell CD 5.3 [4.25]**). Mr Fidgett’s conclusion that there would be no harm in respect of towns merging (**Fidgett CD 4.81 [8.16]**) is plainly right, therefore, and again I commend his judgement that **No Weight** should therefore be attached.

*Assisting in Safeguarding the Countryside from Encroachment*

94. As for encroachment into the countryside, Mr Fidgett accepted that whilst this arises in result of any release of land from the Green Belt for housing (**Fidgett CD 4.81 [8.17]**), it is unavoidable if housing needs are to be met. In the instant case, however, the character of the site is relatively contained by strong boundary landscaping and any perception of the wider countryside is limited until you pass beyond the site into more open farmland (**Fidgett CD 4.81 [8.18]**).
95. Furthermore, whilst the Appeal Site can be seen from the footpaths adjoining the site, these are relatively close-range views (**Fidgett CD 4.81 [8.19]**) and, with a combination of landscape buffers and a Memorial Park framing the housing, the visual impact of

its development would be limited to localised views, without significantly impacting the countryside extending to the west or north (**Fidgett CD 4.81 [8.20]-[8.21]**). As a result, Mr Fidgett considered there to be only moderate harm in respect of safeguarding the countryside from encroachment (**Fidgett CD 4.81 [8.22]**), and, again, I commend his judgement that only **Moderate Weight** be attached.

### **Non-Green Belt Harms**

96. I can deal with the other, non-Green Belt, harms relatively quickly, noting that I have already addressed landscape matters.

### ***Agricultural Land***

97. As Mr Fidgett explained (**Fidgett CD 4.81 [8.24]-[8.27]**), the Council attributes only limited weight to harm arising from the development of agricultural land. In these regards, moreover, *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 Grade 2 and/or 3 agricultural land; and the NPPF only requires consideration of whether land of lesser quality is available (**CD 7.1 [175 footnote 8]**), and that is not the case here. Accordingly, Mr Fidgett attributed **No Weight** or **Very Limited Weight** to this issue (**Fidgett CD 4.81 [8.27]**), and I commend his judgement to you.

### ***Highways and Transport***

98. As for highways and transport 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 (**CD 7.1 [111]**) and that is not the judgement made by the Highway Authority. Accordingly, and correctly, Mr Fidgett recorded this as is neutral and carrying **No Weight** (**Fidgett CD 4.81 [8.31]**).

### **Benefits**

99. The above harms must be weighed against the very obvious benefits of the Appeal Scheme, to which I now turn – again by reference to the expertise of Mr Fidgett (**Fidgett**

CD 4.81 [Section 9]).

### *Housing Delivery*

100. The Council is in housing crisis: it has just 2.0 YHLS (CD 8.7 Table 2 [p.18]). The Appeal Scheme proposals are for 330 dwellings that will contribute, significantly and positively, to the choice of housing available in the local market, appealing to a wide range of people - first time buyers, individuals, couples, and families, offering each a different route to home ownership. Mr Fidgett attributed **Very Substantial Weight** to this contribution to housing supply (Fidgett CD 4.81 [9.5]-[9.8]), and I commend that judgement to you as obviously correct.

### *Affordable Housing*

101. There is also a very clear, and additional, benefit in addressing the affordable home crisis in St Albans through the provision of 330 affordable units (100%). Mr Fidgett accorded **Very Substantial Weight** to this benefit (Fidgett CD 4.81 [9.9]-[9.13]), which is precisely the weight attributed to considerably smaller amounts of affordable housing at Bullens Green Lane, just 45 units (45%) (CD 9.2 [54]); and the development off Harpenden Lane, 60 units (also 45%) (CD 9.3 [8.7.4]). Given that consistency in planning decisions is highly important<sup>33</sup>, I unhesitatingly invite you to agree with Mr Fidgett.

### *Key Worker Affordable Housing*

102. As Mr Fidgett further explained (Fidgett CD 4.81 [9.14]-[9.27]), there is a particular problem with the supply of housing to meet the needs of Key Workers - being unable to buy at open market prices, but at the same time above the income thresholds for the limited supply of affordable rental homes. Given that the Appeal Scheme would offer 330 affordable homes exclusively for Key Workers, and in such an unaffordable locality, Mr Fidgett, accorded this benefit **Very Substantial Weight** (Fidgett CD 4.81 [9.27]), and I commend that judgement to you as undoubtedly correct.

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<sup>33</sup> See: *North Wiltshire v Secretary of State for the Environment* [1993] 65 P&CR 13.

103. Moreover, alongside inviting you to agree with Mr Fidgett on the weight to be attached to all of these elements of housing, I also invite you to dismiss the contrary judgements of Mr Connell entirely. In essence, his approach was to attach “very substantial” weight to the benefit of delivering housing to the wealthiest in the nation, those who can afford open market housing in St Albans, even with a new homes’ premium (**Connell CD 5.4 [4.47]**); and then to reduce that weight to the lowest part of “substantial” (**Connell CD 5.3 [4.57]**), simply because all of the housing at Addison Park is considerably cheaper and for Key Workers. That is obviously wrong.
104. It is completely absurd to attach less weight to housing because it is cheaper and meets the needs of the most valuable members of the local community. It would mean that the only way in which the Appeal Scheme would gain equivalent weight to that of Cala Homes, would be to replace affordable housing for essential local workers with expensive market homes which Key Workers cannot afford, or social rented houses for which they do not qualify. Think about that for a moment. A few short years after the nation applauded the selfless dedication of Key Workers, St Albans Council would prefer fewer houses were provided for them, not more.
105. Indeed, not even the Officer’s Report agrees with Mr Connell: the weight attached to that benefit was expressly stated to be “very substantial” in that Report (**CD 4.48 [8.11.23]**), and Mr Connell was completely out of order to reduce it at this Inquiry.

#### *Self-Build Housing Plots*

106. The Appeal Scheme also includes a contribution to the provision of self-build plots, giving the land away for all but nothing, and locking that discount in for future qualifying purchasers. Mr Fidgett accorded this benefit **Substantial Weight** (**Fidgett CD 4.81 [9.28]-[9.29]**), which accords precisely with the Inspector’s decision in the Bullens Green Lane appeal (**CD 9.2 [53]**) and the Council’s own decision regarding the development off Harpenden Lane (**CD 9.3 [8.7.4]**). Mr Fidgett’s judgement in this regard is plainly correct and supported by recent precedent, save that these self-build plots will make for affordable homes for Key Workers in perpetuity.

### *Economic Benefits*

107. As for the economic benefits of the Appeal Scheme, on any view these are considerable (albeit Mr Connell completely ignores them in his Proof of Evidence for the Appeal Scheme (**Connell CD 5.3**), whilst attributing moderate weight to them for the Cala Homes proposal (**Connell CD 5.4 [4.50]**).

- a. As Mr Fidgett explained (**Fidgett CD 4.81 [9.30]**), the lack of access to housing is a key factor hampering economic performance. By providing more housing to meet local needs, this improves overall economic conditions.
- b. Furthermore, as Mr Fidgett also explained (**Fidgett CD 4.81 [9.31]-[9.33]**), the development of 330 homes also brings with it direct and indirect economic benefit, which, calculated by reference to work undertaken by the Home Builders Federation<sup>34</sup>, represents a gross development value of nearly £100m, much of which will stay within the local economy, supporting up to 1,000 jobs, providing 11 apprenticeships/trainees, and generating approximately £3.9m in tax revenue and £372,000 in local Council Tax revenue. As put in the Planning Statement accompanying the Appeal application (**CD 4.21 [5.9]**):

“In the booklet accompanying the Public Consultation of its draft Strategic Local Plan, Oct-Nov 2014, the Council stated “new housing in the District supports economic growth”: I agree.”

108. For all these reasons, Mr Fidgett (**Fidgett CD 4.81 [9.35]**) correctly accorded the wider economic benefits **Substantial Weight**.

### *Public Access*

109. In addition, the Appeal Scheme will make a contribution to public access to the Green Belt, in the form of the Memorial Park, the areas of landscape buffer, and the footpath

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<sup>34</sup> “The Economic Footprint of House Building in England and Wales” (July 2018), which includes a calculator based on the number of homes provided.



network that connects with the existing public footpath network to create both a circular route without having walking along Chiswell Green Lane. Mr Fidgett correctly attributed these benefits **Moderate Weight** (Fidgett CD 4.81 [9.40]).

#### *Accessibility Improvements*

110. The Appeal Scheme will also contribute to the improvement of local bus services, enhancing wider access to public transport for the community. Quite correctly, Mr Fidgett accorded these benefits **Moderate Weight** (Fidgett CD 4.81 [9.26]-[27] (sic)).

#### *Net Biodiversity Gain*

111. As for biodiversity net gain (“BNG”), the Appeal Site comprises predominantly improved grassland that has been grazed by horses over an extended period. While no BNG metric has been undertaken, as this must clearly respond to the detail of any landscape and biodiversity scheme at Reserved Matters stage, it is reasonable to be anticipated that a 10% BNG can be achieved on site through the inclusion of native woodland, hedgerow, and meadow as part of that landscape scheme. Even if it cannot be achieved on site, however, the S106 requires a 10% BNG gain in any event – an additional benefit of the Appeal Scheme to which **Moderate Weight** should be attached (Fidgett XIC).

#### **Overall Planning Balance**

112. It has long been accepted by the Council that exceptional circumstances exist that necessitate the release of Green Belt land in order to meet housing needs in St Albans. The Council has, however, failed to deliver a new Local Plan. The end result is one of both crisis and emergency: a Plan-making crisis; a housing crisis; and an affordable housing emergency, especially for the Key Workers unable to access social rented housing, but unable to afford a home of their own either. Worse still, the Council has no intention of addressing their needs in the future; indeed, they have no intention even to assess their specific needs in any ongoing Plan-making (Connell CD 5.3 [4.49]) (Stinchcombe XX). That is a shocking abdication of responsibility to the Key Workers on whom the city depends.

113. It is precisely because the Appeal Scheme addresses all of these unmet needs, ones which the Council have ignored, and propose to continue to ignore, that, in Mr Fidgett's overall planning judgement, the substantial benefits of this Appeal Scheme clearly outweigh the harm to the Green Belt and all other harms and compel that this Appeal is allowed (**Fidgett CD 4.81 [10.33]**); and holds to that view even if you were to agree with Mr Friend's views on the impact of the Appeal Scheme on the unvalued, ordinary, landscape in which the Appeal Site is located (**Fidgett XIC**).
114. I commend Mr Fidgett's judgement to you entirely. It is obviously consistent<sup>35</sup> with both the decision of Inspector Masters in the Bullens Green Lane decision letter (**CD 9.2**) and the subsequent decision of the Council itself regarding land to rear of Harpenden Road (**CD 9.3**). Indeed, if, in those cases, the provision of considerably fewer affordable homes, both in absolute numbers and in terms of percentage, amounted to benefits to which very substantial weight should be accorded, sufficient to amount to very special circumstances, then the provision of 330 affordable homes (100%), all for Key Workers, amounts to very special circumstances on steroids.

## 12. COMPATABILITY WITH CALA HOMES

115. Finally, and for completeness, I briefly address the compatibility of the Appeal Scheme with that of Cala Homes. Each scheme must, of course, be decided on its own merits, and for all of the above reasons the Appeal Scheme in respect of which I am the advocate are overwhelming, and I have no brief or reason to comment on any other scheme. I do, however, say this. You do not need to choose between the two, but can approve both without giving rise to a severe impact on the operation of the local highway network. Moreover, the housing needs of St Albans are such that, together, the two schemes will go a considerable way towards addressing planning and housing crises which the Council has proven incapable of addressing itself.

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<sup>35</sup> Remembering, again, that consistency is highly important in planning decisions for the reasons given in *North Wiltshire v Secretary of State for the Environment* [1993] 65 P&CR 13, at [145] of the judgment of Mann LJ.

116. Indeed, whilst the Appellants emphatically assert that the Appeal Scheme, of itself, not only represents a balanced community, but addresses a fundamental imbalance in St Albans as it currently is, it is beyond any doubt whatsoever that, *together*, the two Appeal Schemes will not only mark the step change in housing delivery, across all tenures, that St Albans needs, but do so in a balanced way - a total of 721 homes, comprised of 486<sup>36</sup> affordable housing units (67%)<sup>37</sup>, with a variety of affordable tenures - affordable home ownership for Key Workers, social rental housing, affordable rental housing, intermediate housing, First Homes housing, and self-build and custom-build plots; and 235 market housing units<sup>38</sup> (33%)<sup>39</sup> on top of that.

**13. OVERALL CONCLUSIONS**

117. For all of these reasons, and irrespective of the decision you reach on the Cala Homes proposal with which Addison Park has been co-joined, I respectfully request that this Appeal be allowed.

**Paul Stinchcombe KC**  
**39 Essex Chambers**  
**81 Chancery Lane**  
**London WC2A 1DD**

**9<sup>th</sup> May 2023**

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<sup>36</sup> 330 (Addison Park) plus 156 (Cala Homes) (391/40 x 100).

<sup>37</sup> 486/721 x 100.

<sup>38</sup> 391/60 x 100.

<sup>39</sup> 235/721 x 100.