

# Statement of Case

**Appeal by Tarmac Ltd against the Refusal by St Albans City and District Council of an Outline Application for:**

Up to 45 dwellings, including new affordable homes, with areas of landscaping and public open space, including points of access, and associated infrastructure works at Land to the Rear of 96 to 106 High Street Colney Heath, Hertfordshire.

**Ref No 5/2022/0599**

November 2023

**Turley**

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**Client**

Tarmac Ltd

**Our reference**

TARC3006

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# 1. Introduction

- 1.1 The following Statement of Case (SoC) has been prepared by Turley on behalf of Tarmac Ltd (the Appellant) against the refusal by St Albans City and District Council (SADC) of outline planning permission (the Application) for an:

*‘Outline application (means of access sought) for up to 45 dwellings including new affordable homes, with areas of landscaping and public open space, including points of access, and associated infrastructure works, at land to Rear of 96 To 106 High Street Colney Heath, Hertfordshire’*

## **The Appeal Proposals**

- 1.2 An outline planning application (with all matters reserved except for means of access) for up to 45 new homes was submitted to SADC in February 2022 and validated on 8<sup>th</sup> March 2022, under planning reference 5/2022/0599.
- 1.3 The application proposed the residential development of land to the rear of 96 To 106 High Street, Colney Heath, adjacent to the Football Club (the Site). The application also proposed an additional 10% of Custom Build homes to achieve 50% of the overall scheme as being ‘other types of housing offering choice’ together with new landscaping and public open space and associated infrastructure works. The outline application was supported by an illustrative Site Layout Plan and a Design and Access Statement.
- 1.4 The Planning Statement submitted to SADC with the application sets out the benefits of the proposed development, and a planning rationale for the proposals, having regard to the National Planning Policy Framework (NPPF), Planning Practice Guidance (PPG) and the extant Development Plan for St Albans, parts of which (the Saved Policies from the 1994 St Albans Local Plan) are nearly 30 years old.
- 1.5 The Planning Statement and supporting technical assessments demonstrate that the proposals are a natural, sustainable extension to central Colney Heath, which although modest in scale, will deliver much needed market and affordable housing. Other than for the new point of vehicular access onto the High Street, the Site does not require any major new infrastructure to facilitate development for the proposed use.
- 1.6 The Site can therefore be brought forward early and is capable of contributing to the Council’s five year housing land supply. Tarmac owns and controls all of the land, the development of which, is the subject of the appeal, which can be completed within five years of securing outline planning permission and reserved matters approval. This is a material consideration of very substantial weight, given the persistent and continuing major deficit in the Council’s five year housing land supply position and the absence of any up to date Local Plan. The inclusion of detailed plans for the long term future of the access road also offers certainty and cumulative public benefit.

- 1.7 The new access road will provide betterment by including footpaths, which will provide pedestrian segregation and enable the access road to be offered for adoption.
- 1.8 In terms of the pattern of settlement, the development of the Site will complement an area adjacent to the eastern village edge of Colney Heath, which is already in significant community use, by reason of the adjacent primary school and football clubhouse.
- 1.9 The limited development proposed on the Site will therefore sympathetically reflect the existing pattern of residential development in this part of the village. The proposed green open spaces and additional structural planting will together also help to create an attractive environment for residents in addition to improving local biodiversity.
- 1.10 New planting across the western edges of the scheme will assist with containment in relation to adjoining residential boundaries, and new structural landscaping adjacent to the eastern boundary will also assist with softening views into the Site from the west.
- 1.11 Ecological enhancements will also be a key element in the green infrastructure provision to help achieve Biodiversity Net Gain (BNG).
- 1.12 In summary, the proposed residential development, the subject of the appeal (the Appeal Scheme), comprises the following elements:
  - Up to 45, high quality, sustainable new homes of a range of scales;
  - A mix of tenure and house types, including the provision of affordable housing at a rate of 40% (18 new homes) which exceeds existing SADC planning policy requirements;
  - Circa 10% additional provision for custom homes (4 new homes).
  - Vehicular access provided from existing access off Colney Heath High Street;
  - New access footpaths, which will provide pedestrian segregation and suitability for adoption by the Highways Authority;
  - A high quality landscaping scheme with retention of most of the existing high-value boundary tree specimens, with significant additional planting of native and new specimen tree / hedge planting to create new landscaped boundaries;
  - Excluding drainage areas, around 28% of the Site is proposed for new public open space and amenity area, for both existing and future residents, complemented by the proposed new landscaping; and
  - Surface water to be drained via a Sustainable Urban Drainable System (SuDS).
- 1.13 Further details of the Appeal proposals, including a site description and site context, are set out in the accompanying Statement of Common Ground (SoCG).

## Background to the Appeal

- 1.14 In February 2023, one year after validation, a meeting was held between SADC, Turley and the Appellant to discuss the Council's intended course of determination.
- 1.15 Officers advised the Appellant that notwithstanding the positive landscape comments received from Hertfordshire County Council (HCC) as the relevant statutory landscape consultee, the application would be recommended for refusal by SADC officers at the next available committee meeting, on Green Belt and landscape grounds.
- 1.16 This assessment reflected the officers' own assessment of the impact of the development upon Green Belt and landscape character, and their perception of encroachment into the open countryside. Whilst officers acknowledged the very substantial benefits of the housing proposals, in the context of SADC's long-term lack of a Local Plan and the major shortfall in five year housing land supply, this did not change their overall view. A full background chronology, setting out the wider background context to this Appeal, is described further in the SoCG.

## Reason for the Appeal

- 1.17 On 22 May 2023, the Application was presented to the Development Management Committee, with an officer recommendation of refusal, citing harm to the Green Belt, harm to landscape character, harm to an adjacent listed building, loss of high quality agricultural land and impacts upon social and physical infrastructure. Other reasons related to the absence of a completed and signed S106 legal agreement.
- 1.18 The Application was refused by the SADC Development Management Committee for the following two reasons:

- 1. The site is within the Metropolitan Green Belt and the proposed development represents inappropriate development within the Green Belt, as set out in the National Planning Policy Framework 2021. In addition to the in-principle harm to the Green Belt by reason of inappropriateness, other harm is identified as a result of the proposed development in terms of its detrimental impact on the openness of the Green Belt, harm to Green Belt purposes, harm to landscape character, the adjacent Grade II listed building, loss of high quality agricultural land, and the impacts on social and physical infrastructure. The potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is not clearly outweighed by other considerations; and as a result the Very Special Circumstances required to allow for approval of inappropriate development in the Green Belt do not exist in this case. The proposal is therefore contrary to the National Planning Policy Framework 2021 and Policy 1 of the St Albans District Local Plan Review 1994.*

2. *In the absence of a completed and signed S106 legal agreement or other suitable mechanism to secure: Education provision in the form of new primary school, secondary school, nursery and childcare provision; Special Educational Needs and Disabilities provision; Library service provision; Youth Service provision; Play Areas, Parks and open Spaces and Leisure and Cultural Services provision; Affordable Housing provision; Highway Works including provision for Sustainable Transport; the infrastructure needs of the development would not be met and the impacts of the proposal would not be sufficiently mitigated. The proposal is therefore contrary to the National Planning Policy Framework 2021 and Policy 143B (Implementation) of the St. Albans District Local Plan Review 1994.*

1.19 The Appellant disagrees with these reasons for refusal, notably in terms of the degree of harm to the Green Belt and landscape character, the degree of harm to the adjacent listed building, the loss of high quality agricultural land and the alleged impacts upon social and physical infrastructure.

1.20 In particular, the Appellant's case is that the potential harm to the Green Belt, by reason of inappropriateness, and any other harm arising from the proposal, is not as significant as SADC suggests, and furthermore that this limited harm is clearly outweighed by other material considerations, to which SADC has afforded less weight than that of the Appellant. A copy of the officer's report is attached at **Appendix 1** of this SoC.

### **Requested Appeal Procedure**

1.21 Having considered the issues and the high volume of consultation responses received, the Appellant considers that a Public Inquiry is the most appropriate forum within which to determine this Appeal, and the following justification is provided:

- (a) There is a clearly explained need for the evidence to be tested by formal questioning by an advocate;
- (b) The issues are complex (i.e. multiple and detailed technical data is required to be provided in evidence) and;
- (c) The appeal has generated very significant local public interest, in the form of around **700** third party responses, which warrants an Inquiry, as opposed to dealing with this case by way of a hearing.

1.22 Having regard to the Council's reasons for refusal on Green Belt and landscape grounds, (contrary to the landscape response received from HCC as relevant statutory consultee) and the reason for refusal alleging harm to the adjacent listed building (contrary to the officer's own NPPF Paragraph 202 assessment, which considers that the public benefits of the proposed development would outweigh the harm to the heritage assets) the Appellant considers that the following matters are in contention between the parties:

1.23 The issues to be considered are complex and so will require detailed evidence to be provided by expert witnesses for each party, which will also need to be tested under formal cross-examination:

- (a) The suitability of the location for the proposed scale of development within a countryside location, within the SADC Green Belt, outside of the designated Settlement Development Boundary;
- (b) The degree of accordance with Saved Policy 1 (Green Belt) and the weight to be given to Saved Policy 2 (Settlement Strategy) relative to the weight to be given to the benefits of the delivery of the proposed new housing to address the current chronic housing supply deficit in St Albans District;
- (c) The assessment of impact on Green Belt openness, landscape character and appearance, and compliance with the environmental strand of sustainability.
- (d) The assessment of the impact of the development upon adjacent heritage assets and the test of Paragraph 202 of the NPPF.
- (e) The overall assessment of whether the benefits of the Appeal Scheme, clearly outweigh the harms.

1.24 Notwithstanding that the Council's substantial lack of a five year housing land supply is not contested by SADC in the SoCG, the Appellant intends to call **eight** expert witnesses to advance its appeal case in respect of the following matters:

- The Planning Balance
- Affordable Housing Provision
- The Five Year Housing Land Supply.
- Landscape and Visual Impact
- The Green Belt
- Heritage
- Transport and Highways
- Agricultural Land Quality

1.25 With regard to transport matters, there have been no objections received from the relevant Highways Authority on highways grounds, as set out in the SoCG. However, the Application has attracted numerous third party highways objections, including from Colney Heath Parish Council.

- 1.26 As such, it is anticipated that a highways witness may also potentially need to be called by the Appellant, to address any transport issues raised by potential Rule 6 Parties.
- 1.27 In terms of the time required for the Inquiry, the Appellant considers that given the scope of evidence to be examined, the need for cross-examination, round table sessions for planning conditions and S106 obligations, plus opening and closing, that the Inquiry will last for up to 7 working days.
- 1.28 This exceeds the single day (or two days in exceptional circumstances) normally reserved for Hearings. Accordingly, given the scope of the evidence to be considered, the number of witnesses required and the very significant level of local public interest, a Planning Inquiry is considered to be the most appropriate method of determining this Appeal.



## 2. The Development Plan

- 2.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission must be determined in accordance with the Development Plan unless material considerations indicate otherwise. This is confirmed by Paragraphs 2, 12 and 47 of the NPPF which place importance on the plan-led approach.
- 2.2 The relevant part of Adopted Development Plan for SADC, comprises the Saved Policies of the District Local Plan Review 1994. Other elements of the Adopted Development Plan relate to Waste and Minerals.
- 2.3 Where policies were adopted prior to the publication of the Framework, Paragraph 219 of the NPPF allows for due weight to be given to them, according to their degree of consistency with the Framework. However, a number of the saved policies of the Local Plan Review 1994 are only partially consistent with the Framework and so only limited weight can be afforded to some of them.
- 2.4 The Appeal Site is located within the SADC Green Belt and so the most relevant Saved Policies of the SADC Local Plan Review (updated July 2020) are **Policy 1** (Green Belt) and **Policy 2** (Settlement Strategy).
- 2.5 Other policies of general relevance are Policy 69 (General Layout and Design), Policy 70 (Design and Layout of New Housing) and Policy 74 (Landscaping and Tree Preservation). The above three policies primarily concern matters that were proposed to be reserved as part of the submitted outline Planning Application.
- 2.6 In this regard, where required, the Appellant has provided suitable parameter plans to provide comfort that the requirements of these policies can be appropriately met at the reserved matters stage.
- 2.7 **Policy 1: Green Belt:** identifies the limited exceptions to inappropriate development in the Green Belt and requires that applicants demonstrate very special circumstances in order for inappropriate development to proceed. In this regard, Paragraph 148 of the NPPF states that very special circumstances will not exist unless the potential harm to the Green Belt, by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.
- 2.8 In the case of the Appeal proposals, the Appellant will demonstrate that any potential harm to the Green Belt in this location, is clearly outweighed by other considerations, thereby meeting the tests of NPPF Paragraph 148 and according with the requirements of SADC Saved Policy 1. This requires the harms and benefits of the Appeal Scheme to be weighed in the planning balance, and this assessment will be undertaken in evidence.

- 2.9 **Policy 2: Settlement Strategy:** seeks to direct development to the main towns and also seeks to protect and enhance the character of existing settlements.
- 2.10 In the case of the Appeal proposals, the impacts of the development are in the context of the Colney Heath Site area having an urban village edge character and as such, these impacts will be both sympathetic to the existing character and highly localised.
- 2.11 A list of planning policies relevant to the Appeal is set out in the SoCG, for agreement with the Council.

### **Summary of Compliance with the Development Plan**

- 2.12 The Appellant will provide appropriate evidence to support their position that, in accordance with Section 70(2) of the Town and Country Planning Act 1990 and Section 38(6) of the Planning and Compulsory Purchase Act 2004, that there is no conflict with Saved Policy 1, as the tests required by Paragraph 148 of the NPFF will be demonstrated to have been met in evidence.
- 2.13 Furthermore, notwithstanding the conflict with Saved Policy 2 of the 1994 Local Plan, the Appellant will demonstrate that these settlement limits are out of date and so are not, in themselves, a determinative consideration of this Appeal. In addition, the Appeal proposals are also supported by a number of other policies in the Development Plan.
- 2.14 The Appellant will therefore demonstrate broad accordance with the policies of the Development Plan, when taken as a whole, and that where applied reasonably and with balance, the benefits of the Appeal proposals clearly outweigh any limited conflict with the Saved Policies of the 1994 St Albans Local Plan.

### 3. Material Considerations

- 3.1 There are no material considerations that indicate that the Appeal should be dismissed.
- 3.2 To the extent that there is conflict with Saved Policy 2 (Settlement Strategy) of the Local Plan, that conflict is very substantially outweighed by other material considerations.
- 3.3 The Appellant considers that the following material considerations are relevant to the determination of this Appeal case and reserves its position to reference further material considerations in evidence as required.
- 3.4 The main considerations in this case are:
- (a) The Council's chronic and persistent lack of a five year housing land supply;
  - (b) The fact that all existing settlement boundaries are clearly out of date;
  - (c) The significant benefits of the Appeal Scheme in terms of the delivery of market, custom build and affordable housing and the related social and economic benefits;
  - (d) The minimal adverse effects on the local landscape and the limited area of the Green Belt occupied by the Appeal Site;
  - (e) The lack of any significant urban sites in the district which are allocated or are available for development;
  - (f) The ability to secure a long term future for the access road with certainty and cumulative public benefit. The new access road will provide betterment by including footpaths, which will provide pedestrian segregation and enable the access road to be offered for adoption;
  - (g) The ability to deliver a 10% net gain in biodiversity in advance of any mandatory requirement.
- 3.5 The Appellant will make reference to the NPPF and relevant Appeals including, but not limited to, the following relevant appeal decision:
- Roundhouse Farm, Bullens Green Lane, Colney Heath.  
(APP/B1930/W/20/3265925), dated 14th June 2021 (see **Appendix 2**).
- 3.6 The Appellant will also make reference to the determination of other applications for development in the Green Belt made by the Council, together with any further relevant decisions, reports and studies, pursuant to the appeal case, as required.

## The National Planning Policy Framework

- 3.7 The 2023 NPPF confirms that the purpose of the planning system is to contribute to sustainable development (Paragraph 7).
- 3.8 Paragraph 8 of the 2021 NPPF states that the planning system has three overarching objectives in order to achieve sustainable development.
- 3.9 These are: economic, social and environmental. Whilst these broader objectives are not required to be demonstrated at the site specific project level, the Appellant will identify general compliance with these overarching objectives in context as part of the presentation of evidence of the benefits of the Appeal Scheme.
- 3.10 Paragraph 148 of the NPPF states that when considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt, and any other harm resulting from the proposal, is clearly outweighed by other considerations.
- 3.11 The Appellant will suitably demonstrate that there are other considerations, to which very substantial weight should be attached, which clearly outweigh the potential harm to the Green Belt in this case. These considerations include:
- 3.12 **Economic Benefits:** evidence will be submitted to demonstrate how the Appeal Scheme has significant economic and employment benefits associated with the construction and subsequent occupation of the housing including local spending in shops and services.
- 3.13 **Socio-Economic Benefits:** evidence will be submitted to show that the Appeal proposal will deliver social benefits from the provision of a mix of new market and affordable dwellings in a sustainable and accessible location where there is a local and national shortage against assessed need. This will include the provision of up to 18 affordable new homes.
- 3.14 **Environmental Benefits:** evidence will also be provided to demonstrate the benefits to biodiversity net gain including significant additional planting of new specimen tree and hedge planting and the provision of on-site public open space in accordance with the Council's requirements.
- 3.15 The Appellant will address the following chapters from the NPPF in detail, in evidence:
- (i) Chapter 2 – Achieving sustainable development;
  - (ii) Chapter 5 – Delivering a sufficient supply of homes;
  - (iii) Chapter 6 – Building a strong competitive economy;
  - (iv) Chapter 8 – Promoting healthy and safe communities;

- (v) Chapter 9 – Promoting sustainable transport;
- (vi) Chapter 11 – Making effective use of land;
- (vii) Chapter 12 – Achieving well designed places;
- (viii) Chapter 13 – Protecting Green Belt Land;
- (ix) Chapter 15 – Conserving and enhancing the natural environment;
- (x) Chapter 16 – Conserving and enhancing the historic environment.

3.16 A public consultation on potential amendments to the NPPF concluded in March 2023. At the time of writing, only very limited updates have been made to the 2023 NPPF. Accordingly, as the Government’s intentions for a more detailed revision of the NPPF have yet to be published, the outcomes of the consultation are not afforded any weight. Where published changes are made to the NPPF during the course of the appeal process, the Appellant reserves the right to comment further as required.

### **Housing Land Supply**

3.17 A key material consideration in this case is SADC’s current highly constrained housing land supply position. In this regard, SADC does not have an up to date Local Plan from which to draw housing requirement data, nor does it have any housing allocations from which it derives any planned housing land supply. Accordingly, housing land supply is derived entirely from unplanned and highly limited windfall sources.

3.18 A key Government planning priority is to significantly boost the delivery of new housing. The NPPF recognises that small to medium scale sites, particularly those of 1 hectare in area, such as the Appeal Site, which are unconstrained and do not require any significant upfront infrastructure can be built out relatively quickly.

3.19 The Saved Policies of the Local Plan Review 1994 are almost 30 years old and so exceed the standard five year time limit, set by Paragraph 74 of the NPPF, by around 500%. Therefore, for the purposes of identifying the five year housing land supply, the local housing need must be based on the Government’s standard methodology. For St Albans, this broadly equates to circa 900 new homes per annum over the new plan period, which represents a major step change in previous housing requirements.

3.20 The perpetual absence of an up to date Local Plan, means that SADC is continuously unable to demonstrate a five year housing land supply, which is accepted in the most recent Housing Delivery Test Action Plan (December 2021).

3.21 The Housing Trajectory in the latest published AMR also shows a housing land supply of 2.2 years. This represents only 44% of the national minimum policy requirement, which is materially deficient.

- 3.22 Initial evidence of this shortfall was set out in the officer's report presented to the Planning Referrals Committee on 20th December 2021, for an application proposal in the Green Belt on land off Orchard Park Road, Park Street, St Albans, (application reference 5/2021/2730/SSM) which was approved by SADC, on the basis that from a base date 1 April 2021, SADC only had a housing land supply of 2.2 years.
- 3.23 The officer report for the Appellant's scheme at Colney Heath at Appendix 1, confirms that the situation has not improved since 2021. However, more recently, in the context of an appeal on Land North of Chiswell Green Lane, St Albans, this figure has been further revised downwards to only **2.0** years by SADC (see Paragraph 6.4 of the draft SoCG).
- 3.24 Notwithstanding this update, the Appellant however reserves the right to consider and further review this figure, as the Council is still relying upon its 2021 data. This clearly indicates that in the absence of an up to date Local Plan and any permissive framework, within which new strategic housing can legitimately come forward, that the available pool of housing land supply has materially diminished and will continue to do so.
- 3.25 Therefore for the foreseeable future, the Council will continue to not have a five year supply of housing land, or anything close to this figure, and with no early prospect of this situation being addressed. This is contrary to Paragraph 74 of the NPPF, which is a material consideration of very substantial weight.
- 3.26 This was the scale of weight attributed by the Inspector in the July 2021 Bullens Green Lane appeal decision (see Appendix 3) which is discussed in further detail in the Planning Statement and which will be referenced in evidence, as part of this Appeal.
- 3.27 In terms of affordable housing provision, the outlook is also particularly bleak, with the Council's recent acknowledgement of an acute affordable housing need in the district (see SoCG). This will also be referenced in evidence, as part of this Appeal.

### **The Emerging St Albans Local Plan**

- 3.28 The NPPF allows weight to be given to policies in emerging Local Plans according to their stage of preparation, the extent to which there are unresolved objections to relevant policies and the degree of consistency with national policy.
- 3.29 The Council is currently in the process of preparing a new emerging Local Plan, following the abandonment of its last emerging Local Plan, in November 2020. On that occasion, the appointed Planning Inspectors did not consider that the duty to cooperate had been fulfilled and evidenced, and so the Local Plan was withdrawn in lieu of a new iteration.
- 3.30 The Council held a Draft Local Plan Regulation 18 public consultation in mid-2023, which concluded on 25<sup>th</sup> September 2023. The Draft Local Plan covers the period to 2041 and contains draft housing allocations for 11,779 new homes during the plan period, 10,911 of which are proposed on land which is currently within the Metropolitan Green Belt. The allocations comprise a mix of Broad Locations of 250+ homes and other smaller sites.

- 3.31 Notwithstanding that the Council has recently consulted upon proposed draft housing allocations, the emerging Regulation 18 Local Plan is still at a very early stage in its preparation and reference to the Council's Local Plan consultation portal provides evidence that there are a substantial number of unresolved objections to the Plan.
- 3.32 Accordingly, at the time of writing, only limited weight can be attributed to the emerging Local Plan in the planning balance.

### **Deliverability**

- 3.33 The Appeal Site has no overriding constraints, as evidenced by the technical reports and there are no abnormal costs involved with bringing the Appeal Site forward quickly.
- 3.34 At just under 1 hectare (0.97) the Appeal Scheme is particularly deliverable and the Appeal Site provides a viable, realistic and logical opportunity to help the Council meet its housing needs in the short term in lieu of the long term adoption of a new Local Plan.
- 3.35 The Appellant will provide evidence to show that the Scheme is fully deliverable within five years from the date of approval of the Scheme.

### **Conclusions on Material Considerations**

- 3.36 The material considerations detailed above also provide clear support for the grant of permission as the material benefits of the Scheme clearly outweigh any harm that may be identified, which will be expanded upon in the Appellant's evidence.
- 3.37 The Scheme will also deliver substantial social, economic and environmental benefits, which will also be expanded upon further in the Appellant's evidence.

## 4. Response to the Council's Determination

4.1 Having regard to the background reasons for this Appeal and the chronology set out in the SoCG, the Appellant considers that the main areas in contention between the parties are likely to be as follows:

4.2 The suitability of the proposed scale of development in this location; the degree of accordance with Saved Policy 1; the weight to be given to Saved Policy 2; the extent of the alleged landscape, Green Belt, heritage and infrastructure harm; and whether these harms are clearly outweighed by the benefits of the Appeal proposals in the context of Paragraph 148 of the NPPF.

### **Suitability of the Proposed Scale of Development within this Location**

4.3 With regards to site suitability, the Appellant considers that the following Saved Policies and other material considerations are the most relevant to the determination of this Appeal. The full list of other relevant Saved Policies is set out in the SoCG.

(i)	Saved Policy 1	Metropolitan Green Belt
(ii)	Saved Policy 2	Settlement Strategy
(iii)	Saved Policy 34	Highways Considerations
(iv)	Saved Policy 69	General Layout and Design
(v)	Saved Policy 70	Design and Layout of New Housing
(vi)	Saved Policy 74	Landscaping and Tree Preservation
(vii)	Saved Policy 86	Buildings of Special Architectural or Historic Interest

4.4 With regards to other relevant material considerations, Paragraph 104 of the NPPF, sets out a number of transport objectives. Paragraph 105 of the NPPF states that the planning system should actively manage patterns of growth in support of these objectives and development should be focused on locations which are, or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes.

4.5 This approach to the location of development can help reduce congestion and emissions and improve air quality and public health. The NPPF also recognises that opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and this should be taken into account in both plan-making and decision-making.

4.6 Paragraph 110(a) of the NPPF states that in assessing sites that may be allocated for development in plans, or specific applications for development, it should be ensured that appropriate opportunities to promote sustainable transport modes can be, or have been, taken up, given the type of development and its location.



- 4.7 The Appellant's case in relation to the suitability of the proposed scale of development in this location can be summarised as follows:
- 4.8 The Appeal Site has a good capacity for the scale of development proposed which is an appropriate scheme in this central, edge of village, location adjacent to an existing, well used, Primary School and village Football Club.
- 4.9 The Appellant will show in evidence how the Site is sustainably located close to existing community facilities and will demonstrate the proximity and accessibility of the Scheme to local services and other facilities. The Appellant will also demonstrate that Colney Heath is not an isolated rural settlement and will highlight the accessibility of the Site to St Albans Town Centre, via nearby public transport modes.

### **Third Party Representations**

- 4.10 The Appeal Guide requires the Appellant to take due account of any representations received from interested people by the local planning authority at the application stage. A number of objections were submitted to the Council from third parties during the determination of the application.
- 4.11 The main issues raised by the third parties are summarised and commented upon in summary in the table attached at **Appendix 3**, which categorises the comments made by topic area with the Appellant's summary response.
- 4.12 The Appellant reserves the right to produce additional, detailed, evidence in relation to any further issues raised by third parties during the course of the Appeal process.

## 5. Planning Conditions & Section 106 Obligations

### Planning Conditions

- 5.1 The parties will seek to reach agreement on planning conditions in advance of the Inquiry and an update will be provided in due course. A draft list of the proposed planning conditions, acceptable to the Appellant, is included at **Appendix 1 of the SoCG**.

### Section 106 Obligations

- 5.2 The following S106 obligations are also anticipated as part of the development:
- The proportion of affordable housing to be delivered as part of the development will be 40% (up to 18 dwellings), details of which will be secured as part of the S106 agreement.
  - Up to 10% of the new homes (4) will also additionally comprise Custom Homes.
  - Public Open Space and play provision will be provided directly on site.
  - Where required, financial contributions will be made towards education, as agreed with Hertfordshire County Council, as the relevant Education Authority.
  - Where required, financial contributions towards health care provision will be agreed with the NHS Clinical Commissioning Group.
  - Where required, financial contributions towards new community facilities in Colney Heath will be agreed with SADC.
  - An increase in Biodiversity Net Gain (BNG) will be secured across the site and all new public open space areas will be suitably managed in terms of long-term stewardship.
- 5.3 The Appellant will provide the first draft of the Section 106 Agreement to the SADC and Hertfordshire County Council for consideration early in the process to ensure there is sufficient time for negotiation and completion, as necessary.
- 5.4 The intention will be to provide the agreed draft 10 days in advance of the Inquiry, as required by the Appeal Procedural Guide - April 2023.

## 6. The Planning Balance and Conclusions

6.1 This SoC has been prepared in support of an Appeal against the refusal of outline planning permission by SADC for the erection of up to 45 new homes, including up to 18 affordable new homes, with areas of landscaping and new public open space on Land to the Rear of High Street, Colney Heath.

6.2 The Planning and Compulsory Act 2004 requires that all applications for planning permission must be determined in accordance with the Development Plan unless material considerations indicate otherwise. However, the most important policies for determining the application are out of date and reduced weight should be attributed to them for the following reasons:

- The Development Plan is patently out of date as there is an acknowledged, significant and continual lack of a five year supply in the District, with no prospect of an early resolution;
- The Development Plan is substantively out of date, as it is based on historic housing requirements for a plan period originally commencing in 1986, with an end date of 2001;
- There has been a shortfall of market housing supply in the plan period with no prospect of an early resolution and;
- There has been a serious and persistent failure to deliver affordable housing in the District to date, with no prospect of an early resolution.

6.3 In applying a balanced approach to the assessment of the key factors that affect whether the above proposals at land to the rear of High Street, Colney Heath can be considered acceptable. The key balance of considerations are as follows:

- A key Government planning priority is to 'significantly boost' the delivery of new housing;
- There is an urgent and substantial need for both market and affordable housing in SADC with an accrued and growing shortfall;
- The Council continuously lacks a Five Year Housing Land Supply and the scale of the affordable housing shortfall is very acute and significant;
- The Site is a sustainable location for development in the District, close to a major transport corridor;
- The Site is accessible, via regular public transport, to nearby St Albans with good access to major services and facilities for future residents;

- The Site is a suitable location for the modest scale of housing proposed, relative to the existing character of the village;
- The proposals are acceptable in terms of landscape and wider visual impact;
- There is limited harm arising from the proposals in terms of Green Belt impact which will be limited to the Site and its immediate surroundings. Notwithstanding that this harm is afforded substantial weight by the Appellant in the weighing of the balance, as required by Paragraph 148 of the NPPF.
- The proposals will provide an appropriate and policy compliant housing mix;
- There are no known site-specific constraints to development;
- The proposals will deliver public benefits of very substantial weight, including social, economic and environmental benefits, which collectively clearly outweigh the identified harm.

6.4 Confirmation that the five year housing land supply is deficient is detailed in the Council's Housing Delivery Test, December 2021. However, based on more recent calculations, the Council can now only demonstrate a **2.0** year supply of deliverable housing sites.

6.5 Although the Appeal Site falls outside of the settlement boundary for Colney Heath, the Appellant will demonstrate by reference to relevant appeal decisions, and other relevant planning application decisions made by St Albans Council in the Green Belt, that the spatial strategy and related settlement limits are demonstrably out-of-date.

6.6 Therefore, the fact that the Appeal Site lies outside of the settlement boundary in this context is not a determinative factor upon which this Appeal should be judged.

6.7 The NPPF states 'the purpose of the planning system is to contribute to the achievement of sustainable development'. The Appellant will demonstrate that the Appeal Scheme strongly accords with these aims in principle and will deliver sustainable development of a suitable scale and in a location accessible to nearby available services and facilities in Colney Heath and nearby St Albans.

6.8 The relevant test of Paragraph 148 of the NPPF in this Appeal is to demonstrate that the potential harm to the Green Belt, by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations. The Appellant will demonstrate that the identified harm in this case is clearly outweighed by a number of considerations which comprise, inter alia:

- (i) **Provision of market housing:** the provision of up to 45 market homes comprising a diverse and inclusive mix of new housing to meet the housing needs of St Albans District, in a sustainable location;

- (ii) **Provision of affordable housing:** the provision of 40% affordable housing, helping to address an urgent identified need that should carry substantial weight on its own as a benefit and equating to up to 18 new affordable dwellings;
- (iii) **Social benefits:** the Scheme will yield positive benefits through the delivery of much needed market and affordable housing. The Scheme will provide up to 18 new affordable homes;
- (iv) **Economic benefits:** the Scheme will generate both direct and indirect economic benefits, including the creation of full-time equivalent temporary construction jobs on-site, and further temporary jobs within the supply chain and related businesses. New housing has significant and positive effects on economic output in terms of capital investment, construction work and occupational expenditure.
- (v) **Environmental benefits:** the proposal includes generous areas of open space, beyond local plan requirements; a high quality landscaping scheme with significant additional planting of trees and hedgerows and other environmental enhancements to secure measurable net biodiversity gains;
- (vi) **Development in a sustainable location:** St Albans is a highly sustainable development location and provides a range of services, facilities and public transport options. Whilst the appeal proposals do not lie within St Albans town, it is the settlement to which the Scheme most closely aligns.

6.9 The economic benefits of house building as a significant material consideration and the Government policy imperative to significantly boost the supply of housing, as set out at Paragraph 60 of the Framework, are well documented. These benefits have also been recognised by the Secretary of State in Appeal decisions, even where the Council in question was able to demonstrate a five year supply of housing land.

6.10 The NPPF also recognises that small-medium sites, such as the Appeal Site, which are unconstrained and do not require significant upfront infrastructure can be built out relatively quickly (Paragraph 69). The Appeal Scheme will therefore make a positive contribution to the Council's continuous five year delivery of housing, where there is common ground in relation to the identified unmet need and where the Council's strategic policies are considerably more than five years old.

6.11 The Appeal Scheme will deliver substantial benefits across all three dimensions of sustainable development. The Appellant will further demonstrate that the numerous identified social, economic and environmental benefits of the Appeal Scheme, including new market and affordable housing and new green infrastructure clearly outweigh the harm, in the overall planning balance, when assessed against the saved policies of the Development Plan and the NPPF, taken as a whole.

- 6.12 The Appellant will demonstrate that, as the benefits of the Scheme outweigh the harm, the test of Paragraph 148 of the NPPF is therefore passed. Accordingly, as Saved Policy 1 of the St Albans Plan also references as an exception the demonstration of very special circumstances as part of its test of policy compliance, the Appeal Scheme would also satisfy Saved Policy 1.
- 6.13 The Heritage Assessment provided with the application concludes overall that there would be no known effects upon archaeology and only a slightly adverse effect upon the setting of one listed building (Apsley Cottage). There would accordingly be no effect upon the ability to appreciate the significance of any designated assets, which is the test set by Historic England.
- 6.14 In this regard, the Appellant will also demonstrate that the test required by Paragraph 202 of the NPPF has been undertaken and satisfied on the basis that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including, where appropriate, securing its optimum viable use.
- 6.15 The Appellant will demonstrate that the public benefits of the Appeal Scheme clearly outweigh the less than substantial harm and that Paragraph 202 test is also passed.
- 6.16 In conclusion, the Appellant will demonstrate that the overall balance of material considerations and the relative merit of the Appeal Scheme weighs decisively in favour of allowing this Appeal and further relevant evidence will be provided to the Inquiry, as required, to further substantiate the Appellant's overall case.

**Appendix 1**

**Officer Report – 5/2022/0599**

**Appeal Site, Colney Heath**

**Development Management Committee - May 2023**

<b>REGISTERED NUMBER:</b>	5/2022/0599
<b>APPLICANT:</b>	Tarmac Ltd
<b>PROPOSAL:</b>	Outline application (means of access sought) for up to 45 dwellings including new affordable homes, with areas of landscaping and public open space, including points of access, and associated infrastructure works
<b>SITE:</b>	Land To Rear Of 96 To 106 High Street, Colney Heath, Hertfordshire
<b>APPLICATION VALID DATE:</b>	08/03/2022
<b>HISTORIC BUILDING GRADE:</b>	N/A
<b>CONSERVATION AREA:</b>	N/A
<b>DISTRICT PLAN REVIEW:</b>	Metropolitan Green Belt
<b>WARD:</b>	Colney Heath

<b>RECOMMENDATION</b>	<b>REFUSE PLANNING PERMISSION</b>
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**1. Reasons for Call in to Committee**

- 1.1. This application is being reported to committee as a significant scale application within the Metropolitan Green Belt, contrary to prevailing planning policy with District wide implications

**2. Relevant Planning History**

Application Site:

- 2.1. There is no relevant recent planning history relating to the application site

Relevant recent major applications within Colney Heath

- 2.2. 5/2020/1992 - Roundhouse Farm Bullens Green Lane Colney Heath St Albans AL4 0FU - Outline application (access sought) - Construction of up to 100 dwellings together with all ancillary works- no amendments – Resolved that the Local Planning Authority, in the absence of an appeal against non-determination, would have Refused Planning Permission for the following reasons:

*1. The proposed development represents inappropriate development in the Green Belt. It would result in significant harm to and a material loss of openness in this location and represent significant encroachment into the countryside. Very special circumstances have not been demonstrated to outweigh the in principle harm and other harm identified. The proposal is therefore contrary to Policy 1 of the St Albans Local Plan Review 1994 and the NPPF 2019.*

*2. The proposed development is in an unsuitable and unsustainable location. It would comprise a significant number of dwellings in an isolated location with very limited public transport links and limited existing amenities and infrastructure, the future residents would be car-dependent. This is contrary to the aims of Policy 2 of*



*the St Albans Local Plan 1994, and the relevant provisions of the NPPF.*

*3. It has not been demonstrated that an acceptable form of development could be achieved on the site. The proposed development would severely detract from the character of the site and the local area, and impact negatively on landscape character, contrary to Policies 69, 70 and 74 of the St Albans Local Plan Review 1994 and the NPPF. The development would detract from the character and setting of Colney Heath as a Green Belt Settlement, contrary to Policy 2 of the St Albans Local Plan 1994.*

*4. Insufficient information is provided to demonstrate that the impacts of development shall not have a severe impact on the wider operation of the network. Insufficient information is provided to demonstrate that necessary changes to local speed limits are achievable. Visibility from the access, without speed limit changes is insufficient. The proposed access shall be prejudicial to the safety of users of the highway contrary to Policy 34 of the St Albans Local Plan 1994 and the NPPF 2019.*

*5. The development would cause 'less than substantial' harm to the significance and setting of a Grade II listed building adjoining the site (68 Roestock Lane) and the public benefits of the proposal would not outweigh this harm, contrary to Policy 86 of the St Albans Local Plan Review 1994 and the National Planning Policy Framework 2019.*

*6. Insufficient information has been submitted to enable the local planning authority to assess the impacts of the development on biodiversity. As such, it cannot be reasonably concluded that the proposal would not harm biodiversity. Furthermore, net gains for biodiversity would not be achieved. The proposal would therefore be contrary to Policy 106 of the St Albans Local Plan Review 1994 and the relevant provisions of the NPPF 2019.*

*7. Insufficient information has been submitted to determine whether remains of archaeological importance are likely to be present at the site. An informed decision in terms of the impact of the proposal on the historic environment cannot be made and, consequently, the proposal would be contrary to Policy 111 of the St Albans Local Plan Review and the National Planning Policy Framework 2019.*

*8. In the absence of a completed and signed S106 legal agreement or other suitable mechanism to secure the provision of: Fire Hydrants, Open Space, Play Spaces, Community Facilities, Sports and Recreation, Travel Plan, Highway Works, Primary Education, Secondary Education, Health, and Affordable Housing; the infrastructure needs of the development would not be met and the impacts of the proposal would not be sufficiently mitigated. The proposal is therefore contrary to the National Planning Policy Framework 2019, and Policies 7A and 143B (Implementation) of the St. Albans District Local Plan Review 1994 and the Council's Affordable Housing Supplementary Planning Guidance.*  
Appeal Allowed – 14/06/2021

- 2.3. 5/2022/1988 – Land to the rear of 42-100 Tollgate Rd and 42 Tollgate Rd, Colney Heath - Outline application (access sought) - Demolition of existing house and stables and the construction of up to 150 dwellings including affordable and custom-build dwellings together with all ancillary works.  
Recommended for refusal

- 2.4. 5/2022/2736 - Land at Round House Farm, Roestock Lane, Colney Heath - Outline application (access sought) - Erection of up to 155 residential dwellings together with ancillary works  
Under consideration

Other recent relevant planning decisions referenced in this report

- 2.5. 5/2021/0423 - Land To Rear Of 112-156B Harpenden Road St Albans Hertfordshire - Outline application (access sought) - Residential development of up to 150 dwellings together with all associated works (resubmission following invalid application 5/2020/3096) – Conditional Permission – 12/01/2022
- 2.6. 5/2020/3022 - Land To Rear Of Burston Garden Centre North Orbital Road Chiswell Green St Albans Hertfordshire - Demolition of all existing buildings, structures and hardstanding and redevelopment of the site to provide a new retirement community comprising 80 assisted living apartments with community facilities and 44 bungalows together with associated access, bridleway extension, landscaping, amenity space, car parking and associated and ancillary works – Refused 26/05/2021 for the following reasons:

1. *The proposed development would comprise inappropriate development in the Green Belt which would cause in principle and actual harm to the openness of the Green Belt. The proposed development by reason of the quantum of development, together with the size of the assisted living building would be harmful to the character of the wider area. The case made for very special circumstances, together with the contribution towards the provision of housing is not considered to overcome this harm. As such the proposal is contrary to the NPPF 2019 and to Policies 1, 69 and 70 of the St Albans District Local Plan Review 1994.*

2. *The development would cause less than substantial harm to the grade II\* listed Burston Manor and the grade II listed outbuildings. The urbanisation of the application site would sever the last tangible link between the Manor groups and its historic landscape setting. This would cause harm to its significance. The creation of the houses along the southern boundary of the Manor group, with the 3 storey blocks visible beyond together with the amount and scale of built form, would result in the complete reduction in Burston Manor's visual prominence in the surrounding land from the south and east. This would result in the complete loss of the perception that the Grade II\* listed Manor house is a historic and important house, set in a wider agricultural setting. The formality of the proposed landscaping would completely erode the designed juxtaposition between the gardens around the Manor Group and the farmland around the site. The development would result in the severing of the last tangible link between the assets and their original setting. The historic relationship between the Burston Manor grouping and How Wood and Birchwood would be all but lost. The proposed screening in itself would be a harmful addition as this further blocks the long range views from and to the Manor group, in particular those between the Manor group and How Wood and Birch Wood. The proposed screening would fully visually contain the designated heritage assets and substantially reduce the appreciable link between the Manor group and the land which it is associated with. Overall the proposals would result in less than substantial harm to the significance of the grade II\* and grade II listed buildings forming the Burston Manor group which is not outweighed by public benefits, including the provision of additional dwellings. In accordance with the Framework and the statutory obligations*

*imposed, great weight is given to this harm. As a result, the development would conflict with Local Plan Policy 86 and the NPPF 2019*

*3. In the absence of a legal agreement to secure contributions towards; Community facilities, Travel Plan, bridleway improvements, footpath improvements, NHS Services, Highway projects, affordable housing, occupancy limitation, first marketing limitation the development fails to adequately mitigate its effect upon local services and infrastructure and secure the identified 'very special circumstances'. As such the development fails to comply with Policies 1 and I43B of the Local Plan and the NPPF 2019.*

*Appeal Allowed – 31/01/2022*

2.7. 5/2021/2730 - Land Off Orchard Drive Park Street St Albans Hertfordshire - Outline application (access only) - Construction of up to 30 dwellings with garages and associated parking, landscaping and access works – Pending – Resolved to Grant Conditional Permission subject to completion of a s106 Legal Agreement at 20/12/2021 Committee

2.8. 5/2021/3194 - St Stephens Green Farm, Chiswell Green Lane, St Albans, Hertfordshire - Outline application (access sought) for demolition of existing buildings, and the building of up to 330 discounted affordable homes for Key Workers, including military personnel, the creation of open space and the construction of new accesses and highway works including new foot and cycle path and works to junctions. Refused Planning Permission on 25 October 2022 for the following reasons:

*1. The site is within the Metropolitan Green Belt and the proposed development represents inappropriate development within the Green Belt, as set out in the National Planning Policy Framework 2021. In addition to the in-principle harm to the Green Belt by reason of inappropriateness, other harm is identified as a result of the proposed development in terms of: its detrimental impact on the openness of the Green Belt, harm to Green Belt purposes, harm to landscape character and appearance, loss of high quality agricultural land, and impacts on social and physical infrastructure. The benefits comprise the provision of up to 330 affordable housing units including potential for self-build units at the site which would contribute significantly towards meeting an identified housing need in the District, and potential for provision of a significant area of public open space and a new public footpath. The potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is not clearly outweighed by other considerations; and as a result the Very Special Circumstances required to allow for approval of inappropriate development in the Green Belt do not exist in this case. The proposal is therefore contrary to the National Planning Policy Framework 2021, Policy S1 of the St Stephen Parish Neighbourhood Plan 2019-2036 and Policy 1 of the St Albans District Local Plan Review 1994.*

*2. In the absence of a completed and signed S106 legal agreement or other suitable mechanism to secure: Additional Health services provision; Education provision in the form of new primary school, secondary school, and childcare provision; Special Educational Needs and Disabilities provision; Library service provision; Youth Service provision; Play Areas, Parks and Open Spaces and Leisure and Cultural Services provision; Affordable Housing provision; Open Space and recreation provision, Highway Works including provision for Sustainable Transport and Travel Plan; the infrastructure needs of the development would not be met and the impacts of the proposal would not be*

*sufficiently mitigated. The proposal is therefore contrary to the National Planning Policy Framework 2021, the St Stephen Parish Neighbourhood Plan 2019-2036 and Policy 143B (Implementation) of the St. Albans District Local Plan Review 1994.*

2.9. 5/2022/0927 - Land South of Chiswell Green Lane, Chiswell Green, St Albans - Outline application (access sought) - Demolition of existing structures and construction of up to 391 dwellings (Use Class C3), provision of land for a new 2FE primary school, open space provision and associated landscaping. Internal roads, parking, footpaths, cycleways, drainage, utilities and service infrastructure and new access arrangements. Refused Planning Permission on 6 December 2022 for the following reasons:

1. *The proposed development comprises inappropriate development, for which permission can only be granted in very special circumstances, these being if the harm to the Green Belt and any other harm is clearly outweighed by other considerations (paragraph 148 NPPF 2021). We do not consider that the benefits outweigh the harm caused by this proposed development due to the harm to the Green Belt openness and purposes relating to encroachment to the countryside, urban sprawl and merging of towns. The harm also relates to landscape character and the loss of agricultural land. The proposal is therefore contrary to the National Planning Policy Framework 2021, Policy S1 of the St Stephen Parish Neighbourhood Plan 2019-2036 and Policy 1 of the St Albans District Local Plan Review 1994.*

2. *In the absence of a completed and signed S106 legal agreement or other suitable mechanism to secure the provision of 40% affordable housing provision; 3% self-build dwellings; 10% biodiversity new gain; provision of open space and play space; health contributions (towards ambulance services and GP provision); education contributions (primary, secondary and Special Education Needs and Disabilities); library service contribution; youth service contribution; leisure and cultural centres contribution; provision of highways improvements and sustainable transport measures; and safeguarding of land at the site for a new two form entry primary school, the infrastructure needs of the development and benefits put forward to justify Very Special Circumstances would not be met and the impacts of the proposal would not be sufficiently mitigated. The proposal is therefore contrary to the National Planning Policy Framework 2021, the St Stephen Parish Neighbourhood Plan 2019-2036 and Policy 143B (Implementation) of the St. Albans District Local Plan Review 1994.*

### **3. Site Description**

3.1. The application site is located to the east of Colney Heath High Street and to the south of Colney Heath Football Club. The application site measures approximately 1.68 hectares and currently comprises a field of arable land and a shared hard surfaced private road that provides access to the site from Colney Heath High Street. Site levels are shown to range between 76.0m AOD in the west, near the site access, and 73.77 AOD to the north of the site. Generally, the western half of the site is shown to fall in a southerly direction, away from the northern boundary of the site, whereas the eastern half of the site is shown to fall from south to north.

3.2. The rear gardens of nos. 90 – 108 (even) High Street adjoin the application site to the west. The site is bounded to the north by the clubhouse and sports pitches

associated with Colney Heath Football Club. Fields of arable farmland are located to the east and south.

- 3.3. The application site is located within the Metropolitan Green Belt. Colney Heath Nature Reserve, a statutory designated site, is located 81m to the south of the application site. Sleafshyde Gravel Pit Local Wildlife Site borders the site to the north-east. A Public Right of Way (Colney Heath 041) adjoins the southern boundary of the application site.
- 3.4. The application site is within Flood Zone 1 and therefore is at low risk from flooding from a fluvial or tidal event. The site is at a very low risk of surface water flooding, although there is a small isolated area towards the northern boundary of the site which has a low risk of surface water flooding.

#### **4. The Proposal**

- 4.1. The proposal is for the construction of up to 45 dwellings (Class C3) with areas of landscaping and public open space, including points of access, and associated infrastructure works. The planning application is in outline with all matters reserved except for access. As such, it is the principle of the development that is under consideration, plus the details of 'Access'. Details relating to the other reserved matters of 'Appearance', 'Landscaping', 'Layout' and 'Scale' would be provided under future application(s) for approval of reserved matters, if this outline application were approved.
- 4.2. Though an outline planning permission would mean that the composition and detailed design are not yet fixed, the future development potential would be dictated by the development specification. The commitments include:
  - A maximum of 45 new dwellings (Class C3) with a range of tenure and house types
  - A minimum of 40% affordable housing across the development
  - 10% of dwellings proposed as plots for self-build
  - Approximately 0.71 ha allocated for new public open space and the required attenuation areas
- 4.3. In terms of proposals for access, the proposed development would be accessed from the existing private road that serves the primary school and football club. The application would enhance the junction by proposing a continuous footway crossover and 2m wide footways on both sides of the carriageway.

#### **5. Representations**

##### **5.1. Publicity / Advertisement**

Site Notice Displayed	Date 24/03/2022 (expiry date 16/04/2022)
Press Notice Displayed	Date 24/03/2022 (expiry date 16/04/2022)

##### **5.2. Adjoining Occupiers**

- 5.2.1. Occupiers of adjoining properties were notified on 22/03/2022 in accordance with statutory and local consultation requirements.
- 5.2.2. At the time of writing this report, a total of 627 representations had been received comprising 622 objections, 3 in support and 2 comments.

5.2.3. Representations in objection have been received from the following residential addresses within the District.

- No's. 7, 15, 17, 38 Admirals Close
- No 10 Adler Close
- No 8 Alexander Road
- No 31 Alsop Close
- No 7 Anson Close
- No 6 Ashwood Mews
- No 4 Aubrey Avenue
- No's 1 and Little Orchard Cottage, Barley Mow Lane
- No 13 Beaumont Avenue
- No 6 Bennetts Close
- No 62 Beresford Road
- No's 6 and 44 Birchwood Way
- No 5 Branch Road
- No's 4, 14, 18, 24, 25, 25a, 27, 27a, 29, 31, 42, 43a, 51, 54, 56 and Bluehouse Farm, Bullens Green Lane
- No 20 Buttermere Close
- No 30 Caledon Road
- No 54 Cambridge Road
- No 40 Cannon Street
- No 66 Charmouth Road
- No 29 Cherry Hill
- No 6 Chivenor Place
- No 7 Clarence Road
- No 34 College Road
- No 34 College Road
- No 8 Colnbook Close
- No's 71 and 123 Colney Heath Lane
- No's 1, 7 and 9 Coopers Gate
- No 237 Cotlandswick
- No's 6, Greynam and 2 Courses farm cottages, Coursers Road
- No's 1, 3, 9, 12, 15, 22, 36, 42 Cutmore Drive
- No 7 Deans Gardens
- No 31 Dorchester court, Dexter Close
- No 16 Drakes Drive
- No 16 Ennerdale Close
- No's 18, 19, 20, 25, 26, 28, 30, 40 Fellowes Lane
- No 4 Fern Dell's
- No 13 Firewood Avenue
- No 72 Five Acres
- No 32 Forge End
- No's 3, 5, 6, 9, 10, 20, 26, 28, 30 Franklin Close
- No's 26 and 28 Franklin Road
- No 20 Glenferrie Road
- No 4 Glinwell Nurseries, Station Road
- No 16 Grafton Close
- No 14 Grasmere Road
- No 11 Greensleeves Close
- No 34 Gustard Wood

- No's 2, 2a, 2b, 3, 4, 6 Jasmine Court, 7, 8, 11, 16, 22, 23, 24, 25, 28, 29, 36, 38, 51 Hall Gardens
- No 1 Hall Place,
- No 69 Harpenden Road
- No 19 Haseldine Meadows
- No 38 Haseldine Road
- No 334 and no. 4 Ryecroft Court, Hatfield Road
- No 23 Hazel Road
- No 63 Hazelwood Drive
- No 1 Heather Cottages
- No 10 Heritage Close
- No 4, 9, 10, 12, 15, 16a, 18, 31, 43, 55, 57, 59, 65, 77, 79, 90, 93, 94, 96, 98, 100, 102, 103, 104, 106, 119, 126, 127, 169, 171, 173, 175, 1 Scholars Court, 3 Scholars Court, 6 Scholars Court, 8 Scholars Court, High Street
- No 12 Highfield Hall, Highfield Lane
- No 4 Highfield Road
- No 144a Hill End Lane
- No 21 Hobart Walk
- No 55 Holloways Lane
- No 16 Holyrood Crescent
- No 59a Holywell Hill
- No 8 Ivory Close
- No 18 Jerome Drive
- No 44 Ladies Grove
- No's 12 and 20a Macroni Way
- No 56 Marshall Avenue
- No's 2, 5, 9, 12, 14, 22, 32, 37, 39 Meadway
- No 8 Mortimer Crescent
- No 11 Mount Drive
- No 41 King's Court, Mount Pleasant
- No 3 Nelson Avenue
- No. 12 Sommerville court, Newsom Place
- No 56 Oaklands Lane
- No 36 Old Hertford Road
- 5 The Old Works, Old London Road
- No 31 Oldfield Road
- No 23 Oxford Avenue
- No 16 Part Avenue
- No's 1, 5, 6, 7, 8, 10, 11, 12, 13, 15, 16, 18, 22, 24, 26, 27 and No 22 Greenwich Court, Park Lane
- No 30 Parsonage Lane
- No 3 Ponfield Crescent
- No's 15 and 46 Princess Diana Drive
- No 4 Puttocks Drive
- No 218 Radlett Road
- No 39 Reed Close
- No's 3, 4, 5, 8, 9, 11 and 18 Richardson Place
- No 25 Ridgmont Road
- No 200 Riverside Road
- No's 3, 7, 25 Rodney Avenue
- No's 1, 3, 4, 5, 8, 9, 12, 14, 16, 20, 25, 30, 72, 98, 99, 100 and 101 Roestock Gardens

- No's 3, 4, 4a, 6, 8, 12, 14, 24, 48, 74, 78, 92, 94, 100, 101, 106, 112, 118, 126, 130, Fairholme Cottage, Little Orchard Cottage, Longview, Lyndurst and The Granary, The Rickyard and No. 3 - Roundhouse Farm, Roestock Lane
- No's 29 and 32 Rosemary Drive
- No 260 Sandridge Road
- No 11 Sandridgebury Lane
- No 5 Saracens Yard, Pageant Road
- No 42 Saxon Road
- No 25 Selwyn Crscent
- No 9 Selwyn Drive
- No's 15 and 25 Sleafcross Gardens
- Serenity, Sleafshyde
- No's 1 Cherry Tree Cottage, 8, 22 and 29, Sleafshyde Lane
- No's 5, 11, 12, 14, 15, 16 Smallford Lane
- No 1 Southfield Way
- No 10 Springfield Road
- No 32 St Anne's Road
- No's 3 and The Old Vicarage, St Marks Close
- No 2 St Stephens Avenue
- No 10 Stanmore Chase
- No 54 Starlight way
- No's 64 and 75 Station Road
- No's 63 and 89 Thamesdale
- No 8 The Willows
- No's 33 and 39 Thirlmere Drive
- No's 52, 54, 56, 57, 72, 73, 76, 84, 89, 91, 94, 101, 105, 106, Bluebell Cottage, Park Cottage, Tollgate Road
- No 12 Townsend Drive
- No 42 Upper Culver Road
- No 29 Upper Lattimore Road
- No 9 Vernon Close
- No 29 Praetorian Court, Vesta Avenue
- No 138 Vincenzo Close
- No 3 Wendover Close
- No's 2, 3, 4, 6, 10, 14, 15, 34, 35, 36 and 46 Wistlea Crescent
- No 10 Wycombe Place
- No 25 Wyedale
- No 25 Wynches Farm Drive

5.2.4. At the time of writing this report, representations have been received from the following residential addresses from outside the District but within the UK:

- No 13 Abbots Road, Medway
- No 45 Abbotsbury Road, Broadstone
- No 20 Allwood Road, Cheshunt
- No 27 Ashgrove, Chelmsford
- No 35 Balfour Grove, London
- Rest Harrow, Bar Lane, Dorset
- No 387 Barnacres Road, Hemel Hempstead
- No. 23 Beehive Lane, Welwyn Garden City
- No 10 Bessborough Road, Chester
- No 25 Blackhorse Lane, Potters Bar
- No 10 Blackthorne Close, Hatfield
- No 17 Borough Way, Potters Bar



- No 8 Bridge Mill, London
- Orchard House, Brigfrith Lane, Cookham
- No 49 Chapelfield, Freethorpe
- Brickbarns, Chelmsford
- No 8 Chelwood Avenue, Hatfield
- No 12 Couzens Lane, Broxbourne
- No 12 Couzens Lane East, Broxbourne
- No 32 Culvert Lane, London
- No 81 Dale Drive, London
- No 29 Dixons Hill Close, Hatfield
- Tarn, Dunny Lane, Chipperfield
- No 35 Elizabeth Way, Stowmarket
- No 128 Fencepiece Road, London
- No 81 Flora Thompson Drive, Newport Pagnell
- No 101 Framfield Road, Uckfield
- No 4 Furzen Crescent, Hatfield
- No 9 Golden Dell, Welwyn Garden City
- No 63 Goose Acre, Ley Hill
- No 9 Graphite Court, Ruislip
- No 20 Great Innings North, Walton at Stone
- No 15 Green Street, Borehamwood
- Westbush House, Hailey Lane, Hertford
- No 25 Hare Lane, Hertford
- Kemp's Cottage, Hare Street, Buntingford
- No 11 Havenpool, Abbey Road, London
- No 6 Hill Farm Close, Watford
- No 6 Hillcrest Road, Shenley
- No 6 The Grannary, Hoddesdon Road, Stanstead Abbots,
- No 55 Holloways Lane, Welham Green
- Nos 161 and 510 Howlands, Welwyn Garden City
- No 16 Imperial Hall, London
- Elms Farm, Isfield, Uckfield
- No 8 Lanbridge Close, Hitchin
- No 15 Lark Rise, Hatfield
- No 59 Lavina Way, East Preston
- No 14 Lexington Close, Borehamwood
- Aber Fawr, Llaniestyn, Gwynedd
- No 19 London Road, Badlock
- 14 Macers Court, Broxbourne
- No 6 Mains of Mawcarse, Kinross
- No 10 Marlborough Road, Norwich
- No 14 Maxwell Road, Brighton
- No 329 Mays Lane, London
- No 17 Mill Lane, Milton Keynes
- No 34 Miswell Lane, Hemel Hempstead
- No 128 Moffats Lane, Hatfield
- Newide, Morse Road, Drybrook
- No 45 Newport Road, Aldershot
- No 66 Norris Rise, Hoddesdon,
- No 401 North Western Avenue, Watford
- Red Deer House, Oakford, Devon
- No 63 Oakroyd Avenue, Potters Bar

- No 3 Osmund Road, Devizes
- No 10 Parsonage Road, Hatfield
- No 26 Platts Road, London
- Swifthaven, Pondsife, Graveley
- No 24 Blaendare Road, Pontypool
- No 5 Pursley Gardens, Borehamwood
- No 6 Puttocks Close, Hatfield
- Nos 4 and 47 Puttocks Drive, Hatfield
- No 47a Queens Road, Hertford
- No 48 Radway Road, Southampton
- No 10 Red Kite Road, Chinnor
- No 14 Risborough Road, Stoke Mandeville
- No 106 Roestock Lane, Cole
- No 19 Seacroft Gardens, Watford
- No 4 Shenleyburry Cottages, Shenley
- Dwarf Cottage, Shurlock Row, Reading
- No 387 St Albans Road West, Hatfield
- The Wyck, St Ippolyts,
- No 25 St James Park, Tunbridge Wells
- No 3 St Marys Road, Frome
- No 10 Station Road, Lower Stondon
- No 58 Streatfield Road, Borehamwood
- No 18 Summer Field Road, Shrewsbury
- No 18 Swanley Crescent, Potters Bar
- No 35 Tansycroft, Welwyn Garden City
- No 28 Teign Street, Teignmouth
- No 51 The Drive, Potters Bar
- No 100 The Gossamers, Watford
- No 2 The Orchard, Pewsey
- No 3 The Paddock, Greasby
- No 7 Thorncote Road, Northill
- No 66 Tudor Road, Barnet
- No 3 Twiselton Heath, Stafford Park
- No 138 Vincenzo Close, Welham Green
- No 15 Welham Close, Welham Green
- Moonstruck Farm, Westends Lane, Thornton Dale
- 9 Aunums Field Westgate, Thornton Dale
- No 2 Westlea Oast, Boughton-under-Blean
- No 3 Whitehouse Avenue, Borehamwood
- No 46 Woodland Close, Tring
- No 28 Yardley, Letchworth

5.2.5. At the time of writing this report, representations have been received from the following residential addresses from outside the UK

- No 17 Amethyst Drive, Australia
- No 57 Kairserstraat, Netherlands

5.2.6. In addition, a number of representations were received from parties not providing their full address; these were not displayed on the website in accordance with our standard procedures.

5.2.7. Representations were also received from the following groups/organisations

- Colney Heath Parish Council

- St Albans and District Footpaths Association
- The Ramblers Association
- CPRE The Countryside Charity Hertfordshire
- 4ColneyHeath - Residents Association
- National Farmyard Trust

5.2.8. A summary of public representations in objection, grouped by topic area is set out below. Representations in support are then listed, and representations from interest groups and organisations are then reported separately.

#### 5.2.9. Principle

- Land is always farmed; farmland important for food production and food security; building of houses would limit access to wider set of fields beyond rendering a huge area of 'best and most versatile' agricultural land unusable; removal of land from food production;
- green belt land important to existing residents' well-being; green belt is fulfilling its purpose; development would create urban sprawl and encroachment into the countryside; entirety of the site is outside the built-up area of the village; no exceptional circumstances for planning to be approved; too many houses being constructed on the green belt; village has already lost green belt; ruin openness of the Green Belt; developments will piecemeal destroy the greenbelt; Green belt needs protection;
- applicant and council should consider redevelopment of brownfield land; applicant owns brownfield land it could use instead;
- No demonstrated need for additional housing in the village; village is not big enough for more housing; urban sprawl is inefficient use of land;
- no demonstrated need for additional public open space; provision of public space would not constitute very special circumstances;
- wrong/not sustainable location for development;
- inappropriate location next to school;
- development unacceptable in principle;

#### 5.2.10. Heritage

- Development would affect the listed buildings at the bottom of the site and their setting;

#### 5.2.11. Character and design

- Will no longer be a village; village character must be retained; village is not the place for development of housing estates; negative impact on character of area; overbearing;
- not in keeping with the high street;
- high density; development is too dense; density of houses not in keeping with the area;
- out of scale;
- little green space within the development; impact on the character of the countryside; more beautiful green space destroyed; green fields can never be replaced; green spaces between dwellings lost; existing farm fields provide visual landscape setting;
- houses shown to be much smaller than would be constructed;
- out of character in relation to appearance;

#### 5.2.12. Residential Amenity

- Overlooking existing properties on the high street; existing views will be lost;
- noise; noise impact during construction; properties will be overlooked;

- local environment and traffic gives rise to health issues; quality of life for village residents as declined;
- open spaces and walking key to existing health and well-being (as seen with lockdown); existing green spaces enhance and improve mental and physical wellbeing;
- Council has responsibilities under Human Rights Act and development would prevent residents adjoining the development from enjoying their homes and gardens;
- visual impact on for walkers; loss of visual amenity; loss of view from footpaths and pub garden;

#### 5.2.13. Housing

- Will affordable housing be genuinely affordable;
- Colney Heath should not have to take all the housing because of recent appeal decision;
- local residents will be pushed out of the area;

#### 5.2.14. Highways and Parking

- Road network overburdened; impact on local traffic; existing congestion; current parking would be reduced; high street is a rat-run; large amount of HGV traffic; Any accident on the A414, A1, M1 or M25 causes gridlock on local roads; large numbers of HGVs using the village as a cut through
- access and parking for football club and for local school has been accepted by Tarmac for many years; capacity for school parking decreased; overspill parking on High Street; no longer able to park car when dropping children to school; parking on roads around school for drop-off/pick-up not safe; Walking to and from school is not viable for many children; Transport note includes loss of 17 Spaces which is lower than true value;
- safety issues if existing parking area turned into road; increased risk of accidents and collisions between cars and also pedestrians/children; no safe pedestrian crossing routes; road safety; speeding in locality already an issue; A review of personal injury collisions over a five-year period shows a high number of collisions in the area;
- footways in locality are too narrow; footway network to the east of the site is unsuitable as it is not continuous and there is no crossing; no speed controls to slow traffic;
- poor public transport links in village; no access to trains or cycle paths in village; residents in village rely on cars; roads too dangerous to cycle; insufficient buses and bus routes;
- access roads will be cramped;
- construction traffic impacts on young school children; roads will be damaged by building traffic;
- existing roads have pot-holes;
- emergency vehicles access hindered with congestion and parking;
- access for farm vehicles not replaced;
- Access rights to Colney Heath Football Club need to be maintained; vital for operation of the football club that access to the rear of the clubhouse is maintained during and after the development;
- getting round the village in horseback is scary;
- existing right of way FP41 and path along northern boundary of the site should remain unobstructed;
- difficult for existing residents to manoeuvre into driveways;
- vehicles will be displaced if bellmouths are narrowed; developers plans continue to lack any pedestrian crossing;

- letter from football club is worthless as they are now the owner;
- developer has not demonstrated that displaced parking will be safe and they have not created a safe footway network;
- all the village pavements are substandard and do not meet current requirements;
- traffic assessment is unreasonable;

#### 5.2.15. Environment and Sustainability

- Will result in increased noise and air pollution with additional cars;
- impact on the River Colne; impact of water extraction from chalk streams; development will increase add to existing flood risk; existing greenbelt assists with drainage;
- Tarmac have gravel extracted and backfilled almost every square inch of land around Colney Heath with this site being one of the few exceptions;
- Council should be more aware of environmental issues;
- Green Belt Land provides vital oxygen so close to London;
- wider field network could no longer be farmed if access is removed;

#### 5.2.16. Trees and Biodiversity

- Detrimental impact on wildlife; species using the land will be affected; loss of wildlife; loss of protected habitats and species; the farmland species will be lost as they cannot live in the 'park' proposed by the developers; Arable farmland habitat required; hedgerows have hedgehogs, bats, numerous bird species and mammals; destruction of current hedgerows and mature species for replanting has significantly detrimental effects on biodiversity; Proceeding with this construction would decimate the bat populations which are known to be present and to rely on both the hedgerow and arable site for foraging
- ancient oak trees will be damaged by the development; long term pruning pressures on mature oak trees;

#### 5.2.17. Social and Physical Infrastructure

- Local schools and services are already oversubscribed; no school places for children in the local village; children travel long distances to get to school; children in local primary school are not able to get places in secondary schools; developer should provide a new school and parking facilities; build more schools instead of houses;
- insufficient infrastructure for more housing;
- no local amenities to support additional housing;
- insufficient medical and dental provision;
- development brings nothing to the local community; nothing for children to do in the village;
- village only has 1 shop;

#### 5.2.18. Other

- Applications refused on other sites that were more sustainable;
- no consultation with adjoining landowners;
- future generations will suffer;
- property prices devalued;
- existing farmland provides jobs;
- residents in locality should be consulted and listened to;
- site may have restrictive covenants to the use of the land;
- inaccuracies within the submitted documents;
- village pub will be compromised;

5.2.19. At the time of writing this report, representations in support had been received from the following 3 residential addresses:

- No 6 Hill Farm Close, Watford
- No 18 Oxford Street, Kettering
- No. 41 Kings Court, Mount Pleasant, St Albans

5.2.20. Their comments are summarised below:

- Urgent need for new homes in the area; pleased that affordable housing is being provided;
- not enough brownfield land so sometimes green belt needs to be built on;

5.2.21. Colney Heath Parish Council (summarised)

*14/04/2022*

1. The entire site is within the Green Belt and grade 3 agricultural land with no indication that it has been previously developed therefore it is not a 'brownfield' site. Other green belt development sites in Colney Heath are not comparable

2. The claims of sustainability are not matched with reality.

- Access to public transport is severely limited and many schools and healthcare facilities have a shortage of capacity resulting in additional travel.
- There are several issues with the restricted bus service which doesn't operate regularly or every day.
- There are no dedicated cycleways in Colney Heath Village.

3. The junction from site, school and football club parking is all on the 'inside of a slight bend in the road'. This reduces the sight line for drivers; Parents have expressed concerns about safety along the High Street and the need to use multiple crossings on busy roads; Due to the lack of bus services most parents dropping children at school will require a car to travel to their place of employment; few alternatives for parking exist; current parking areas are near their limits and requirement will be greater following recently approved developments; trip generation will be significantly greater than those stated in the transport Assessment

4. There is very little in proposed infrastructure being provided. With the existing current challenges of public transport, school provision, healthcare and shopping services the increase in residents will make this an even more unsustainable location for housing development.

5. Colney Heath Parish Council are very concerned about the real affordability of the homes. Throughout the application much is stated about the number of affordable homes that will be built. While they may meet the legal definition to many people, they will be unaffordable to most of our electorate

6. The height and scale of the proposed application will detrimentally impact the character and setting of the grade 2 listed buildings.

*10/05/2022*

The Parish Council have made comments as a planning consultee and would now like to comment as the adjoining landowner. Being an adjoining land owner there was no discussion of the plans with the Parish Council regarding this application. The car parking spaces as marked out in the public consultation and also noted in the application are a strip of land belonging to the Parish Council and can be viewed at Land Registry title HD595726 which includes a land strip along the

entire access way to the owned Recreation Ground and also access to a building will be required. The Parish Council as adjoining landowner wishes to issue an objection to this application on the current basis

*01/12/2022*

I can confirm on behalf of the Parish Council that there is no satisfactory agreement with the applicant for parking and that the HCC officers should be asked to amend and reissue their comments ensuring they are factually correct

*05/12/2022*

Colney Heath Parish Council objects to this application on planning grounds, in this response we have only included parking and road safety issues. The detailed analysis undertaken by Colney Heath Parish Council (CHPC) shows that current use of the car parking to the rear of Colney Heath School is operating at or near capacity. That is before the loss of any spaces due the proposed new development, and the additional new homes are built which currently have planning consent.

The proposed loss of 17 parking spaces within the main parking (blue area) will cause significant problems and safety issues for the dropping off and collection children from school. The existing football club car shown in red does not have the capacity to accommodate the additional cars. The traffic generated by the development also carries significant risks through a school car parking area. CHPC believe that HCC withdrawal of the objection on car parking grounds is based on the poorly presented information provided by the application and lack of detailed local knowledge of the site layout and schools catchment area.

CHPC are also very concerned that the proposed development might not provide sufficient parking spaces for its residents. The village is highly dependent upon car usage due to the lack of alternative modes of transport. This could result in the residents using the use of spaces currently used for school or football purposes.

*24/03/2023*

CHPC believes that good agricultural land should be protected. The land is graded as agricultural grade 2. Therefore, the development of the site would be contrary to both NPPF and SADC policies.

CHPC are very concerned that Coursers Road has not been included in the traffic and highways assessments and is of considerable concern that HCC, the local highway authority, have not required its inclusion. This is one the heaviest used routes to and from the village. Therefore, the basis of the route analysis is impacted by other areas and does not reflect village traffic. The transport assessment is therefore fundamentally flawed.

Road traffic accident risks will increase due to expanding number of HGV vehicles entering and leaving the two waste processing sites accessed via Coursers Road. HGVs come through the site and cause damage to street furniture.

#### 5.2.22. St Albans and District Footpaths Association

The St Albans and District Footpaths Society is a charity whose main objective is to protect and preserve public rights of way, particularly footpaths, in St Albans City and surrounding areas.

This proposal is clearly a development within the Green Belt, but it doesn't make a sufficiently clear case for the very special circumstances which would enable the Council to approve it. The area behind the High Street is presently open farmland, and any development on these fields will reduce the enjoyment of the public using the many footpaths which cross them. Walking is an important leisure activity which can improve health and mental well being and it is important that we keep space available for the general public to use.

There is a well used path which runs beyond the entrance to the fishing lake, round the woodland on the edge of the field to meet up with Colney Heath FP45. The route up to the fishing lake, and this path should be included as a public right of way on the Definitive Map, and the developer needs to recognise this and designate this path as a public right of way. A public right of way would give residents of Colney Heath permanent access to the lake and the surrounding woodlands.

The Society therefore object to this application.

#### 5.2.23. The Ramblers Association (summarised)

The Ramblers is a national charity which works to protect the countryside and to safeguard and enhance the places where people walk. We oppose this application on the grounds that it is inappropriate development in the Green Belt. It will permanently remove productive farmland and spoil the views from nearby footpaths.

There are two paths which are potentially affected. Definitive footpath FP41 runs along the southern boundary of this site and the applicant proposes that there should be direct connections between the development and this path. We have no objections to this providing that the right of way remains unobstructed and free for public access at all times during and after any construction.

In addition there is the very well-used path which runs along the northern boundary of the site as far as the fishing lake entrance and then along the field edge to join the recorded rights of way network further east. This path has almost certainly been used by the public for more than twenty years "without force, without secrecy and without permission". It is therefore highly probable that it would satisfy the criteria under s31 of the Highways Act 1980 to be recorded on the definitive map as a public right of way. It is included as a suggestion in the HCC Rights of Way Improvement Plan with the reference 6/236.

The restriction to definitive paths in the saved policy is no longer compatible with current national policy and guidance. The council cannot limit its protection to paths which are already included on the definitive map. It must give equal protection to the path which runs along the northern boundary of the site. In the event that this application is approved the district council should ensure that both definitive FP41 and the path along the northern boundary of the site remain unobstructed and free for public access at all times during and after any construction.

#### 5.2.24. CPRE The Countryside Charity Hertfordshire

1. The site lies within the London Metropolitan Green Belt as defined in the St Albans District Local Plan Review which proscribes inappropriate development according to criteria indicated in the National Planning Policy Framework (NPPF)



unless very special circumstances are demonstrated. The Applicant attempts to identify such circumstances in their consultant's Planning Statement, and indeed it is clear that the application is being made to determine the Local Planning Authority's resolve with regard to the protection afforded by the Green Belt.

2. The application demonstrates a clear encroachment into open countryside beyond the built-up area with severe impact on its openness and character in this location. It is not an infill site and constitutes a clear and inappropriate extension to the built-up area which the Green Belt exists to prevent.

3. The applicant quotes extensively the recent appeal decision in Colney Heath and the Council's decision at Sewell Park to justify the proposal on the grounds of the inadequacy of the Council's housing land supply and absence of an up-to-date Local Plan. Limited further information is provided with regard to the local circumstances other than to assert that the proposed site makes no appreciable contribution to the Green Belt in this location.

4. Planning legislation requires each application to be determined on its merits and there are no gradations in the protection afforded by Green Belt designation which can only be varied within the Local Plan process. The recent appeal decision referred to above caused significant controversy and concern and it should be noted that the Planning Inspector was at pains to identify the very specific circumstances at Bullens Green Lane, Colney Heath.

5. It may be noted that, since the Colney Heath decision, a similar planning appeal has been dismissed in Broke Hill, Sevenoaks on Green Belt grounds and there is a clear need for consistency in decision-making regarding the significance of designated protected land. Notwithstanding the undoubted delays in the Local Plan process in St Albans, in the absence of an emerging Local Plan, adopted policies should prevail with regard to protected areas.

6. Extensive representations are being made by CPRE and other bodies to the Government to clarify the technical guidance in the area of housing need with regard to protected areas. In the meantime, Government ministers have repeatedly clarified their support for the Green Belt.

7. In response to a parliamentary debate called by Daisy Cooper MP, the Minister for Housing (Hansard, Commons debate, 23rd November 2021) recently stated that "we are committed to protecting the green belt, as we set out in our manifesto". Recent responses to Welwyn and Hatfield Council and others seeking clarification have reemphasised this commitment and such Government statements carry considerable policy weight.

8. Clearly, further statements and potential amendments to the National Planning Policy Framework may be anticipated in the near future and in the meantime it is necessary to maintain the protection provided by the Green Belt in such a sensitive location.

CPRE Hertfordshire notes and supports the wide-ranging local community opposition to this proposal and urges the Council to refuse this wholly inadequate and speculative application.

#### 5.2.25. 4ColneyHeath - Residents Association (summarised)

1. The site is entirely in the green belt and grade 3 actively farmed agricultural land. The site is outside the footprint of the existing built-up area of Colney Heath

so could not be considered 'limited infill'. Development breaks the existing pattern of development. This edge of Greenbelt prevents sprawl of the existing built up area and assists in safeguarding the countryside from encroachments. Colney Heath village is not sustainable for further development in many respects, not least in terms of facilities for education and sustainable means of access.

2. Reception applications have consistently exceeded admissions and school is oversubscribed. Alternatives are too far to reach by sustainable means of transport. Access to secondary schools is even more problematic. There is no GP or dentist in the local area and residents must travel outside of the village to London Colney or Hatfield – they are not reasonably accessible on foot or cycling, and there are no bus services to either location. The village shop which includes a post office does not provide the range of goods required to meet shopping needs beyond some items for "top ups" of a limited number of items

3. Survey undertaken highlights heavy car dependency to access basic facilities and amenities. An increase in population will inevitably increase the traffic in the area and put undue, unwanted and dangerous pressure on village roads

4. The proposal would not be affordable for key workers

#### 5.2.26. National Farmyard Trust

The destruction of food production in the UK is growing with each new building site, contributing to the loss of Agricultural farmland, with the UK expected to produce less than 50% of the food we eat in 2022, due to high fertilizer and feed costs, We object to this planning proposal because it removes land from food production , destroys wildlife habitat, will add more pollution to the surrounding area, with further infrastructure being added to an already over loaded system affect the air and water Quality, add more traffic to busy roads

#### 5.2.27. Councillor Call-in

The application was called in if officers are minded to Grant by Cllr Chris Brazier, for the following stated reasons:

I draw your attention to Policies 102, the loss of currently used agricultural land, policy 23/24 Loss of employment, Policy 75 the loss of aa green space, Policy 1 & 2 development in the green belt, Policy 27 loss of wildlife habitat. The entrance/exit to & from the site onto a busy high street, lack of infrastructure in Colney Heath, no school places, no Doctors, no shops, no buses.

### **6. Consultations:**

6.1. The following summarises the responses received, the full responses are available via: <https://planningapplications.stalbans.gov.uk/planning/search-applications?civica.query.FullTextSearch=5%2F2022%2F0599#VIEW?RefType=P BDC&KeyNo=122740>

#### 6.2. SADC Spatial Planning

6.2.1. The proposed development would be located in the Metropolitan Green Belt. It is considered clear that a number of significant harms and significant benefits would result from this proposed development. A recent appeal decision in the District allowing permission for residential development in the Green Belt is also significant. The SKM Green Belt Review considered that overall parcel GB 34 does significantly contribute to safeguarding the countryside and maintaining the

existing settlement pattern, in addition to making a partial contribution towards preventing merging and preserving setting.

6.2.2. It is clear that there is no 5 year land supply and that substantial weight should be given to the delivery of housing. It also clear that there is a need for affordable housing and substantial weight should be given to delivery of affordable housing.

6.2.3. This note is focussed on key policy evidence and issues but recognises that considerable other evidence is relevant. In totality it is considered the recommendation is to refuse.

### 6.3. SADC Housing

6.3.1. The Housing department would anticipate a policy compliant development with regards to the delivery of affordable housing on this site. I welcome further discussion on the size and tenure mix however would anticipate family homes being made available for general needs rent.

### 6.4. SADC Urban Design and Heritage

6.4.1. Within 1km of the site there are 20 designated heritage assets consisting of 19 grade II listed buildings, and the Sleafshyde Conservation Area. Of these, there are 3 grade II listed buildings which would be the mostly likely to be affected by the proposed scheme, through development within their setting: 94 High Street, Apsley Cottage, and The Crooked Billet Public House which lie to the immediate south of the development site.

6.4.2. the siting, height and massing of the development within the southern corner of the site is important to ensure that this cluster of listed buildings is not dominated by development to the north

6.4.3. There are plans within the design and access statement however there does not appear to be a parameters plan submitted, so it is difficult to assess the impact as there are no parameters plans. It is noted the existing tree and hedgerow to the south corner boundary does not have any proposed tree protection fencing. So the proposed boundary and whether or not this will include the retention and strengthen of screening is unclear.

6.4.4. There are some plans in the design and access statement, however these are not submitted as parameter plans, and some of the existing plans are inaccurate – the one for listed buildings shows a listed building where there is none, and ignores the 5 within the Sleafshyde Conservation Area.

6.4.5. The heritage statement recommends setting back the development from the southern corner and limited the height in this location, however without a parameter plan this has not been ensured in the current submission. It would be preferable to ensure these mitigation measures, to lower the level of harm caused, as part of a parameter plan.

6.4.6. The submitted illustrative layouts do not allow, the screening to the boundary with an unused green space raises some concerns as to what the nature of this space would be. Going forward, the height and position of the closest units should be based on the impact on the heritage assets and should be appropriately supported through evidence.

6.4.7. Design wise, as layout, scale and appearance are all reserved matters at this stage, and there are no parameter plans there is little to comment on. A greater setback/planted boundary, as discussed above could be accommodated with the number of units proposed, but it might require a slight unit type/size than the detached houses shown on the plan. It is recommended that the road layout should all interconnect with each other.

6.5. SADC Tree Officer

6.5.1. The access is an established access therefore there are no objections in principle, however the prominent Oak tree off site in the school grounds at the western point needs further protection.

6.5.2. While it is accepted the Oak tree is behind the school security fencing there is the area of grass verge which will comprise part of the Root Protection Area. There is an obvious desire line and sign however it would be easy for a vehicle(s) to pull onto this area, I would like to see this area fenced off using Heras fencing to ensure the RPA of the Oak tree is considered sacrosanct for the duration of the development.

6.6. SADC Contaminated Land Officer

6.6.1. I have reviewed information the phase I contaminated land site assessment which has been submitted in support of the above outline application for the development of 45 properties including public open space. The phase one assessment confirms the potential presence of contamination across the proposed development location and the presence of sources of ground gas within close proximity, which will require investigation to ensure that potential risk to future site users and the wider environment are identified and remediation measures developed. To ensure that a suitable level of investigation is undertaken, conditions will be required on any full planning application

6.7. SADC Planning Enforcement

6.7.1. No Comment

6.8. SADC Recycling and Waste Officer

6.8.1. No Comment

6.9. SADC Community Services

6.9.1. Based on the breakdown of dwellings listed this would generate a leisure contribution total of £65,723

6.10. SADC Archaeological Advisors

6.10.1. The proposed development area lies in an area where little archaeological work has been undertaken. The heritage statement provided with the application states that little work has occurred in the area and identified a low potential. It is unlikely that highly significant deposits will be identified within the application area, however, there is the potential for regional or local deposits to be identified and it is therefore recommended a phased programme of archaeological work is undertaken if the application receives consent.

## 6.11. HCC Growth and Infrastructure

6.11.1. Please see below revised contributions sought towards non-transport services to minimise the impact of development on Hertfordshire County Council Services for the local community. Based on the information to date for the development of 45 dwellings we would seek financial contributions towards the following projects:

- Primary Education towards the expansion of Colney Heath Primary School and/or provision serving the development (£459,868 index linked to BCIS 1Q2022)
- Secondary Education towards the expansion of Samuel Ryder Academy and/or provision serving the development (£502,475 index linked to BCIS 1Q2022)
- Special Educational Needs and Disabilities (SEND) towards providing additional Severe Learning Difficulty school places (West) through the relocation and expansion of Breakspeare School and/or provision serving the development (£60,969 index linked to BCIS 1Q2022)
- Library Service towards increasing the capacity of Marshalswick Library or its future re-provision (£9,714 index linked to BCIS 1Q2022)
- Youth Service towards the re-provision of the St Albans Young People's Centre in a new facility and/or provision serving the development (£11,787 index linked to BCIS 1Q2022)
- Waste Service Recycling Centre towards increasing the capacity of the Recycling Centre at Potters Bar and/or provision serving the development (£13,688 index linked to BCIS 1Q2022)
- Waste Service Transfer Station towards increasing the capacity of Waterdale Transfer Station or provision serving the development (£2,649 index linked to BCIS 3Q2022)
- Monitoring Fees – HCC will charge monitoring fees. These will be based on the number of triggers within each legal agreement with each distinct trigger point attracting a charge of £340 (adjusted for inflation against RPI July 2021). For further information on monitoring fees please see section 5.5 of the Guide to Developer Infrastructure Contributions.

6.11.2. The CIL Regulations discourage the use of formulae to calculate contributions, however, the County Council is not able to adopt a CIL charge itself. Accordingly, in areas where a CIL charge has not been introduced to date, planning obligations in their restricted form are the only route to address the impact of a development. In instances where a development is not large enough to require on site provision but is large enough to generate an impact on a particular service, an evidenced mechanism is needed to form the basis of any planning obligation sought. HCC views the calculations and figures set out within the Guide to Developer

6.11.3. Infrastructure Contributions as an appropriate methodology for the obligations sought in this instance. The county council methodology provides the certainty of identified contribution figures based on either a known or estimated dwelling mix, the latter of which might be agreed with the local planning authority based on expected types and tenures set out as part of the local plan evidence base. This ensures the contributions are appropriate to the development and thereby meet the third test of Regulation 122 of the Community Infrastructure Levy Regulations 2010 (amended 2019): “fairly and reasonably relates in scale and kind to the development”.

6.11.4. Outline applications will require the ability for an applicant to recalculate contributions at the point of a reserved matters application and as such a

calculation Table will be provided as part of the S106 drafting process. This approach provides the certainty of identified contribution figures with the flexibility for an applicant/developer to amend the dwelling mix at a later stage and the financial contribution to be calculated accordingly.

6.11.5. Please note that current service information for the local area may change over time and projects to improve capacity may evolve. This may potentially mean a contribution towards other services could be required at the time any application is received in respect of this site.

6.11.6. Justification

The above figures have been calculated using the amounts and approach set out within the Guide to Developer Infrastructure Contributions Hertfordshire County Council's requirements) document, which was approved by Hertfordshire County Council's Cabinet 12 July 2021 and is available via the following link: [Planning obligations and developer infrastructure contributions | Hertfordshire County Council](#)

6.11.7. In respect of Regulation 122 of the CIL Regulations 2010 (amended 2019), the planning obligations sought from this proposal are:

6.11.8. (i) Necessary to make the development acceptable in planning terms. Recognition that contributions should be made to mitigate the impact of development are set out in planning related policy documents. The NPPF states "Local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations." Conditions cannot be used cover the payment of financial contributions to mitigate the impact of a development The NPPG states "No payment of money or other consideration can be positively required when granting planning permission." The development plan background supports the provision of planning contributions. The provision of community facilities is a matter that is relevant to planning. The contributions sought will ensure that additional needs brought on by the development are met.

6.11.9. Directly related to the development. The occupiers of new residential developments will have an additional impact upon local services. The financial contributions sought towards the above services are based on the size, type and tenure of the individual dwellings comprising this development following consultation with the Service providers and will only be used towards services and facilities serving the locality of the proposed development and therefore, for the benefit of the development's occupants.

6.11.10. Fairly and reasonably related in scale and kind to the development. The above financial contributions have been calculated according to the size, type and tenure of each individual dwelling comprising the proposed development (based on the person yield).

6.12. HCC Highways

*Initial response 11/04/2022*

6.12.1. *Trip Generation*

The Transport Assessment has included a predicted vehicular trip generation and distribution. The Highway Authority are satisfied with the accuracy of the trip rates used and assignment methodology.

#### 6.12.2. *Junction Assessment*

The applicant has undertaken a capacity assessment using LinSig of the High Street / A414 North Orbital signal-controlled junction. The results have shown the impact of the proposed development will not have a nil-detriment effect and will worsen the degree of saturation, queues, and practical reserve capacity which are already approaching / exceeding theoretical capacity. To mitigate these impacts and encourage active travel trips, improvements are sought under subheading 'Pedestrian Access' and 'Planning Obligations'.

#### 6.12.3. *Highway Safety*

The Transport Assessment has included a review of personal injury collisions over a five-year period. The results showed a high number of collisions had been recorded in the study area, and therefore to mitigate any potential impact, improvements are sought - details can be found under subheading 'Pedestrian Access' and 'Planning Obligations'.

#### 6.12.4. *Vehicular Access*

The proposals include the redesign of the existing private access drive and junction with the High Street, as shown on Drawing No. 23356-03 Rev B. In order to provide an access in line with HCC LTP Policy 1, the access arrangement must be updated to provide a continuous footway crossover instead of the currently proposed bellmouth arrangement. The Highway Authority note that the 85th percentile recorded speeds slightly exceed the 30mph speed limit and therefore the (y) visibility splays must be updated based on MfS calculations. It is noted that no Swept Path Drawings have been submitted at the access. A swept path drawing that shows a large car stationary at the give way line whilst a large car undertakes a left turn & right turn into the access must be submitted.

6.12.5. As part of the S278 delivery, any faded lining ('slow' markings / Double Yellow Lines / line markings) and missing signing at the section of the High Street that approaches and fronts the access must be reinstated / or added.

#### 6.12.6. *Pedestrian Access*

The Highway Authority are concerned the footway network to the east of the site is unsuitable to support the proposed development. The proposed development is expected to result in an increase in vehicular trips, with all vehicles routing on the High Street, and therefore increasing the number of potential conflicts and severance for pedestrians whilst reducing the level of pedestrian comfort and attractiveness of walking. The access bellmouths for both the High Street 96-106 and Park Lane are unnecessarily wide and represent a risk to pedestrian safety as the width allows vehicles to enter and exit and high speeds. Additionally, there is no formal pedestrian crossing on the High Street that falls on a pedestrian desire line to serve pedestrian trips which route to/from the east of the private access drive and wish to access the primary school entrance on the private access. To make the planning application acceptable in-line with HCC Local Transport Plan Policies 1,2,5 and NPPF paragraphs 110(a, b) & 112 (a,b,c), the applicant must provide pedestrian infrastructure improvements to the off-site pedestrian network that resolve the above concerns. Once these improvements are submitted and found to be satisfactory, the Highway Authority will be in a position to raise no objection subject to planning conditions and obligations. Additionally, it is noted that the 85th percentile speeds on the High Street exceed the stated 30mph speed limit and therefore improved pedestrian crossings on the section of High Street to the east of the site will informally act as a traffic calming measure.

#### 6.12.7. *Internal Pedestrian Access*

The proposals as shown on Drawing No. 23356-03 Rev B include the provision of 2m wide footways leading from the site access and existing footway network into the site. The Highway Authority are satisfied with the private drive pedestrian infrastructure provision.

#### 6.12.8. *Refuse / Servicing / Emergency Access*

A set of swept path analysis drawings must be submitted at the reserved matters stage once the layout has been fixed. The swept paths must demonstrate:

- An 11.2m length refuse collection vehicle can enter the site, manoeuvre within a 20m bin drag distance, and exit in a forward gear without having to reverse excessive distance at turning points.
- An fire appliance of 10.1m entering the site, accessing within 45m of all residential units, and exiting in a forward gear.

#### 6.12.9. *On-site Parking*

The Transport Assessment States Car and Cycle Parking will be provided in accordance with local standards. Once the above issues have been rectified, the Highway Authority will request that each dwelling is served by an active EV charging unit. The Highway Authority will also request that each dwelling includes a space that is secure and covered for two cycles.

#### 6.12.10. *Parking Concerns*

The Highway Authority are concerned the proposed changes to the access road will lead to a displacement of 'unofficial' parking for Colney Heath School & Nursery and football club. No details of current usage have been provided and therefore the Highway Authority are concerned the displacement of parking may result in inappropriate and unsafe parking occurring on sections of the surrounding highway and footway network. The applicant must submit additional details, including a parking survey during peak school times that demonstrates the loss of potential parking area will have a negligible impact to safety.

#### 6.12.11. *Sustainability*

The Highway Authority are concerned the site is in a location that is car dependent due to limited number of local amenities, employment opportunities, and public transport (rail) in close proximity. It is noted in the Transport Assessment that the nearest doctor's surgery, secondary school, dental practice and employment opportunities are all 2km-5km from the site. Therefore, to make the site acceptable in planning terms, mitigation through enhanced pedestrian improvements outlined under the 'pedestrian access' subheading is sought as this will help encourage trips by active travel modes. In addition to this, to help mitigate the impact of the development, S106 Sustainable Transport planning obligations are sought as set out below.

#### 6.12.12. *Planning Obligations*

In line with HCC Local Transport Plan, a sustainable transport contribution (via a S106 agreement) is sought in order to mitigate the future impact of the site in terms of vehicle traffic and additional pressures to the active travel and public transport networks. The mitigation will focus on the enhancing and encouraging active travel and public transport use by improving facilities, walking and cycling environments, and improving the safety of trips. In the absence of Community Infrastructure Levy (CIL) developer contribution are sought via S106 agreement/s using the HCC's Planning Obligations Guide (2021). HCC's Planning Obligation Guidance implements a two-strand approach to planning obligations in order to address the immediate impacts of the new development (first strand), and the



cumulative impacts of all development on non-car networks (second strand). In accordance with the HCC Planning Obligations Guidance (2021), second strand sustainable transport contributions are sought for residential developments on a unit rate basis of £6,826 per dwelling.

6.12.13. The total S106 sustainable transport contribution sought is £307,170. (note: this contribution may be reduced subject the level of requested improved off-site works detailed under subheading 'pedestrian access'). The Highway Authority will distribute the contributions to the associated schemes to mitigate the impact of the development, typically through schemes identified in the HCC's Local Transport Plan (LTP) and its supporting documents, South-Central Hertfordshire Growth and Transport Plan. Mitigation to offset the highway and sustainable impact of the site will be sought from Package 30 of the South-Central Hertfordshire Growth and Transport Plan. Package 30 includes the following measures:

- Improving the A414 cycleway between London Colney and Hatfield to facilitate cycle journeys. [Improve the existing footway alongside the A414 to accommodate pedestrians and cyclists between the London Colney Roundabout and the A1001 Comet Way in Hatfield].
- A414 Colney Heath Longabout Improvements. [A safety and capacity related improvement to the existing longabout junction which includes introducing a signal-controlled right turn 'cut through' for traffic exiting from High Street towards A414 East].

6.12.14. *CTMP*

If the application is permitted planning permission, the Highway Authority request by way of planning condition that a Construction Traffic Management Plan is submitted prior to construction. Due to the sensitive location of the development site, a CTMP is needed to mitigate any adverse impact from the development on the operation and safety of the local highway network.

6.12.15. *Conclusion*

The Highway Authority have reviewed the development proposals and wishes to raise an objection. Once the issues outlined in this response have been suitably resolved, the Highway Authority will be in a position to raise no objection subject to conditions and obligations

*Follow up response 22/11/2022*

6.12.16. The applicant has since submitted a Transport Technical Note (dated August 2022). The Highway Authority have reviewed the amended proposals in the section below.

6.12.17. *Pedestrian Access Concerns*

The Transport Technical Note states the proposals are to:

- Improve the footway to the east of the site access by widening to 2.0m wide and provide dropped kerbing with tactile paving near the junction of Park Lane.
- Reduce the bellmouths for Park Lane and High Street 96-106. Dropped kerbing with tactile paving will also be provided at High Street 96-106 to facilitate pedestrian desire lines.

These works are shown on Drawing No 23356-04b. The Highway Authority have reviewed these proposals and are satisfied they overcome a number of pedestrian access concerns for future residents and existing neighbouring residents.

6.12.18. These works must be delivered via a S278 agreement, as secured via the recommended condition 2. The Highway Authority welcome the provision of x2 2m

footways on both sides of the internal access road. It is requested by way of planning condition that 'No Parking on the Footway' signage is provided on the section of internal access road which borders the school.

#### 6.12.19. *Vehicular Access Design*

The Transport Technical Note states the proposals are to:

- Provide a continuous footway crossover at the site access.

These works are shown on Drawing No 23356-04b. The Highway Authority are satisfied with these proposals. The access works must be delivered as part of the S278 process. It is noted the proposals include the extension of double yellow lines on the southern side of the High Street. The applicant must note these will need to be delivered as part of the S278. As part of the S278 delivery, any faded lining ('slow' markings / Double Yellow Lines / line markings) and missing signing at the section of the High Street that approaches and fronts the access must be reinstated / or added. Updated visibility splays in-line with wet weather calculations and MfS calculations have been demonstrated on Drawing No 23356-04b.

#### 6.12.20. *Parking Concerns*

The Transport Technical Note has included a Car Parking Beat Survey and results. The proposals include the loss of 17 spaces for the provision of the footway on the eastern side of the internal access road. The applicant has demonstrated through a letter from the football club which confirms that they have no objection to Colney Heath Primary School and Nursery using the football club car park for parents dropping off/ picking up children. The Highway Authority are satisfied with this arrangement.

It is noted the footway on the western side of the internal access road will be in the form of a moderate upstand and contrasting surfacing. The Highway Authority are satisfied with this proposal and request implications to drainage are considered.

#### 6.12.21. *Trip Generation*

The Transport Assessment has included a predicted vehicular trip generation and distribution. The Highway Authority are satisfied with the accuracy of the trip rates used and assignment methodology.

#### 6.12.22. *Junction Assessment*

The applicant has undertaken a capacity assessment using LinSig of the High Street / A414 North Orbital signal-controlled junction. The results have shown the impact of the proposed development will not have a nil-detriment effect and will worsen the degree of saturation, queues, and practical reserve capacity which are already approaching / exceeding theoretical capacity. To mitigate these impacts and encourage active travel trips, improvements are sought under 'Planning Obligations'.

#### 6.12.23. *Refuse / Servicing / Emergency Access*

A set of swept path analysis drawings must be submitted at the reserved matters stage once the layout has been fixed. The swept paths must demonstrate:

- An 11.2m length refuse collection vehicle can enter the site, manoeuvre within a 20m bin drag distance, and exit in a forward gear without having to reverse excessive distance at turning points.
- An fire appliance of 10.1m entering the site, accessing within 45m of all residential units, and exiting in a forward gear.

#### 6.12.24. *On-site Parking*

The Transport Assessment States Car and Cycle Parking will be provided in accordance with local standards. The Highway Authority will request that each dwelling is served by an active EV charging unit. The Highway Authority will also request that each dwelling includes a space that is secure and covered for two cycles.

#### 6.12.25. *Sustainability*

The Highway Authority are concerned the site is in a location that is car dependent due to limited number of local amenities, employment opportunities, and public transport (rail) in close proximity. It is noted in the Transport Assessment that the nearest doctor's surgery, secondary school, dental practice and employment opportunities are all 2km-5km from the site. Therefore, to make the site acceptable in planning terms, mitigation through enhanced pedestrian improvements was sought as this will help encourage trips by active travel modes. In addition to this, to help mitigate the impact of the development, S106 Sustainable Transport planning obligations are sought as set out below

#### 6.12.26. *Planning Obligations*

In line with HCC Local Transport Plan, a sustainable transport contribution (via a S106 agreement) is sought in order to mitigate the future impact of the site in terms of vehicle traffic and additional pressures to the active travel and public transport networks. The mitigation will focus on the enhancing and encouraging active travel and public transport use by improving facilities, walking and cycling environments, and improving the safety of trips. In the absence of Community Infrastructure Levy (CIL) developer contribution are sought via S106 agreement/s using the HCC's Planning Obligations Guide (2021). HCC's Planning Obligation Guidance implements a two-strand approach to planning obligations in order to address the immediate impacts of the new development (first strand), and the cumulative impacts of all development on non-car networks (second strand).

6.12.27. In accordance with the HCC Planning Obligations Guidance (2021), second strand sustainable transport contributions are sought for residential developments on a unit rate basis of £6,826 per dwelling. The total S106 sustainable transport contribution sought is £307,170.

6.12.28. The Highway Authority will distribute the contributions to the associated schemes to mitigate the impact of the development, typically through schemes identified in the HCC's Local Transport Plan (LTP) and its supporting documents, South-Central Hertfordshire Growth and Transport Plan. Mitigation to offset the highway and sustainable impact of the site will be sought from Package 30 of the South-Central Hertfordshire Growth and Transport Plan. Package 30 includes the following measures:

- Improving the A414 cycleway between London Colney and Hatfield to facilitate cycle journeys. [Improve the existing footway alongside the A414 to accommodate pedestrians and cyclists between the London Colney Roundabout and the A1001 Comet Way in Hatfield].
- A414 Colney Heath Longabout Improvements. [A safety and capacity related improvement to the existing longabout junction which includes introducing a signal-controlled right turn 'cut through' for traffic exiting from High Street towards A414 East].

#### 6.12.29. *Travel Plan*

Based on HCC Travel Plan Criteria, a Travel Plan Statement is not required to support the application and future residents. If the application is permitted, the

Highway Authority would encourage the developer to provide sustainable travel information welcome packs to future residents upon first occupation.

6.12.30. *CTMP*

If the application is permitted planning permission, the Highway Authority request by way of planning condition that a Construction Traffic Management Plan is submitted prior to construction. Due to the sensitive location of the development site, a CTMP is needed to mitigate any adverse impact from the development on the operation and safety of the local highway network.

6.12.31. *Conclusion*

The Highway Authority have reviewed the amended development proposals and does not wish to raise an objection subject to the inclusion of planning conditions, informatives, obligations and agreements.

6.13. HCC Minerals and Waste

6.13.1. No objection subject to a condition for the provision of a Site Waste Management Plan.

6.14. HCC Water Officer

6.14.1. Requested a condition for the provision and installation of fire hydrants, at no cost to the County or Fire and Rescue Service. This is to ensure all proposed dwellings have adequate water supplies for in the event of an emergency.

6.15. Local Lead Flood Authority (RAB consultants)

6.15.1. Owing to the ongoing capacity issues at the Lead Local Flood Authority, RAB Consultants was consulted on the application (funded by the applicant).

6.15.2. The response received on 18 April 2023 states that the proposed development would be considered acceptable subject to the imposition of planning conditions.

6.16. Herts Landscape

6.16.1. The arboricultural information should be updated to include impact assessment and methodology for G5, and methodology for protection of vegetation along the south-east site boundary. The north west corner of the development layout should avoid and protect T2 – T5.

6.16.2. The proposed development should not give rise to any unacceptable landscape and visual effects, and is therefore supported in principle, providing that the proposed mitigation is effectively delivered within the masterplan. Typical cross sections are required to demonstrate the minimum and maximum widths and the approach to the treatment of the sensitive north-east and south-east boundaries.

6.16.3. Further consideration is required for the character and function of the open space typologies to ensure that they are located and sized appropriately, throughout the development, and can realistically be delivered on the ground. Further information is required to understand the constraints of the SuDS features and to ensure that objectives for biodiversity and recreation can actually be achieved, supported by case studies

6.17. Natural England

6.17.1. No comment

6.18. Herts Ecology

6.18.1. I have no reason to disagree with the findings of the Ecological Impact Assessment regarding the likely absence of European protected species. Suitable precautionary measures are included within the report to safeguard any breeding birds, badgers and reptiles that might be associated with habitats found on site. Non licensable measures are also outlined to prevent harm to commuting bats and great crested newts. These measures should be followed in full.

6.18.2. With the retention and enhancement of the existing hedgerows and tree lines, the limited existing ecology of the arable fields and the creation of the proposed green space to the east of the site, I have no reason to doubt that the proposals will deliver a 10% + biodiversity net gain.

6.18.3. The EIA recommends the provision of nesting boxes for birds and bats. Given the lack of potential roosting spots identified within the boundary trees, and likely increased disturbance and predation by household animals (such as cats) I support these measures. I would recommend that a proportion of any bat and bird boxes be formed of ones that are integrated into the new buildings. This is to reflect both the greater risk of disturbance of tree-based boxes in public spaces and the ecological opportunities afforded by these buildings. A ratio of a minimum of 2 such integrated boxes for every 10 dwelling seems reasonable.

6.19. Herts and Middlesex Wildlife Trust

6.19.1. No comment

6.20. Hertfordshire Constabulary

6.20.1. The long service road will be shared with a school and a football club. Attendance outside most schools for one hour in the morning and another hour in the afternoon will show the total mayhem that frequently ensues. During these times access into or out of the housing area for anyone, including emergency services will be limited, with potentially dangerous outcomes. This issue will need to be addressed with more aggressive treatments than yellow lines, which have no real effect. Daily calls to the police because of obstructions by cars will not be acceptable.

6.20.2. Another potential issue is the LAP at the end of the plot. This area must have some informal surveillance from nearby properties. This is all the more important given the ability to approach the area unseen from over the adjoining fields. The indicative layout is generally conducive to good security and therefore at this stage I am able to support the application.

6.21. Health and Safety Executive

6.21.1. No comment

6.22. British Pipeline Agency

6.22.1. BPA pipeline(s) are not affected by these proposals, and therefore BPA does not wish to make any comments on this application.

6.23. Thames Water

6.23.1. No objection in relation to waste water network and sewage treatment works infrastructure capacity.

6.24. Affinity Water

6.24.1. No comment

6.25. Cadent Gas

6.25.1. No comment

6.26. NHS

6.26.1. No comment

6.27. Environment Agency

6.27.1. Thank you for consulting us on the above application. We have no objection to the proposal and have the following comments.

**7. Relevant Planning Policy**

7.1. National Planning Policy Framework 2021 (NPPF)

7.2. St. Albans District Local Plan Review 1994:

POLICY 1	Metropolitan Green Belt
POLICY 2	Settlement Strategy
POLICY 8	Affordable Housing in the Metropolitan Green Belt
POLICY 34	Highways Consideration in Development Control
POLICY 35	Highway Improvements in Association with Development
POLICY 39	Parking Standards, General Requirements
POLICY 40	Residential Development Parking Standards
POLICY 69	General Design and Layout
POLICY 70	Design and Layout of New Housing
POLICY 74	Landscaping and Tree Preservation
POLICY 84	Flooding and River Catchment Management
POLICY 84A	Drainage Infrastructure
POLICY 86	Buildings of Special Architectural or Historic Interest
POLICY 97	Existing Footpaths, Bridleways and Cycleways
POLICY 102	Loss of Agricultural Land
POLICY 106	Nature Conservation
POLICY 143A	Watling Chase Community Forest
POLICY 143B	Implementation

7.3. Supplementary planning Guidance/Documents:  
Design Advice Leaflet No. 1 'Design and Layout of New Housing'  
Revised Parking Policy and Standards, January 2002  
Affordable Housing SPG 2004

7.4. Planning Policy Context

- 7.4.1. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that where in making any determination under the planning Acts, regard is to be had to the development plan, the determination shall be made in accordance with the plan unless material consideration indicates otherwise.
- 7.4.2. The development plan is the St Albans District Local Plan Review 1994.
- 7.4.3. The NPPF 2021 is also a material consideration.
- 7.4.4. Paragraph 11 of the NPPF states that there is a presumption in favour of sustainable development.

*For decision-taking this means:*

- c) approving development proposals that accord with an up-to-date development plan without delay; or*
- d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:*
- i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or*
  - ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.*

- 7.4.5. Paragraphs 218 and 219 of the NPPF read as follows:

*The policies in this Framework are material considerations which should be taken into account in dealing with applications from the day of its publication. Plans may also need to be revised to reflect policy changes which this replacement Framework has made.*

*However, existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with this Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given).*

- 7.4.6. The degree of consistency of the Local Plan policies with the framework will be referenced within the discussion section of the report where relevant.

## **8. Discussion**

The following main issues are considered below:

- Principle
- Green Belt Harm
- Design and Amenity
- Landscape Character
- Provision of Housing including Affordable and Self-Build Housing
- Open Space
- Ecology and Biodiversity
- Loss of Agricultural Land
- Heritage
- Highways and Sustainable Transport
- Economic Impacts

- Impact on Social and Physical Infrastructure
- Recent Planning Decisions of Relevance
- Other Matters including Matters raised by Objectors / in Consultation Responses
- Planning Balance

## 8.1. Principle

8.1.1. The statutory development plan is the St Albans Local Plan Review 1994. The National Planning Policy Framework 2021 (NPPF) is an important material consideration.

8.1.2. The land is in the Metropolitan Green Belt where local and national policy only allows for certain forms of development, unless there are very special circumstances. The Local Plan policy differs in the detail of what may be classed as not-inappropriate development in the Green Belt when compared with the more recent NPPF, but the proposed development does not fall within any Local Plan or NPPF exception to inappropriate development, and the fundamental policy test of 'very special circumstances' is consistent in the Local Plan Policy (Policy 1) and in the NPPF.

8.1.3. A new Local Plan is underway but is at a very early stage. The NPPF in paragraph 48 states that weight can be given to emerging policies according to:

*"a) the stage of preparation of the emerging plan (the more advanced its preparation, the greater the weight that may be given);*

*b) the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given);*  
*and*

*c) the degree of consistency of the relevant policies in the emerging plan to this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given)*

8.1.4. It clarifies in relation to prematurity, in paragraph 49, as follows (note both a and b need to be satisfied for an application to be considered to be premature):

*"49. However in the context of the Framework – and in particular the presumption in favour of sustainable development – arguments that an application is premature are unlikely to justify a refusal of planning permission other than in the limited circumstances where both:*

*a) the development proposed is so substantial, or its cumulative effect would be so significant, that to grant permission would undermine the plan-making process by predetermining decisions about the scale, location or phasing of new development that are central to an emerging plan; and*

*b) the emerging plan is at an advanced stage but is not yet formally part of the development plan for the area."*

8.1.5. No draft policies for the new Local Plan have been produced yet and no weight can be attached to it in decision making.

8.1.6. It is also important to note that the potential outcome of evidence being prepared for the new Local Plan or the likelihood of land being allocated or otherwise as a result of that evidence, must not be prejudged. No weight can be attached to speculation about the likelihood of Green Belt releases in the new Local Plan or where these may be located. This application must be treated on its own merits,



based on relevant policy and material considerations which apply at the time of making the decision.

- 8.1.7. As noted above, paragraph 11 of the NPPF states that planning decisions should apply a presumption in favour of sustainable development. The Council cannot demonstrate a 5 year supply of land for housing as required by the NPPF. This means that the policies which are most important for determining the application are out of date, and paragraph 11(d) of the NPPF is engaged.
- 8.1.8. Furthermore, land designated as Green Belt is confirmed as one such area or asset for the purposes of 11d.i).
- 8.1.9. Paragraphs 147 and 148 of the NPPF provide the most up to date basis against which to assess whether there is a clear reason for refusal of the proposed development in this particular case. These paragraphs set out clearly the relevant policy test:

*147. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.*

*148. When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations."*

- 8.1.10. This means that the proposed development should not be approved unless there are other considerations sufficient to clearly outweigh the harm caused such that 'very special circumstances' would exist, and in this eventuality planning permission should be granted.
- 8.1.11. The age of the Local Plan and any consequences of that is covered by the application of paragraph 11 of the NPPF and no additional consideration of the age of the plan as a material consideration is merited.
- 8.1.12. The remainder of this report goes on to consider the harm to the Green Belt and any other harm as well as all other considerations, before considering the overall planning balance, and assessing the proposed development against the above test in paragraph 148 of the NPPF, in order to determine whether very special circumstances exist in this case.
- 8.1.13. Assessment of other 'in-principle' matters are considered in the relevant sections below. Assessment of these matters is in the context of '...any other harm resulting from the proposal' in the aforementioned NPPF para 148 test, noting that it is fundamentally this test within which the proposal falls to be considered.

## 8.2. Green Belt Harm

### *The appropriateness of development in the Green Belt*

- 8.2.1. Inappropriate development in the Green Belt is by definition harmful, and substantial weight should be given to this harm (para 148 NPPF).
- 8.2.2. The NPPF attaches great importance to the Green Belt. Paragraph 137 states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping

land permanently open. The essential characteristics of Green Belt are its openness and permanence. The NPPF goes on to state that inappropriate development within the Green Belt, is by definition harmful and should not be approved except in very special circumstances. Except for a small number of exceptions set out in paragraphs 149 and 150 of the NPPF, development within the Green Belt should be regarded as inappropriate.

- 8.2.3. The site is wholly situated within the Metropolitan Green Belt, as defined within the Local Plan Review 1994. There are no existing buildings on the site, and it comprises open fields, currently in agricultural use. The application site is on the edge of existing built form within Colney Heath, which is defined by Policy 2 of the St Albans Local Plan as a Green Belt Settlement. Within such areas, aside from certain exceptions not of relevance to this application, development will not normally be permitted except for housing for local needs defined by Policy 6 (Policy 6 not saved), or for local facilities and service needs of the settlement. The Policy also states that developments must not detract from the character and setting of these settlements in the Green Belt.
- 8.2.4. The proposed residential development would not fit into any of the exceptions set out within paragraphs 149 and 150 of the NPPF and the development would therefore represent inappropriate development in the Green Belt.

#### *Openness of the Green Belt*

- 8.2.5. Paragraph 137 of the NPPF defines one of the essential characteristics of the Green Belt to be its openness. There is no formal definition of openness but, in the context of the Green Belt, it is generally held to refer to an absence of development. Openness has both a spatial (physical) dimension, and a visual aspect.
- 8.2.6. The National Planning Practice Guidance (NPPG) states:

*“Assessing the impact of a proposal on the openness of the Green Belt, where it is relevant to do so, requires a judgment based on the circumstances of the case. By way of example, the courts have identified a number of matters which may need to be taken into account in making this assessment. These include, but are not limited to:*

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

Paragraph: 001 Reference ID: 64-001-20190722

- 8.2.7. The site covers an area of land approximately 1.68ha in size. The planning statement in conjunction with the indicative parameter plans within the Design and Access statement detail that the proposed area for built development would cover approximately 0.97ha. Spatially, the proposal would therefore result in a significant reduction in existing openness simply by virtue of the proposed built development of up to 45 new dwellinghouses and supporting infrastructure. Even taking into account the potential for boundary treatment, landscaping and open green space, this would have the effect of a considerable reduction in the openness of the site in spatial terms.

- 8.2.8. The western side of the application site is more physically enclosed by the adjacent built form and established settlement edge of Colney Heath. The local landform in conjunction with the existing vegetation and established hedgerows along High Street also serve to visually contain the site and limit an immediate visual appreciation of the site. The impact physically and visually would be most evident within the vicinity of the site from the adjacent footpaths and access road and filtered views through the vegetation and built form to the west of the site.
- 8.2.9. In relation to the visual aspect of openness, regard must be had to the Landscape and Visual Impact Assessment (LVIA) submitted with the application, in so far as it relates to the impact of the development on the openness of the Green Belt. As set out in detail in the relevant section below, while the proposed planting and landscaping enhancements, when established, would help mitigate the visual impact of the development, there would inevitably be a permanent change to the character of the site which would spatially and visually be perceived to some extent, by users of adjacent footpaths and occupiers of adjacent buildings. Notwithstanding the proposed landscape enhancements, the proposed development would result in a loss of openness. This harm, in addition to the harm by inappropriateness, carries substantial weight against the proposals.

*Purposes of including land in the Green Belt*

- 8.2.10. The assessment of harm to the Green Belt should be set in the context of the five Green Belt Purposes, as set out in paragraph 138 of the NPPF:
- a) to check the unrestricted sprawl of large built-up areas;*
  - b) to prevent neighbouring towns merging into one another;*
  - c) to assist in safeguarding the countryside from encroachment;*
  - d) to preserve the setting and special character of historic towns; and*
  - e) to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.*
- 8.2.11. As part of the Council's evidence base for the now withdrawn local plan, this site, as part of a much larger parcel of land labelled GB34, was included in the SKM Green Belt review 2013.
- 8.2.12. It is noted that the withdrawn plan has no status for decision making, and that the previous site selection process has no weight, but that the judgments reached in the Green Belt review in relation to Green Belt purposes as part of the evidence base to the plan are relevant for the determination of applications.
- 8.2.13. The findings of the SKM Green Belt review where it assesses the relevant sub-area against Green Belt purposes represents the most recent published Green Belt review relevant to the application proposal, and it is considered proper to take it into account when considering the application site against Green Belt purposes.
- 8.2.14. It is noted that in two relevant recent appeal decisions (for applications 5/2020/1992 and 5/2021/0423) the Inspector did have regard to the Green Belt review when assessing the proposals against Green Belt purposes. Where the Inspectors did not follow the report, it was not because of the outcome of the previous plan process, but more due to differences in the parcel size assessed in the report compared to the application site. As such, it is considered that the Green Belt review is material insofar as it assesses sites against Green Belt purposes and these Inspector's decisions illustrate that.

- 8.2.15. The site forms part of parcel GB34 which is known as ‘Green Belt Land Between Hatfield and London Colney’. The site is stated to be predominantly arable farmland and heathland. The site was considered to contribute towards the purposes of Green Belt (nor was it recommended for boundary adjustments. According to Annex 1 Parcel Assessment Sheets for SADC (2013) page 68, the contribution is summarised as follows:

*“Significant contribution towards safeguarding the countryside and maintaining the existing settlement pattern (providing gap between Hatfield and London Colney). Partial contribution towards preventing merging (of St Albans and Hatfield) and preserving the setting of London Colney, Sleafshyde and Tyttenhanger Park. Overall the parcel contributes significantly towards 2 of the 5 Green Belt purposes.”*

- 8.2.16. The Inspector in the Bullens Green Lane appeal decision (5/2020/1992) found that the characteristics of parcel GB34 in the Green Belt review had little or no relationship with the appeal site. Given the scale of the land identified within the Green Belt review compared to the appeal site, the Inspector placed only very limited correlation between the conclusions in relation to the function of the land relative to the purposes of the Green Belt when compared to the appeal site.
- 8.2.17. Taking the above points into account, a planning judgement on the harm to Green Belt purposes of the proposed development at the application site on its own is provided below, drawing on the relevant evidence base as a material consideration:

- a) to check the unrestricted sprawl of large built-up areas;

The application site is in the village of Colney Heath and would provide an extension to the north of this settlement beyond the row of existing buildings on High Street. The proposed development would disrupt and change the settlement pattern, with built form spread out in a dispersed manner and in a way that does not follow or relate to the existing urban grain.

The development of this site would put significant pressure on the adjoining fields and the development of this site would therefore have the potential to lead to further sprawl beyond the application site.

Significant harm is identified in relation to this purpose.

- b) to prevent neighbouring towns merging into one another;

The Green Belt Review 2013 considered parcel GB34 to contribute towards the strategic gap between St Albans and Hatfield and notes that any minor reduction in the gap would be unlikely to compromise the separation of the 1st tier settlements in physical or visual terms, or overall visual openness.

Whilst the proposed development would introduce additional built form in the gap between St Albans and Hatfield, the integrity of the gap would be maintained. Very limited harm is identified to this purpose

- c) to assist in safeguarding the countryside from encroachment;

The application site comprises an open agricultural field and is free from built development. The proposed development would, however, introduce a large amount of additional built form into what is at present a predominantly open

agricultural field beyond the edge of the settlement. The scale and extent of the development would urbanise the site and result in the encroachment of residential development into the countryside. Developing previously open land, which would be the case here, would not assist in safeguarding the countryside from encroachment. Significant harm is identified in relation to this purpose.

d) to preserve the setting and special character of historic towns

It is considered that the development of this site would not have any impact on the setting and special character of the historic core of St Albans. No harm is identified in relation to this purpose.

e) to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.

It is considered that the development of this site would not in itself prevent or discourage the development of derelict and other urban land in the District. The Council does not have any significant urban sites allocated for development, and whilst sites may come forward via a new local plan, this process cannot be afforded any material right in decision making. No harm is identified in relation to this purpose.

- 8.2.18. To conclude on Green Belt harm, this ultimately is a matter of planning judgement. For the reasons outlined above, officers consider that there is substantial harm to the Green Belt by reason of inappropriateness, with additional harm identified to Green Belt openness and to the purposes of the Green Belt relating to sprawl, encroachment into the countryside and the merging of towns. In line with the NPPF, inappropriate development should not be approved except in very special circumstances and substantial weight must be afforded to any harm to the Green Belt, and additional weight is given to the harm caused to Green Belt openness and to the purposes of the Green Belt.

*Summary of Green Belt Harm*

- 8.2.19. As inappropriate development, the application would constitute by definition, harm to the Green Belt. It would also cause harm to the physical and visual aspects of openness of the Green Belt and conflict with the purposes of including land within the Green Belt. Substantial weight must be attributed to this harm. The proposal is therefore contrary Section 13 of the NPPF. Similarly, the proposal would be contrary to Policy 1 of the St Albans District Local Plan Review 1994.

*Other considerations and very special circumstances*

- 8.2.20. Paragraph 148 of the NPPF states that local planning authorities should ensure that substantial weight is given to any harm to the Green Belt and very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.

- 8.2.21. The planning statement sets out the applicants case for the 'other considerations' (or benefits) of the proposal. These are summarised below:

- i. The delivery of housing, including affordable and self-build housing
- ii. Development would be within a suitable and highly sustainable location

- iii. The achievement of a biodiversity net gain of at least 10% in advance of its introduction as a mandatory requirement of new development
- iv. Provision of public open space
- v. Economic and employment benefits associated with construction and occupation of housing

8.2.22. In *Redhill Aerodrome Ltd v SSCLG* [2014] the judgment of the Court of Appeal held that the meaning of “any other harm” refers to any other harm whatsoever, and is not restricted to Green Belt harm. Therefore, the assessment of the Green Belt balance and conclusion will be performed at the end of this report, when all other material considerations have been assessed.

### 8.3. Design and Amenity

8.3.1. The Government attaches great importance to the design of the built environment. The NPPF notes that good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. Paragraph 130 of the NPPF further advises that decisions should ensure developments will function well and add to the overall character of the area, be visually attractive, sympathetic to local character and establish a strong sense of place. The National Design Guide ‘Planning practice guidance for beautiful, enduring and successful places’ 2021 provides additional guidance is a material planning consideration.

8.3.2. The Local Plan is broadly consistent with the NPPF in this regard. In Local Plan Policy 69 (General Design and Layout) it states that all development shall have an adequately high standard of design taking into account context, materials and other policies; and in Policy 70 (Design and Layout of New Housing) it states that design of new housing development should have regard to its setting and the character of its surroundings and meet the objectives set out in a number of criteria relating to amenity.

8.3.3. The application is in outline only with matters of Layout, Scale, Landscaping and Appearance to be considered at reserved matters stage. The design considerations to be assessed as part of this application are guided by the principles set out in the parameter plans that have been provided within the Design and Access Statement.

8.3.4. In terms of design and amenity, the provision of the access-related works for approval now, including the new pedestrian footways, would not be considered to harmfully impact the character and appearance of the area. Moreover, it is considered that the proposed access relation works would not have a detrimental impact on the character and appearance of the streetscene.

8.3.5. As set out in the proposed land use parameter plan within the Design and Access Statement, the residential built form would cover an area of approximately 0.97ha. Green open space would be located to the east of the site and would incorporate a SuDs basin and proposed local area of play. Green infrastructure in the form of retained and proposed planting would also delineate the northern, western and southern boundaries.

8.3.6. The building heights and density parameter plan within the Design and Access Statement shows that a higher density of development would be provided within the western area of the proposed residential land use area, while a lower density

of development would be provided towards the eastern part. The maximum building height would be up to 2.5 stories for the western part of the residential area and up to 2 stories for the eastern part.

- 8.3.7. It is acknowledged that the consultation comments from Herts Landscape raised concern at the prospect of all the public open space being provided at the eastern end of the site and that the mitigation of the urban edge on the wider landscape could be achieved by other measures, such as a tree belt. Whilst it would be preferable for the proposed open space to permeate through the development, in this particular context, it is considered that the extension of the built form further east would result in further encroachment of open land away from the built settlement. On balance, it is therefore considered that the indicative built form layout approach would be appropriate in this instance.
- 8.3.8. The applicant has provided a concept masterplan which demonstrates how the site could be laid out within the overall envelope allowed by the parameter plans and the development specification. A number of local residents have raised an objection on the basis that the dwellinghouses are not shown to scale, and this is evidently the case. Notwithstanding this, the document is for illustrative purposes only and the final layout, form, massing and appearance of the dwellinghouses are ultimately a consideration in the assessment of any future reserved matters application.
- 8.3.9. In relation to the residential amenities of adjoining occupiers, the concept masterplan does indicate that the proposed residential built form would be set away from the immediate boundary of the adjoining residential occupiers. Noting these separation distances, it is considered that there would be no direct harmful impact to existing properties in terms of loss of light, loss of outlook, overshadowing or overlooking.

#### 8.4. Landscape Character

- 8.4.1. The NPPF in para 174 sets out that decisions should contribute to and enhance the natural environment by protecting and enhancing valued landscapes, and by recognising the intrinsic character and beauty of the countryside and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland. It sets out in para's 130 and 92 that decisions should also ensure that new developments are sympathetic to local character and history including the surrounding built environment and landscape setting, support healthy lifestyles through the provision of safe and accessible green infrastructure and an appropriate amount and mix of green and other public space, and are visually attractive as a result of good architecture, layout, and appropriate and effective landscaping.
- 8.4.2. The NPPF recognises that trees make an important contribution to the character and quality of urban environments and seeks to ensure that new streets are tree-lined, that opportunities are taken to incorporate trees elsewhere in developments (such as parks and community orchards), that appropriate measures are in place to secure the long-term maintenance of newly planted trees, and that existing trees are retained wherever possible.
- 8.4.3. Local Plan Policies 1 and 74 are broadly consistent with the NPPF in this regard. Policy 1 (Metropolitan Green Belt) sets out that "*New development within the Green Belt shall integrate with the existing landscape. Siting, design and external appearance are particularly important and additional landscaping will normally be*

*required. Significant harm to the ecological value of the countryside must be avoided.”*

- 8.4.4. Local Plan Policy 74 (Landscaping and Tree Preservation) sets out, in relation to retention of existing landscaping, that significant healthy trees and other important landscape features shall normally be retained. In relation to provision of new landscaping, this policy sets out:
- a) where appropriate, adequate space and depth of soil for planting must be allowed within developments. In particular, screen planting including large trees will normally be required at the edge of settlements;*
  - b) detailed landscaping schemes will normally be required as part of full planning applications. Amongst other things they must indicate existing trees and shrubs to be retained; trees to be felled; the planting of new trees, shrubs and grass; and screening and paving. Preference should be given to the use of native trees and shrubs*
- 8.4.5. Within the Hertfordshire's Landscape Character Assessment, the Application Site falls within Landscape Character Area (LCA) '30: Colney Heath Farmland' which is located between London Colney and St Albans in the west and Hatfield in the east. The Landscape Character sets out that there is a good network of hedges, field tress and tree belts to the urban areas that visually contain the large arable character. Key characteristics include medium-scale arable farmland, subtly gently undulating landforms, severance by transport corridors, areas of semi-natural restored mineral workings and heath habitat at Colney Heath.
- 8.4.6. The applicant has provided a Landscape and Visual Impact Appraisal (LVIA) in support of the application. The LVIA considers that the site contributes to the some of the identified characteristics of being a medium scale arable farmland and influenced by close transport corridors (i.e the A414). However, it does not demonstrate or contribute to other key characteristics. The LVIA therefore considers the site to make a moderate contribution to the identified characteristics of LCA30.
- 8.4.7. Regarding landscape character, there would be a loss of arable farmland, which is a key characteristic of the landscape. However, a number of the other key characteristics of the site LCA30 would be largely unchanged. The LVIA assess the effect of the development from different viewpoints from within and adjacent to the application site from the High Street, The Common and the surrounding Public Right of Way network. The visual assessment concludes that the area from which there are potential views of the site is relatively limited due to the screening effect of the school grounds and woodland to the north, and the existing settlement of Colney Heath to the west. The most sensitive views that experience the most significant effects are from the public rights of way that criss-cross the open, flat, arable landscape to the east and south.
- 8.4.8. The application was referred to HCC Landscape who broadly support the LVIA conclusions, subject to the proposed mitigation being effectively delivered within the masterplan. The land use parameter plan within the Design and Access Statement suggests that retained and proposed planting would be incorporated along the northern, eastern and southern boundary of the application site. While landscaping is not a matter being approved as part of this application and the detailed design will be secured at reserve matters stage, the location of the green infrastructure and landscaping enhancements as set out within the illustrative masterplan and parameter plans within the Design and Access Statement would help screen and mitigate the visual impact of the development.



8.4.9. However, the proposed development would urbanise the site which is currently largely comprised of open fields. This would result in a change in the character and appearance of the application site from the agricultural use to a major residential development with significantly more built form across the site. Although the harm is not considered to be sufficient to amount to a freestanding reason for refusal, the introduction of built form across the existing fields would cause harm to the local landscape character and appearance, to which moderate weight is given.

8.5. Provision of housing including affordable and self-build housing

8.5.1. The Council cannot demonstrate a 5 year housing land supply. The proposed development is for up to 45 new homes and would provide 40% affordable housing. It is proposed that 9% of the dwellings would be made available as plots of self-build housing.

8.5.2. The mix of housing is considered sufficient at this outline stage to reflect the housing need and it is reasonable to allow flexibility for an applicant/developer to determine the dwelling mix at the reserved matters stage when detailed design and layout considerations have also been progressed.

8.5.3. SADC currently has a housing land supply of 2.2 years from a base date 1 April 2021. It is acknowledged that 2.2 years is substantially below the required 5 years. There is also a clear and pressing need for affordable housing within the District, and the evidence base suggests there is demand for self-build in the district which the proposal would assist in meeting.

8.5.4. The provision of housing therefore weighs heavily in favour of the proposals.

8.5.5. How much weight is a matter of planning judgement, informed by material considerations. In this regard, the recent appeal decision at Bullens Green Lane (5/2020/1992) is a relevant consideration. This decision was issued on 14 June 2021 and therefore considers a very similar housing and affordable housing position in the District as applies to the application considered in this report.

8.5.6. The Inspector concluded:

*“49. There is therefore no dispute that given the existing position in both local authority areas, the delivery of housing represents a benefit. Even if the site is not developed within the timeframe envisaged by the appellant, and I can see no compelling reason this would not be achieved, it would nevertheless, when delivered, positively boost the supply within both local authority areas. From the evidence presented in relation to the emerging planning policy position for both authorities, this is not a position on which I would envisage there would be any marked improvement on in the short to medium term. I afford very substantial weight to the provision of market housing which would make a positive contribution to the supply of market housing in both local authority areas.”*

...

*“52. In common with both market housing and affordable housing, the situation in the context of provision of sites and past completions is a particularly poor one. To conclude, I am of the view that the provision of 10 self build service plots at the appeal site will make a positive contribution to the supply of self build plots in both local planning authority areas. I am attaching substantial weight to this element of housing supply.*

...

*“54. The persistent under delivery of affordable housing in both local authority areas presents a critical situation. Taking into account the extremely acute affordable housing position in both SADC and WHBC, I attach very substantial weight to the delivery of up to 45 affordable homes in this location in favour of the proposals.”*

8.5.7. There is no material reason for officers to apply a different weighting to the proposals subject of this officer’s report. The housing situation and the emerging plan situation are materially the same. There is no reason to think that the site cannot come forward immediately following the submission of reserved matters application(s) after the grant of outline planning permission and significantly boost local housing supply. Accordingly, very substantial weight is attached to the delivery of market and affordable housing, and substantial weight to the delivery of self-build plots.

#### 8.6. Provision of open space

8.6.1. The proposed development would include the provision of at least 0.47ha of public open space. This is a benefit of the proposed development that is afforded some limited positive weight in the planning balance.

#### 8.7. Ecology and biodiversity

8.7.1. Section 15 of the NPPF “Conserving and enhancing the natural environment” sets out that planning decisions should contribute to and enhance the natural and local environment by minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures (para 174d); and that if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused (para 184).

8.7.2. Local Plan policy 106 is generally consistent with the aims of section 15 of the NPPF, and notes that the Council will take account of ecological factors when considering planning applications.

8.7.3. The application site consists of an arable field with grassland margins and boundary hedgerows. There are areas of amenity grassland and hardstanding habitat within the western extent of the site where it connects to High Street. The surrounding landscape is predominantly agricultural and rural residential. Colney Heath Nature Reserve, a statutory designated site, is located 81m to the south of the application site. Sleepshyde Gravel Pit Local Wildlife Site borders the site to the north-east.

8.7.4. An Ecological Impact Assessment has been undertaken by Ramm Sanderson which identifies that the existing habitats on the Site are generally of limited ecological value. The arable land offers suitability for ground nesting birds but is otherwise limited. The hedgerows and tree lines were noted for their ecological value, providing linear features for commuting and foraging species. No invasive or non-native species were identified during the ecological survey, including those listed on Schedule 9 of the Wildlife and Countryside Act 1981

- 8.7.5. There are no water bodies within the application site. Two ponds are present within 250m of the site but are stocked fishing lakes, therefore minimising their suitability to support Great Crested Newts. The boundary habitats may provide habitat for transient commuting/foraging Great Crested Newts and these are largely to be retained.
- 8.7.6. In relation to bats, the trees on site were not assessed as offering bat roost potential during the preliminary ecological appraisal, and so no further bat surveys were undertaken. The report does however acknowledge that the site provides suitable habitat for foraging and commuting bats due to the hedgerows and tree lines. Therefore, the report suggests detailed consideration of lighting requirements to avoid light spill onto the boundary habitats and the installation of bat boxes within retained trees.
- 8.7.7. With regard to birds, the tree lines and hedgerows along the boundaries of the site provide suitable habitat for nesting birds, including Birds of Conservation Concern. However due to the limited size of the site, the report identifies that these habitats are not likely to support any significant populations of protected birds. Furthermore, these boundaries are to be retained as part of the development and as such, any impacts upon nesting birds will be limited.
- 8.7.8. A badger latrine was identified within the walkover survey of the site and mammal paths were identified throughout the site. Although no badger sets were identified during the survey, there remains a risk that badgers utilise the site for foraging and commuting. The report therefore recommends a pre-commencement condition to check for badger sets prior to construction works starting.
- 8.7.9. The application was referred to Hertfordshire Ecology who have advised that they have no reason to disagree with the findings of the Ecological Impact Assessment regarding the likely absence of European protected species. Furthermore, suitable precautionary measures are included within the report to safeguard any breeding birds, badgers or reptiles that might be associated with habitats found on site. Hertfordshire Ecology have also requested that a Landscape and Ecological Management Plan is secured by condition to secure the ecological enhancements and measures proposed.
- 8.7.10. A Biodiversity net gain assessment has been undertaken which demonstrates that the proposal has the capability to materially increase the existing biodiversity baseline by 10%. Hertfordshire Ecology are satisfied that biodiversity net gain can be delivered on the site.
- 8.7.11. There is already a policy requirement to achieve a net gain in the NPPF, and it is expected that the mandatory 10% requirement will come into effect in November this year. Reflecting this, and the fact that the net gain achieved is modest in any event, it is considered that only limited weight should be applied to this benefit.

## 8.8. Loss of agricultural land

- 8.8.1. The site's lawful use is as agricultural land. Local Plan Policy 102 states that development involving the loss of high quality agricultural land will normally be refused, unless an overriding need case can be made. The NPPF in para 174 states that planning decisions should contribute to and enhance the natural and local environment by, amongst other things:

*“b) recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services - including the economic and*

*other benefits of the best and most versatile agricultural land,. And of trees and woodland.”*

- 8.8.2. It also sets out in footnote 58 that “*Where significant development of agricultural land is demonstrated to be necessary, areas of poorer quality land should be preferred to those of a higher quality*”.
- 8.8.3. A submitted Agricultural Land Classification report identifies the site as being Grade 2, which falls within the aforementioned Local Plan Policy 102 definition of ‘high quality agricultural land’ and NPPF definition of ‘Best and most versatile agricultural land’ (BMV).
- 8.8.4. A number of residents have objected to the loss of BMV land and the subsequent impact this will have on food production and food security. There is no evidence to suggest that release of this land would unduly impact upon the adjacent agricultural land being farmed and the indicative plans within the design and access statement indicate that access would be retained for the farm. It is the Council’s view that the consideration of loss of agricultural land should form part of the Local Plan process, as opposed to being decided through ad hoc applications. Nevertheless, taking a consistent approach with other recently determined applications (e.g 5/2021/3194 and 5/2021/0423), and noting that it would conflict with the aforementioned national and local policy, some additional harm is identified in this regard. As the area is relatively small (1.68ha) when compared to the amount of BMV land in the area, it is considered that this harm is given limited weight.

## 8.9. Heritage

- 8.9.1. The Planning (Listed Buildings and Conservation Areas) Act 1990 sets out the statutory tests for dealing with heritage assets in planning decisions. In relation to listed buildings, planning decisions “should have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses”. In relation to conservation areas, special attention must be paid to “the desirability of preserving or enhancing the character or appearance of that area”. The NPPF defines the setting of a heritage assets as the surroundings in which a heritage asset is experienced, where its extent is not fixed and may change as the asset and its surroundings evolve, and that elements of a setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral.
- 8.9.2. The NPPF states that when considering the impact of the proposal on the significance of a designated heritage asset, great weight should be given to the asset’s conservation and, the more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. Significance is defined within the NPPF as the value of the heritage asset, to this and future generations because of its heritage interest, which may be archaeological, architectural, artistic or historic, and may derive not only from a heritage asset’s physical presence, but also from its setting.
- 8.9.3. In this regard, Policy 86 of the Local Plan is consistent with the NPPF, and weight should therefore be attached to the provisions of this policy.
- 8.9.4. The application site is not within a Conservation Area and does not contain any listed building. However, the site is located in close proximity to the Grade II Listed; Apsley Cottage, Crooked Billet Public House and 94 High Street. A

Heritage Assessment has been undertaken for the Site by Andrew Josephs Associates. This sets out that each of the respective buildings has been extended in the 20<sup>th</sup> Century, with the Crooked Billet and No.94 significantly so, to the extent that the legibility of these two listed buildings has been detrimentally affected. Furthermore, their setting is one of predominantly modern development and a busy main road along the front of their curtilages.

- 8.9.5. The rear garden of Apsley Cottage adjoins the south-western corner of the application site and the dwelling is located approximately 10m away from the shared boundary. A mature hedge and tree filter views of the Cottage from the application site. The Crooked Billet Public House is located approximately 25m to the south-east of the application site while 94 High Street is located approximately 17m from the application site.
- 8.9.6. The siting, height and massing of the development within the southern corner of the site is important to ensure that this cluster of listed buildings are not dominated by development to the north. It is noted within the illustrative masterplan that the south-western corner of the development would consist of a garden to a residential dwelling with the proposed built form sited further away.
- 8.9.7. Comments from the Design and Conservation Officer raise concerns regarding the absence of parameter plans, the unused green space adjacent to the boundary, and the uncertainty regarding the retention of existing tree and hedgerow screening. On this basis, the application has failed to demonstrate that the proposed development would avoid harm to the adjacent heritage assets. It is considered that the proposed development would cause less than substantial harm, on the lower end of the spectrum. As a result, the proposal conflicts with Local Plan Policy 86.
- 8.9.8. In accordance with paragraph 202 of the NPPF, this harm must be balanced against the public benefits of the development. The public benefits of this proposal comprise the delivery of up to 18 affordable homes and up to 27 market homes, 9% of which would be available as self-build plots. As noted earlier in this report, there is a significant need for all of these housing types in the District. In addition, the proposed development would provide public open space whilst it would deliver Biodiversity Net Gain. Overall, it is considered that, in isolation, the public benefits of the proposed development would outweigh the harm to the heritage assets.
- 8.9.9. In relation to archaeology, the submitted Heritage Assessment concludes that there is no evidence of archaeological significance within the proposed development area and current evidence suggests that the Site is of low potential. The Assessment notes that the site has also been ploughed since the 19th century which has truncated any archaeology present.
- 8.9.10. The Council's Archaeologist has advised that the proposed development area lies in an area where little archaeological work has been undertaken. However, the lack of previous investigation does hamper an understanding of the nature of the archaeological deposits within the area, although the heritage statement shows quantities of prehistoric material have been identified in the area. Aerial photographs on Google earth do show a series of potential archaeological features within the development area. The Archaeologist has advised that although it is unlikely that highly significant deposits will be identified within the application area, there is the potential for regional or local deposits to be identified and it is therefore recommended a phased programme of archaeological work is undertaken if the application receives consent.

8.9.11. On the basis of the information provided, it is considered that the conditions recommended above could suitably mitigate potential harm to below-ground heritage at the site such that it weighs neutrally in the planning balance in this case.

## 8.10. Highways and Sustainable Transport

### *Policy background*

- 8.10.1. The NPPF in Section 9 “Promoting sustainable transport” advises (para 104) that transport issues should be considered from the earliest stages of development proposals, so that: the potential impacts of development on transport networks can be addressed; opportunities from existing or proposed transport infrastructure, and changing transport technology and usage, are realised; opportunities to promote walking, cycling and public transport use are identified and pursued; the environmental impacts of traffic and transport infrastructure can be identified, assessed and taken into account – including appropriate opportunities for avoiding and mitigating any adverse effects, and for net environmental gains; and patterns of movement, streets, parking and other transport considerations are integral to the design of schemes, and contribute to making high quality places.
- 8.10.2. When assessing development proposals, NPPF para 110 sets out that it should be ensured that: appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location; safe and suitable access to the site can be achieved for all users; the design of streets, parking areas, other transport elements and the content of associated standards reflects current national guidance, including the National Design Guide and the National Model Design Code; and any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.
- 8.10.3. Policy 35 of the Local Plan relates to Highway Improvements in Association with Development and sets out that, in order to mitigate the highway effects of development proposals the District Council, in conjunction with the County Council where appropriate, will seek highway improvements or contributions to highway improvements and/or improvements to the public transport system from developers whose proposals would otherwise result in detrimental highway conditions.
- 8.10.4. Policy 34 of the Local Plan relates to Highways Considerations In Development Control and sets out a number of considerations which are generally consistent with those of Section 9 of the NPPF (apart from its degree of emphasis on sustainable transport), and it states that in assessing applications, account will be taken of the advice contained in current documents prepared by Hertfordshire County Council, amongst others. The County Council as the local Highway Authority (HA) adopted a Local Transport Plan (LTP4) in 2018 which sets out in Policy 1 ‘Transport User Hierarchy’ that to support the creation of built environments that encourage greater and safer use of sustainable transport modes, the county council will in the design of any scheme and development of any transport strategy consider in the following order:
- Opportunities to reduce travel demand and the need to travel
  - Vulnerable road user needs (such as pedestrians and cyclists)
  - Passenger transport user needs
  - Powered two wheeler (mopeds and motorbikes) user needs
  - Other motor vehicle user needs

- 8.10.5. The NPPF has similar goals where it states in para 112 that applications for development should: give priority first to pedestrian and cycle movements, both within the scheme and with neighbouring areas; and second – so far as possible – to facilitating access to high quality public transport, with layouts that maximise the catchment area for bus or other public transport services, and appropriate facilities that encourage public transport use; address the needs of people with disabilities and reduced mobility in relation to all modes of transport; create places that are safe, secure and attractive – which minimise the scope for conflicts between pedestrians, cyclists and vehicles, avoid unnecessary street clutter, and respond to local character and design standards.
- 8.10.6. The above policy priorities are dealt with by the Highways Authority in their consultation response. The following discussion is informed by the detailed consultation comments of the Highways Authority.

#### *Access*

- 8.10.7. The proposed site would be accessed via the existing private drive which serves the primary school and football club. The application proposes to enhance the access by creating continuous footway crossover and 2m wide footways on both sides of the carriageway. The private drive joins the High Street via a footway crossover arrangement. The section of the High Street which the private access drive joins is subject to a 30mph speed limit, and is a unnumbered classified 'C' highway and falls within an 'L1 Local Distributor' category for HCC's Highways Hierarchy.
- 8.10.8. In relation to vehicular access, the Highways Authority initially raised concerns in relation to the proposed footway crossover at the junction with the High Street and requested updated visibility splays to be provided. For pedestrian access, the Highways Authority were concerned that the footway network to the east of the site was unsuitable to support the proposed development. Furthermore, the access bellmouths for 96-106 High Street and Park Lane were considered unnecessarily wide and represented a risk to pedestrian safety. The applicant was required to provide pedestrian infrastructure improvements to resolve these concerns.
- 8.10.9. The applicant provided an updated Transport Technical Note which has sought to address these matters. With regard to vehicular access, a continuous footway crossover at the site access is proposed and updated visibility splays have been provided. For pedestrian access, the footway to the east of the site access is to be improved by widening it to 2m and provided dropped kerbing with tactile paving near the junction of Park Lane. Furthermore, the bellmouths for Park Lane and 96-106 High Street would be reduced. Dropped kerbing with tactile paving will also be provided at the junction with 96-106 high street to facilitate pedestrian desire lines.
- 8.10.10. The Highways Authority have confirmed that they are content with the access strategy subject to the necessary works to be delivered via a S278 agreement.

#### *Trip Generation and Impact on Highways Network*

- 8.10.11. The applicant has used Trip Rate Information Computer System (TRICS) database to establish the predicted person/multi-modal trip generation. The results show that the development proposals would have the potential to generate 23 two-way trips during the morning and evening peak. Over a 12-hour period, the site is

forecast to generate 210 two-way trips. In relation to traffic distribution, the Transport Assessment sets out that approximately 79% of the two-way vehicle trips during the morning and evening peaks would be on High Street North, while 21% of the trips would be on High Street South. The Highway Authority have reviewed the Transport Assessment and are satisfied with the accuracy of the trip rates used and assignment methodology.

- 8.10.12. In relation to traffic impact, the impacts of the development proposals have been tested at the High Street/A414 North Orbital Road junction and an assessment of the junction has been undertaken for the three scenarios. The results of the junction modelling have shown that the proposed development would have minimal impacts on the degree of saturation and queuing at the junction. The Highways Authority have advised that the impact of the proposed development will not have a nil-detriment effect and will worsen the degree of saturation, queues, and practical reserve capacity which are already approaching / exceeding theoretical capacity. To mitigate these impacts and encourage active travel trips, the Highway Authority have sought further improvements to pedestrian access and through planning obligations, as detailed further below.
- 8.10.13. In relation to personal injury collision data, during a five year period (from 2016-2021), there were 25 collisions in the study area, of which one was fatal, four serious and the remaining slight in severity. There were no collisions along the site frontage. To mitigate any potential impact, the Highways authority have sought further improvements in relation to pedestrian access improvements and planning obligations, detailed below.
- 8.10.14. A number neighbouring residents, Colney Heath School and parents whose children attend Colney Heath School have submitted representations in relation to the impact of the development on school drop off and pick-ups. The representations state that the existing car park and access road are used by parents, the loss of which may result in displaced parking within the locality and may compromise road safety. Concerns have also been raised in relation to the potential impact on parking for the football club.
- 8.10.15. The Highways Authority initially raised concerns regarding the changes to the access road whereby it could lead to a displacement of unofficial parking for Colney Heath School and the football club. In the absence of any information within the Transport Assessment regarding the current usage, the Highway Authority were concerned that the displacement of parking may result in inappropriate and unsafe parking occurring on sections of the surrounding highway and footway network.
- 8.10.16. The applicant provided a Transport Technical Note (August 2022) that included a Car Parking Beat Survey and results. This concluded that the proposal would result in the loss of 17 spaces for the provision of the footway on the eastern side of the internal access road. The applicant also provided a letter from the football club which stated that they have no objection to Colney Heath Primary School using the football club car park for parents dropping off and picking up children.
- 8.10.17. Following this, the Colney Heath Parish Council and some neighbouring residents provided further representations. The Parish Council have advised that the true number of parking spaces to be lost is greater than the 17 spaces identified within the Technical Note. Furthermore, the area referred to as a 'car park' is part of the Parish Council owned Colney Heath Recreation Ground and no approach has been made by the applicant with regards to the use of the Parish



Council land as a potential parking area. It is instructive to note that the parking opportunities within the private access drive and adjacent car park are informal arrangements and therefore could cease at any time. Therefore, whilst it is accepted these parking arrangements are of benefit to parents who have to drive to the school while also limiting the impact of parking within the adjacent highways,

8.10.18. In response to this, the Highways Authority have noted that the 17 spaces could be accommodated within the adjacent car park if users park in a sensible manner. Furthermore, the Highway Authority are of the position that over providing car parking spaces will encourage vehicular trips, which is contrary to HCC Local Plan policies and the current climate emergency. In conclusion, the Highways Authority were satisfied with the impact of the proposal on the functioning and safety of the highway.

### *Sustainable Travel*

8.10.19. There has been a very significant shift towards increasing focus on sustainable travel and highly accessible developments since 2018, when the NPPF was fundamentally revised, and Hertfordshire County Council's new LTP4 was adopted. Since that time, additional government guidance has been published to reinforce this approach, and the County Council has declared a climate emergency. As such, all new development must now accord with this approach.

8.10.20. The NPPF states that developments should ensure "safe and suitable access to the site can be achieved for all users", and that "appropriate opportunities to promote sustainable transport modes can be – or have been – taken up". It further goes on to state that "development should give priority first to pedestrian and cycle movements, both within the scheme and with neighbouring areas"... "address the needs of people with disabilities and reduced mobility in relation to all modes of transport"... and "create places that are safe, secure and attractive, which minimise the scope for conflicts between pedestrians, cyclists and vehicles".

8.10.21. Hertfordshire County Council's Local Transport Plan 4 (2018) echoes this, placing a much greater emphasis on the importance of sustainability/accessibility than its predecessors. Policy 1 for example states that the first step to consider is that "opportunities to reduce travel demand and the need to travel" are identified. After that, the needs of vulnerable road users (such as pedestrians and cyclists), then passenger transport users, must come ahead of those who use motorised forms of travel. This user hierarchy should be at the heart of all new development proposals, and each user is considered in turn below.

8.10.22. In relation to pedestrian and cycle access, the submitted Transport Assessment sets out that the High Street has lit footways on both sides of the carriageway and that there is a zebra crossing approximately 60m north of the site access. It further sets out the pedestrian link to the A414 to the north of High Street and Tollgate road to the south of High Street. The nearest cycle way is a shared-use pedestrian and cycle path along the northern side of North Orbital road which continues to the A1001 Comet Way in the northeast and stops at London Colney Roundabout in the west.

8.10.23. In response to the application submission, the Highways Authority raised concerns that the footway network to the east of the site is unsuitable to support the development as the proposal would increase the number of potential conflicts and severance for pedestrians whilst reducing the level of pedestrian comfort and attractiveness of walking. Furthermore, the Highways Authority considered the bellmouths for 96-106 High Street and Park Lane to be unnecessarily wide and

that they would represent a risk to pedestrian safety. Additionally, there is no formal pedestrian crossing on the High Street that falls on a pedestrian desire line to serve pedestrian trips which route to/from the east of the private access drive and wish to access the primary school entrance on the private access.

- 8.10.24. To address these concerns, the applicant provided a Transport Technical Note (August 2022). In relation to the pedestrian access concerns, the technical note states that the proposals are to improve the footway to the east of the site access by widening to 2.0m and providing dropped kerbing with tactile paving near the junction of Park Lane. The bellmouths for Park Lane and 96-106 High Street would also be reduced with dropped kerbing with tactile paving being provided at 96-106 High Street to facilitate pedestrian desire lines. These works are shown on Drawing No 23356-04b within the Transport Technical Note. The Highways Authority have reviewed the amended proposals and are satisfied that they overcome a number of pedestrian access concerns for future residents and existing neighbouring residents, subject to being delivered via a S278 agreement.
- 8.10.25. In relation to wider pedestrian movements, the Transport Assessment states that for distances under 2km, walking offers the greatest potential to replace short car trips. It is noted within the Transport Assessment that the nearest medical and dental surgeries are more than 2km away, and the Colney Fields shopping centre is located approximately 4.6km away from the site. The Transport Assessment does not detail whether a walking/cycling audit of these routes have been undertaken to demonstrate that they would be suitable.
- 8.10.26. Representations have been received by local residents that consider the suitability of key pavements using the Walking Route Assessment Tool (WRAT). Four routes have been considered - Bullens Green Lane to High Street Colney Heath; Bullens Green to Hatfield Hilltop; Bullens Green Lane to Roehyde Bus Stops and the Junction of High Street and Coursers Road to Colney Heath Primary School. In each of these routes, it was considered that the village pavements were below a satisfactory standard and therefore do not meet current requirements.
- 8.10.27. The Highways Authority acknowledge that the site is in a location that is car dependent due to limited number of local amenities, employment opportunities, and public transport (rail) in close proximity. While the results of the WRAT are acknowledged, the Highways Authority consider that enhanced pedestrian improvements that would be secured by way of legal obligation could help mitigate this impact.

#### *Travel Plan*

- 8.10.28. A Travel Plan Statement has been submitted with the application. A number of measures are included to promote a modal shift, including; the provision of infrastructure and improvements to highways; the provision of a home welcome pack to each household that sets out site specific information on the location of facilities, public transport and walking/cycling routes; and the provision of residential travel vouchers. The Travel Plan Statement notes that the overall target is to reduce the number of car trips and achieve a 10% reduction in the daily trip rate.
- 8.10.29. The Highways Authority have advised that based on HCC Travel Plan Criteria, a Travel Plan Statement is not required to support the application and future residents. However, in the event the application is supported, the Highway

Authority would encourage the developer to provide sustainable travel information welcome packs to future residents upon first occupation.

#### *Rights of Way*

- 8.10.30. A Public Right of Way (Colney Heath 041) adjoins the southern boundary of the application site. The indicative street hierarchy plan within the Design and Access Statement indicates that there would be potential for new pedestrian/cycle connections to the Public Right of Way from within the development. The proposed land use parameter plan within the Design and Access Statement also shows retained access and an indicative pedestrian/cycle route along the northern edge of the site boundary. The proposed connections to, and retention of the existing rights of way and access paths is therefore supported.

#### *Internal Layout*

- 8.10.31. The submitted Design and Access Statement notes that the concept masterplan creates a clear street hierarchy consisting of primary, secondary streets and shared drives. As this is an outline application with all matters reserved except for access, the internal site layout would be considered at reserved matters stage.

#### *Car and Cycle Parking Provision*

- 8.10.32. The Transport Statement confirms that car and cycle parking would be provided in accordance with local standards. As this is an outline application, car parking and cycle parking for the proposed development would have to be considered at the reserved matters stage in accordance with the Revised Parking Policies and Standards January 2002.

#### *Transport Improvement Measures and Contributions*

- 8.10.33. As set out above, the proposed development includes some sustainable transport mitigation measures which seek to reduce reliance on the car. These included improved pedestrian footway access within the vicinity of the site and incentives set out within the Travel Plan Statement.

- 8.10.34. Policy 5 of the Hertfordshire Local Transport Plan (LTP) seeks to secure developer mitigation measures to limit the impacts of development on the transport network. These principles of the LTP are reflected in Section 9 'Promoting Sustainable Transport' of the NPPF. HCC have requested sustainable transport contributions to be secured in order to mitigate the future impact of the site in terms of vehicle traffic and additional pressures to the active travel and public transport networks. The mitigation will focus on the enhancing and encouraging active travel and public transport use by improving facilities, walking and cycling environments, and improving the safety of trips.

- 8.10.35. The Highways Authority have requested a sustainable transport contribution of £307,170 that would go towards (but not limited to) package 30 of the South-Central Hertfordshire Growth and Transport Plan. This includes the following measures:

- Improving the A414 cycleway between London Colney and Hatfield to facilitate cycle journeys.
- A414 Colney Heath Longabout Improvements.

## *Construction Impact*

- 8.10.36. To ensure construction vehicles do not have a detrimental impact in the vicinity of the site, a Construction Environment Management Plan (CEMP) would be required and could have been secured appropriately by way of condition.

## *Conclusions*

- 8.10.37. Taking the above discussion into account, it is considered that the proposal as presented would be in line with the aims of the relevant parts of the NPPF and Local Plan. As such, no additional harm is identified in this regard, this matter is considered to weigh neutrally in the planning balance in this case, and it is given neither positive nor negative weight.

## 8.11. Economic Impacts

- 8.11.1. Section 16 of the NPPF outlines the importance of building a strong and competitive economy. Paragraph 81 states: "Planning policies and decisions should help create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development. The approach taken should allow each area to build on its strengths, counter any weaknesses and address the challenges of the future. This is particularly important where Britain can be a global leader in driving innovation, and in areas with high levels of productivity, which should be able to capitalise on their performance and potential."

- 8.11.2. The Planning Statement sets out that the development would generate both direct and indirect economic benefits. The new housing would have a positive effects on economic output in terms of capital investment, construction work and occupational expenditure. The applicant has provided an overview of the general economic impact of housing across the country, but the specific benefits provided by the subject application have not been quantified. On this basis, it is therefore considered that limited weight should be afforded to the economic benefits of the proposal.

## 8.12. Impact on Social and Physical Infrastructure

- 8.12.1. The proposed development, by virtue of its scale and nature, will generate demand for, and therefore have impacts on, social infrastructure, including education, youth provision, libraries, health facilities, open space and play space, sports facilities, and community facilities. Policy 143B of the Local Plan 1994 requires planning applications to include within them provision for the infrastructure consequences of development.

- 8.12.2. The NPPF sets out that Local Planning Authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning obligations should only be sought where they meet all of the following tests set out in Regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended):

- Necessary to make the development acceptable in planning terms
- Directly related to the development; and
- Fairly and reasonably related in scale and kind to the development.

8.12.3. The Council has not adopted a Community Infrastructure Levy and therefore where a planning obligation is proposed for a development this can be dealt with by way of a Section 106 Legal Agreement (s106 agreement), that is compliant with the requirements of the aforementioned CIL Regs.

8.12.4. The following requests for contributions were made from consultees, to mitigate the impacts of the development on social infrastructure:

Hertfordshire County Council Contributions

8.12.5. Hertfordshire County Council request that financial contributions are required to fund various Hertfordshire County Council projects in order to mitigate the impacts of the development. These include:

- Primary Education - £459,868 towards the expansion of Colney Heath Primary School and/or provision serving the development
- Secondary Education - £502,475 towards the expansion of Samuel Ryder Academy and/or provision serving the development
- Special Educational Needs and Disabilities - £60,969 towards providing additional Severe Learning Difficulty school places (West) through the relocation and expansion of Breakspeare School and/or provision serving the development
- Library Services - £9,714 towards increasing the capacity of Marshalswick Library or its future re-provision
- Youth Services - £11,787 towards the re-provision of the St Albans Young People's Centre in a new facility and/or provision serving the development
- Waste Services - £13,688 towards increasing the capacity of the Recycling Centre at Potters Bar and/or provision serving the development and £2,649 towards increasing the capacity of Waterdale Transfer Station or provision serving the development
- HCC highways contributions - £307,170 towards infrastructure to be delivered and works associated within Package 30 of the GTP
- The works within the existing adopted highway would be expected to be secured through a s278 agreement with the County Council as Highway Authority.
- Monitoring fees - £340 per trigger

St Albans District Council Contributions:

8.12.6. SADC would seek to secure the delivery of the following:

- Provision of the affordable housing: The s106 agreement would set out the detailed tenure information and the overall split between affordable and intermediate tenures.
- Provision of self-build housing, as appropriate: The s106 agreement would set out the arrangements for delivery and marketing of the self-build dwellings.
- Provision of public open space, play space and public access arrangements
- Provision of Biodiversity Net Gain. The s106 agreement would include mechanisms to calculate any required contribution and to secure its delivery at reserved matters stage.
- Payment of the reasonable legal costs of the District Council and the County Council in connection with the preparation, negotiation and completion of the s106 agreement.

8.12.7. SADC would seek to secure financial contributions towards the following:

- SADC Community Services requests a leisure contribution of £65,723

8.12.8. There is justification for the contribution requests provided by the relevant consultees in their responses; in summary the above contributions and other measures, listed in the above paragraphs, can be justified against the relevant tests found in the Regulations and NPPF as follows:

8.12.9. (i) Necessary to make the development acceptable in planning terms.

Recognition that contributions should be made to mitigate the impact of development are set out in planning related policy documents. The NPPF states "Local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations." Conditions cannot be used cover the payment of financial contributions to mitigate the impact of a development. The National Planning Practice Guidance (NPPG) states: "*No payment of money or other consideration can be positively required when granting planning permission.*" The development plan background supports the provision of planning contributions. The provision of community facilities, mitigation of ecological impacts and promotion of sustainable modes of transport are matters that are relevant to planning. The contributions and measures sought will ensure that additional needs brought on by the development are met, and other matters suitably mitigated. To secure the affordable housing in perpetuity and to secure the provision of the biodiversity and open space, measures would be necessary to make the development acceptable, were the planning balance such that it was found that the resultant benefits would clearly outweigh the harms (in relation to the NPPF para 148 planning balance).

8.12.10. (ii) Directly related to the development.

The occupiers of new residential developments will have an additional impact upon local services. The financial contributions sought are based on the size, type and tenure of the individual dwellings comprising this development following consultation with the service providers and will only be used towards services and facilities serving the locality of the proposed development and therefore, for the benefit of the development's occupants. The securing of the proposed affordable housing is related to the development, noting that this is what the development proposes. The on site provision of open space, and the ecological, highways and sustainable transport and recreation related mitigation is directly required as a result of the proposed development, forms part of the development proposed, and is directly related to the development.

8.12.11. (iii) Fairly and reasonably related in scale and kind to the development.

The requested financial contributions were calculated according to the size, type and tenure of each individual dwelling comprising the proposed development (based on the person yield), using appropriate toolkits / formulae as appropriate, and are therefore considered to be fairly and reasonably related in scale and kind to the development. The measures to mitigate impacts in terms of open space and play space provision, recreation and sustainable transport improvements, other highway-related measures and ecological enhancements; are not excessive in scale and are primarily required to mitigate impacts of the development; and are considered to be fairly and reasonably related in scale and kind to the development

8.12.12. Noting the above discussion, it is considered that the contributions and other measures listed above meet the relevant tests in Regulation 122 of the Community

Infrastructure Levy Regulations 2010 (as amended), referenced in para 57 of the NPPF.

8.12.13. In circumstances where officers felt that a grant of planning permission could potentially be recommended for this application it would be expedient to allow for a s106 agreement to be completed before issuing a decision. However, given the objection in principle to the development, and given that even if a s106 securing the items set out above were completed and this matter weighed neutrally in the planning balance, officers would still find that harm outweighed other considerations (in relation to the NPPF para 148 planning balance) such that refusal would be recommended, it was not considered appropriate or necessary to delay a decision to allow for this to be pursued.

8.12.14. Therefore, without such an agreement currently in place or envisaged, the development is considered unacceptable in terms of its impact on social infrastructure, physical infrastructure (e.g. sustainable travel improvements), and there is no mechanism to secure the affordable housing. Additional harm is therefore identified in this regard to which significant weight is given.

### 8.13. Recent planning decisions of relevance

8.13.1. There are a number of recent planning decisions within the District and beyond for housing on Green Belt land. The applicant has drawn the Councils attention to recent decisions where housing has been approved in the Green Belt, and these are referenced in the 'Relevant Planning History' section above. Previous decisions can be material considerations, and it is noted that the context for assessing housing applications in the Green Belt changed with the approval at appeal of the 'Bullens Green Lane' application (5/2020/1992) in 2021, such that applications at Land to the Rear of 112 to 156b Harpenden Road (5/2021/0423) and Orchard Drive (5/2021/2730). Weight has been applied to previous decisions as appropriate but ultimately, each application must be considered on its merits having regard to prevailing policy and all material considerations, which has been the approach taken here.

### 8.14. Other matters including matters raised by objectors/in consultation responses

8.14.1. Most of the issues raised in representations have already been covered in this report. Those that have not been are set out below.

8.14.2. Residential amenity and noise: There is no right to a private view under the planning system as retaining a view from a private property is not in the public interest. In relation to disruption during construction, it is acknowledged that there will inevitably be impacts during construction. However, it is considered that these can be mitigated by way of conditions where relevant; and environmental and highway impacts are covered under non-planning legislation in these regards. The proposal would not restrict existing rights of way;

8.14.3. Flooding, drainage and water resources: No concerns have been raised by The Environment Agency, Thames Water or the LLFA in relation to the impact of the development on the River Colne or water extraction from chalk streams. The site is located in Flood Zone 1, which is land at lowest risk of river flooding. A Flood Risk Assessment has been submitted with the application and the LLFA have not raised an objection to the proposal in this regard.

8.14.4. The land use parameter plan within the Design and Access Statement indicates that access would be retained for the farm along the access road.

8.14.5. Objections on grounds of loss of property values are noted but this is not a material planning consideration. Residents have objected on the basis of a lack of consultation with adjoining landowners. While pre-application and community consultations are recommended, this is not a requirement and the council has nevertheless undertaken its statutory publicity requirements. The presence of restrictive covenants for the use of the land is not a material planning consideration.

#### 8.15. Equality and Human Rights Considerations

8.15.1. Consideration has been given to Articles 1, 6, 8, 9, 10 and 14 of the First Protocol of the European Convention on Human Rights. It is not considered that the decision would result in a violation of any person's rights under the Convention.

8.15.2. When considering proposals placed before the Council as Local Planning Authority, it is important that it is fully aware of and has itself rigorously considered the equalities implications of the decision that they are taking. Therefore, rigorous consideration has been undertaken by the Council as the Local Planning Authority to ensure that proper appreciation of any potential impact of the proposed development on the Council's obligations under the Public Sector Equalities Duty.

8.15.3. The Equalities Act 2010 requires the Council when exercising its functions to have due regard to the need to (a) eliminate discrimination, harassment, victimisation and other conduct prohibited under the Act; (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it and (c) foster good relations between persons who share protected characteristics under the Equality Act and persons who do not share it. The protected characteristics under the Equality Act are: age; disability; gender reassignment; marriage and civil partnership; pregnancy and maternity; race; religion and belief; sex and sexual orientation.

8.15.4. It is considered that the consideration of this application and subsequent recommendation has had regard to this duty. The development would not conflict with St Albans City and District Council's Equality policy and would support the Council in meeting its statutory equality responsibilities.

#### 8.16. Planning Balance

8.16.1. The statutory position is that planning applications have to be determined in accordance with the development plan unless material considerations indicate otherwise.

##### *Five Year Housing Land Supply*

8.16.2. Among the material considerations to which a local planning authority must have regard is national planning policy. One of the key policies of the NPPF is that local planning authorities must be able to demonstrate a 5 year supply of deliverable sites for housing. If an authority cannot demonstrate a five year housing land supply, including any appropriate buffer, the presumption in favour of sustainable development (also known as the tilted balance) will apply, as set out in Paragraph 11(d) of the NPPF.

8.16.3. The Council cannot demonstrate a 5 year housing land supply. The District currently has a housing land supply of 2.2 years from a base date 1 April 2020. It



is acknowledged that 2.2 years is substantially below the 5 years required in the NPPF. There is a clear and pressing need for housing and affordable housing in the District.

- 8.16.4. Paragraph 11 (d) of the NPPF provides that the tilted balance is engaged where (a) there are no relevant development plan policies, or (b) the policies which are most important for determining the application are out-of-date. The lack of a 5 year supply of housing land is a policy that is deemed to be out of date by virtue of footnote 8 of the NPPF.
- 8.16.5. However, in accordance with Footnote 7 to Paragraph 11(d)(i), land that is designated as Green Belt is specified as a policy that protects areas or assets of particular importance. It is common ground that the proposal represents inappropriate development in the Green Belt, therefore, this provides a clear reason for refusing the development proposed except in 'Very Special Circumstances'. Therefore, the presumption in favour of sustainable development does not apply in this case.

*Other considerations and very special circumstances*

- 8.16.6. The Framework makes clear that, when considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations. Paragraphs 147 and 148 provide the fundamental policy test within which this application falls to be assessed; as follows:

*147. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.*

*148. When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations."*

- 8.16.7. This means that the proposed development should not be approved unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations. It is therefore necessary to undertake a balancing exercise to establish whether there are very special circumstances that outweigh the harm to the Green Belt and any other harm resulting from the proposal. This includes an assessment of the overall benefits of the scheme and the weight that should be attributed to them. It is for the decision maker to determine the amount of weight that should be attributed to each respective element.
- 8.16.8. This balancing exercise is set out below, and is informed by the previous sections of this report above:
- Substantial weight is given to the harm caused by inappropriateness, as required in NPPF para 148.
- 8.16.9. There is additional harm identified to which, cumulatively, very substantial weight is given, due to:
- Additional harm to Green Belt spatial and visual openness and to the purposes of the Green Belt relating to sprawl, the encroachment to the

countryside and merging of towns. Substantial weight is given to this additional harm.

- The introduction of built form across the existing fields would cause harm to the local landscape character and appearance, to which moderate weight is given.
- Less than substantial harm, on the lower end of the spectrum, to the adjacent Grade II listed buildings. Paragraph 199 of the NPPF states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be to be given to an asset's conservation (and the more important the asset, the greater the weight should be). As such, great weight is given to this harm.
- The loss of high-quality agricultural land to which limited weight is given;

8.16.10. The 'other considerations' weighing in favour of the development consist of:

- The provision of up to 45 new homes, 40% of which would be affordable and the provision of self-build plots. Very substantial weight is attached to the delivery of market and affordable housing and substantial weight to the delivery of self-build plots.
- The provision of public open space, biodiversity net gain, and associated economic benefits of the development are afforded limited weight.

8.16.11. Taking the above points into account, it is considered that the potential harm to the Green Belt by reason of inappropriateness, and the other harm resulting from the proposal set out above is not clearly outweighed by other considerations.

8.16.12. There is also harm identified in relation to impacts on social and physical infrastructure through lack of a s106 agreement, to which significant weight is given. The lack of a section 106 agreement is therefore a further reason for refusal. However, if Members disagreed with the officer recommendation and considered that permission should be granted, this matter may be capable of being resolved.

8.16.13. Other potential impacts in relation to other planning considerations could be suitably mitigated through the use of planning conditions in the event of a grant of planning permission, such as to weigh neutrally in the planning balance, with no weight given to them either positively or negatively.

### Conclusion

8.16.14. Each application for planning permission is unique and must be considered on its own merits. In this particular case, taking the above discussion into account, it is considered that as a matter of planning judgement, the "other considerations" set out above do not clearly outweigh the harm to the Green Belt and any other harm. In accordance with paragraph 148 of the NPPF, it follows that very special circumstances do not exist. As such, the proposed development is not in accordance with the relevant provisions of the St Albans District Local Plan Review 1994 and the National Planning Policy Framework 2021, and planning permission should be refused.

## **9. Comment on Town/Parish Council/District Councillor Concern/s**

9.1.1. The strong objection of the Parish Council on grounds of inappropriate development where the harm outweighs the benefits is reflected in the officer recommendation to refuse. Other comments from the Parish Council have been addressed within the report.

## 10. Reasons for Refusal

The site is within the Metropolitan Green Belt and the proposed development represents inappropriate development within the Green Belt, as set out in the National Planning Policy Framework 2021. In addition to the in-principle harm to the Green Belt by reason of inappropriateness, other harm is identified as a result of the proposed development in terms of: its detrimental impact on the openness of the Green Belt, harm to Green Belt purposes, harm to landscape character, the adjacent Grade II listed building, loss of high quality agricultural land, and impacts on social and physical infrastructure. The benefits comprise the provision of up to 45 residential units including the provision of 40% affordable housing and self-build units which would contribute significantly towards meeting an identified housing need in the District, and potential for provision of public open space and biodiversity net gain. The potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is not clearly outweighed by other considerations; and as a result the Very Special Circumstances required to allow for approval of inappropriate development in the Green Belt do not exist in this case. The proposal is therefore contrary to the National Planning Policy Framework 2021 and Policy 1 of the St Albans District Local Plan Review 1994.

In the absence of a completed and signed S106 legal agreement or other suitable mechanism to secure: Education provision in the form of new primary school, secondary school, nursery and childcare provision; Special Educational Needs and Disabilities provision; Library service provision; Youth Service provision; Play Areas, Parks and Open Spaces and Leisure and Cultural Services provision; Affordable Housing provision; Highway Works including provision for Sustainable Transport; the infrastructure needs of the development would not be met and the impacts of the proposal would not be sufficiently mitigated. The proposal is therefore contrary to the National Planning Policy Framework 2021 and Policy 143B (Implementation) of the St. Albans District Local Plan Review 1994.

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**RECOMMENDATION:** Refusal

**Decision Code:** R1

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## 11. Reasons for Refusal

1. The site is within the Metropolitan Green Belt and the proposed development represents inappropriate development within the Green Belt, as set out in the National Planning Policy Framework 2021. In addition to the in-principle harm to the Green Belt by reason of inappropriateness, other harm is identified as a result of the proposed development in terms of: its detrimental impact on the openness of the Green Belt, harm to Green Belt purposes, harm to landscape character, harm to the adjacent Grade II listed building and the loss of high quality agricultural land. The potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is not clearly outweighed by other considerations; and as a result the Very Special Circumstances required to allow for approval of inappropriate development in the Green Belt do not exist in this case. The proposal is therefore contrary to the National Planning Policy Framework 2021 and Policy 1 of the St Albans District Local Plan Review 1994.

2. In the absence of a completed and signed S106 legal agreement or other suitable mechanism to secure: Education provision in the form of new primary school, secondary school, nursery and childcare provision; Special Educational

Needs and Disabilities provision; Library service provision; Youth Service provision; Leisure and Cultural Services provision; Affordable Housing provision; Open Space and recreation provision, Highway Works including provision for Sustainable Transport; the infrastructure needs of the development would not be met and the impacts of the proposal would not be sufficiently mitigated. The proposal is therefore contrary to the National Planning Policy Framework 2021 and Policy 143B (Implementation) of the St. Albans District Local Plan Review 1994.

## 12. Informatives:

1. The Local Planning Authority has been positive and proactive in its consideration of this planning application. The Local Planning Authority encourages applicants to engage in pre-application discussions as advocated under paragraphs 39-46 of the NPPF. The applicant did not engage in pre-application discussions with the Local Planning Authority and the form of development proposed fails to comply with the requirements of the Development Plan and does not improve the economic, social and environmental conditions of the District.

2. This determination was based on the following drawings and information:

1001 Revision B, RSE\_5500\_TTP Rev V1 (Tree Protection Plan), RSE\_5500TCP Rev V1 (Tree Constraints Plan), RSE\_5500\_BIA Rev V2 (BIA Baseline), RSE\_5500\_BIA (BIA Proposals), Design and Access Statement (February 2022), Planning Statement (February 2022), Transport Assessment (16 February 2022), Transport Note (9 August 2022), Travel Plan Statement (16 February 2022), Air Quality Statement (14 February 2022), Arboricultural Impact Assessment, Method Statement and Tree Protection Plan (January 2022), Ecological Impact Assessment (January 2022), Flood Risk Assessment and Drainage Strategy (27 Jan 2022), Phase I Desk Study Report (27 Jan 2022), Heritage Statement (January 2022), Landscape and Visual Impact Appraisal and Green Belt Appraisal (January 2022), Statement of Community Involvement (January 2022), UCML Utility Study Issue 2 (21/02/2022), Agricultural Quality of Land at Colney Heath Report (26 May 2022)

## **LOCAL GOVERNMENT ( ACCESS TO INFORMATION ) ACT 1985**

<b>Officer</b>	<b>Nabeel Kasmani</b>
<b>Section 65 Parties</b>	E Franklin, Roundhouse Farm, Roestock Lane, Colney Heath, AL4 0PP
<b>Plans on website</b>	<a href="https://www.stalbans.gov.uk/view-and-track-planning-applications">https://www.stalbans.gov.uk/view-and-track-planning-applications</a>

## **Appendix 2**

### **Appeal**

#### **Decision:**

**Roundhouse Farm, Bullens Green Lane, Colney Heath  
(APP/B1930/W/20/3265925) dated 14th June 2021**

## Appeal Decisions

Inquiry held between 26 April – 6 May 2021

Site visits made on 1 April 2021 and 4 May 2021

**by C Masters MA (Hons) MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 14 June 2021**

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### **Appeal A: APP/B1930/W/20/3265925**

#### **Roundhouse Farm, Land Off Bullens Green Lane, Colney Heath**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
  - The appeal is made by Canton Ltd against St Albans City & District Council.
  - The application Ref 5/2020/1992/LSM was dated 28 August 2020.
  - The development proposed is outline application for the erection of up to 100 dwellings, including 45% affordable and 10% self build, together with all ancillary works (All matters reserved except access) at Land off Bullens Green Lane, Colney Heath.
- 

### **Appeal B: APP/C1950/W/20/3265926**

#### **Roundhouse Farm, Land Off Bullens Green Lane, Colney Heath**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Canton Ltd against the decision of Welwyn Hatfield Borough Council.
  - The application Ref 6/2020/2248/OUTLINE, dated 28 August 2020, was refused by notice dated 2 December 2020.
  - The development proposed is outline application for the erection of up to 100 dwellings, including 45% affordable and 10% self build, together with all ancillary works (All matters reserved except access) at Land off Bullens Green Lane, Colney Heath.
- 

### **Decision**

1. The appeals are allowed and planning permission is granted for the erection of up to 100 dwellings, including 45% affordable and 10% self build, together with all ancillary works (All matters reserved except access) at Land off Bullens Green Lane, Colney Heath, in accordance with the terms of the applications: 5/2020/1992 /LSM dated 28 August 2020 and 6/2020/2248/OUTLINE dated 28 August 2020, subject to the conditions set out on the attached schedule.

### **Preliminary Matters**

2. The boundary between St Albans City & District Council (SADC) and Welwyn Hatfield Borough Council (WHBC) transects the appeal site with the proposed access falling within WHBC off Bullens Green Lane and the western part of the site abutting Roestock Park and the Pumping Station falling within SADC. The planning applications, subject to these appeals, were essentially the same and were submitted to each of the planning authorities and considered collectively at the same public inquiry. For this reason, I have considered the proposed scheme in its entirety rather than as two separate and divisible schemes. I have thus determined the appeals on that basis.
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3. In the context of appeal APP/B1930/W/20/3265925, this scheme was presented to planning committee on 18 January 2021 to request that members confirm how they would have determined the application had it not been subject to an appeal against non determination. At this committee meeting, it was resolved that the Council would have refused planning permission.
4. The reasons for refusal given by WHBC and putative reasons by SADC were similar, in respect to objections related to the suitability of the location, character and appearance, highways, ecology, archaeology, impacts on local infrastructure and services, Green Belt and heritage matters.
5. It was common ground that the Councils could not demonstrate a 5 year supply of housing sites. However, the parties disagreed on the extent of this shortfall. It was agreed that the variation between the two parties was not a matter which was material to the decision on these appeals. I will return to this matter below.
6. Since the appeals were submitted, the appellant has submitted an updated Ecological Impact Assessment. An agreed statement of common ground (SoCG) was submitted prior to the start of the inquiry which set out, amongst other things, principal matters of agreement and disagreement. This confirmed that objections relating to archaeology, ecology and impacts on local infrastructure and services could be addressed by suitably worded conditions/the completion of a Section 106 Agreement. Where necessary, I return to these matters within my report. In addition, appendix A to the SoCG included an agreed facilities plan illustrating the location and average distances to a number of services and facilities within Colney Heath and beyond. I return to this matter below.
7. At the start of the inquiry, a further SoCG was submitted in relation to highways matters. The Councils, Hertfordshire County Council (HCC) as highways authority and the appellant agreed that the appeals would have an acceptable impact on highways safety and therefore reason for refusal (RfR) number 3 on the WHBC decision and putative RfR number 4 of SADC were therefore withdrawn. Notwithstanding this position and in light of third party representations in relation to this issue, this topic was still subject to a round table discussion as part of the inquiry.
8. A replacement access drawing was submitted prior to the inquiry. It was subject to a separate consultation. Neither WHBC or SADC objected to the plan being substituted and all parties had an opportunity to comment on the drawing. Accordingly, I do not consider anybody would be prejudice by my taking this drawing into account and have considered the appeals on this basis.
9. The appellants submitted an unsigned Section 106 (S106) to the inquiry. This was discussed at a round table session and I allowed a short amount of time after the inquiry for the document to be signed. The signed version was received on 24 May 2021. The agreement made included a number of obligations and provision for payments to be made to WHBC, SADC and HCC. I return to this matter below.

### **Main Issues**

10. The appeal site is located within an area of Green Belt. It was agreed between the appellant and the Councils that in the context of the Framework, the

proposals would present inappropriate development within the Green Belt, a matter that must attract substantial weight against the proposals. I concur with this view. As a result and against the background I have set out above, the main issues are:

- the effect of the proposal on the character and appearance of the area;
- the effect of the proposal on the openness of the Green Belt and the purposes of including land within it;
- the effect of the proposed development on the setting of the nearby listed building 68 Roestock Lane;
- whether the site is in an accessible location with regards to local services and facilities;
- whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

## **Reasons**

### *Effect on Character and Appearance*

11. The appeal site comprises a parcel of land of approximately 5 hectares on the eastern edge of Colney Heath. It is bounded by residential development to the northern boundary. There is a short terrace of cottages to the eastern corner along Bullens Green Lane before the boundary opens out into open countryside and beyond. To the south, the site is contained by Fellowes Lane where again residential dwellings are present on the south western corner. The western boundary comprises Roestock Park and the Pumping Station.
12. The parties agree that the site is not a valued landscape under the Framework paragraph 170 definition and that no other landscape designations are applicable to the appeal site. The Hertfordshire Landscape Strategy, 2005 notes the site is located within the Mimms Hall Valley, where the landscape character is described, amongst other things, as being strongly influenced by the major transport routes and the surrounding settlement which give it an urban-edge rather than rural character.
13. The A1 and railway line do not have any visual impact on the appeal site. From what I saw on the site visits, the character of the area is a mix of edge of settlement and countryside. Walking along the footpaths which traverse the site, the experience is one of being on the edge of a settlement rather than a wholly rural context. Whilst the open countryside to the south and east is clearly visible, the surrounding residential properties either facing the site or their rear gardens and associated boundary treatment is also clearly visible. These range in scale and form from bungalows fronting Fellowes Lane, glimpsed views of the 3 storey dwellings within Admiral Close and Hall Gardens and the rear elevations and gardens of properties along Roestock Gardens. Bullens Green Lane and Fellowes Lane serve to enclose the appeal site and provide a degree of containment from the wider countryside and beyond. My judgement leads me to conclude that the site strongly resonates with this urban edge definition provided by the 2005 Landscape Strategy.



14. Turning to consider the area beyond the appeal site itself, the sense of countryside prevails via the public footpath network and road network. These public footpaths continue within Bullens Green Wood and further beyond the appeal site at Tollgate Farm. Contrary to the views expressed by the Council, my experience of the views to the appeal site within Bullens Green Wood are of glimpse views of the appeal site. From the south and in the wider landscape context, the appeal site appears against the backdrop of the existing dwellings as a relatively self contained parcel of land on the edge of the settlement. These longer distance views of the appeal site reinforce the urban edge definition.
15. The Councils contend that the appeal site provides a positive element of the countryside that frames Colney Heath. I do not agree. The very clear sense of countryside is only evident when you travel beyond the appeal site south along Tollgate Road. Here the landscape character changes from mixed residential and open field to predominantly open fields with dotted farm buildings and isolated residential dwellings set within this open landscape. This is entirely different to my experience of the appeal site which I have outlined above.
16. The Councils raised specific concerns regarding alleged harm which would arise as a result of the new vehicular access off Bullens Green Lane and also the new pedestrian footpath and access point along Fellowes Lane. The new access road would be located towards the northern end of Bullens Green Lane, where the character of the existing area is already influenced by cars parked on the public highway, and the visibility of the residential properties beyond, all contributing to the edge of settlement character. Along Fellowes Lane, a new pedestrian access to the site would be introduced along with a public footpath. These characteristics are entirely compatible with the urban edge environment which currently exists.
17. The changes brought about by the built development and changes to the surrounding roads would result in visual changes to the area, which in my view would be localised in impact. Landscaping of the site which would be the subject of any reserved matters submission would mean that in the context of the existing immediate locality, the impacts of the development would be significantly reduced over time. Nevertheless, the proposed development would introduce built development here where currently no development exists which would cause some harm to the character and appearance of the area.
18. Taking into account all of the above factors, I conclude that the proposals would cause limited harm to the character and appearance of the area. I attach moderate weight to this factor. There would be conflict with policy D2 of the Welwyn Hatfield District Plan, 2005. Policy D2 requires all new development to respect and relate to the character and context of the areas. Proposals should as a minimum maintain and where possible should enhance or improve the character of the existing area.
19. The Council have also referred to policies D1, RA10 and RA11 in their reasons for refusal. Policy D1 requires a high standard of design in all new developments. Policy RA10 relates specifically to the Landscape Character Assessment outlined above, requiring proposals to contribute, where appropriate to the maintenance and enhancement of the local landscape character. Policy RA11 refers to the location of the site within the Watling Chase Community Forest boundary. The policy requires, amongst other things,

that proposals seek to include planting, leisure and landscape improvements, where this accords with Green Belt policies. I shall return to the matter of Green Belt below. However, in broad terms I see no reason why these policy objectives could not be readily achieved at reserved matters stage through an appropriately designed scheme and landscape strategy for the site.

20. For the same reasons, the proposals would conflict with policy 2 of the St Albans Local Plan, 1994. Policy 2 of the St Albans Local Plan 1994 identifies, amongst other things, Colney Heath as a Green Belt settlement whereby development will not normally be permitted except for the local housing needs, local services and facilities needs of the settlement and development must not detract from the character and setting of the settlement.
21. The Council have also referred me to policies 69, 70 and 74 of the St Albans Local Plan, 1994. There would be some conflict with policy 69. In relation to the requirements regarding scale and character in terms of plot ratios, height, size and scale, as well as the requirements in relation to materials, I can see no reason why these matters could not be satisfactorily addressed at the reserved matters stage. However the policy also cross references to the requirements of policy 2 outlined above which I have already identified a conflict with. Policy 70 goes onto set out a number of design criteria and layout criteria including but not limited to the dwelling mix, privacy between dwellings, parking and materials. Policy 74 relates specifically to landscaping and tree preservation. Again noting this is an outline scheme, and subject to the reserved matters submission, I can see no reason why the matters raised by policies 70 and 74 could not be appropriately addressed at the reserved matters stage.

#### *Purposes of including land within the Green Belt*

22. The Framework and in particular paragraph 133 makes it clear that the Government attaches great importance to the Green Belt and the protection of its essential characteristics. It was common ground between the parties that the proposals represent inappropriate development as identified by the Framework. In terms of the five purposes of the Green Belt identified at paragraph 134 of the Framework, it was also common ground that the key tests in the context of these appeals are the effect on openness, encroachment and urban regeneration. I deal with each of these matters in turn.

#### *Openness of the Green Belt*

23. The appeal site comprises an open agricultural field with a number of public footpaths which traverse the site. It is entirely free from built development. The appeal proposals would introduce built development to the site in the form of 100 dwellings with associated access roads and pavements, residential gardens, open space and driveways. The precise layout and form of the development would be determined at reserved matters stage. Even taking into account the potential for boundary treatment and landscaping which could include open green space and play space and could be integral to the layout of the residential development proposed, this would have the effect of a considerable reduction in the openness of the site. The proposals would lead to conflict with policy 1 of the St Albans District Council Local Plan, 1994. This policy identifies the extent of Green Belt within the Borough, and outlines the developments which would be permitted which broadly align with the

development identified by the Framework. This, harm, in addition to the harm by inappropriateness, carries substantial weight against the proposals.

#### Safeguarding the countryside from encroachment

24. It was generally agreed that the impact of the appeal proposal would be limited in terms of the impact on the wider integrity of the Green Belt. This is a view that I share. In terms of the impact of the development on the purpose of safeguarding the countryside from encroachment, my attention has been drawn to a number of background evidence documents including Green Belt studies. These include a report prepared by SKM Consultants in 2013 which included an assessment of Green Belt in both WHBC, SADC and Dacorum Borough Council. Here, the appeal site is assessed as part of parcel 34, a 419ha parcel of land. Reflective of the size and scale of the parcel of land, the report sets out a number of key characteristics of the land. With reference to the gap between Hatfield and London Colney, preventing the merger of St Albans and Hatfield, and preserving the setting of London Colney, Sleafshyde and Tyttenhanger Park, the report states that the parcel makes a significant contribution towards safeguarding the countryside and settlement pattern and gaps between settlements. These characteristics bear little or no relationship to the appeal site, and given the sheer size and scale of the land identified within the report when compared to the appeal site, I place only very limited correlation between the conclusions drawn here in relation to the function of the land or assessment of its function relative to the purposes of the Green Belt when compared to the appeal site.
25. The most recent Green Belt Assessment which was prepared in relation to the WHBC Local Plan review is noted as a Stage 3 review and was prepared by LUC in March 2019. Only the part of the appeal site which falls within Welwyn Hatfield forms part of the assessment, and is included within the much wider site area known as parcel 54. The report notes that whilst residential development is visible across much of the parcel, the parcel *as a whole* makes a significant contribution to the safeguarding of the countryside from encroachment. The report notes that the impact of the release of the parcel *as a whole* from the Green Belt would be moderate-high, however the impact on the integrity of the wider Green Belt would be limited. Again, I place only limited weight on the findings of this report relative to the appeal site as the assessment and conclusions drawn relate specifically to parcel 54 *as a whole* which includes a much wider area and excludes part of the appeal site in any event.
26. I have already set out in my assessment of character and appearance above that the appeal site has an urban edge/ edge of settlement character. I have made a clear distinction between the appeal site and its separation from the countryside beyond to the south and east of the appeal site. In this way, the appeal site is influenced by the surrounding residential development. As a result of these locational characteristics and influences, the consequences of the development at the appeal site would mean that the proposals would have only a localised effect on the Green Belt. The broad thrust of, function and purpose of the Green Belt in this location would remain and there would be no significant encroachment into the countryside. I therefore conclude that the appeal proposal would not result in harm in term of the encroachment of the Green Belt in this location. This is a neutral factor which weighs neither in favour nor against the appeal proposals.

To assist in urban regeneration, by encouraging the recycling of derelict and other urban land

27. The harm alleged here is limited to WHBC where the Council contend that the proposal would not assist in respect of this fifth purpose of the Green Belt. I am aware that the emerging plan proposes a number of urban regeneration sites, some of which already have planning permission. However, I have no substantive evidence to suggest that the development at this site would disincentivise the urban regeneration of sites elsewhere. Given the scale of development proposed to be located within the WHBC boundary I do not consider that the proposals would be likely to adversely impact on the regeneration of urban redevelopment sites elsewhere. There would as a result be no conflict with this purpose. Again, this is a neutral factor which weighs neither in favour nor against the appeal proposals.

*The effect of the proposed development on the setting of the nearby listed building 68 Roestock Lane*

28. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special regard shall be had to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest that it possesses. It is therefore necessary to consider the effect of the appeal proposals on the setting of the listed building itself.

29. The heritage asset concerned is a grade II listed residential dwelling. It is located adjacent to the northern boundary of the site. The house which was formerly two cottages, dates from the late C17 and has been subject to a number of modifications and extensions over the years. The dwelling is accessed from Roestock Lane. In this context, it is seen within its garden enclosure set back from the road adjacent to the Pumping Station and within the build fabric of residential development along Roestock Lane extending into Roestock Gardens.

30. From what I saw on my site visits, the significance of the heritage asset is in the main, locked into its built form and fabric. Given the mature vegetation which borders the rear garden, the extent of its setting that contributes to its significance is limited to the rear garden, and the way the front of the house addresses the main road. From Roestock Lane, the aesthetic value of the dwelling is evident through architectural detailing to the front elevation which is clearly visible.

31. The appeal proposals would see residential development introduced to the existing open agricultural field which abuts the rear boundary of the heritage asset. There would be no change to the built form or fabric of the dwelling, or the relationship of the heritage asset with its immediate garden. To my mind, these are the factors which provide the greatest contribution to the significance of the heritage asset.

32. The Council's heritage witness stated that the listed building has an historical association with the surrounding agricultural land and that the appeal site allows the listed building to have uninterrupted longer range views towards the south east. I do not agree. There is no evidence which confirms that the occupiers of the heritage asset were engaged directly with the appeal site. Neither does this serve to demonstrate any functional relationship between the appeal site and the heritage asset concerned. There is no evidence of an

existing or former access that existed between the appeal site and the heritage asset. Whilst the property may well have been at times occupied by agricultural workers, I have no doubt that this would be common to many residential dwellings in the area at that time and would indeed be reflective of the historical associations with farming in years gone past in the immediate area and beyond.

33. Turning to consider the issue of views, I am unable to agree with the Councils contention that uninterrupted longer-range views across the appeal site from the property contribute to the significance of the listed building. The extensive and mature boundary vegetation to the property provides significant screening to the boundary of the property, such that these views would at best be described as limited. In any event, given my conclusions above regarding the linkage between the appeal site and the heritage asset, I am not convinced that longer-range views from the property make any contribution to the historical significance of the dwelling. As I have already set out, the main front of the dwelling addresses Roestock Lane. That situation would not be changed. Neither, given the existing screening, that could be augmented through reserved matters, would the significance the listed building derives from its garden setting be undermined by the proposals.
34. Looking at the issue of views of the dwelling from the appeal site, the appreciation of the architectural interest of the building is limited. The rear elevation has been subject to extensions over time. The property is seen in the context of the other immediate surrounding residential dwellings which lie adjacent to the appeal site, their rear gardens and extensive and mature vegetation to these boundaries, not as an isolated heritage asset with any functional or historical link to the appeal site. The reserved matters submission will afford the Councils the opportunity for enhancements to the landscape setting in the vicinity of the site boundary.
35. It is common ground between the parties that the harm to the significance of the designated heritage asset would be less than substantial. It is also common ground that the public benefits of the scheme outweigh the less than substantial harm. For the reasons I have outlined above, even the appellants assessment at the very lowest end of the broad spectrum of less than substantial harm overstates the schemes likely effect in this context. As I have already set out, the main aspect of the dwelling is from Roestock Lane. In such views, the appeal proposals would have a very limited effect on the current position.
36. I conclude that the proposals would not result in any harm to the setting or significance of the heritage asset concerned. As such, s.66(1) of the planning (Listed Buildings and Conservation Areas) Act 1990 is not engaged, and there would be no conflict with policy 86 of the St Albans District Local Plan (1994) which states, amongst other things, that where proposals effect the setting of a building of historic interest, the Council will have due regard to the desirability of preserving the building, its setting, or any features of architectural or historic interest which it possesses. Policy D1 is also referred to from the Welwyn Hatfield District Plan (2005). However, this policy concerns the provision of high quality design and is not of relevance to the heritage matters before me.

*Whether the site is in an accessible location with regards to local services and facilities*

37. The Councils contend that the appeal site is in an unsuitable and isolated location and as a result, it would fail to provide satisfactory access to services and facilities by means other than the private motor car. The appeal site is located on the eastern edge of Colney Heath. The parties agreed a facilities plan which clearly demonstrates the location of the appeal site relative to services, facilities and public transport and included walking and cycling distances from the appeal site. I will firstly assess the availability of and access to services and facilities outside of Colney Heath by means other than the private car, before turning to consider the facilities and services available within Colney Heath itself and how accessible these maybe to potential future occupiers at the appeal site.
38. In terms of public transport and travel outside of Colney Heath, there are a number of bus stops available most notably on Roestock Lane, Fellowes Lane and Hall Gardens. These are all within an 800m walking distance of the site, a flat comfortable walk. These stops provide services to both Potters Bar, Welwyn Garden City, St Albans and Hatfield Tesco Extra where more extensive shopping, medical, education, employment and leisure facilities are located. Whilst I accept that the buses serving these stops are limited in number and frequency and could by no means support regular commuting, they nevertheless provide an alternative mode of transport to the private car and could provide an important alternative to those sectors of the community who do not have access to a private car. Although the reliability of the services was questioned, I have no robust evidence to suggest that the service is so severely unreliable that it would lead me to reach a different conclusion on this issue.
39. For travel further afield, the nearest train services are provided at Welham Green, approximately 3.5km away with direct and frequent services to London. Turning to consider cycling, the Council's witness raised a number of concerns in relation to the nature of the roads and suitability for cycling. HCC as highways authority advised that cycling facilities are adequate with safe routes and access to the national cycle route network. These include National Cycle Route 61 approximately 3km from the appeal site providing access to St Albans and cycle route 12 approximately 2km to the south east providing access to both Welham Green and Hatfield. The agreed facilities plan indicates that taking into account average cycling times, a number of services and facilities would be available between 6 and 12 minutes away. I saw evidence on my site visits of both Bullens Green Lane and Fellowes Lane being well used for recreational purposes, including walkers and cyclists. Taking into account the average cycle times and distances to facilities outside of Colney Heath as set out within the facilities plan, I concur with HCC that cycling provides a reasonable alternative in this location to the private car.
40. Turning to consider journeys possible on foot, Colney Heath itself has a number of facilities and services which one would expect in a settlement of this size. These include but are not limited to a public house, primary school which has some albeit limited capacity and pre school, church, takeaway, village hall, hairdressers, scout hut, post office and mini mart. The availability of the public rights of way (PROW) within the site mean that these facilities and services could be accessible through a choice of routes, utilising the connections to

either Roestock Lane or Fellowes Lane and then onwards to the High Street. This choice of routes adds to the quality of the walking experience in this location however I acknowledge the concerns expressed regarding the use of the underpass under the A1 and the quality of the pedestrian environment provided here. In common with other lower order settlements in both SADC and WHBC, residents are expected to travel to larger settlements highlighted above for medical facilities, larger scale supermarkets, employment and secondary education and beyond. To my mind, the facilities and services available within Colney Heath and the accessibility of these facilities both on foot and by cycle mean that a number of day to day needs could be met without reliance on the private car. As a result, the location of the appeal site cannot be described as isolated. These factors weigh in favour of the appeal proposals.

41. Overall and to conclude, taking into account the essence of the Framework test as to whether a genuine choice of transport modes is on offer, the appeal proposals would in my view represent a sustainable location for new residential development.
42. My attention has been drawn to policy 2 of the St Albans Local Plan 1994 which identifies, amongst other things, Colney Heath as Green Belt settlement whereby development will not normally be permitted except for the local housing needs, local services and facilities needs of the settlement and development must not detract from the character and setting of the settlement. Given the policy wording, there would be a conflict with this policy. In relation to WHDC, I also conclude that the proposals would accord with policies SD1 and H2 of the Welwyn Hatfield District Plan, 2005. Policy SD1 confirms that development will be permitted where it can be demonstrated that the principles of sustainable development are satisfied. Policy H2 applies a criteria based approach to windfall residential development, which includes, amongst other things, the location and accessibility of the site to services and facilities by transport modes other than the car.
43. Policy GBSP2 is also referred to however this is a policy relating to towns and specified settlements where development will be located and the settlement of Colney Heath is not identified by the policy however the supporting text to the policy identifies Bullen's Green and refers to development to support services and facilities. Overall, the proposals would not accord with this policy.
44. Policy R1 requires development to take place on land which has been previously used or development. It goes on to state that development will only be permitted on 'greenfield' land where it can be demonstrated that no suitable opportunities exist on previously used or developed land. The proposals would conflict with this policy.

*Whether very special circumstances exist*

45. Substantial weight is attached to any harm to the Green Belt by reason of inappropriateness. Very special circumstances will not exist unless the potential harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. It is widely acknowledged that the definition of very special circumstances do not in themselves have to be rare or

uncommon<sup>1</sup>. I now turn to consider the factors which I have taken into account in making this assessment.

### *Provision of Market Housing*

46. Paragraph 59 of the Framework seeks to support the Governments objective of significantly boosting the supply of homes. In order to achieve this, the Framework notes that it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay.
47. I am aware of the Written Ministerial Statement of December 2015 which indicates that unmet need is unlikely to clearly outweigh harm to Green Belt and any other harm so as to establish very special circumstances. However, in common with the appeal decision<sup>2</sup> referred to, I note that this provision has not been incorporated within the Framework which has subsequently been updated and similar guidance within the Planning Practice Guidance has been removed. I can therefore see no reason to give this anything other than little weight as a material consideration.
48. It is common ground that neither SADC or WHBC can demonstrate a five year supply of deliverable homes. Whilst there is disagreement between the parties regarding the extent of this shortfall, the parties also agreed that this is not a matter upon which the appeals would turn. I agree with this position. Even taking the Councils supply positions of WHBC 2.58 years and SADC at 2.4 years, the position is a bleak one and the shortfall in both local authorities is considerable and significant.
49. There is therefore no dispute that given the existing position in both local authority areas, the delivery of housing represents a benefit. Even if the site is not developed within the timeframe envisaged by the appellant, and I can see no compelling reason this would not be achieved, it would nevertheless, when delivered, positively boost the supply within both local authority areas. From the evidence presented in relation to the emerging planning policy position for both authorities, this is not a position on which I would envisage there would be any marked improvement on in the short to medium term. I afford very substantial weight to the provision of market housing which would make a positive contribution to the supply of market housing in both local authority areas.

### *Provision of Self Build*

50. Turning to consider the issue of Self Build, as part of the overall dwelling numbers, the proposal would deliver up to 10 self build or custom build dwellings. The Government attaches great importance to the provision of this element of the supply. Notably, paragraph 61 of the Framework identifies that planning policies should reflect the housing needs of different sectors of the community including, but not limited to people wishing to commission or build their own homes. Footnote 26 gives further explanation with reference to the requirements of the Self Build and Custom Housebuilding Act 2015 (as amended). The Planning Practice Guidance advises that local authorities

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<sup>1</sup> Wychavon DC v Secretary of State for Communities and Local Government and Butler [2008] EWCA Civ 692.

<sup>2</sup> APP/C2741/W/19/3227359



should use the demand data from registers, supported by additional data from secondary sources, to understand and consider future need for this type of housing in their area. Furthermore, it goes onto note that the registers are likely to be a material consideration in decisions involving proposals for self and custom housebuilding.

51. In the case of these appeals, there are no development plan policies which relate specifically to the provision or delivery of self building housing in either authority. Emerging policy SP7 at WHBC identifies four allocations which would contribute towards self build plot provision although the allocations do not specify how many plots. Furthermore, neither authority has an up to date assessment of likely future demand for this type of housing in line with the Planning Practice Guidance. The appellant provided detailed evidence in relation to the Custom Build Register, none of which was disputed. Evidence also presented demonstrated that the statutory duty to provide for base period plot provision has also not been met in either authority, in some periods by a significant margin. Taking into account other secondary data sources, these shortfalls may well be on the conservative side.
52. In common with both market housing and affordable housing, the situation in the context of provision of sites and past completions is a particularly poor one. To conclude, I am of the view that the provision of 10 self build service plots at the appeal site will make a positive contribution to the supply of self build plots in both local planning authority areas. I am attaching substantial weight to this element of housing supply.

*Provision of affordable housing*

53. The uncontested evidence presented by the appellant on affordable housing for both local authorities illustrates some serious shortcomings in terms of past delivery trends. In relation to WHBC, the affordable housing delivery which has taken place since 2015/16 is equivalent to a rate of 23 homes per annum. The appellant calculates that the shortfall stands in the region of 4000 net affordable homes since the 2017 SHMA Update, a 97% shortfall in affordable housing delivery. If the shortfall is to be addressed within the next 5 years, it would require the delivery of 1397 affordable homes per annum. In SADC, the position is equally as serious. Since the period 2012/13, a total of 244 net affordable homes have been delivered at an average of 35 net dwellings per annum. Again, this equates to a shortfall also in the region of 4000 dwellings (94%) which, if to be addressed in the next 5 years, would require the delivery of 1185 affordable dwellings per annum.
54. The persistent under delivery of affordable housing in both local authority areas presents a critical situation. Taking into account the extremely acute affordable housing position in both SADC and WHBC, I attach very substantial weight to the delivery of up to 45 affordable homes in this location in favour of the proposals.

## **Other Matters**

### *Other Appeal Decisions*

55. I have been referred to no fewer than 21 other appeal decisions<sup>3</sup> in addition to 9 Secretary of State decisions<sup>4</sup> as part of the evidence before me in relation to these appeals. Both the appellant and the Councils have sought to draw comparisons and similarities between this extensive array of decisions before me for a variety of reasons. Two historical decisions at the appeal site, as acknowledged by the Councils, were determined under a different planning policy framework and accordingly I attach very limited weight to these. In relation to the appeal decision at the neighbouring site<sup>5</sup>, I do not have the full details of the evidence which was before that Inspector, the main issues were different to these appeals and the decision predates the current Framework.
56. Rarely will any other appeal decision provide an exact comparison to another situation. In some of the cases referred to, there are similarities in the size and scale of the proposal, in other cases there are entirely different planning policy positions, housing supply considerations, land use considerations, locational characteristics, main issues and other factors which have been weighed in the balance. Furthermore, it remained common ground that each appeal should be considered on its own merits as is the case here. It is for the decision maker in each case to undertake the planning balancing exercise and as a result, the weight I have attached to these other appeal cases is limited.

### *Other Matters*

57. I have considered the effect of the proposals on the occupiers of the neighbouring dwellings in terms of effect on living conditions, highways impacts, flooding and loss of agricultural land. There are no objections from either SADC, WHBC or HCC in relation to these matters. I acknowledge concerns expressed by local residents in relation to existing flooding which takes place on Bullens Green Lane, however I am satisfied that appropriately worded conditions in relation to surface water and drainage can satisfactorily address any impacts of the appeal proposals in this regard. Similarly, I have no evidence before me which would lead me to reach a different conclusion to the Councils in relation to the effect of the development on the living conditions of neighbouring properties.
58. In terms of highways impacts, I acknowledge that a number of local residents have expressed concerns regarding localised congestion and parking and overall highways impacts. I am also mindful of the concerns expressed by Colney Heath Parish Council in connection with the data used to support the appeal proposals. However, taking into account the likely vehicular traffic to be generated by the development and the conclusions reached by the supporting

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<sup>3</sup> Two historical appeal decisions at the appeal site E6/1973/3202 & E6/1954/0860, APP/B1930/W/19/3235642, APP/Y0435/W/20/3251121, APP/C2714/W/19/3227359, APP/D2320/W/20/3247136, APP/P0119/W/17/3191477, APP/P1615/W/18/3213122, APP/G2435/W/18/3214451 & 3214498, APP/W0530/W/19/3230103, APP/C1570/W/19/3234530 & 3234532, APP/X0360/W/19/3238048, APP/H1840/W/20/3255350, APP/P3040/W/17/3185493, APP/L3815/W/16/3165228, APP/D0840/A/13/2209757, APP/G1630/W/14/3001706, APP/G5180/W/16/3144248, APP/G5180/W/18/3206569, APP/E2001/W/20/3250240,

<sup>4</sup> APP/W4705/V/18/3208020, APP/Q3115/W/19/3230827, APP/C4235/W/18/3205559, APP/P1615/A/14/2218921, APP/A0665/W/14/2212671, APP/H1840/A/13/2199085 & 2199426, APP/P4605/W/18/3192918, APP/Q3630/A/05/119826, APP/W1850/W/20/3244410

<sup>5</sup> APP/B1930/W/15/3137409

transport assessments, I concur with the view that this will not have a severe impact on the operation of the wider highways network.

59. The site access would be located off Bullens Green Lane where it is currently subject to the national speed limit. The Highways Authority consider that the introduction of a transitional speed limit restriction may be necessary to the south of the site. As a result, two Grampian conditions are proposed to address this issue. I conclude that the development would not cause harmful levels of congestion or increase risk to highway safety.
60. I note the conclusions the Councils have drawn in relation to the loss of agricultural land and the inconsistencies between the development plan policies and the Framework in this regard and can see no reason to disagree with the conclusions drawn by the Councils in relation to this matter.
61. The Councils argued that the site is not a suitable location for housing as it does not form part of the emerging policy context for either SADC or WHBC. Whilst I acknowledge this to be the case, this in itself is not a reason that the appeals should fail. In neither SADC nor WHBC is there an emerging policy position to which any significant weight can be attached. The SADC Local Plan Review was adopted in 1994, some 27 years ago. The most recent replacement plan was withdrawn. As a result, there is currently no up to date strategic housing land requirement assessment which has been subject to any rigorous soundness assessment through the local plan examination process.
62. Turning to consider the position at WHBC, the adopted plan dates from 2005, some 16 years ago. The emerging plan was submitted for examination some 4 years ago. As was outlined during the inquiry, Interim Findings issued by the Inspector in October 2020 and subsequent round up notes issued by the Inspector in March 2021 set out that findings in relation to the FOAHN, windfall allowance and green belt boundaries at proposed development sites are yet to be issued. As a result, I am unable to conclude with any certainty when the WHBC Plan will be found sound and as such attach very limited weight to this emerging plan.

### *Biodiversity*

63. Policy R11 of the WHBC Local Plan requires, amongst other things, that all new development should demonstrate how it would contribute positively to the biodiversity of the site by meeting a number of identified criteria. In the case of these appeals, the criteria most relevant are (i) the retention and enhancement of natural features of the site and (ii) the promotion of natural areas and wildlife corridors where appropriate as part of the design. For SADC, my attention has been drawn to policy 106 of the SADC Local Plan 1994 however this policy deals specifically with the effect of planning applications on identified SSSIs, Nature Reserves, other sites of wildlife, geographical or geomorphological importance which is not applicable to the appeal site. This is a position confirmed by the Councils in their proof of evidence.
64. The appeals are supported by an amended Ecological Impact Assessment. Hertfordshire Ecology, as ecological advisors to both WHBC and SADC confirmed that subject to a suitably worded condition and obligations within the Section 106 agreement, both of which I set out later within this report, the appeal proposals adequately address the ecological impacts of the development

at the appeal site. I therefore conclude that the proposals would accord with policy R11 of the WHBC Local Plan in this regard.

### **Planning Obligation**

65. I have taken into account the various obligations identified within the executed Section 106 Agreement with regards to the statutory requirements in Regulation 122 of the Community Infrastructure Levy (CIL) as well as the tests identified at paragraph 56 of the Framework. The obligation would secure a number of provisions relating to HCC, SADC and WHBC. I deal with each of these individual matters in turn.
66. A number of clauses in relation to biodiversity measures are proposed. A biodiversity offsetting contribution is included within the obligation, which would contribute towards the creation of new habitats. This would be calculated by using the Biodiversity Net Gain Matrix which provides for a financial contribution based on the formula identified by the matrix which measures and takes into account biodiversity losses and gains resulting from the development. In support of this approach, the Councils have identified that adopting the use of this matrix approach allows for landscaping and open space proposals as well as on site mitigation to be taken into account at reserved matters stage. In addition, the parties have also referred me to an alternative appeal decision<sup>6</sup> to endorse the use of the Biodiversity Net Gain Matrix approach. Once calculated, a scheme would be submitted for approval to both Councils referred to as the biodiversity offsetting scheme. In addition to this offsetting, biodiversity onsite compensation would also be provided through the identification of biodiversity measures to be implemented within the site as part of an identified onsite compensation scheme. In both instances, the Councils would be approving the onsite and offsetting schemes with reference to the biodiversity metric formula approach.
67. A green space contribution, to be calculated based on the precise number of dwellings and mix, will deliver the creation of a wildflower meadow at Angerland public open space off Bishops Rise, South Hatfield. Officers confirmed that this was the closest facility to the appeal site to which improvement requirements have been identified.
68. I note the Councils expressed concerns that the appellant could rely on the green space contribution as part of the biodiversity offsetting scheme and biodiversity offsetting contribution. However the biodiversity offsetting scheme, by definition, requires a scheme to be approved by both Councils to include but not limited the identification of an appropriate receptor site(s). As a result, I consider that this matter is adequately addressed by the obligation and the concerns are unfounded.
69. Taking into account the information and evidence presented, I am content that the obligations in relation to biodiversity, including the offsetting contribution, offsetting scheme and onsite compensation are necessary, directly related to the development and fairly and reasonably related in scale and kind. I draw the same conclusion in relation to the green space contribution. These obligations therefore comply with Regulation 122 of the CIL Regulations and can be taken into account in the grant of planning permission.

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<sup>6</sup> APP/Y0435/W/20/3251121

70. In addition to the above, the obligation would secure the provision of affordable housing, apportioned equally between WHBC and SADC. The affordable housing scheme would also secure the mix of units and tenures. In a similar way, the obligation would secure the plots and associated provision for the self build and custom housebuilding plots on the site. A district community facilities contribution is sought, to provide improvements towards the Roestock Park Scout Hut. Obligations relating to the highways works necessary to implement the scheme, waste and recycling, bus stop improvements at Hall Gardens, travel plan, libraries contribution towards improvements to the Creator Space at Hatfield Library, education contribution for both primary and secondary school provision, youth contribution towards increased provision at Hatfield Youth Centre, indoor sports facilities contribution towards the University of Hertfordshire and/or Hatfield Swimming Pools, and medical facilities in the form of community healthcare, general medical services specified at Northdown Road and/or Burvill House Surgery and mental health contribution specified at Queensway Health Centre and Roseanne House are also included. Finally, a monitoring fee, not to exceed £5000 would be payable to WHBC to cover the reasonable and proper administrative costs of monitoring compliance with the obligations.
71. The delivery of up to 100 dwellings in this location will result in an increase in the local population, with subsequent impacts on schools, social infrastructure such as medical facilities, libraries, sports and transport. A number of the other obligations, for example the provision of self or custom build housing as well as the provision for affordable housing weigh in favour of the appeal proposals.
72. I conclude that all of the aspects of the obligations outlined above are necessary to make the development acceptable in planning terms, directly related to the development and fairly and reasonably related in scale and kind to the development. As a result, the obligations therefore comply with Regulation 122 of the CIL Regulations and can be taken into account in the grant of planning permission.
73. The obligation also includes a contribution towards outdoor sports facilities, specifically improving drainage at grass pitches at Welham Green recreation ground and/or towards repairs to the bowls ground in the same location. Welham Green is approximately 3.5km from the appeal site. There is an existing recreational facility next to the appeal site, as well as outdoor sports facilities, albeit within SADC, located locally within Colney Heath. I am not convinced that this contribution would be necessary to make the development acceptable in planning terms or directly related to the development. Accordingly, I do not find this part of the obligation would satisfy the necessary tests.

### **Conditions**

74. A round table session was held at the inquiry to discuss a list of agreed planning conditions. I have considered this list of conditions with reference to the tests as set out at paragraph 55 of the Framework. Where necessary, I have amended the wording of the conditions in the interests of precision and clarity.

75. In the interests of certainty and highways safety, conditions outlining the approved plans, including the access arrangements and their implementation, as well as the visibility splays, are necessary. I have however not included the suggested condition relating to the parameter plan as I do not consider a condition relating to this is necessary or reasonable in this instance. As the proposals are in outline form only, it is however necessary to specify the reserved matters to be submitted for approval and associated time limits for their submission and subsequent implementation. Two highways related conditions are attached. The first relate to submission, approval and implementation of any necessary Traffic Regulations Order (TRO). The second relates to the provision of a safe and suitable pedestrian crossing and footway on Fellowes Lane. Both of these conditions are necessary in the interests of highways safety.
76. A condition requiring an archaeological written scheme of investigation is both necessary and reasonable in order to establish the presence or absence of archaeological remains. Conditions requiring the submission of a scheme relating to surface water drainage and also relating to the arrangements for surface water to be disposed of are necessary and reasonable to ensure the satisfactory storage and disposal of surface water from the site. To address any risk of flooding, a further condition is attached requiring the development to be completed in accordance with the Flood Risk Assessment and Drainage Strategy. In addition, to prevent contamination, conditions have been attached which require full details of any substance containers to be submitted and approved in writing and also specific details of works involving excavation. A condition relating to indoor and outdoor noise levels is both necessary and reasonable to protect the living conditions of future residents. Furthermore, a condition relating to accessible housing is justified in order to ensure the needs of accessible or wheelchair housing are met.
77. The submission of a construction management plan is required by condition 11. This is necessary in the interests of highways safety and also the living conditions of nearby residents. In order to promote sustainable transport a condition relating to the provision of electric vehicle charging points has been included. Conditions covering landscaping details, a landscaping and ecological management plan and requiring a tree protection plan and method statement are necessary to ensure that the appearance of the development is satisfactory, biodiversity impacts of the development are suitably addressed and that where necessary, to ensure that retained trees and hedgerows are protected during the course of construction.

## **Conclusions**

78. The proposals would cause harm by reason of inappropriateness and harm to openness. Both of these attract substantial weight. I have also attached moderate weight to harm to the character and appearance of the area. However, these appeals involves two local authority areas, both of which have acute housing delivery shortages and acute affordable housing need. The proposals would make a contribution towards addressing these needs in the form of market, self build and affordable housing in both WHBC and SADC. I have attached very substantial weight to the provision of both market housing and affordable housing. I have attached substantial weight to the provision of self build housing. These factors, when considered collectively demonstrate that very special circumstances do exist.

79. I conclude that in the case of these appeals, I find that the other considerations in this case clearly outweigh the harm that I have identified. Looking at the case as a whole, very special circumstances do exist to justify inappropriate development in the Green Belt. My findings on the other matters before me do not lead me to a different conclusion. As a result, I therefore conclude that the proposals would comply with both the Framework and the development plans taken as a whole. For the reasons given above, and having considered all other matters raised, the appeals are allowed.

*C Masters*

INSPECTOR

**APPEARANCES**

FOR THE LOCAL PLANNING AUTHORITIES:

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He called:

Phillip Hughes BA(Hons)                      Director of PHD Chartered Town Planners Limited  
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MA (Hons) MTP MRTPI

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Martin Wells                                      Hertfordshire County Council Growth and Infrastructure  
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Chris Martin                                      Hertfordshire County Council Children's Services  
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Lindsay McCauley                              Hertfordshire County Council Highways

Rob Walker                                      Solicitor, Welwyn Hatfield Borough Council

FOR THE APPELLANT:

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He called:

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John Freeman                                      Director of Woods Hardwick Ltd  
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Gary Holliday B.A (Hons) MPhil                      Director at FPCR Environment and Design Ltd  
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Other Participants at Round Table Discussion

Paul Arnett                                      Town Legal

RULE SIX PARTY:

John Clemow – 4ColneyHeath

INTERESTED PERSONS:

Cllr Peter Cook                                      Colney Heath Parish Council

**DOCUMENTS SUBMITTED DURING INQUIRY**

CD 10.13                                      Appeal Decision, land at Church Lane, Wittington  
CD 7.07    Extracts from SADC SHLAA 2009

## **SCHEDULE OF CONDITIONS**

1. Details of the appearance, landscaping, layout, and scale, (hereinafter called, the reserved matters) shall be submitted to and approved in writing by the Local Planning Authority before any development begins and the development shall be carried out as approved.
2. Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.
3. The development hereby permitted shall be carried out in accordance with the following approved plans: drawing no. 17981 1002 (Site Location Plan), drawing no. 18770-FELL-5-500 Rev B (Revised Site Access) and drawing no. 18770-FELL-5-501 Rev A (Proposed Footpath Connection).
4. The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.
5. No development of the site shall commence until:
  - a) A scheme to reduce speeds (to support the access proposals designed to 30mph) on Bullens Green Lane, Colney Heath, is provided to and approved in writing by the Local Planning Authority. Any scheme is required to be designed in line with the requirements of Hertfordshire County Council's (HCC) Speed Management Strategy (SMS); and
  - b) Any necessary Traffic Regulation Order (TRO) is made in respect of part a) to this condition. 'Made' means that the TRO has been approved and can be implemented.

No occupancy of the site can occur until the Traffic Regulation Order referred to above is implemented and brought into force. Evidence of the implemented scheme, in the form of a Certificate of Completion of the Section 278 of the Highways Act 1980, must be submitted to and approved in writing by the local planning authority.
6. No development of the site shall commence until a scheme for the provision of a safe and suitable pedestrian crossing and footway on Fellowes Lane, Colney Heath, in line with drawing number 18770-FELL-5-501 Rev A in principle, is provided and approved in writing by the Local Planning Authority and is designed in line with the requirements as set out in Hertfordshire County Council's Roads in Hertfordshire: Highway Design Guide (3rd edition). No occupation of any part of the development may occur before implementation of the approved scheme referred to in Part 1 of the condition.
7. No works involving excavations (e.g. piling or the implementation of a geothermal open/closed loop system) shall be carried until the following has been submitted to and approved in writing by the Local Planning Authority.
  - a) An Intrusive Ground Investigation to identify the current state of the site and appropriate techniques to avoid displacing any shallow contamination to a greater depth
  - b) A Risk Assessment identifying both the aquifer and the abstraction point(s) as potential receptor(s) of contamination including turbidity.

c) A Method Statement detailing the depth and type of excavations (e.g. piling) to be undertaken including mitigation measures (e.g. turbidity monitoring, appropriate piling design, off site monitoring boreholes etc.) to prevent and/or minimise any potential migration of pollutants including turbidity or existing contaminants such as hydrocarbons to public water supply. Any excavations must be undertaken in accordance with the terms of the approved method statement.

All works shall be carried out in accordance with approved reports listed above.

The applicant or developer shall notify Affinity Water of excavation works 15 days before commencement in order to implement enhanced monitoring at the public water supply abstraction and to plan for potential interruption of service with regards to water supply.

8. Development must not commence until an Archaeological Written Scheme of Investigation has been submitted to and approved in writing by the local planning authority. The scheme shall include an assessment of archaeological significance and research questions; and:
- a) The programme and methodology of site investigation and recording;
  - b) The programme and methodology of site investigation and recording as required by the evaluation;
  - c) The programme for post investigation assessment
  - d) Provision to be made for analysis of the site investigation and recording;
  - e) Provision to be made for publication and dissemination of the analysis and records of the site investigation;
  - f) Provision to be made for archive deposition of the analysis and records of the site investigation;
  - g) Nomination of a competent person or persons/organisation to undertake the works set out within the Archaeological Written Scheme of Investigation.
- The development must not take place other than in accordance with the approved programme of archaeological works set out in the Written Scheme of Investigation.

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority.

An investigation and risk assessment and, where remediation is necessary, a remediation scheme must then be submitted to and approved in writing by the Local Planning Authority and implemented as approved. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works.

The investigation and risk assessment must assess the nature and extent of any contamination on the site, whether or not it originates on the site and must be undertaken by competent persons. A written report of the findings must be produced and the findings must include:

- (i) a survey of the extent, scale and nature of contamination;
- (ii) (ii) an assessment of the potential risks to:
  - human health;
  - property (existing or proposed) including buildings;
  - crops;
  - livestock;
  - pets;

- woodland and service lines and pipes;
- adjoining land;
- groundwaters and surface waters;
- ecological systems;
- archaeological sites and ancient monuments.

(iii) an appraisal of remedial options, and proposal of the preferred option(s).

The investigation and risk assessment must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

#### Remediation Scheme

Following completion of measures identified in the approved remediation scheme, a verification report which demonstrates the effectiveness of the remediation carried out must be submitted to and approved in writing by the local planning authority.

9. Development must not commence until the final design of the drainage scheme is completed and sent to the local planning authority for approval. The surface water drainage system should be based on the submitted the Flood Risk Assessment and Drainage Strategy (prepared by Woods Hardwick, ref: 18770/FRA and DS, dated August 2020). The scheme must also include:
- a) Detailed, updated post-development calculations/modelling in relation to surface water for all rainfall events up to and including the 1 in 100 year return period, this must also include a +40% allowance for climate change;
  - b) A detailed drainage plan including the location and provided volume of all SuDS features, pipe runs and discharge points. If areas are to be designated for informal flooding these should also be shown on a detailed site plan;
  - c) Exceedance flow paths for surface water for events greater than the 1 in 100 year including climate change allowance;
  - d) Detailed engineered drawings of the proposed SuDS features including cross section drawings, their size, volume, depth and any inlet and outlet features including any connecting pipe runs. This should include details regarding the connection into the existing Thames Water surface water sewer;
  - e) The drainage scheme shall also confirm use of an oil/water interceptor; and
  - f) Final detailed management plan to include arrangements for adoption and any other arrangements to secure the operation of the scheme throughout its lifetime.

The scheme shall be fully implemented and subsequently maintained, in accordance with the timing / phasing arrangements embodied within the scheme or within any other period as may subsequently be agreed, in writing, by the local planning authority.

10. Development must not commence until details of all substance containers are submitted to and approved in writing by the local planning authority. These details must include:
- a) Confirmation of bunding of 110% capacity; and
  - b) Confirmation of the presence of a leak detection system and methodology that includes immediate notification to Affinity Water

11. Development must not commence until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. Thereafter the construction of the development must only be carried out in accordance with the approved Plan. The Construction Management Plan must include details of:
- a) Construction vehicle numbers, type, routing;
  - b) Access arrangements to the site;
  - c) Traffic management requirements including arrangements for the PROW across the site during construction;
  - d) Construction and storage compounds (including areas designated for car parking, loading / unloading and turning areas);
  - e) Siting and details of wheel washing facilities;
  - f) Cleaning of site entrances, site tracks and the adjacent public highway;
  - g) Timing of construction activities (including delivery times and removal of waste) and to avoid school pick up/drop off times;
  - h) Provision of sufficient on-site parking prior to commencement of construction activities;
  - i) Post construction restoration/reinstatement of the working areas and temporary access to the public highway; and
  - j) Where works cannot be contained wholly within the site a plan should be submitted showing the site layout on the highway including extent of hoarding, pedestrian routes and remaining road width for vehicle movements.

12. No development above ground level shall take place until a scheme to protect the development from noise due to transport sources is submitted to and approved in writing by the local planning authority. The scheme must ensure that:

The indoor ambient noise levels in living rooms and bedrooms meet the standards within BS 8233:2014. Relaxed noise levels in BS 8233:2014 will not be accepted in living rooms and bedrooms unless it can be demonstrated that good acoustic design practices have been followed and the implementation of acoustic barriers/bunds to lower façade noise levels as much as reasonably practicable, have been implemented. Internal L<sub>max</sub> levels should not exceed 45dB more than ten times a night in bedrooms; If opening windows raises the internal noise levels above those within BS8233, the mechanical ventilation will need to be installed, with ventilation rates required to meet those found within The Noise Insulation Regulations 1975. Alternative methods (such as passive systems) and rates can be considered, however, evidence that overheating will not occur will need to be provided in the form of a SAP assessment conducted with windows closed, curtains/blinds not being used, showing the required ventilation rates to ensure that the medium risk category is not exceeded. Details must be provided of the ventilation system to be installed and to demonstrate that it will provide the ventilation rates shown in the SAP Assessment; and Outdoor amenity areas must meet the 55dB WHO Community Noise Guideline Level

The approved scheme must be implemented prior to first occupation, unless the Local Planning Authority otherwise agrees in writing.

13. No development above ground level shall take place until a scheme setting out the arrangements for the delivery of accessible housing will be supplied to the council in accordance with the following requirements:
- a) A schedule of units, together with appropriate plans and drawings, must be submitted to and be approved by the local planning authority setting out details of the number, layout and location of all units that will comply with Part M4(2) of the Building Regulations 2010. At least 20% of all new dwellings must meet Building Regulations Part M4(2) standards for 'accessible and adaptable dwellings';
  - b) All units specified as M4(2) in the agreed schedule and plans must be implemented in accordance with that approval and in compliance with the corresponding part of the Building Regulations in that regard;
  - c) The person carrying out the building work must inform the Building Control body which requirements apply; and
  - d) Written verification of the completion of all dwellings in accord with part (a) above will be supplied to the local planning authority within 30 days of the practical completion [of the block it forms part of].
14. Prior to the first occupation of the development hereby permitted the vehicular access must be provided and thereafter retained at the position shown on drawing no. 18770-FELL-5-500 Rev B in accordance with the agreed highway specification. Arrangement shall be made for surface water drainage to be intercepted and disposed of separately so that it does not discharge from or onto the highway carriageway.
15. Prior to the first occupation of the development hereby permitted a visibility splay must be provided in full accordance with the details indicated on drawing no. 18770-FELL-5-500 Rev B. The splay shall thereafter be maintained at all times free from any obstruction between 600mm and 2m above the level of the adjacent highway carriageway.
16. Prior to first occupation of the development hereby permitted, a minimum provision of 20% of the car parking spaces must be designated for plug-in Electric Vehicles (EV) and served by EV ready [domestic and/or fast] charging points.
17. The development permitted by this planning permission must be carried out in accordance with the Flood Risk Assessment and Drainage Strategy (prepared by Woods Hardwick, ref: 18770/FRA and DS, dated August 2020) and the following mitigation measures:
- a) Limiting the surface water run-off generated by the critical storm events so that it will not exceed the surface water run-off rate of 9.3 l/s during the 1 in 100 year event plus 40% of climate change event;
  - b) Providing storage to ensure no increase in surface water run-off volumes for all rainfall events up to and including the 1 in 100 year + climate change event providing a total storage volume in two attenuation basins;
  - c) Discharge of surface water from the private drainage network into the Thames Water surface water sewer system located in Bullens Green Lane. The mitigation measures shall be fully implemented prior to first occupation of the development hereby approved.

Surface water must not be disposed of via direct infiltration into the ground via a soakaway.

Notwithstanding the submitted 'Updated Arboricultural Assessment – Version 2 (by FPCR Environment and Design Ltd, July 2020), a detailed tree protection plan and method statement should be submitted as part of application(s) for reserved matters approval as required by Condition 1.

18. Full details of both soft and hard landscape works should be submitted as part of application(s) for reserved matters approval as required by Condition 1. The landscaping details to be submitted shall include:

- a) existing and proposed finished levels and contours
- b) trees and hedgerow to be retained;
- c) planting plans, including specifications of species, sizes, planting centres, number and percentage mix, and details of seeding or turfing;
- d) hard surfacing;
- e) means of enclosure and boundary treatments;
- f) Details of toddler play area including play equipment; and
- g) Any other structures (such as furniture, refuse or other storage units, signs, lighting)

19. A landscape and ecological management plan (LEMP) should be submitted as part of application(s) for reserved matters approval as required by Condition 1 and include:

- a) A description of the objectives;
- b) Habitat/feature creation measures proposed
- c) Maintenance of habitat/feature creation measures in the long term and those responsible for delivery;
- d) Lighting strategy (aim to ensure that illumination of the existing hedgerows does not exceed 0.5 lux); and
- e) A monitoring programme and the measures required to adapt the LEMP should objectives fail to be met.

The LEMP should cover all landscape areas within the site, other than small privately owned domestic gardens.

## Appendix 3

### Third Party Responses and the Appellant's Summary Comments

Topic Comments – Main Third Party Issues	Summary of Appellant Response
<p><b>The Principle of Development</b></p> <ul style="list-style-type: none"> <li>○ <b>The need to retain farmland</b></li> <li>○ <b>Green Belt harm and urban sprawl</b></li> <li>○ <b>Council should permit brownfield development only</b></li> <li>○ <b>No demonstrated need for housing in Colney Heath</b></li> <li>○ <b>Inappropriate location next to school</b></li> </ul>	<p>The land area in question is relatively small and there is no evidence that release of the Site would unduly impact upon the adjacent agricultural land. The indicative plans within the design and access statement identify that suitable access would be retained for the farm.</p> <p>There is very limited harm in relation to Green Belt purposes a) and b) and no harm in relation to Green Belt purposes d) and e). The degree of harm under Green Belt criterion c) is also highly subjective and is clearly outweighed by the public benefits of the Appeal proposals.</p> <p>There are no allocated urban or other brownfield sites in the district and no significant brownfield sites that are otherwise immediately available for development, unlike the Appeal Site, which is immediately available.</p> <p>The demonstrated need is in relation to St Albans District as a whole, wherein housing land supply is totally unplanned and critically constrained and the persistent failure to deliver new housing is demonstrably unsustainable.</p> <p>The Appeal Site is ideally located in relation to direct access to nearby educational facilities.</p> <p>This will eliminate the need for car-based travel for local schooling and reduce the percentage of future pupils at the school, who currently reside outside of Colney Heath, who will need to travel to the school by private car.</p>
<p><b>Heritage</b></p> <ul style="list-style-type: none"> <li>○ <b>Development would affect the setting of Listed Buildings</b></li> </ul>	<p>The Appeal Site is not within the Colney Heath Conservation Area and does not contain any listed buildings. However, the site is located in close proximity to the Grade II Listed Apsley Cottage, Crooked Billet Public House and 94 High Street, all of which, have been significantly extended in the C20th.</p>



<p><b>Heritage (continued)</b></p>	<p>The Heritage Assessment, provided with the application, concludes overall that there would be no known effects upon archaeology and only a slightly adverse effect upon the setting of one listed building (Apsley Cottage). There would accordingly be no effect upon the ability to appreciate the significance of any designated assets, which is the test set by Historic England.</p>
<p><b>Character and Design</b></p> <ul style="list-style-type: none"> <li>○ <b>Colney Heath will no longer be a village</b></li>   <li>○ <b>Housing out of character and impact upon residential amenity. Loss of existing views / visual amenity.</b></li> </ul>	<p>The addition of 45 new homes will have a minimal impact upon the wider existing character of Colney Heath, which comprises significant areas of existing modern designed housing, originating from the mid to late C20th.</p> <p>The application is submitted in outline only and no house types or architectural details are specified, other than indicative ridge heights. These aesthetic issues can be dealt with appropriately at the Reserved Matters stage to ensure suitable design quality in the final built form.</p>
<p><b>Affordable Housing</b></p> <ul style="list-style-type: none"> <li>○ <b>Housing will not be genuinely affordable and local residents will be priced out of area.</b></li> </ul>	<p>The affordable homes proposed for affordable market housing will be at a substantial discount to the local market, secured by the S106 agreement.</p> <p>A significant percentage of the affordable housing proposed will also be for affordable rent, thereby providing an opportunity for existing 'hidden' households in Colney Heath to acquire an affordable rented home, without the need to leave the area.</p>
<p><b>Highways and Parking</b></p> <ul style="list-style-type: none"> <li>○ <b>Existing congestion and overburdened local road network.</b></li> <li>○ <b>Decreased capacity for School Car parking.</b></li> <li>○ <b>Increased risk of accidents.</b></li> </ul>	<p>The development would not result in a severe impact on highway safety or capacity and would not be contrary to paragraph 111 of the NPPF in relation to capacity and safety.</p> <p>An updated Transport Note, prepared by DTA, was forwarded to the Highways Authority for comment, who responded on 24<sup>th</sup> November 2022 in relation to the amended proposal and agree with the assessment made by the Appellant's consultant.</p>

<p><b>Highways and Parking (continued)</b></p>	<p>The HCC formal response confirms that under Article 22 of the Town and Country Planning (Development Management Procedure) Order 2015 that Hertfordshire County Council, as Highway Authority, does not wish to restrict the grant of permission, subject to the imposition of a number of highways-related conditions.</p> <p>These conditions relate to details required at the reserved matters stage, including offsite works, construction traffic management and parking signage.</p> <p>The letter also sets out the level of the total S106 sustainable transport contribution sought by HCC. A link to the assessment and full list of draft conditions sought by HCC is provided at paragraph 4.41 of this SoC.</p>
<p><b>Environment and Sustainability</b></p> <ul style="list-style-type: none"> <li>○ <b>Impact upon River Colne</b></li> </ul>	<p>The Site is located in Flood Zone 1, which is therefore at the lowest risk of river flooding. A Flood Risk Assessment was submitted with the application and the LLFA have not raised any objection to the proposal in this regard.</p> <p>With regard to the River Colne, no concerns have been raised by either the Environment Agency, Thames Water or the LLFA in relation to the impact of the Appeal proposals.</p>
<p><b>Trees and Biodiversity</b></p> <ul style="list-style-type: none"> <li>○ <b>Damage to trees and detrimental impact on wildlife.</b></li> </ul>	<p>The application was referred to Hertfordshire Ecology who have advised that they have no reason to disagree with the findings of the Ecological Impact Assessment regarding the likely absence of European protected species.</p> <p>Suitable precautionary measures are included within the application to safeguard any breeding birds, badgers or reptiles that might be associated with habitats found on the Site.</p> <p>A Landscape and Ecological Management Plan will be secured by condition to deliver the ecological enhancements and measures proposed, as set out in the SoCG.</p> <p>A Biodiversity Net Gain assessment has also been undertaken which demonstrates that the proposal has the capability to materially increase the existing biodiversity baseline by 10%.</p>

<p><b>Social and Physical Infrastructure</b></p> <ul style="list-style-type: none"> <li>○ <b>Insufficient infrastructure for more new housing</b></li> </ul>	<p>The Growth and Infrastructure Unit (GIU) of Hertfordshire County Council have raised no objection to the Appeal proposals.</p> <p>HCC however requests that financial contributions are made to fund various Hertfordshire County Council projects in order to mitigate the infrastructure impacts of the development. The level of these contributions is set out in the statutory response of the GIU.</p> <p>SADC additionally have set out the need to secure the provision of the affordable housing, open space and biodiversity net gain.</p>
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