

Town and County Planning Act 1990 (As Amended) - Section 78

Town and Country Planning (Inquiry Procedure) (England) Rules 2000

**Appeal by Tarmac Limited against the refusal of St Albans City
and District Council, as Local Planning Authority, to grant
outline planning permission for residential development of up
to 45 dwellings, all matters reserved except access**

at

**Land to the rear of 96 - 106 High Street, Colney Heath, Herts,
AL4 0NP**

STATEMENT OF CASE OF ST ALBANS CITY & DISTRICT COUNCIL

FEBRUARY 2024

PLANNING INSPECTORATE REF: APP/B1930/W/23/3333685

LOCAL PLANNING AUTHORITY REF: 5/2022/0599

1 Introduction

- 1.1 The proposal is for residential development of up to 45 dwellings on a site in the Green Belt ('the appeal site'). This appeal relates to an outline planning application ('the application') which was refused planning permission. A public inquiry into the appeal is scheduled to open on 23 April 2023.
- 1.2 All matters, excluding access, are reserved for future consideration.
- 1.3 The two reasons for refusal are outlined in the Officer Report at **Appendix 1** and on the decision notice and are set out below:
- 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.*
 - 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.*
- 1.4 A copy of the Officer Report is attached at **Appendix 1** and comprises part of the Council's Case and should be read in conjunction with this statement.
- 1.5 The National Planning Policy Framework (NPPF) was updated in December 2023 but its approach to Green Belt harm and decision making, countryside character and beauty, harm to heritage assets and decision making in respect of heritage assets remains materially unchanged. The approach to best and most versatile land has evolved in the latest drafts of the NPPF and will be addressed in evidence.
- 1.6 This is an outline application with only access to be considered at this stage. The application plans include a concept master plan and illustrative layout plan, however these do not and cannot set the layout, scale or appearance of the proposed development or the landscaping of the site as these matters remain reserved.

- 1.7 It is common ground, as will be agreed in the Statement of Common Ground, that the Council cannot demonstrate a four-year supply of deliverable housing land and their Housing Delivery Test Score is below 75% and as such the so-called tilted balance pursuant to paragraph 11(d) of the NPPF is engaged.
- 1.8 However, the site is in the Green Belt and leads to Green Belt harm and policies of the Framework indicate that permission should be refused. Therefore the Council will argue, consistent with their case at the Tollgate Road Inquiry, that the tilted balance is disengaged.

2 Site and Surroundings

- 2.1 The appeal site comprises land extending to a total of 1.68 hectares. Other than the access corridor, it is rectangular in shape with the long boundaries facing north west and south east.
- 2.2 The appeal site is located to the south-east of the Colney Heath Football Ground which comprises an open playing pitch, tennis court and recreation ground as well as a small number of low rise single storey buildings. To the north east of the Football Club also bounding the appeal site is open land including some fishing lakes. The other long boundary is located to the north west of open agricultural fields. The short north east boundary likewise faces onto open agricultural fields.
- 2.3 The short south west boundary backs onto the rear garden boundaries of six semi-detached dwellings fronting High Street (nos. 96 – 106) that comprise the easterly extent of the washed over Green Belt settlements of Colney Heath.
- 2.4 To the south east of 96 – 106 High Street fronting High Street are three Grade II Listed Buildings (94 High Street, Apsley Cottage and the Crooked Billet Public House).
- 2.5 Colney Heath is situated within the administrative area of St Albans City and District Council.
- 2.6 The Council will describe the site which is undeveloped and completely open and appears to be in active agricultural use as part of a larger tract of land.
- 2.7 We will describe the neighbouring land uses noting the rear garden boundaries to houses fronting High Street to the south-west, open agricultural land to the south-east and north-east and the largely open land comprising the football club to the north west. We will note the lack of any meaningful in-depth development along this side of High Street which is characterised by a ribbon of development.
- 2.8 An extensive network of public footpaths, rights of way and tracks pass by the appeal site including alongside three boundaries. The Council will describe the extent of the PROW network including footpaths to the south and east of the appeal site.
- 2.9 The boundaries of the appeal site are delineated by hedge planting and post and wire fencing. Where planting exists it is ‘gappy’ in places and views into the site are available from the public footpaths and tracks as well as neighbouring dwellings and land.
- 2.10 The site is located within the Metropolitan Green Belt.
- 2.11 The site is currently open and in active agricultural use.
- 2.12 Beyond the site to the north, south and east lies open countryside.

- 2.13 The appeal site is open and its boundaries albeit demarked by some landscaping comprising trees, gappy hedgerow and understorey growth are permeable and allow views into and out of the site. The topography of the site and immediate area is generally flat with a gentle undulation.
- 2.14 The appeal site is situated in a prominent location between St Albans and Hatfield and outside the washed over Green Belt settlement of Colney Heath.
- 2.15 The Council will describe the landscape qualities of the area noting that the site and area lies within National Character Area 111: Northern Thames Basin and Hertfordshire Landscape Character Area ('LCA') 30: Colney Heath Farmland, which features organic field patterns, woodland blocks and mixed farmland as key characteristics. The overall guidelines for managing change in the LCA are 'Improve and conserve'.
- 2.16 The appeal site is detached from any non-Green Belt settlement and falls in the open green space between St Albans and Hatfield.
- 2.17 We will describe the viewpoints from which the site can be seen and describe these views contrasting the existing open rural appearance with the site developed for up to 45 dwellings.
- 2.18 The appeal site falls within the northern part of the Watling Chase Community Forest area which separates Hatfield and St Albans.

3 The Application and Planning History

- 3.1 Outline planning permission is sought for the development of the land for up to 45 dwellings with revised road junctions, internal access roads, car parking and other related development including green infrastructure. All matters are reserved, save for access. Access is proposed from High Street via the existing Football Club car park.
- 3.2 An illustrative master plan has been produced to show how the site may be laid out should permission be granted and to illustrate the impact of a development of this scale and character. No visualisations from key views have been produced to accompany the application the subject of this appeal or the appeal.
- 3.3 Consistent with the Officers Reports, the Council will describe the proposals and comment on the illustrative layout and the likely impacts of a development of this scale and number of dwellings and will contrast the proposal with the existing open condition of the appeal site.
- 3.4 The proposal for up to 45 dwellings includes the following housing tenures:
- 18 affordable units (40%); and
 - 23 market units (51%); and
 - 4 plots for market custom self-build (8.9%).
- 3.5 The mix and property sizes would be determined at reserved matters stage.

Planning History

- 3.6 The appeal site has no relevant planning history.
- 3.7 Planning permission was granted at appeal¹ for the erection of 100 dwellings on a Green Belt site on the edge of Colney Heath Bullens Green that straddles the boundary with Welwyn Hatfield District Council, we will describe that appeal site and contrast it with the appeal site.
- 3.8 Most recently (i.e. in January 2024) an appeal decision of Inspector Hayden at Tollgate Road Colney Heath was issued². It dismissed an application for up to 150 dwellings on a site adjacent to the boundary of Colney Heath. We will describe that appeal site and decision which is attached at **Appendix 2**.

¹ APP/B1930/W/20/3265925 and APP/C1950/W/20/3265926

² APP/B1930/W/23/3323099

4 Planning Policy

- 4.1 The development plan comprises the St Albans District Local Plan 1994 (SADLP).
- 4.2 The following saved policies of the SADLP are relevant to consideration of the application the subject of this appeal.

POLICY 1 - Metropolitan Green Belt
POLICY 2 - Settlement Strategy
POLICY 8 - Affordable Housing in the Metropolitan Green Belt
POLICY 34 - Highways Considerations in Development Control
POLICY 35 - Highways Improvements in Association with Development
Policy 36a - Location of New development in relation to Public Transport Network
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 104 - Landscape Conservation
POLICY 106 - Nature Conservation
POLICY 111 – Archaeological Sites
POLICY 143a - Watling Chase Community Forest
POLICY 143b - Implementation

- 4.3 In the Roestock Depot appeal decision, the inspector concluded in respect of Policies 1 and 2:

“Policies 1 and 2 of the LP restrict development in the Green Belt other than for specified purposes. This general approach to Green Belt protection is consistent with that of the National Planning Policy Framework (the Framework) but I note that greater scope for exceptions are set out at paragraph 89 of the Framework and this is an important material consideration.”

- 4.4 In her decision at Bullens Green the Inspector concluded in respect of Policy 1 inter alia:

“[...] 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.”

- 4.5 Inspector Hayden found at DL154:

“I have established above that saved Policy 1 is consistent with the Framework”

4.6 Policies 1, 2, 69, 86 and 143b are most important policies.

4.7 SADC has adopted relevant supplementary planning documents including:

- Revised Parking Policies and Standards, January 2002
- Design Advice Leaflet No. 1: Design and Layout of New Housing, November 1998
- Affordable Housing March 2004

National Planning Policy Framework

4.8 The Framework was revised in December 2023 and sets out the Government's economic, environmental and social planning policies for England. These policies articulate the Government's vision of sustainable development, which should be interpreted and applied locally to meet local aspirations. In terms of the most relevant sections for this appeal, Section 9 promotes Sustainable Transport and Section 13 relates to Protection of the Green Belt. Section 2 includes the presumption in favour of Sustainable Development. Section 5 relates to the delivery of a sufficient supply of homes. Section 12 relates to achieving well-designed places, Section 15 relates to conserving and enhancing the Natural Environment and Section 16 relates to conserving and enhancing the Historic Environment.

4.9 Paragraph 11 sets out the approach to the presumption in favour of sustainable development. Paragraph 11d advises that the presumption means, for decision-making:

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

- the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed⁷; or*
- 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.”*

4.10 The NPPF has been revised and in the circumstances of SADC where a plan has reached regulation 18 stage with a policy map accompanying it the Council is tasked with demonstrating a four year supply of deliverable land. It is common ground that the Council cannot demonstrate a four-year supply of deliverable housing land and also via its HDT results the policies of the local plan are out of date.

4.11 Footnote 8 states that in the situation where a Local Planning Authority is unable to demonstrate a five-year supply of deliverable housing land and/ or the HDT results are below 75% then the policies which are most important for determining the application are deemed to be out of date.

4.12 Paragraph 11(d)(i) and Footnote 7 provides (so far as relevant) that the tilted balance is disengaged in circumstances policies of the Framework protect assets of importance and provide a clear reason for refusing permission. Footnote 7 clarifies that:

“The policies referred to are those in this Framework (rather than those in development plans) relating to: [...] land designated as Green Belt [...]; designated heritage assets (and other heritage assets of archaeological interest referred to in footnote 72); [...]”

4.13 As such, when considering planning decisions relating to land in the Green Belt it is necessary to determine whether the application of the Green Belt policies and/or the Heritage policies in the Framework provide a clear reason for refusal under paragraph 11(d)(i). If they do, the tilted balance in paragraph 11(d)(ii) of the Framework is disengaged.

4.14 Paragraph 154 of the Framework provides that “the construction of new buildings” is “inappropriate development” in the Green Belt, unless one of the stated exceptions applies. The proposal for up to 45 dwellings and access roads and other development to facilitate the proposed housing comprise inappropriate development. The development does not fall within any of the exceptions.

4.15 The Framework advises that inappropriate development is, by definition, harmful to the Green Belt should not be approved except in very special circumstances (paragraph 152). Paragraph 153 states:

“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 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.”

4.16 It is common ground that less than substantial harm arises to the setting of listed buildings. In those circumstances NPPF para. 208 requires a decision maker to weigh any harm to a designated heritage asset against the public benefits of the proposal.

4.17 Great weight is to be given to the conservation of heritage assets (205).

4.18 In the circumstances of this case the Council will acknowledge that the public benefits of granting planning permission outweigh the heritage harm and as such the heritage harm does not disengage the tilted balance.

4.19 The appeal site comprises land outside any designated settlement and thus comprises part of the countryside. Although not a “footnote 7 policy”, paragraph 180(b) of the Framework directs that decisions on planning applications should contribute to and enhance the natural and local environment by:

“recognising the intrinsic character and beauty of the countryside ...”

- 4.20 The *Cawrey*³ judgment accepts that the recognition of the intrinsic character and beauty and character of the countryside necessarily imparts a degree of protection to those matters.
- 4.21 Furthermore Paragraph 180(b) also requires the wider benefits including the economic and other benefits of the best and most versatile land (BMV) to be recognised.
- 4.22 The Framework seeks to achieve well designed places and as set out at paragraph 135(f) seeks to provide high standards of amenity for existing and future users and being sympathetic to context including landscape setting (135(c)).
- 4.23 Paragraph 175 requires major development to incorporate sustainable urban drainage systems. Section 15 requires the protection and enhancement of biodiversity (185 - 186).

The Emerging St Albans Local Plan

- 4.24 The Regulation 22 Submission version of the St Albans Local Plan was submitted in March 2019. The Examining Inspectors expressed concerns that the duty to co-operate had not been satisfied and the Council withdrew the plan.
- 4.25 However, it is material to note that the Green Belt boundary in the area of the appeal site was not proposed to be amended and thus the appeal site was proposed to be retained within the Green Belt (in accordance with the principles of permanence).
- 4.26 The appeal site was promoted as part of a larger site (CH-14-21) through the Call for Sites 2021. The Housing and Economic Land Availability Assessment (HELAA) was undertaken without reference to the Green Belt Review which could change the suitability of sites. It found the appeal site to be subject to a number of non-absolute constraints including Green Belt, Local Wildlife Status, Landscape Character Areas and habitat concerns. The HELAA concluded that the site was potentially suitable, available and achievable subject to further assessment as part of the site selection process.
- 4.27 Furthermore, pursuant to the 2013 Green Belt Assessment, which comprised part of the evidence base for the now withdrawn draft Local Plan, no changes were proposed to the Green Belt boundaries around Colney Heath or the washed over status of the Green Belt settlements (such as Colney Heath). The appeal site was not identified as either a strategic site or a smaller scale site in the Green Belt Assessment. The Examining Inspectors described the Green Belt process as follows in a letter in April 2020⁴ at para. 31:

³ i.e. paragraph 49 of *Cawrey Ltd and SoSCLG and Hinkley and Bosworth BC* [2016] EWHC 1198 (Admin)

⁴ See Examining Inspector's Post Hearing Letter of 14 April 2020

“The Green Belt Review Purposes Assessment (November 2013) was prepared jointly for the Council with Dacorum and Welwyn Hatfield Councils by SKM (GB004). This Stage 1 of the review identified large parcels of land across the three authorities. Those areas contributing least to the Green Belt were determined and a number of strategic sub areas in St Albans were identified for further investigation. These were taken forward to Stage 2 where SKM undertook a review and detailed assessment of those strategic sub areas in the Green Belt Review Sites and Boundaries Study (February 2014) (GB001).”

4.28 In that letter the Inspectors raised concern that the GB Review process excluded consideration of sites of less than 500 dwellings (see paragraph 37) and that the capacity from smaller sites could be greater than estimated having regard to the smaller scale sites identified in the 2013 review not being an exhaustive list. The GB Review did not take forward the small scale sub areas assessed in 2013 *as making no or little contribution to the Green Belt purposes.*

4.29 The appeal site is not located in a sub area that was assessed in 2013 as making little or no contribution to the Green Belt purposes and in fact was considered to make a significant contribution toward safeguarding the countryside from encroachment (therefore parcel 34 was not considered to perform poorly against the purposes or warrant subdivision).

4.30 The Examining Inspectors’ concern is encapsulated at paragraph 41 wherein they state the following about the Council’s focus on strategic sites:

“This has ruled out a number of sites that have already been found to impact least on the purposes of the Green Belt. It may well also have ruled out other nonstrategic sites with limited significant impacts on the Green Belt which may have arisen from a finer grained Green Belt Review.”

4.31 SADC commenced work on preparing a new draft Local Plan for the period to 2041. As part of the evidence base for the new Local Plan a revised Part 2 Green Belt Review was commissioned to assess a range of sites (both large and small) for release from the Green Belt.

4.32 The Council has published the Regulation 18 First Draft Local Plan, the LDS sets a timetable for publication and adoption. The Regulation 18 Plan identifies the sites for release from the Green Belt and to be allocated for housing. The appeal site does not comprise a site identified in the emerging plan as an allocation site for housing.

4.33 The Council considers that little weight can be placed on this emerging plan which is at an early stage of preparation for the purposes of this appeal.

5 The Council's Case

- 5.1 The Council will present evidence under the broad topic headings that are covered in the reasons for refusal, namely:
- a. Green Belt;
 - b. Character and Countryside;
 - c. Heritage Assets;
 - d. Best and Most Versatile Land;
 - e. Infrastructure;
- 5.2 We will also address the location of the site and although not a component of the reason for refusal we will address whether such matters are a benefit or disadvantage of the proposed scheme.
- 5.3 It is understood that it is common ground that the proposal comprises inappropriate development in the Green Belt. In that context the Council will consider what other harm arises to the Green Belt as well as considering harm to the character and appearance of the area, harm to the countryside and harm to designated heritage assets and the loss of best and most versatile land.
- 5.4 We will also will briefly address matters of biodiversity, archaeology, location and access and infrastructure before considering whether any other considerations raised by the Appellant clearly outweigh the harm by way of inappropriateness and any other harm such that very special circumstances exist.

Green Belt – Inappropriate Development

- 5.5 Consistent with the Framework (paragraph 154), Policy 1 SADLP does not define development of up to 150 residential dwellings, access roads etc. as an exception from the definition of inappropriate development.
- 5.6 The erection of buildings is normally inappropriate development unless it meets an exception identified in NPPF paragraph 154. The Council will show that the proposed development does not comprise one of those exceptions.
- 5.7 Harm by way of inappropriateness and any other Green Belt harm is harm that is attributed substantial weight.
- 5.8 Inappropriate development should not be approved except in very special circumstances. "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.

- 5.9 The application of NPPF paragraph 152 provides a clear reason to refuse planning permission under NPPF 11(d)(i), and it would only ever be through the exercise of the Green Belt planning balance in NPPF para. 153 wherein other considerations are demonstrated to clearly outweigh the harm by way of inappropriateness and any other harm that permission could be granted.

Green Belt - Openness

- 5.10 The Framework (para. 142) identifies openness and permanence as the essential characteristics of the Green Belt with the fundamental aim of Green Belt policy to keep land permanently open and thereby prevent urban sprawl.
- 5.11 The concept of openness means the state of being free from built development; the absence of built form as opposed to the absence of visual impact⁵. However, the word “openness” is open-textured and a number of factors are capable of being relevant when it comes to applying it to the particular facts of a specific case. Prominent among these will be factors relevant to how built up the Green Belt is now and how built up it would be if the proposed development occurs and factors relevant to the visual impact on the aspect of openness which the Green Belt presents⁶.
- 5.12 The Government updated the PPG in July 2019 (Para 001; ID 64-001-20190722) in respect of openness and it now 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.”*

- 5.13 In **Samuel Smith**,⁷ the Supreme Court found that the visual component of openness is capable of being a material consideration, but it is not necessarily a consideration in every case.
- 5.14 With this in mind the Council will describe the lawful baseline for the site. The appeal site comprises an area of open land with no development present that is used as arable farmland in conjunction with neighbouring fields.

⁵ **R (Lee Valley RPA) v Epping Forest DC** [2016] EWCA Civ 404, Treacy, Underhill, Lindblom LJ, para. 7

⁶ **Turner v SSCLG** [2016] EWCA Civ 466, Arden, Floyd and Sales LJ CD12.03

⁷ **R (Samuel Smith Old Brewery (Tadcaster) & Ors v N. Yorks CC** [2020] UKSC 3 CD12.02

- 5.15 The Council will identify the area of built development at the appeal site and show it is limited to the house fronting High Street and a limited number of single storey building and containers close to the north west boundary. We will also show that the site is located in a wider area of open countryside and attractive landscape.
- 5.16 The Council will show that the appeal site is open in both a spatial and visual sense.
- 5.17 Overall, the Council will demonstrate that having regard to the baseline the proposal would lead to a substantial and permanent loss of openness in both a spatial and visual context.
- 5.18 The Council will demonstrate that in addition to the substantial increase in permanent development as proposed the scheme will significantly reduce the visual perception of openness of the site and this part of the Green Belt as well as leading to significant degrees of activity across the site and impact from light and noise.

Green Belt - Purposes

- 5.19 The purposes of the Green Belt are set out in NPPF at paragraph 134:
- 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.”*
- 5.20 The Council, together with Welwyn Hatfield District Council and Dacorum Borough Council, commissioned SKM Consultants to carry out an independent Green Belt Review to inform future plan-making. The Green Belt Review Purposes Assessment (November 2013) sets out findings and identifies that a number of the areas reviewed were considered to contribute least toward the purposes of including land in the Green Belt.
- 5.21 The appeal site falls within parcel 34 which was not one of the areas that performed poorly in the review. In that context Green Belt releases and allocation of land for housing are unlikely to be identified in Parcel 34.
- 5.22 Parcel 34 “comprises the broad and shallow basin of the meandering upper River Colne”. Parcel 34 has not been subdivided, unlike some other parcels where sub areas of those parcels perform differently against the purposes. The assessment also identifies the strong and open characteristics of the land.
- 5.23 With respect to encroachment and safeguarding the countryside the Assessment grades the contribution of the parcel as significant and comments:

“The parcel displays typical rural and countryside characteristics, especially to the south, in medium sized arable fields with hedgerow boundaries, sheep pasture and substantial riverine wetland habitats along the Colne, and areas of heath and semi natural grassland which are locally important at Colney Heath. Tyttenhanger Park and Hall is located to the south. There is evidence of linear built development in the north part of the parcel which contains Colney Heath and Bullens Green. The A1(M) is also a major urban influence which is audibly intrusive. Levels of openness are generally high especially to the south due to an absence of built development.”

- 5.24 The parcel is also considered to contribute significantly to the maintenance of existing settlement patterns in particular with regard to the separation of St Albans with Hatfield as well as smaller settlements such as Colney Heath and Roestock. In this context encroachment into the countryside has the potential to erode existing settlement patterns.
- 5.25 The proposed development will lead to the erosion of open space between St Albans and Hatfield such that it will reduce the open space in the gap between these settlements. However, the development itself will not lead to urban sprawl of any large built up areas (rather the sprawl that will ensue is to the village of Colney Heath) and thus would not conflict with the first purpose at para. 138(a) NPPF.
- 5.26 Having regard to the Assessment, the wider area within which the appeal site is located (i.e. parcel 34 as identified in the Assessment) performs a valuable role in containing the Green Belt settlements of Colney Heath, Sleapshyde and Tyttenhanger Park and preventing towns such as St Albans, London Colney and Hatfield and Welham Green merging. The proposals will erode the degree of separate identity of the component parts of Colney Heath village. However, this harm is predominately to the character of the area and the development of the site itself does not lead to the merging of neighbouring towns, albeit parcel 34 contributes positively to this purpose. Therefore, the proposal itself would not conflict with para. 138(b) NPPF.
- 5.27 The Council will show that the proposals will encroach into that countryside with a residential estate development of up to 45 dwellings and incidental development such as access roads etc. The degree of encroachment both in terms of the spread of development and the quantum of development is substantial and leads to substantial harm. We will show that the site characteristics (i.e. a narrow rectangular site that protrudes from the ribbon of houses that comprise the extent of the existing village alongside the north of the High Street and is visible from a range of public views) exacerbate and do not ameliorate the harm to this purpose.
- 5.28 Like the Tollgate Road appeal site the Council will show that the appeal site comprises part of the open countryside outside the settlement and is not contained by Colney Heath⁸.

⁸ See DL30 at Appendix 2

- 5.29 Thus the Council will show that similar conclusions to Inspector Hayden should be reached who found in respect of that site⁹:

“is clearly visible from a range of public vantage points within and around Colney Heath and that it forms part of a swathe of open land along the River Colne, which is visually connected to the wider countryside beyond to the southeast and northwest. On this basis, I consider that the appeal site, in its current form, makes a strong contribution to the purpose of the Green Belt in safeguarding the countryside from encroachment in this part of the District.”

- 5.30 He then concluded that¹⁰:

“the appeal proposal would constitute a substantial incursion of urban development into the open countryside to the south of Colney Heath, extending the settlement well beyond the existing ribbon of housing on Tollgate Road. This would cause substantial harm to the key purpose of the Green Belt in this location in safeguarding the countryside from encroachment.”

- 5.31 For similar reasons articulated above the Council will invite the Inspector to conclude that the appeal site makes a strong contribution toward safeguarding the countryside from encroachment. There is therefore conflict with paragraph 138(c) NPPF and the harm by way of encroachment is substantial and carries substantial weight against the proposed development.

Other Harm – Countryside, Landscape and Character Harm

- 5.32 The development will be noticeable and result in the introduction of development on a greenfield site. The site is located within views that exhibit elements of the existing settlement edge that sits locally but will extend from the existing ‘ribbon’ of development that sits along High Street and appear as a distinct component, with fields remaining to the northeast, east and southeast. The proposed site layout is contrary to the current pattern of development that follows the north or eastern side of High Street.
- 5.33 The site is located with views that exhibit elements of the existing settlement edge that sits to the north, but these do not overwhelm the current tranquillity that is felt within the site. The landscape evidence will acknowledge that the landscape and visual impacts that occur would be in the context of an existing site that is influenced by some built form that comprises a ribbon of houses located alongside the south west boundary and appreciated locally, but the proposals will be visible in local views and will affect the current baseline adversely as they would be visually intrusive.

⁹ DL27 – DL32

¹⁰ DL31

- 5.34 The visual aspect of openness as it relates to the Green Belt is not measured in the same way as would be the case with a visual assessment. That change is visible and proof of harm in terms of openness. Consequently, if the proposals are visually intrusive they will affect openness regardless of residual visual effects. That the site is currently seen in the context of the settlement edge is irrelevant, it will appear to extend the settlement to the north east.
- 5.35 The proposed development would harm and not improve or conserve the local landscape character in accordance with the guidelines for landscape change in the Colney Heath Farmland Landscape Character Area.
- 5.36 The proposals will not recognise the intrinsic character and beauty of the countryside.
- 5.37 Recognition of the intrinsic character and beauty of the countryside necessarily imparts a degree of protection (after *Cawrey*) and the development of an estate of 45 dwellings would fail to recognise the character and beauty of the appeal site and wider countryside of which it forms part.
- 5.38 This failure to respect context, deliver high quality design and have proper regard to setting and the character of the area together with the loss of existing attractive arable landscape would also conflict with Policies 2 and 69 of the St Albans District Local Plan Review. Furthermore, it would not support the objectives of the Watling Chase Community Forest consistent with Policies 143A.
- 5.39 The proposal would not make a positive contribution to local character and the identified harm would lead to conflict with 135 b), 135 c), 139 as well as 180(b) of the Framework. Furthermore, in the context of character the harm to the setting of the heritage assets would conflict with 203 c) of the Framework albeit the public benefits would outweigh that harm pursuant to NPPF 208.
- 5.40 Overall, in terms of the harm to the character and appearance occasioned by the development of the site for 45 dwellings the degree of harm would be permanent, substantial and irreversible and attracts moderate weight in the planning balance.

Other Harm - Setting of the Designated Heritage Assets

- 5.41 Whilst there are no designated or non-designated heritage assets within the site boundary, within 1km of the site there are 20 designated heritage assets including: 19 Grade II listed buildings and 1 Conservation Area. There are 3 Grade II listed buildings located close to the appeal site comprising 94 High Street, Apsley Cottage and The Crooked Billet Public House; which all lie immediately to the south of the development site.
- 5.42 One designated heritage asset is located just 10 metres from the appeal site boundary and another 25 metres away, the Appeal Site forms an important part of the setting of all three assets. Which are all Grade II listed buildings.

- 5.43 The NPPF advises that any harm to the significance of assets including harm within their setting will require clear and convincing justification.
- 5.44 Review of the documentation presented as part of the application suggests that there is harm to the significance of the assets through impact on their setting. The harm is judged to be a low level of less than substantial, when considered with regard to paragraph 208 of the NPPF.
- 5.45 The proposals conflict with development plan policy insofar as it would fail to preserve the setting of designated heritage assets, i.e. listed buildings. The public benefits of providing more housing in the circumstances of the Council's housing land supply position together with 40% affordable housing set against the development plan requirements outweigh the harm to the significance of these heritage assets.
- 5.46 The permanent damage that would occur to the significance of these assets through harm to their setting is a matter that weighs against the grant of planning permission in the planning balance by constituting an "other harm" under NPPF para 153. In the circumstances of this case and the Green Belt balance great weight applies to the failure to preserve the significance of the designated heritage assets.

Other Harm – Best and Most Versatile land

- 5.47 The appeal site comprises agricultural land in active arable use.
- 5.48 The Agricultural Land Classification report submitted with the application the subject of this appeal identifies the site as being Grade 2, which falls within the SADC Local Plan Policy 102 definition of 'high quality agricultural land' and NPPF definition of 'Best and most versatile agricultural land' (BMV).
- 5.49 The Council will show that this is a matter that weighs against the grant of planning permission and the loss of BMV needs to be justified.

Sustainable Transport

- 5.50 The Appellant considers the appeal site to be a sustainable and accessible location for new housing¹¹. The appeal site is located beyond the eastern periphery of Colney Heath, a dispersed village with few facilities. The village is an amalgamation of a string of settlement comprising Colney Heath village, Roestock and Bullens Green.
- 5.51 Subject to securing necessary footpath and bellmouth improvements detailed in the Transport Statement and the Highways Technical Note the Council does not object to the proposals on the basis of access for pedestrians to the facilities in the village.

¹¹ See for example 3.13, 4.8, 4.9, 6.3, 6.7, 6.8(vi) etc. of the Statement of Case

- 5.52 However, the village relies on surrounding settlements to provide for the day to day facilities such as secondary and tertiary education, employment, libraries, restaurants, supermarkets, banks, doctors surgeries, dentists, railway stations etc..
- 5.53 The Council will describe the location of facilities to meet the needs of future residents if the appeal site were permitted and how access to those facilities can be achieved.
- 5.54 In particular, the Council will describe the suitability and attractiveness of cycle routes to facilities outside the settlement and the availability and frequency of public transport from the appeal site.
- 5.55 With regard to public transport the Council will make reference to Inspector Hayden’s conclusions and the financial contributions considered necessary to fund improvements to bus services that serve Colney Heath to make additional residential development accessible by public transport¹².
- 5.56 With regard to cycling the route from the appeal site to the Samuel Ryder Academy would include cycling along an unlit narrow country lane and crossing a buy trunk road that Inspector Hayden concluded was unsafe and unsuitable for cycling to and from school¹³:
- 5.57 Welham Green is the closest railway station (it is 4.7 kilometres (2.8 miles) from the appeal site – 2 kilometres (1.2 miles) closer to the appeal site than St Albans City Station and 3.5 kilometres (2.2 miles) closer than St Albans Abbey Station). In respect of cycle access Inspector Hayden concluded that it was not a genuine modal choice for most residents¹⁴:
- 5.58 The Council will not suggest that the sustainability of the site’s location is a reason for refusal, but will show that, conversely, the location of the site is not a matter that weighs in favour of the grant of planning permission and that future residents will be dependent on cars for access to day to day facilities.

12 DL70 - 76

13 DL79 and DL82

14 DL85

Conclusion on Harm

- 5.59 The proposal comprises inappropriate development that attracts substantial adverse weight. The proposal would lead to a loss of openness in both a visual and spatial sense. The encroachment of development would not safeguard the countryside and as such the proposal conflicts with the purposes of including land in the Green Belt.
- 5.60 As to any other harm that is “non-Green Belt” harm, the proposals would not recognise and harm the intrinsic character and beauty of the countryside and harm landscape character. In that respect it would not respect the landscape strategy as it does not comprise high quality design having regard to context as well as failing to improve (enhance) or conserve landscape character.
- 5.61 Overall, in terms of the harm to the character and appearance occasioned by the development of the site for 45 dwellings the harm would be permanent, substantial and irreversible, which is an adverse factor weighing against the proposal.
- 5.62 The less than substantial harm to designated heritage assets carries great weight and the loss of BMV carries additional weight against the grant of permission. The failure to demonstrate sustainable transport links to day to day facilities in neighbouring settlements means the location of the proposed development will mean it is car dependent and thus is not a benefit of the scheme.

Other issues

- 5.63 The failure to provide a satisfactory mechanism to deliver necessary infrastructure to service the proposed development, and also secure the proposed affordable housing, was an issue at the application stage.
- 5.64 However, it is anticipated that a section 106 obligation can address the provision of necessary infrastructure, the securing of affordable housing, and the provision of biodiversity enhancements.

6 The Appellant's "Other Considerations" under NPPF para. 148

- 6.1 The Council will assess the other considerations relied on by the Appellant and consider whether they are capable of clearly outweighing the harm identified. We will comment on whether certain matters relied on by the Appellant comprise benefits of this scheme.
- 6.2 The Appellant relies on a number of factors which can be summarised as:
- The provision of housing in an area of housing need
 - Affordable Housing provision
 - Provision of self-build plots
 - Delivering and securing an access road
 - Delivering 10% BNG
 - Economic benefits
- 6.3 The Council will analyse each matter and attribute weight recognising the housing need position in St Albans and the need for affordable housing.
- 6.4 It is common ground that the provision of market and affordable housing carry very substantial weight in the planning balance.

7 Planning Balance

- 7.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 provides that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.
- 7.2 By reason of the local plan policy conflict identified above, the proposed development does not accord with the development plan taken as a whole.
- 7.3 The Framework is a material consideration in the determination of these appeals. Under paragraph 11(d), the policies most important for the determination of the appeals are deemed to be out of date by reason of the HDT results and housing land supply shortfall: see footnote 8. This requires the decision-maker to consider whether the application of policies in the Framework provide a clear reason for refusing the proposal. One of the key sets of policies in the Framework are the policies protecting Green Belt land, and another is the protection of designated heritage assets.¹⁵
- 7.4 The proposed development constitutes “inappropriate development” in the Green Belt. This is, by definition, harmful, and should not be approved except in “very special circumstances”. Substantial weight must be given to any harm to the Green Belt. Very special circumstances will not exist unless the harm to the Green Belt by reason of inappropriateness, and any other harm, is “clearly outweighed” by other considerations.
- 7.5 The other Green Belt harm by loss of openness and harm to the purposes of the Green Belt leads to substantial harm and must carry substantial weight.
- 7.6 Added to this is “any other harm” arising from the other matters considered above.
- 7.7 The Council carry out its Green Belt balancing exercise assuming that a satisfactory obligation is presented to the appeal.
- 7.8 The weight of factors against the grant of permission present a high hurdle for the Appellant to demonstrate that these harms, taken together, are “clearly outweighed” by other considerations such that “very special circumstances” exist. This high bar is illustrated in an appeal decision in St Albans¹⁶ wherein the Inspector notes:

*“The determination of whether very special circumstances exist is a matter of planning judgement based on a consideration of all relevant matters. However, very special circumstances cannot exist unless the harm to the Green Belt, and any other harm, is clearly outweighed by other considerations. Consequently, for the appeal to succeed, the overall balance would have to favour the appellants case, not just marginally, but **decisively.**”* Emphasis added

¹⁵ i.e. section 13 and footnote 7 of the National Planning Policy Framework 2023

¹⁶ APP/ B1930/W/19/3235642 at Burstons Garden Centre

- 7.9 Overall, notwithstanding the benefits of the scheme taken together, the Council will show that they do not “clearly outweigh” the harms and demonstrate “very special circumstances” to justify inappropriate development in the Green Belt for the purposes of paragraph 153 of the Framework.
- 7.10 As such, the application of the Green Belt policy provides a “clear reason for refusing” the development proposal under NPPF paragraph 11(d)(i). Thus the presumption in favour (the so called “tilted balance”) is disengaged.
- 7.11 The proposed development conflicts with the most important development plan policies, and as such conflicts with the development plan taken as a whole. In addition, the policies of the Framework provide clear reasons to refuse permission, and material considerations would not justify the grant of permission.
- 7.12 Therefore, the Council will invite the Inspector to dismiss the appeal.

1

REGISTERED NUMBER:	5/2022/0599
APPLICANT:	Tarmac Ltd
PROPOSAL:	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
SITE:	Land To Rear Of 96 To 106 High Street, Colney Heath, Hertfordshire
APPLICATION VALID DATE:	08/03/2022
HISTORIC BUILDING GRADE:	N/A
CONSERVATION AREA:	N/A
DISTRICT PLAN REVIEW:	Metropolitan Green Belt
WARD:	Colney Heath

RECOMMENDATION	REFUSE PLANNING PERMISSION
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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 Sleapcross Gardens
- Serenity, Sleapshyde
- No's 1 Cherry Tree Cottage, 8, 22 and 29, Sleapshyde 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
- Kemps 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, Pondsie, 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 20th 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.

RECOMMENDATION: Refusal

Decision Code: R1

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

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

2



Appeal Decision

Inquiry held on 19-22 and 26-28 September 2023

Site visit made on 26 September 2023

by M Hayden BSc, Dip TP, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 January 2024

Appeal Ref: APP/B1930/W/23/3323099

Land to the rear of 42-100 Tollgate Road & 42 Tollgate Road, Colney Heath, St Albans AL4 0PY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Vistry Homes Limited against the decision of St Albans City & District Council.
 - The application Ref 5/2022/1988, dated 5 August 2022, was refused by notice dated 25 May 2023.
 - The development proposed is described as '*Outline application for the demolition of the existing house and stables and the erection of up to 150 dwellings, including affordable and custom-build properties, together with all ancillary works (all matters reserved except access)*'.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The planning application was made in outline with matters relating to layout, scale, appearance and landscaping reserved for subsequent approval. A Parameters Plan was submitted for determination, which, together with an Illustrative Masterplan, Concept Plan and Landscape Cross-Sections, indicates the broad extent of the proposed development, the storey height of dwellings, and the position of landscaping and surface water flood management infrastructure. I have taken these into account insofar as they have informed my assessment of the Green Belt, visual, landscape and heritage impacts of the appeal proposal.
3. Access is the only detailed matter fixed for determination as part of the appeal. The Proposed Access Layout plan¹ was revised during the application process to include pedestrian crossing facilities with tactile paving at the proposed junction². Although it was not referred to in the decision notice, the revised access plan was referenced in the Committee Report³, so I am satisfied that the relevant parties, including the Highway Authority, were consulted on it. I have determined the appeal on this basis.
4. A draft legal agreement under Section 106 of the 1990 Act was submitted by the Appellant, containing planning obligations for the provision of affordable housing, self-build and custom housebuilding plots, open space, sustainable transport improvements, biodiversity offsetting, and education, childcare, youth, library,

¹ Drawing no. JNY11289-RPS-0100-001 Rev B (CD5.26)

² As explained in RPS Technical Note JNY11289-06 (CD5.10)

³ Paragraph 6.15 of CD6.1

waste and health service contributions. The agreement was discussed at the Inquiry and amended to clarify the definition of the sustainable transport contribution. The signed and executed Deed was submitted after the close of the Inquiry, and I have had regard to it in determining the appeal, as set out in my decision below.

5. A revised National Planning Policy Framework (the Framework) was published in December 2023⁴, the policies of which are material considerations in determining appeals from the date of its publication. The main parties, including the Rule 6(6) party, were invited to submit comments on the implications for this appeal of the revisions to the Framework, which included a Statement of Common Ground (SoCG) between the Council and the Appellant. I have taken the SoCG, their responses and the revised Framework into account in reaching my decision. All references to the Framework below are to paragraph or footnote numbers in the December 2023 version.

The Appeal Site, Location and Surroundings

6. Colney Heath is a small, nucleated village, which is located between the larger settlements of St Albans to the northwest, Hatfield to the northeast, Welham Green to the southeast, and London Colney to the southwest. The village is composed of three triangular clusters of development, separated and surrounded by open countryside, comprising a mixture of fields and woodlands, and the valley and washlands of the River Colne.
7. The appeal site is located adjacent to the southernmost part of the village, at Roestock, and includes 42 Tollgate Road as well as land to the south of 42-100 Tollgate Road. The site consists primarily of open fields, used for grazing and exercising of horses, except for the dwelling and garden of no. 42 and a small equestrian facility in the northwest corner of the site. The fields slope gently down to a woodland belt along the River Colne, which forms the south western boundary of the site. The north western and south eastern boundaries of the appeal site are formed by post and wire fences with intermittent field hedgerows, beyond which are further fields and paddocks.

Development Plan Context

8. The relevant development plan policies in this case are contained in the Saved Policies of the City and District of St Albans Local Plan Review (1994) (the Local Plan). Saved Policy 1 of the Local Plan, which is agreed by the Council and the appellant to be the most important policy in this appeal, establishes that the whole of St Albans District lies within the Metropolitan Green Belt, except for towns and specified settlements listed in saved Policy 2 of the Local Plan. Colney Heath is not a town or specified settlement, but is classified in Policy 2 as a Green Belt Settlement, which are smaller villages located within or 'washed over' by the Green Belt. Therefore, notwithstanding the age of the Local Plan, it is common ground that the whole of the appeal site lies within the Metropolitan Green Belt⁵.
9. A new Local Plan to 2041 (the emerging Local Plan) is being prepared, which has undergone Regulation 18 public consultation. The emerging Local Plan proposes a number of changes to Green Belt boundaries in order to meet the future development needs of the District. Whilst these do not include any alterations to the Green Belt at Colney Heath, it is at an early stage in its preparation and has not yet been subject to Examination. Therefore, I attach limited weight to the

⁴ Published on 19 December 2023, and republished on 20 December 2023 to remove erroneous text

⁵ Paragraph 6.14 of the Statement of Common Ground between the Council & Appellant (CD8.3)

policies in the emerging Local Plan in the determination of this appeal. This is also a matter of common ground between the Council and appellant.

Main Issues

10. The decision notice comprises two reasons for refusal. The substantive issues in this case are contained within the first reason for refusal. The main parties agree that the appeal proposal comprises inappropriate development in the Green Belt⁶. Paragraph 152 of the Framework establishes that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 153 of the Framework goes on to state 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.
11. One of the changes to national policy in the December 2023 Framework, concerns the requirement to demonstrate a supply of deliverable housing sites. Due to the fact that the emerging Local Plan has reached the Regulation 18 stage, the Council is now required to identify a 4-year supply of deliverable housing sites against the housing requirement for St Albans, rather than a 5-year supply as previously.
12. However, it remains common ground between the main parties that the Council is unable to demonstrate a 4-year supply⁷. In such circumstances, the tilted balance under paragraph 11(d)(ii) of the Framework would normally apply⁸. However, the Courts⁹ have established that where, as in this case, Green Belt policy requires all relevant planning considerations to be weighed in the balance, the outcome of that assessment determines whether planning permission should be granted or refused, so there is no justification for applying limb (ii) in addition to limb (i) of paragraph 11(d) of the Framework.
13. Therefore, the determination of this appeal hinges on whether or not 'very special circumstances' exist. Saved Policy 1 of the Local Plan is consistent with the Framework in respect of the 'very special circumstances' test and, therefore, carries weight in this appeal¹⁰. The Council and appellant agree that, whether or not 'very special circumstances' exist to justify the proposed development will determine the consistency of the appeal proposal with saved Policy 1, and, thereby, as the most important policy, with the development plan as a whole. I return to this towards the end of my decision below.
14. In view of the above, and having regard to everything I have read, heard and seen in this case, the main issues in this appeal are:
 - The effect of the proposed development on the openness and purposes of the Green Belt;
 - The effect of the appeal proposal on the landscape character and appearance of the area;
 - The effect of the proposed development on the setting and significance of nearby heritage assets, including the Grade I listed North Mymms Park

⁶ Paragraph 6.16 of CD8.3

⁷ Page 5 of the SoCG on the Implications of the Revised Framework for the Appeal, January 2024

⁸ By reason of footnote 8 of the Framework

⁹ Paragraph 39(12) of *Monkhill Ltd v SSHCLG & Waverley BC* [2019] EWHC 1993 (Admin)

¹⁰ Under paragraph 225 of the Framework

House, Grade II listed Colney Heath Farmhouse and adjacent Grade II listed barn, and the non-designated heritage assets of North Mymms Park and Tollgate Farm;

- Whether the site's location is or can be made sustainable in transport terms; and
 - Whether or not the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, including the provision of housing and any other benefits which the proposed development may bring, so as to amount to the very special circumstances necessary to justify the proposed development.
15. The second reason for refusal cited the absence of a completed and signed S106 agreement, at the time of the decision, to mitigate the effects of the proposed development on local services and infrastructure. However, the Council confirmed¹¹ that once the submitted S106 agreement had been signed, as is confirmed in the preliminary matters above, the second reason for refusal would fall away. I deal with the provisions of the S106 agreement as part of the 'Other Considerations' below.
16. The effects of the proposed development on traffic and highway safety, flood risk and drainage, air quality and the living conditions of neighbouring properties were also raised in representations by the Rule 6(6) party and other interested parties. Although these matters did not form part of the reasons for refusal, they were, nevertheless, discussed at the Inquiry, and I have addressed them below as part of the 'Other Matters'.

Reasons

Effect on Green Belt Openness

17. Paragraph 142 of the Framework establishes that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. Accordingly, openness is one of the essential characteristics of Green Belts which it is necessary to maintain. Whilst the main parties agree that the proposed development of up to 150 dwellings would reduce the openness of the Green Belt at Colney Heath, the extent of any harm to openness is disputed.
18. The Courts have identified a number of factors that may be taken into account in assessing the impact of a proposal on the openness of the Green Belt¹². These include that openness can comprise both spatial and visual aspects, and that the duration and remediability of the development, and the degree of activity likely to be generated, such as traffic movement, may also be relevant.
19. In terms of the spatial component of openness, the appeal site measures approximately 7.82 hectares (ha) in area, nearly all of which comprises open fields. Based on the Council's estimates¹³, the existing development in the north-west corner of the site, including the manège, stables, stores and hardstandings, and the curtilage of no. 42, occupies an area of around 3,000 square metres (sqm), amounting to just 3.8% of the appeal site area. It is clear, therefore, that the appeal site is currently almost entirely free of buildings and other development.
20. The Parameter Plan shows that the developable area of the appeal scheme, including the access, would be 4.06 ha, which amounts to approximately 52%

¹¹ At the Inquiry during the round table discussion on the S106 agreement on 28 September 2023

¹² PPG Paragraph: 001 Reference ID: 64-001-20190722

¹³ In paragraphs 5.23 and 5.24 of Phillip Hughes' proof of evidence (CD9.10)

of the site area. The change from open fields to urban development across more than half of the appeal site would have a significant impact on the spatial openness of the Green Belt in this location.

21. Turning to the visual component of openness, the appeal site can be seen from a number of locations on surrounding roads and public footpaths. The key viewpoints are identified in the Landscape and Visual Impact Assessment (LVIA), submitted with the application¹⁴. Photographs 7, 13, 14 and 16 in the LVIA show the site is visible from Tollgate Road to the southeast and northwest, from Coursers Road to the northwest, and from Public Footpath 33, which runs along the northwest boundary of the site.
22. From each of these locations, which I also visited, the appeal site is seen as part of a corridor of open fields and countryside, which runs along the River Colne, to the south and west of the houses along Tollgate Road. The Green Belt Review: Washed Over Villages Study¹⁵ records that the views from the southern boundary of Colney Heath along Tollgate Road have very strong connections to the wider landscape with open fields and woodland blocks in the background. I observed the same and that the appeal site forms part of the open landscape in these views. Although hedgerows and stable buildings line parts of the northwest and southeast boundaries, the openness of the appeal site can be seen above and beyond them and in the gaps between the field hedges. As such, in visual terms, the site makes an important contribution to the openness of the Green Belt in this location.
23. The appeal proposal would extend residential development across a substantial proportion of the site. Based on the dimensions of the developable area on the Parameter Plan, the proposed development would infill around three-quarters of the gap between the houses on Tollgate Road and the woodland along the River Colne on the south eastern boundary of the site¹⁶. On the north western boundary it would take up around half of the distance between the rear garden fences of the dwellings on Tollgate Road and the river¹⁷.
24. The appellant argues that the proposed development would be visually and physically contained by existing hedgerows and additional planting on the field boundaries. However, it is evident from the visualisations for viewpoints 7, 13 and 16¹⁸, that the dwellings would be clearly visible above the existing and proposed boundary landscaping, at years 1 and 15 post development, filling the open space currently afforded by the appeal site. Furthermore, any 'containment' or screening provided by the proposed landscaping at the edges of the appeal scheme would serve to reduce the visual openness of the site, rather than mitigate the effect of the development on the openness of the Green Belt.
25. The increased level of activity generated by up to 150 new homes would also affect the openness of the site as it is currently experienced. Traffic movement throughout the proposed development during the daytime, and light emitted by

¹⁴ Landscape and Visual Impact Assessment and Green Belt Assessment, June 2022 (CD4.10)

¹⁵ Page 11 of the Green Belt Review: Washed Over Villages Study, June 2023 (CD3.5)

¹⁶ The south eastern boundary of the appeal site measures around 320 metres (m) from the rear garden fence of 100 Tollgate Road to the River Colne; the developable area measures approximately 250 m along this boundary; 250 is 78% of 320.

¹⁷ The north western boundary of the site measures approximately 100 m from the rear garden boundary of 42 Tollgate Road to the River Colne; the developable area would extend around 50 m from the rear of no. 42, which is half of 100 m.

¹⁸ Photosheets (CSA3925121 Rev E), April 2023 (CD5.25)

dwelling and street lights at nighttime, would visually disrupt what is presently an open site with a minimal level of movement and activity associated with the stables and the dwelling at no. 42. The loss of openness on the site would also be permanent and not remediable.

26. Overall, the loss of openness on the appeal site due to the permanent change from fields used for horses to a housing estate of up to 150 dwellings, which would be built across more than half of the site and be clearly visible from surrounding roads and footpaths, intruding into the corridor of open land between Colney Heath and the River Colne, would be substantial. The resulting harm to the openness of the Green Belt in this location would, therefore, be substantial.

Effect on Green Belt Purposes

27. Paragraph 143 of the Framework establishes that the Green Belt serves five purposes. In this case, it is common ground between the Council and the appellant that the proposed development would not assist in safeguarding the countryside from encroachment¹⁹. As such it would conflict with one of the five purposes of the Green Belt as defined in paragraph 143(c) the Framework, albeit the degree of harm to this purpose is disputed.
28. The appellant's evidence concludes that the appeal site makes a relatively weak contribution to this Green Belt purpose, on the basis that they consider the site to be well screened to views from the wider area by the intervening settlement and the vegetation along the river corridor²⁰. However, from my own observations and the photographic evidence in the LVIA referenced above, I have found that the appeal site is clearly visible from a range of public vantage points within and around Colney Heath and that it forms part of a swathe of open land along the River Colne, which is visually connected to the wider countryside beyond to the southeast and northwest. On this basis, I consider that the appeal site, in its current form, makes a strong contribution to the purpose of the Green Belt in safeguarding the countryside from encroachment in this part of the District.
29. The appellant seeks to draw a parallel here with the appeal decisions for the Roundhouse Farm site, off Bullens Green Lane, in Colney Heath²¹. In that case the Inspector concluded that the proposed development would have only a localised effect on the Green Belt, that the broad function and purpose of the Green Belt would remain and that there would be no significant encroachment into the countryside. However, the decision makes clear that this was a result of the locational characteristics of the site, contained on three sides by residential development and separated from the countryside to the south and east.
30. Although the appeal site in this case forms part of the same wider tranche of Green Belt identified and assessed in the 2013 Green Belt Review²², it is distinct from the Roundhouse Farm site, in that it forms part of the open countryside outside of the settlement, rather than being contained by it. Therefore, I do not accept that the Inspector's findings on the impacts of the proposal for the Roundhouse Farm site on the purposes of the Green Belt should be applied in this appeal. Furthermore, no two cases are the same, and it is a core principle of the planning system that each proposal is considered on its own merits.

¹⁹ Paragraph 6.18 of the Core SoCG (CD8.3)

²⁰ Paragraphs 5.46-5.48 of Clive Self's PoE (CD9.5) and paragraphs 6.23-6.25 of the LVIA (CD4.10)

²¹ Paragraphs 24-26 of appeal decisions APP/B1930/W/20/3265925 and APP/C1950/W/20/3265926

²² Parcel 34 in the Green Belt Review Purposes Assessment, Final Report, November 2013 (CD12.3)

31. In this case, the appeal proposal would constitute a substantial incursion of urban development into the open countryside to the south of Colney Heath, extending the settlement well beyond the existing ribbon of housing on Tollgate Road. This would cause substantial harm to the key purpose of the Green Belt in this location in safeguarding the countryside from encroachment.
32. Paragraph 153 of the Framework establishes that substantial weight should be given to any harm to the Green Belt. Accordingly, the harm to the openness and purposes of the Green Belt, in addition to the harm by reason of inappropriateness, carry substantial weight against the appeal proposal.

Effect on Landscape Character and Appearance

33. The appeal site consists primarily of fields of open pasture land, which slope gently down to a woodland belt along the River Colne on its south western boundary. Although the site has a settlement edge context on its north eastern side from the backs of the houses and gardens along Tollgate Road, its predominant character is rural. It forms part of a corridor of open countryside along the River Colne, which includes Colney Heath common to the northwest and the parkland landscape of North Mymms House to the southeast, and contributes to the attractive rural setting to Colney Heath on its south and west sides.
34. In terms of its defined landscape character type, the appeal site is located within the Colney Heath Farmland Landscape Character Area (LCA)²³. The key landscape characteristics of the site which reflect those of the LCA are: its medium-scale farmland features of remnant hedgerows and fields, which although not in arable use are nevertheless consistent with the medium-scale landscape of the LCA; the subtle, gently undulating landform of the fields towards the river; and the presence of urban development on one side of the site, which is filtered by the trees and hedgerows along the rear gardens of the houses on Tollgate Road.
35. The proposed development would result in the loss of much of the rural character of the site. Its open fields and gently undulating landform would be largely replaced by an urban landscape. Only the portion of land within the Colney Heath Farm Meadows Local Wildlife Site (LWS) adjacent to the River Colne would remain undeveloped. But even this would be mostly hidden from wider views along Tollgate Road by the proposed housing, and apparent only from within the development and on Public Footpath 33 where it crosses the river. As such the contribution of the site to the corridor of open countryside along the River Colne would be significantly diminished.
36. I acknowledge that the boundary trees and hedgerows would be retained and supplemented, such that over time, the hard urban edge of the proposed development would become softened and filtered by landscaping, in the same way as the existing settlement edges of Colney Heath. However, the photographic visualisations show that, even once the planting has established, the development would continue to be an urbanising element in the landscape, projecting into the Colne Valley.
37. In its current form the site makes a positive contribution to the rural setting of Colney Heath. Although it is common ground between the Council and the appellant that the site is not a 'valued landscape' under the terms of paragraph

²³ LCA 30 as defined in the Hertfordshire Landscape Character Assessment (p131-134 of CD12.1)

180(a) of the Framework²⁴, it has intrinsic character and beauty as part of the countryside, under paragraph 180(b) of the Framework. As a result of the proposed development, the contribution and value of the site to the rural character of the area and setting of Colney Heath would be substantially eroded.

38. I have considered the respective assessments of the appellant and Council of the landscape and visual effects of the proposed development, which are summarised in the Landscape SoCG²⁵. These are based on the methodology set out in the LVIA²⁶, which acknowledges an element of subjectivity is involved in the assessment process. The parties disagree in their judgements on the level of landscape and visual effects for a number of the key receptors. Overall, I find the Council's assessment to be a fairer representation of the effects of the proposed development, and the appellant's to underestimate the landscape and visual impacts of the proposal, for the following reasons.
39. With regard to landscape effects, the appellant assesses the quality of the existing landscape on the appeal site to be 'medium to low', whereas the Council regards it as of 'medium' quality. The LVIA methodology describes 'low' quality as an unattractive or degraded landscape, affected by numerous detracting elements, with limited public views²⁷, which is not a fair description of the landscape character of the appeal site. Whilst the landscape of the appeal site does not fit the description of 'high' quality in the LVIA methodology, it is of at least 'medium' quality and value, which the LVIA methodology regards as generally pleasant, with no distinctive features and relatively ordinary characteristics, having limited public access, but visible in public views.
40. In terms of the impact of the proposed development on the landscape character of the appeal site itself, the appellant considers the effect would be at a 'moderate adverse' level. However, the proposal would fundamentally alter the landscape of the appeal site from predominantly open fields to urban development. This could not be regarded as merely 'noticeable', which is how the LVIA methodology describes a 'moderate adverse' effect. Rather the change to the character and appearance of the site itself would be substantial, visually intrusive and could not be adequately mitigated, which the LVIA methodology counts as a 'substantial adverse' effect. Moreover, the impact on site would not reduce over time, given that the change to an urban form would be permanent. Therefore, I consider that the proposed development would continue to have a 'substantial adverse' effect on the landscape of the site itself, as illustrated in the visualisation of the view from Public Footpath 33 at year 15²⁸.
41. In respect of the surrounding landscape, the Council and the appellant agree that the appeal proposal would have a 'moderate adverse' effect on the neighbouring landscape at year 1, but the appellant considers this would reduce to a 'slight adverse' effect by year 15. However, even with the planting established, I have concluded above that the proposed development would continue to be an urbanising element in the landscape along the River Colne. This would be noticeable in key views rather than having a minor residual effect, which is one of the important differences between 'moderate' and 'slight

²⁴ Paragraph 12 of the Landscape SoCG (CD8.5)

²⁵ Appendix 2 of CD8.5

²⁶ Appendix 1 of CD4.10

²⁷ Table LE 1 of CD4.10

²⁸ Massing Model Photomontage from Viewpoint 07 – Year 15 (CD5.25).

adverse' landscape effects in LVIA methodology²⁹. In my judgement, therefore, the adverse effect of the proposed development on the neighbouring landscape would remain at a 'moderate' level.

42. Within the wider landscape, the proposed development would be clearly visible as a new urban extension into the countryside south of Colney Heath, as illustrated in the visualisation from Tollgate Road to the east of the site³⁰. It would also be evident from other positions in the surrounding landscape, such as from Coursers Road to the northwest and the private access track to Park Cottages off Tollgate Road to the southeast³¹.
43. Its visibility within the wider landscape would noticeably change the character, scale and pattern of the landscape and townscape in the area, resulting in a 'moderate adverse' effect at year 1, which would be likely to reduce to a 'slight adverse' effect over time, as the boundary planting matures to filter the impact of the development. However, I do not agree that the effects at year 15 would be 'negligible', as judged by the appellant, given that the development would extend across more than half of the site and fill a large part of the gap between the existing houses on Tollgate Road and the River Colne, in views from the southeast and northwest.
44. Turning to visual effects, the Landscape SoCG identifies four key views or visual receptors³² affected by the proposed development. These are: the view from Public Footpath 33 (Photo 7); the views from Tollgate Road to the northwest and southeast of the site (Photos 13 and 16 respectively); and the private view from North Mymms House.
45. Users of Public Footpath 33 currently enjoy open views across the appeal site of the corridor of countryside along the River Colne, both when arriving at and leaving the village. The Council and the appellant agree these views have a medium to high level of sensitivity, which reflects the criteria in the LVIA for the sensitivity of public rights of way as visual receptors³³. Although the existing houses on Tollgate Road form a partly urban fringe background in this view, the proposed development would extend the urban area along and much closer to the footpath. It is clear from the visualisations for viewpoint 7³⁴, that the proposed development would present a hard urban edge, close up in views from Public Footpath 33, at year 1, and would remain prominent, even at year 15 when the landscaping has matured. The view of the open landscape setting to the village would be substantially eroded, which, in my judgement, would have a 'substantial adverse' visual effect on the views enjoyed by users of Public Footpath 33. Whilst the visual impact of the development would reduce over time, the effect would remain at least at a 'moderate adverse' level.
46. In terms of the views from Tollgate Road, to the northwest of the site at the entrance to Colney Heath Farm (viewpoint 13), road users currently enjoy open views across the fields to the woodland along the River Colne. The photographic visualisations of the proposed development³⁵ show that the new housing would be very prominent in this view, even at year 15, extending the settlement

²⁹ Table LE 4 in CD4.10

³⁰ Massing Model Photomontages from Viewpoint 16 (CD5.25)

³¹ Photographs 14 and 17 in Appendix C to the LVIA (CD4.10)

³² Appendix 2 to CD8.5

³³ Table VE1 in the LVIA (CD4.10)

³⁴ Massing Model Photomontage from Viewpoint 7 – Years 1 and 15 (CD5.25)

³⁵ Massing Model Photomontages from Viewpoint 13 (CD5.25)

towards the river, urbanising, disrupting and foreshortening the view. As such, the magnitude of change to this view would be substantial rather than moderate, resulting in a 'substantial adverse' effect, albeit this would be mitigated to a 'moderate adverse' effect over time, as the boundary landscaping matures. The appellant's assessment that the visual effect at year 15 would be 'slight adverse' is based on an assumption that the houses would become assimilated into the surrounding landscape. However, I do not consider this would be the case given that the existing landscape in this view is largely free of domestic buildings.

47. To the southeast of the appeal site, the proposed development would be seen in the middle distance in views from Tollgate Road and the private access track to Park Cottages (viewpoints 16-18). Again based on the photographic visualisations³⁶, the proposed development would be a noticeable element in views from this location, extending the village by around 120 m to the south into what is currently undeveloped landscape. As a middle distance view, I am satisfied this would result in a 'moderate' rather than 'substantial' adverse effect at year 1, reducing to a 'slight adverse' effect by year 15, as the proposed boundary landscaping would serve to filter the view, with minor residual effects remaining.
48. The view from North Mymms House is restricted to the north eastern corner of the site, where the Illustrative Masterplan and Parameter Plan show bungalows that would be limited to 6 m in height. The visualisations illustrate that only the roofs of dwellings in this corner of the site would be visible from North Mymms House at year 1, but largely screened by vegetation at year 15. As such, I agree with the conclusions of the Landscape SoCG that the proposed development would have a 'minimal adverse' effect on the private view from North Mymms House, which over time would reduce to 'neutral'. I consider the heritage effects of the proposal on the setting of North Mymms House separately below.
49. In addition to the key views identified in the Landscape SoCG, it is clear from the evidence of the landscape witnesses, the LVIA and my own observations on site, that a number of other views would also be affected. In the view from Coursers Road (photo 14), the proposed development would be seen extending well beyond the line of dwellings on Tollgate Road southwards into the corridor of open countryside along the River Colne. I agree with the Council that this would have at least a 'moderate adverse' impact on the view from Coursers Road, at year 1, which may reduce to a 'slight adverse' effect by year 15 as the boundary landscaping within the site matures. However, the housing would remain visible in this view, particularly during the winter months when there are no leaves on the trees.
50. Many of the dwellings along Tollgate Road, including nos. 42-100, have open views over the appeal site, both from ground and first floor windows. Based on the criteria in the LVIA³⁷ these residential views have a high degree of visual sensitivity to change. Whilst the existing views are filtered by garden and boundary landscaping, the proposed development would still have a 'moderate adverse' visual effect on them. Even with the benefit of supplementary planting along the north eastern boundary of the site, as suggested at the Inquiry, the

³⁶ Massing Model Photomontages from Viewpoint 16 (CD5.25)

³⁷ Table VE1 in the LVIA (CD4.10)

view of the existing fields would be lost to urban development. Therefore, I agree with the Council's assessment that the adverse effect of the development on those private views would remain at a 'moderate' level over time.

51. Based on the landscape and visual evidence I have seen and heard, I do not share the appellant's view that the appeal site is visually contained or that the impacts of the proposed development on the surrounding landscape would be limited and localised. The site is clearly visible from the surrounding roads, footpaths and dwellings on all sides, in nearby and middle distance views. Its existing open farmland character would be replaced by urban development, which would have adverse effects on the existing rural setting of Colney Heath and the views of countryside from surrounding receptors. The adverse visual and landscape effects would range from 'substantial' and 'moderate' in the first year following the completion of the development, to 'slight' after 15 years with landscaping mitigation. However, in a number of locations, the impacts would remain at a 'substantial' or 'moderate' adverse level over time.
52. Overall, I consider that the adverse landscape and visual impacts would cause significant harm to the landscape character and appearance of the appeal site and the surrounding area. In my view the proposed development would fail to recognise the intrinsic character and beauty of the countryside on the site and to the south of Colney Heath. As such it would be contrary to paragraph 180(b) of the Framework. It would also be contrary to Policy 2 of the Local Plan which seeks to safeguard the character and setting of Green Belt settlements, including Colney Heath.

Effect on Heritage Assets

53. It is common ground³⁸ that the following heritage assets located around the appeal site would be affected by the proposed development:
- North Mymms Park house, a Grade I listed building, located to the southeast of the appeal site, and the surrounding landscape of North Mymms Park that it lies within, which is a non-designated heritage asset;
 - Colney Heath Farmhouse and its associated Barn, which are both Grade II listed buildings, and are located to the northwest of the site; and
 - Tollgate Farm, which is a non-designated heritage asset, located to the east of the appeal site.
54. Although none of the heritage assets are within the appeal site, each has a degree of intervisibility with it. As such, the site forms part of the setting of these heritage assets, which the Glossary in the Framework defines as the surroundings in which heritage assets are experienced. Paragraph 206 of the Framework establishes the need to consider the effect of development within the setting of designated heritage assets. I also have a statutory duty under Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving the setting of listed buildings in determining the appeal. In addition, paragraph 209 of the Framework requires that the effect of proposals on the significance of non-designated heritage assets should be taken into account.

³⁸ Paragraphs 1.2.and 1.3 and section 3 of the Heritage SoCG (CD8.4)

55. Dealing firstly with North Mymms Park, the Grade I status and heritage significance of the house is derived largely from its architectural, artistic and historic interest as a late 16th century, Jacobean country house, with later additions and alterations. The non-designated parkland has both historic and artistic value as the original deer park to the house, which was evolved into the current ornamental landscape in the 18th century. The parkland provides long distance vistas to and from the northwest façade of the house, and forms one of the principal elements of its setting.
56. The appeal site lies around 300 m from the north western end of the parkland and about 1.4 km from the house. Whilst historic mapping³⁹ reveals that it was once part of the wider agricultural estate of North Mymms Park, that link is not legible in the landscape, and is purely of historic interest. The northeast corner of the appeal site can be seen from the upper floor windows of North Mymms Park house, but there is no evidence that it was designed as such to be part of a borrowed view in the landscape beyond the parkland. It is common ground between the Council and the appellant, therefore, that the appeal site makes only a very minor contribution to the heritage significance of the Grade I Listed House and unregistered parkland through setting⁴⁰.
57. I have concluded above that the proposed development would have a minimal adverse effect on views from North Mymms Park house, reducing to a neutral effect over time as the proposed boundary landscaping matures. Accordingly, any urbanising influence it would have on the wider setting of North Mymms Park, including from light spill, would likewise be minimal. On this basis, I concur with the agreed position in the SoCG, that the harm to the heritage significance of North Mymms Park house arising from the appeal proposal would be less than substantial, and that its impact on the heritage significance of the parkland would be very minor.
58. Colney Heath Farmhouse and the associated Barn on its northeast side are located around 180 m from the appeal site, separated by a field used for horse grazing. The Farmhouse dates from the late 17th century and the Barn, which fronts Coursers Road, from the late 18th century. Their heritage significance is principally derived from the architectural and historic illustrative interests of their physical form and layout, both individually and together with the other buildings in the complex, which reference their original role in the historical development of Colney Heath as an agricultural and rural community.
59. It is common ground that the setting of the Farmhouse and Barn, which includes the historic landholding associated with the farm, makes a contribution to their heritage significance. It does so by affording views of the listed buildings and illustrating their agricultural past. Historic mapping reveals that the appeal site was at one time part of the tenancy associated with the farm⁴¹. The adjacent field immediately to the southeast of the complex offers the best views of the Farmhouse and is most legible as part of its original farmland setting. But the appeal site, in its current form as open pasture, also contributes to the wider rural, once agricultural, setting of the Farmhouse and Barn, albeit to a lesser degree.

³⁹ Plate 13 in Appendix 3 of the Heritage SoCG (CD8.4)

⁴⁰ Page 5 of the Heritage SoCG

⁴¹ Plate 4 in Appendix 1 to the Heritage SoCG

60. The proposed development would diminish the wider rural setting to the listed former farm buildings, and result in the loss of an illustrative part of their historic setting. It would also alter the character of the adjacent field, largely removing its visual connection to the wider corridor of open land, and reducing the farmland setting of Colney Heath Farm to a standalone field. Therefore, the appeal proposal would cause harm to the heritage significance of the Farmhouse and Barn through the change to their setting. But the harm would be less than substantial, given that the principal parts of the setting would be preserved.
61. Finally, Tollgate Farm is located around 200 m to the east of the appeal site, fronting Tollgate Road at its junction with Bullens Green Lane. Historic maps record a complex of farm buildings located here from the early 19th century, and it is registered in the Historic Environment Record (HER) as a non-designated heritage asset. However, the farmhouse is modern and there is no special architectural interest apparent in the historic fabric of the farm buildings around the triangular courtyard. The heritage significance of the asset is primarily derived from the historic interest of a post medieval farmstead on the site, and its possible association with an adjacent tollbar recorded in the HER. Accordingly, it is common ground between the Council and the appellant that Tollgate Farm is a non-designated heritage asset of minimal value⁴². I have little evidence to conclude otherwise.
62. The setting of the asset comprises agricultural land to the south and west, and the adjacent Tollgate Road. The appeal site forms part of the farm's broader historic agricultural setting, but there is limited intervisibility between it and the oldest buildings on the farm, which are screened by a group of modern silos on its western boundary. As such, the appeal site makes a very minor contribution to heritage significance of Tollgate Farm through setting. Accordingly, although the proposed development would be co-visible with the farm buildings in views from the southeast along Tollgate Road, the harm to any heritage significance in these views would be very minor.
63. Paragraph 209 of the Framework states that in weighing proposals that affect non-designated heritage assets, a balanced judgement is required having regard to the scale of any harm or loss and the significance of the asset. In respect of Tollgate Farm, the very minor harm, given the minimal significance of the asset, carries minimal weight against the appeal scheme. Whilst the North Mymms Park landscape is of heritage significance to the setting of the Grade I listed house, the very minor harm which the proposed development would cause, due to the minor contribution of the appeal site to that setting, likewise adds minimal weight against the proposal. Whilst not determinative, these need to be weighed in the Green Belt balance below.
64. With regard to the designated heritage assets, I have found that the proposed development would result in less than substantial harm to the heritage significance of North Mymms Park house, Colney Heath Farm and its associated Barn through setting. Paragraph 208 of the Framework expects that where a development proposal would lead to less than substantial harm to the significance of a designated heritage asset, that harm should be weighed against the public benefits of the proposal. I carry out this heritage balance in the light of my consideration of the benefits of the proposed development below.

⁴² Page 7 of the Heritage SoCG

Sustainability of Location in terms of Transport

65. Paragraph 109 of the Framework expects significant development to 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, taking into account that opportunities to maximise sustainable transport solutions will vary between urban and rural areas. Paragraph 114 of the Framework also seeks to ensure that in assessing development proposals, appropriate opportunities to promote sustainable transport modes can be taken up, given the type of development and its location.
66. Colney Heath has a number of facilities and services, which one would expect for a settlement of this size, including a pre-school, primary school, village hall, public house, church, hairdressers, takeaway, and a village store and post office. All of these would be accessible on foot for residents of the proposed development, within a 10-20 minute walk from the site, via level and safe walking routes along Tollgate Road and the High Street.
67. I have considered the evidence submitted by Colney Heath Parish Council on the walking routes to facilities in the village⁴³. Whilst this assesses routes along the High Street and Tollgate Road to be of insufficient quality and safety to encourage walking, the assessment methodology, based on the Welsh Active Travel Design Guidance, requires an element of subjective judgement. I walked these routes and did not find them unattractive or inconvenient, notwithstanding the speed and volume of traffic using Tollgate Road and the High Street.
68. In addition the Highway Authority did not raise any highway safety objections to the reliance of the proposed development on these walking routes to access facilities in the village. A series of improvements to the routes is proposed by the appellant, including the installation of accessible crossing points at the entrance to the site and upgrading crossing points along the High Street, which could be secured by condition. The raised table proposed on Tollgate Road at the entrance to the site would also assist in reducing traffic speeds along this part of the walking routes. As such, I am satisfied that journeys to the available services and facilities within Colney Heath on foot would be a genuine modal choice for residents of the proposed development.
69. However, residents would need to travel to the surrounding settlements of St Albans, London Colney, Welham Green, Hatfield and Welwyn Garden City to access secondary schools, healthcare facilities, employment, larger supermarkets and railway stations. None of these services are within reasonable walking distance of the appeal site. Therefore, safe and reliable access to them by cycling and public transport would be necessary for the appeal site to be considered a sustainable location for the proposed development in terms of transport.
70. With regard to public transport, the Highways SoCG provides a summary of the existing bus routes serving Colney Heath⁴⁴. Although seven services run through the village, three are principally school services with a single out and return bus operating in term time only, and three consist of a single service running mid to late morning, enabling short shopping trips to London Colney, Hatfield, Welwyn Garden City and St Albans on just one day per week. Only the 305 provides a regular service. However, even this is limited to five buses per day in each direction on weekdays and Saturdays, with no service on a Sunday.

⁴³ Colney Heath Walking Routes Assessments (CD9.18)

⁴⁴ Table 1 of Highways SoCG (CD8.2)

71. The nearest railway stations serving Colney Heath are in Welham Green and St Albans, approximately 3.7 and 6.8 kilometres from the appeal site. The Parish Council's evidence shows that the current timetable for the 305 bus is impractical for most commuters seeking to travel to work by train from St Albans, Welham Green or Potters Bar⁴⁵. Although the 305 route passes close to a number of secondary schools in St Albans, with only one bus in the morning peak period, it is also doubtful that the current service would provide a genuine travel choice for secondary school pupils living on the appeal site.
72. Access to medical services is also problematic. The GP practices that the Hertfordshire and West Essex Integrated Care Board (ICB) identify as providing primary care services for Colney Heath⁴⁶, and to which the financial contribution for general medical services in the S106 agreement would be provided, are located in Hatfield. There are no direct bus services to Hatfield from Colney Heath and the nearest GP surgery at Northdown Road in Hatfield is around 2.4 km away on foot, which is beyond reasonable walking distance.
73. The Highway Authority defines a minimum service provision level of 4 buses per hour peak and 2 buses per hour off peak (06:30 to 22:00) as appropriate for most developments to make public transport a sustainable travel option⁴⁷. It is clear that Colney Heath lacks this level of bus service provision. Therefore, without a railway station within reasonable walking distance of the village, public transport is not currently a genuine travel choice for future residents of the proposed development to access services not available in the village.
74. The S106 agreement contains a planning obligation for a financial contribution of £433,000/year for 3 years, which would enable the 305 service to be increased to two buses per hour in the peak periods and to introduce a service on Sunday. Although not at the minimum service level specified above, the Highway Authority confirmed in oral evidence at the Inquiry that a half-hourly service would be sufficient to provide for the likely increase in patronage that the proposed development would generate.
75. Whilst the exact timetable was not available in evidence, such a frequency of service would be likely to make public transport a genuine modal choice for residents of the proposed housing to access employment opportunities in London, St Albans and other surrounding settlements, including via interconnecting train services at St Albans and Welham Green stations. For journeys to school, the increased frequency of the 305 route would make bus travel a realistic option to access most of the secondary schools in St Albans, including the Samuel Ryder Academy, to which the financial contribution for secondary education expansion in the S106 agreement would be provided.
76. In terms of access to supermarkets and shops by bus, whilst the 305 does not serve the nearest large shopping centre at Colney Fields, the enhanced service would offer an increased choice of bus times during the day and at weekends to access shops and services in St Albans, including the supermarket on Hatfield Road. However, there would still be no direct access by bus to the GP surgeries in Hatfield providing primary care services to residents of Colney Heath. Whilst the increased frequency of the 305 bus would reduce waiting times for connecting bus services to Hatfield, I am not persuaded that having to catch two or more buses to get to a GP medical appointment would make public transport a genuine travel choice for this type of journey.

⁴⁵ Paragraphs 3.2.3-3.2.5 of Colney Heath Parish Council PoE on Sustainability of Location (CD9.14)

⁴⁶ Paragraph 6.9 of the Committee Report on application Ref: 5/2022/1988/LSM (CD6.1)

⁴⁷ Place & Movement Planning and Design Guide for Hertfordshire, HCC 2023 (CD16.15)

77. Turning to cycling, a number of pieces of evidence were provided on the suitability of cycle routes from Colney Heath for regular journeys to facilities and services not available in the village. These include the cycle route audit contained within the Transport Assessment (TA) submitted with the appeal⁴⁸, the evidence of both the appellant's transport witness and the Highway Authority, the Cycle Route Assessments undertaken by the Parish Council⁴⁹, the Local Cycling and Walking Infrastructure Plan (the LCWIP)⁵⁰, and Local Transport Note (LTN) 1/20⁵¹, which provides the Department for Transport's design guidance for cycling infrastructure. I have considered all of these carefully, as well as making my own observations on site of the different cycling routes.
78. The two key cycling journeys that were identified by the parties are to the Samuel Ryder Academy, as the secondary school with increased capacity, and to Welham Green Station, as the nearest station for onward commuting journeys by public transport north and south. Starting with the route to Samuel Ryder Academy, it is possible to travel from the appeal site to the school by bicycle using a mixture of on-road and off-road/segregated cycle routes. The shortest route would be approximately 5.3 km and take around 20 minutes to cycle.
79. The LCWIP identifies the first part of the route along Tollgate Road and the High Street, crossing over the A414 and continuing into St Albans via Colney Heath Lane, as a primary route, albeit not audited. However, access to Samuel Ryder Academy from this route would require cycling along Barley Mow Lane, which although identified in the LCWIP as a secondary cycling route, is a single track, unlit road with no road markings. Whilst it might be appropriate as a leisure cycling route during daylight hours, Barley Mow Lane would be unsafe and unsuitable for cycling home from school, particularly during the hours of twilight and darkness in the afternoons of the winter months.
80. An alternative route is available along the segregated cycle lane on the north side of the A414 from the junction with Colney Heath Lane to the London Colney roundabout, from where there is a shared pedestrian and cycle route along London Road and Drakes Drive to the school. However, this is not the most direct route to Samuel Ryder Academy, and is a longer journey than the secondary route along Barley Mow Lane. In addition, whilst the cycleway is segregated along most of its length, there are no traffic signals where it crosses the junction of the A414 with Colney Heath Lane. With the high vehicle speeds and traffic volumes along the A414, I noted the clear potential for conflict between cyclists and motorised vehicles turning into Colney Heath Lane at this point on the route.
81. LTN 1/20 identifies five core principles, which comprise the key requirements for people wishing to travel by bicycle; these are that routes need to be coherent, direct, safe, comfortable and attractive. I recognise the main purpose of LTN 1/20 is to guide the design of new cycle infrastructure, and that the change in approach set out in the guide will take time to work through the cycle network. However, in the meantime, I am satisfied that it is reasonable to have regard to the same principles in assessing the suitability of cycle routes along existing highway infrastructure, where they are being promoted as part of a sustainable travel plan for new development.

⁴⁸ Appendix 16 of Transport Assessment by RPS, dated November 2022 (CD5.12)

⁴⁹ Cycle Route Assessments (CD9.17)

⁵⁰ St Albans and District Local Cycling and Walking Infrastructure Plan, July 2023 (CD19.13)

⁵¹ Cycle Infrastructure Design, Local Transport Note 1/20, DfT, July 2020 (CD16.4)

82. In this case, the two main cycle routes to the Samuel Ryder Academy are unsafe and/or indirect. As such I do not consider cycling to the local secondary school would be a genuine travel choice for pupils living on the proposed development. The evidence presented by the main parties demonstrates that cycling to other secondary schools in the area, both in St Albans and Hatfield, would be affected by similar drawbacks of unlit or unsegregated routes.
83. Cycle access to Welham Green Station is possible by one of two routes. The most direct route is via Tollgate Road and Dixons Hill Road, a journey of around 3.5 km, taking around 12 minutes to cycle. However, the TA⁵² notes that the derestricted speed limit and speed of traffic along a large part of the route makes it suitable only for frequent and confident cyclists. The alternative cycle route is via the tunnel under the A1(M) at the end of Bullens Green Lane, then along a shared use pedestrian and cycle route to Pooleys Lane in Welham Green, and from there through a short section of on-road route to reach the station. Whilst the tunnel under the A1(M) is poorly lit and uninviting, measures are proposed to improve its environment, which could be secured by condition. Therefore, I do not regard this as a drawback.
84. However, this route via Hatfield is longer, at approximately 5.5 km, and the direction of the route is not clear in places. Whilst a section forms part of National Cycle Route 12, large parts of the route are not signed, including the shared path along Roehyde Way and South Way, where it runs adjacent to the carriageway, and the connection to this from the A1(M) underpass. The section of the route running from the bridge over South Way to Pooleys Lane is also isolated, lacks natural surveillance where it passes along the back of the industrial estate on Travellers Lane, and dense hedgerows also reduce the effectiveness of the lighting on this stretch. Due to these issues, I found that the route lacks safety, coherence and directness.
85. Overall, therefore, the two alternative cycle routes from the appeal site to Welham Green Station have significant drawbacks. Consequently, I do not consider they would provide a genuine modal choice for journeys to the station for most residents of the proposed development.
86. In considering this issue, I have had regard to the Roundhouse Farm appeal decision, in which the Inspector concluded that the site in Bullens Green Lane represented a sustainable location in terms of the choice of transport modes⁵³. The Courts have established the importance of consistency in decision making on similar cases, but also that decision makers are entitled to reach different conclusions to an earlier decision, provided the reasons for doing so are substantiated.
87. My findings are consistent with the Roundhouse Farm decision in respect of the accessibility of facilities and services in Colney Heath on foot, which I consider weighs in favour of this appeal proposal as well. I also acknowledge that in the case before me, access to facilities outside of the village by bus would be better than was the case at the Roundhouse Farm appeal. Accordingly, I have concluded that public transport would be a genuine choice of transport mode for journeys to secondary schools, places of employment and larger supermarkets and shops, similar to the Inspector for the Roundhouse Farm appeal. However, I have explained why I reach a different conclusion in respect of access to medical facilities by public transport, which is based on the evidence presented to me.

⁵² Sustainable Modes of Travel Audit, Appendix 16 of Transport Assessment, RPS, Nov 2022 (CD5.12)

⁵³ Paragraphs 37-41 of appeal decisions APP/B1930/W/20/3265925 and APP/C1950/W/20/3265926

88. My conclusions on cycle access are different to those of the Inspector for the Roundhouse Farm appeal. However, the evidence before me is also different. In this case, I have been provided with an audit of cycle routes conducted by the Parish Council, and evidence from the Highway Authority, which were not available at the Roundhouse Farm appeal. I have given detailed reasons, based on this evidence and my own observations of the alternative cycle routes, as to why I consider that cycling would not be a genuine mode of transport to access facilities outside of Colney Heath. As such, I am satisfied that my conclusions on this issue are justified having regard to the Roundhouse Farm appeal and the need for consistency.
89. That said, I concur with the Council that the limitations on the appeal site's location in terms of access by sustainable modes of transport may not be sufficient to fail the policy tests in paragraphs 109 and 114 of the Framework and, therefore, justify the dismissal of the appeal in their own right. However, the lack of a genuine choice of sustainable modes of travel to access medical facilities, and the incoherent, indirect and unsafe cycling routes from the village, are important material considerations which weigh against the proposed development in the overall planning balance.

Other Considerations

Provision of Market and Affordable Housing

90. It is common ground that the District Council is unable to demonstrate a 4-year supply of housing land, as now required under paragraphs 77 and 226 of the revised Framework. Whilst the Council and the appellant have not been able to agree an updated housing land supply figure, they do agree that the shortfall against the 4-year requirement remains substantial⁵⁴.
91. In addition, it is evident that there is serious under-delivery of housing in the District, based on the Government's Housing Delivery Test (HDT). The latest HDT for 2022 reveals that the delivery rate over the 3 years from 2019/20 to 2021/22 has fallen to 55% against the housing requirement for this period⁵⁵. These figures highlight a substantial shortfall in the delivery and supply of new homes in St Albans against what is required to address the needs of the District.
92. The Council has taken steps to address housing needs in the publication of its emerging Local Plan, which allocates sites to meet the housing requirements for the period to 2041. The Local Development Scheme for St Albans⁵⁶ anticipates that the emerging Local Plan would be adopted in December 2025. But even if this is achieved, the Housing Trajectory in the emerging Local Plan⁵⁷ shows that housing delivery on the allocated sites would not commence until 2028/29, around 5 years from now. In the meantime, the housing trajectory shows that the delivery of new homes, even with an allowance for windfall, would continue to fall well short of the annual number of dwellings required. In turn this would only serve to deepen the problems associated with an under supply of housing, including increased house prices, decreased affordability and households remaining in unsuitable accommodation for their needs, which have been evidenced by the appellant⁵⁸.

⁵⁴ Page 7 of the SoCG on the Implications of the Revised Framework for the Appeal, January 2024

⁵⁵ Page 5 of the SoCG on the Implications of the Revised Framework for the Appeal, January 2024

⁵⁶ St Albans City & District Council Local Development Scheme, September 2022 (CD3.3)

⁵⁷ Table 3.2 of St Albans City and District Council Draft Local Plan 2041, July 2023 (CD3.1)

⁵⁸ Affordable Housing Proof of Evidence of Annie Gingell (CD9.1)

93. The proposed development would provide up to 150 new dwellings, of which 81 units would be in the form of market housing. I have no reason to believe that the development could not be delivered in the next 5 years, making a material contribution to the supply. Indeed, the appellant has offered to shorten the standard time limit for implementation. Given the substantial shortfall in the supply of housing in the District, the likelihood that the gap will not be bridged in the next 5 years without further permissions on non-allocated sites, and the Government's objective in paragraph 60 of the Framework to significantly boost the supply of homes, I consider that the provision of 81 units of market housing should carry very substantial weight in favour of this appeal.
94. Up to 60 of the proposed dwellings would be provided as affordable housing, with a tenure split of 25% First Homes, 8% Shared Ownership and 67% Affordable Rent, secured through planning obligations in the S106 agreement. The evidence presented in the Affordable Housing SoCG shows that there is a shortfall in the supply of affordable homes of around 2,220 dwellings, which is projected to increase over the next 5 years⁵⁹.
95. Policy 7A of the Local Plan requires a proportion of affordable housing on sites of 0.4 ha within Towns and Specified Settlements, which the Council's Affordable Housing Supplementary Planning Guidance (SPG)⁶⁰ sets at 35%. Whilst this policy does not apply to Colney Heath as a Green Belt Settlement, it is common ground that the provision of 60 units of affordable housing on the appeal site, amounting to 40% of the total, would represent a social benefit to which very substantial weight should be given. I concur with this, given the scale of the need for affordable housing in the District and the evidence that this will worsen in the next 5 years without further permissions on non-allocated sites.

Self-Build and Custom Housebuilding

96. The proposed development would also provide up to 9 dwellings in the form of self-build and custom housebuilding (SB&CH) plots, secured through obligations in the S106 agreement. Although not a policy requirement in the Local Plan, people wishing to build their own homes is one of the types of housing need which the Framework seeks to address⁶¹. To that end local authorities are required to keep a register of people seeking to acquire serviced plots within the area for SB&CH, and to grant enough planning permissions to meet the identified need on the register⁶².
97. It is common ground that the Council is not currently meeting the need on its Self-Build Register and that there is unmet demand for serviced plots for SB&CH in St Albans⁶³. Up to the end of October 2022, there had been 735 entries on the St Albans Register, amounting to a demand for 745 plots for SB&CH, which the Council has a duty to meet by the end of October 2025⁶⁴. Based on the appellant's evidence, to date the Council has granted permissions for 31 SB&CH plots⁶⁵, leaving a substantial unmet need.

⁵⁹ Figure 7 in the Affordable Housing SoCG (CD8.1)

⁶⁰ Paragraph 7.13 of the St Albans SPG on Affordable Housing, March 2004 (CD2.4)

⁶¹ Paragraph 63 of the Framework

⁶² Footnote 29 of the Framework

⁶³ Paragraphs 6.57 and 6.58 of the Core SoCG (CD8.3)

⁶⁴ Figure 4.1 and paragraph 4.10 of Andrew Moger PoE (CD9.2)

⁶⁵ Figure 5.2 of Andrew Moger PoE (CD9.2)

98. Therefore, the provision of 9 plots on the appeal site would make a material contribution to addressing the unmet need for SB&CH in the District. Given the scale of need or demand for SB&CH relative to that for affordable housing in St Albans, I consider the provision of 9 plots for SB&CH would be a benefit attracting substantial weight in favour of the appeal proposal. This would also be consistent with the weight afforded to the provision for SB&CH by the Inspector in the Roundhouse Farm appeal decision, where a comparable number of 10 plots were being provided.

Economic benefits

99. It is common ground that the appeal proposal would result in economic benefits through the creation of temporary jobs in construction and related activities during the development process and additional household spend in the local area. The appellant calculates that 360-465 direct, indirect and induced jobs would be created and an extra £3.76 million of household expenditure would benefit local services and facilities.
100. However, these are generic figures. It is unclear from the evidence provided how many jobs would be contracted for the full length of the construction process and how many would be related to just one construction phase. The gross expenditure figure is a multiplier of an average weekly household expenditure, not all of which would be spent in local shops and services, so the benefit of this to the District's economy would be likely to be less.
101. Although paragraph 85 of the Framework places significant weight on the need to support economic growth, the appellant confirmed in oral evidence that this does not dictate the weight to be given to economic benefits in each case. Overall, therefore, whilst I acknowledge that the proposed development would generate economic benefits, the scale of any economic benefit would be modest, and, therefore, I attach no more than moderate weight to this in favour of the appeal.

Ecology

102. The south western part of the appeal site is located within the Colney Heath Farm Meadows LWS, which would be retained. Measures to ensure its protection from increased recreational pressure as a result of residential development could be secured by condition. Subject to this and other on-site mitigation measures to enhance retained and create new habitats to provide for protected species, it is common ground that the proposed development would not result in any significant residual negative effects on important ecological features⁶⁶.
103. However, the Ecological Impact Assessment submitted with the appeal confirms that there would be an overall net loss in area based habitats, due to the loss of grassland habitats on the north eastern part of the site⁶⁷. This cannot be mitigated on-site, but the appellant proposes to compensate for the loss by delivering a 10% biodiversity net gain (BNG) off-site, through a Biodiversity Offsetting Scheme, secured through the S106 agreement.
104. The proposed 10% BNG would be equivalent to the minimum level of BNG mandated in the Environment Act 2021, which is expected to apply to all major development proposals, such as the appeal scheme, during 2024. Given that at the time of writing the statutory requirement for BNG is not yet in force, I consider that the commitment to its provision in advance would be a

⁶⁶ Paragraph 6.38 of the Core SoCG (CD8.3)

⁶⁷ Paragraph 5.78 of Ecological Impact Assessment, July 2022 (CD4.8)

benefit in favour of the appeal scheme. However, because the gain proposed would be at the minimum of the level set out in the Act, I attach no more than moderate weight to it.

Previously Developed Land

105. There are two related questions to consider here. Firstly, whether the whole of the appeal site constitutes previously developed land (PDL) as defined in Annex 2 of the Framework. Secondly, if the whole of the site is PDL, whether its status as such should carry any weight in the planning balance to be undertaken to determine whether 'very special circumstances' exist to justify the appeal proposal as inappropriate development in the Green Belt, taking account of the Framework's policies on making effective use of PDL and on the re-use and redevelopment of PDL in the Green Belt.
106. Dealing with the first question, PDL is defined in Annex 2 of the Framework as land which is or was occupied by a permanent structure, including the curtilage of the developed land and any associated fixed surface infrastructure. It is clear that the house and garden at 42 Tollgate Road and the land on which the stables, manege and associated hardstanding areas are located, comprise PDL. The dispute is over the whether the remainder of the site, consisting of open fields, comprises part of the curtilage to the stable facilities and thereby PDL.
107. The planning permission for the stables and associated grooming and storage facilities granted in 1996⁶⁸ applies to the whole of the appeal site apart from no. 42. This is evident from the site plan relating to the permission, which includes all of the land and the adjacent fields to the southeast, and from the application form which confirms the site area as 10.8 ha. Although the permission did not involve a change of use of the land, the application form confirmed the land was already in use for horse grazing. I recognise horse grazing is different to an equestrian use, and the Parish Council disputes whether the fields have been in regular and consistent equestrian use without interruption for the last 10 years. However, the photographic evidence supplied by the appellant shows the fields being used for riding and exercising horses as far back as 2009. Moreover, the Council as the local planning authority (LPA) has confirmed that the appeal site, excluding no. 42, is in lawful equestrian use.
108. These pieces of evidence are sufficient for me to conclude, for the purposes of this appeal, that the fields within the appeal site form part of the curtilage to the stables. Therefore, whilst the majority of the appeal site comprises green fields and is patently not 'brownfield' in character or appearance, I agree that because the fields form part of the same curtilage as the stables, the whole of the appeal site meets the definition of PDL in the Framework.
109. Turning to the second question, paragraph 123 of the Framework expects strategic policies to accommodate development needs in a way that makes as much use as possible of PDL or 'brownfield' land. Although the focus of this sentence in the Framework is on plan-making, the emphasis on making use of PDL is also relevant to decision making, and the appellant refers to it in this context⁶⁹. However, this sentence is qualified by footnote 49 of the Framework, which makes clear that maximising the use of PDL should not be done in a way that would conflict with other policies in the Framework.

⁶⁸ Application Reference: 5/96/1240

⁶⁹ Paragraph 5.11 of Oliver Bell PoE (CD9.6)

110. Paragraph 154(g) of the Framework sets out the policy approach which should be taken to PDL in the Green Belt. It defines the circumstances in which the re-use and redevelopment of PDL would qualify as an exception to the presumption against new buildings in the Green Belt. These are where it would not have a greater impact on the openness of the Green Belt than the existing development or would not cause substantial harm to openness if meeting local affordable housing need.
111. The Court of Appeal judgement in the Dartford case⁷⁰ established that the proviso on the circumstances in which PDL may be developed or re-used in the Green Belt means that the Framework's encouragement of development on brownfield land is not unqualified where the land in question lies within the Green Belt. Whilst the Dartford judgement preceded the changes to the Framework introduced since 2018, the policies on the development of PDL in the Green Belt and making best use of brownfield land that existed at the time of the judgement are broadly consistent with those in the 2023 revised Framework.
112. I have concluded above that the proposed development would cause substantial harm to the openness and purposes of the Green Belt. As such it would not qualify as an exception under paragraph 154(g) and would, therefore, constitute inappropriate development in the Green Belt. Accordingly, the appeal proposal would conflict with the Framework's policy on the approach to the re-use and redevelopment of PDL in the Green Belt.
113. Whether or not this policy conflict and the resulting Green Belt harm would be outweighed by other considerations is the subject of the 'very special circumstances' test, which I deal with below. However, in circumstances where the appeal proposal does not comply with the Framework's policy on the re-use of PDL in the Green Belt, it would undermine that policy to then attach weight to the development and use of PDL in favour of the appeal proposal, when carrying out the 'very special circumstances' Green Belt balancing exercise.
114. I have been referred to the Maitland Lodge appeal decision⁷¹, in which the Inspector attached positive weight to the use of PDL within the Green Belt, in the light of the Framework's policy on making effective use of PDL. However, this was in a context where the Inspector had already concluded the proposal would not cause substantial harm to the openness of the Green Belt, and was, therefore, an acceptable use of PDL in the Green Belt that did not constitute inappropriate development in the Green Belt. Accordingly, he did not need to determine 'very special circumstances' and the use of PDL was capable of being weighed as a free-standing material consideration as part of the overall planning balance. The circumstances in this appeal are very different, and accordingly, the Maitland Lodge decision does not offer a comparable precedent for me in determining this issue.
115. The appellant also suggests that the appeal site is a sequentially preferable location for development over other non-PDL Green Belt sites, in the context of the need for housing in the District. This is based on the expectation in paragraph 147 of the Framework that plans should give first consideration to land which has been previously-developed, in circumstances where it has

⁷⁰ In paragraph 13 of Dartford BC and SoSCLG and Ors [2017] EWCA Civ 141 (CD13.7)

⁷¹ Appeal Ref: APP/V1505/W/22/3296116

been concluded it is necessary to release Green Belt land for development. However, paragraph 147 of the Framework clearly applies to the preparation of development plans. Therefore, whether or not the appeal site should be considered a sequentially preferable site over non-PDL sites within the Green Belt, is a matter to be determined through the preparation and examination of the emerging Local Plan rather than this appeal.

116. I note that in the Maitland Lodge decision, the Inspector regarded the sequential preference of that site as PDL in the Green Belt as a positive benefit. However, again, that was in a context where the appeal proposal was not inappropriate development in the Green Belt or harmful to the Green Belt. In this appeal, notwithstanding the PDL status of the site, the proposal would constitute inappropriate development in the Green Belt, due to the substantial harm it would cause to the openness of the Green Belt.
117. Therefore, on the above basis, I conclude that the PDL status of the appeal site should not carry any weight in favour of the proposed development.

Other Matters

Flood Risk and Drainage

118. The majority of the appeal site, including the land on which housing development is proposed, is located within Flood Zone 1, as shown on the Environment Agency's Flood Zone Map for fluvial flooding⁷². The south western part of the site within the Colney Heath Farm Meadows LWS is located in Flood Zones 2 and 3, being at a lower ground level and adjacent to the River Colne.
119. Paragraph 173 and footnote 59 of the Framework expect applications to be supported by a Flood Risk Assessment (FRA) for all development within Flood Zones 2 and 3. An FRA was submitted with the application the subject of the appeal, which assesses the risk from all sources of flooding. With regard to fluvial flood risk, the flood mitigation strategy in the FRA recommends the ground floor levels within the residential scheme be set above the EA modelled maximum flood level, which the appellant confirmed could be achieved.
120. The EA mapping in the FRA shows that the majority of the appeal site is at very low risk of surface water flooding⁷³. There is a strip of land along the north eastern boundary of the site to the rear of the houses on Tollgate Road, sections of which are mapped as being at medium and high risk of surface water flooding. Photographic evidence submitted by the Parish Council and local residents shows lying water in this location.
121. It has been suggested that this is evidence of an underground chalk stream. However, the appellant has provided technical evidence based on ground investigations and topographical surveys, which confirms that this is due to rainwater accumulating in shallow surface depressions, because of the underlying impermeable clay rich strata on this part of the site⁷⁴. The County Council as the Lead Local Flood Authority (LLFA) agrees with this position and that the ground conditions preclude the presence of an underground stream at the surface in this location⁷⁵. I am satisfied the evidence supports this position.

⁷² Fig 5-1: Flood Risk Assessment, Surface Water & Foul Water Drainage Strategy, June 2022 (CD4.9)

⁷³ Figure 5-3 in the FRA (CD4.9)

⁷⁴ Paragraph 8.1.1 of Ronald Henry's Rebuttal Proof (CD9.23)

⁷⁵ Paragraph 3.1.1 of the SoCG on Surface Water Flood Risk (CD8.6)

122. With regard to groundwater flood risk, the FRA confirms a relatively high groundwater table beneath the site, with groundwater levels at or near the surface in the western part of the site, closest to the River Colne. The risk of ground water flooding is considered to be medium in this area and low across the remainder of the site⁷⁶, which comprises the proposed development areas. As a precautionary measure, the LLFA agreed a condition to investigate seasonal groundwater levels, with measures to mitigate the risk of flooding from this source. I consider this would be a reasonable approach.
123. The FRA recommends both flood mitigation and surface water drainage strategies, including sustainable drainage systems and features to manage the discharge of water generated onsite, without increasing the risk of flooding elsewhere. Ultimately details of the drainage strategy would be dealt with at reserved matters stage and would remain within the control of the LPA. Neither the Environment Agency nor the LLFA have outstanding objections to the appeal proposals in relation to the risks of flooding from any sources. Overall, therefore, I am satisfied that the evidence demonstrates the proposed development would be capable of managing and/or mitigating any residual flood risks.
124. It was argued by the Parish Council and in third party representations that the appeal proposal fails to satisfy the sequential test because part of the appeal site lies within Flood Zones 2 and 3. I have considered the relevant appeal decisions referred to me on this matter. However, each of those cases are materially different in that critical elements of the proposed developments, such as the site access, were located within Flood Zones 2 or 3. In the appeal before me, the areas proposed for development are located within Flood Zone 1.
125. Accordingly, in this case, I conclude that the appeal proposal satisfies the requirements of the sequential test set out in paragraph 168 of the Framework. The mitigation measures proposed would also ensure consistency with paragraph 173 of the Framework, in not increasing flood risk elsewhere.

Traffic and Highway Safety

126. Access to the proposed development would be via a new junction on the southern side of Tollgate Road, created by the demolition of the property at no. 42. It would be opposite the entrance to Fellowes Lane on the north side of the road. The new junction would be designed so that vehicles exiting the appeal site would give priority to traffic on Tollgate Road.
127. The Proposed Access Layout Plan⁷⁷ demonstrates adequate visibility in both directions for vehicles exiting the site onto Tollgate Road, based on a 30 mph speed limit on Tollgate Road. Although average vehicle speeds along this section of Tollgate Road are currently in excess of that limit, a raised table would be installed at the junction to calm traffic and reduce speeds to below 30 mph, on what is a busy section of Tollgate Road.
128. Pavements on either side of the access road that tie into the existing footway on the southern side of Tollgate Road would ensure safety for pedestrians leaving and entering the site. In addition, to improve pedestrian visibility at the entrance to Fellowes Lane, a new section of pavement is proposed to the west of Fellowes Lane to provide a continuous east-west footway along the

⁷⁶ Paragraphs 5.3.3 and 5.3.4 of CD9.23

⁷⁷ Drawing no. JNY11289-RPS-0100-001 Rev B (CD5.26)

northern side of Tollgate Road opposite the site access. Dropped kerbs with tactile paving would also be installed to provide pedestrian crossing facilities on all four arms of the junction.

129. I acknowledge the concerns about parked cars on the north side of Tollgate Road and in Fellowes Lane reducing visibility for vehicles and pedestrians at the entrance to Fellowes Lane and adding to traffic congestion. However, the proposed junction has been designed in line with the recommendations of the Road Safety Audit submitted as part of the TA⁷⁸. The changes to the junction as part of the appeal scheme would improve highway safety along this stretch of Tollgate Road, by slowing traffic speeds.
130. With regard to traffic volumes, the TA predicts that the proposed development would generate 66 vehicle trips during the morning peak hour and 70 in the evening peak hour⁷⁹. The distribution of trips across the local road network was modelled based on Census travel to work data, using the TRICS database. This predicts that around two-thirds of the vehicle trips will travel northwest along Tollgate Road towards the A414 and M25, and one third southeast towards Welham Green and the A1000. The modelled effects of the additional vehicle trips on the surrounding junctions within Colney Heath and onto the A414 and A1000 show that all junctions would continue to operate within their design capacity and, whilst queue lengths would increase, the impact on delays would be minimal⁸⁰.
131. The TA also modelled the effect of the additional traffic on Tollgate Road, where on street parking on the north side of the street narrows the carriageway to one vehicle width, causing queues and delays⁸¹. Whilst the results show that for traffic travelling northwest along Tollgate Road, the average delay would increase from 5 to 8 seconds against the 2027 baseline, overall the impact of the proposed development on flows would be minimal.
132. Paragraph 115 of the Framework states that development should only be refused on highway grounds if there would be an unacceptable impact on highway safety or a severe impact on the operation of the road network. The proposed development would not give rise to such levels of highway impact, and the Highway Authority did not seek to oppose it on these grounds. I am satisfied that the appeal proposal would therefore be consistent with the Framework and comply with the requirements of Policy 34 of the Local Plan in these respects.

Air Quality

133. The Air Quality Assessment (AQA) submitted with the appeal records that the existing concentrations of Nitrogen Dioxide (NO₂) and Particulate Matter (PM_{2.5} and PM₁₀), as recorded at the roadside monitoring stations within the surrounding area, are well below the relevant limit values and national objectives for these vehicle emission pollutants⁸². Furthermore, it confirms that these limit values and objectives are unlikely to be exceeded either within or outside the site, based on the levels of traffic predicted to be generated by the proposed development⁸³. Nevertheless, transport mitigation measures are

⁷⁸ Appendix 11 of the Transport Assessment, November 2022 (CD5.12)

⁷⁹ Table 6.1 of CD5.12

⁸⁰ Tables 7.1-7.16 of CD5.12

⁸¹ Tables 7.17-7.20 of CD5.12

⁸² Paragraph 4.4.2 and Table 4-2 of the Air Quality Assessment, Stantec, June 2022 (CD4.2)

⁸³ Paragraph 5.4.1 of the Air Quality Assessment (CD4.2)

proposed as part of the Travel Plan required by the S106 agreement, to encourage travel by sustainable modes of transport, which would help to reduce vehicle emissions further.

134. The risk to human health from the effects on air quality of the increase in heavy duty vehicles on the road network during the construction period, is likewise assessed to be low. Whilst the risk of dust soiling from construction works is high, mitigation measures would be put in place as part of a Construction Management Plan, the implementation of which could be required by condition.
135. Therefore, whilst I note the concerns of local residents about the impact of traffic growth on air quality in the surrounding area, the evidence shows that the overall effect of development traffic from the appeal scheme on local air quality would be 'not significant'. The Council's Environmental Compliance Officer also confirmed the proposal to be acceptable in terms of air quality. I have no alternative evidence to indicate otherwise. Accordingly, this factor would carry neutral weight in the planning balance.

Living Conditions

136. Based on the illustrative masterplan the proposed development would result in dwellings at the ends of the gardens to nos. 44-100 Tollgate Road. However, the length of the rear gardens to these properties ranges from around 25-60 m. As such the likely separation distances between the habitable room windows of the existing and proposed dwellings would be such as to avoid any loss of privacy through overlooking. This is a matter which could otherwise be controlled by condition at a reserved matters stage.
137. The design and position of the proposed access road at the entrance to the site would result in all traffic entering and leaving the development adjacent to 44 Tollgate Road. This would be likely to generate an additional level of noise for the occupiers of no. 44, at the side of the property. However, the Noise Impact Assessment identified the main source of existing noise on the site to be from traffic along Tollgate Road and that the existing daytime and night-time noise levels are within acceptable noise limits.
138. Whilst future traffic movements and noise would occur to the side and rear of no. 44, there is no evidence that the predicted level of traffic entering and exiting the site within peak hours and throughout the day would result in an unacceptable increase in noise levels for the occupiers of no. 44. The illustrative masterplan indicates there would be scope for landscaping along the side and rear boundary of no. 44 to assist in mitigating the effects of extra traffic noise, which could be secured by conditions if this were necessary.
139. Therefore, the effect of the proposal on the living conditions of the occupiers of existing properties surrounding the site would weigh neutrally in the planning balance.

Community Infrastructure

140. The proposed development would place pressure on existing local community facilities by generating additional demand for primary and secondary school places and healthcare services, and increasing the use of recreation facilities, libraries and other services. Policy 143B of the Local Plan expects development proposals to provide for their infrastructure consequences. The S106 agreement includes obligations for the payment of financial contributions towards off-site provision at existing or new facilities, which have been agreed

in consultation with the respective service providers, and would satisfy the tests for planning obligations in paragraph 57 of the Framework. Consequently, the appeal scheme accords with Policy 143B of the Local Plan and any effects on infrastructure carry neutral weight in the planning balance.

Minerals safeguarding

141. The appeal site is located in a Sand and Gravel Belt identified in the Hertfordshire Minerals Local Plan (2007) (the MLP), Policy 5 of which encourages mineral extraction prior to development taking place which may sterilise any significant mineral resource. However, in this case the Minerals Resource Assessment submitted with the application demonstrates that prior extraction would likely not be feasible or economically viable. The County Council as the Minerals Planning Authority requested a condition requiring a minerals recovery strategy for the opportunistic use of minerals on the site. But subject to this, the proposed development would comply with Policy 5 of the MLP and be consistent with paragraph 218 of the Framework. Accordingly, this consideration does not weigh against the appeal proposal.

Whether very special circumstances necessary to justify the proposed development within the Green Belt exist

142. The starting point in this case is that the appeal proposal constitutes inappropriate development in the Green Belt, which paragraph 152 of the Framework establishes is, by definition, harmful to the Green Belt, and should not be approved except in very special circumstances. In carrying out the 'very special circumstances' test, it is important to note that under paragraph 153 of the Framework, for 'very special circumstances' to exist, the harm by reason of inappropriateness and any other harm resulting from the proposal must be 'clearly' outweighed by other considerations. So, it is not sufficient for the factors in support of the proposal to merely outweigh the harm. Rather, for the appeal to be allowed, the overall balance of benefits against harms would have to weigh decisively in favour of the appeal scheme, not just marginally.
143. Beginning with harms, in addition to the harm by reason of inappropriateness, I have found that the proposed development would cause substantial harm to the openness of the Green Belt at Colney Heath and to its purpose in safeguarding the countryside from encroachment. Paragraph 153 of the Framework requires substantial weight to be given to any harm to the Green Belt. Accordingly, the harm to the openness and purpose of the Green Belt, in addition to the harm by reason of inappropriateness, each carry substantial weight against the appeal proposal. In my view these comprise a comprehensive range of Green Belt harm, not merely by reason of inappropriateness, but to the fundamental aim and purposes of the Green Belt.
144. In terms of other harms, the proposed development would also cause significant harm to the rural landscape character and appearance of the appeal site and the surrounding countryside to the south of Colney Heath, which I have established would be contrary to both national and Local Plan policies. Whilst the Council did not rely on the harm to landscape character as a separate reason for refusal, it is a distinct harm to be considered alongside the Green Belt harm in the overall balance. In my view, for the reasons I have given above, the level of landscape harm which would result, adds further significant weight against the appeal proposal.

145. With regard to heritage effects, in carrying out the heritage balances in paragraphs 208 and 209 of the Framework, I find that the public benefits of the appeal scheme, including the delivery of market, affordable and SB&CB housing, would outweigh the less than substantial harm to the heritage significance of North Mymms Park house, Colney Heath Farm and Barn, and the very minor harm to the heritage value of the North Mymms parkland and Tollgate Farm, through setting. Therefore, the policies of the Framework that protect heritage assets do not provide a clear reason for dismissing the appeal on heritage grounds, under paragraph 11(d)(i) of the Framework.
146. However, this does not constitute a finding of 'no heritage harm' and therefore a neutral factor in the overall Green Belt balance. Instead, the harm to the designated heritage assets remains an impact to which paragraph 205 of the Framework indicates great weight should be given, irrespective of the finding of less than substantial harm to their significance. Accordingly, the fact that the proposed development would harm rather than conserve the settings and significance of the Grade I and Grade II listed buildings, carries great weight against the appeal proposal in the Green Belt balance. The very minor harm to the non-designated heritage assets adds a minimal degree of further weight against the proposal.
147. In respect of access by sustainable modes of transport, notwithstanding the proposed improvements to the 305 bus service, which would be a benefit arising from the appeal scheme, the lack of a genuine choice of sustainable modes of travel to medical facilities, and the inadequacies of the cycling routes from the village to other key facilities, would result in journeys being made by car rather than more sustainable modes. In my view, these factors carry a moderate amount of weight against the proposed development.
148. Turning to the benefits of the proposal, there is a pressing need for additional housing in St Albans District, which the appeal scheme would help to address. The shortfalls against the requirement for a 4-year supply of housing land and the need for affordable housing are substantial. Although there is an emerging Local Plan, which allocates sites to meet housing needs over the next 20 years, this is unlikely to result in the delivery of sufficient new homes to meet the shortfalls within the next 5 years. Therefore, the construction of up to 150 new homes, including 60 affordable units, are key benefits of the appeal proposal, which, given the shortfalls and the Government's objective to significantly boost the supply of homes, should be accorded very substantial weight in the overall Green Belt balance.
149. In addition, the provision of 9 plots for SB&CB housing within the appeal scheme, although small in number, represents a benefit attracting substantial weight, given the level of unmet demand for this type of housing in the District. The proposed development would also deliver material economic and ecological benefits, in the form of jobs, increased trade for local services, and a 10% BNG, both of which I consider should attract moderate weight in favour of the appeal proposal. I also attach moderate weight to the improvements to the 305 bus service, which would result from the proposal and be a benefit to existing and future residents of the District.
150. All other matters carry neutral weight in the Green Belt balance, including the PDL status of the appeal site, and the effects on flood risk and drainage, traffic and highway safety, air quality, living conditions, community infrastructure and minerals safeguarding. I have explained my reasoning for this above.

151. In carrying out the Green Belt balance, the Courts have established that determining whether 'very special circumstances' exist to justify inappropriate development in the Green Belt, is an exercise of planning judgement, rather than a mathematical exercise in which each element of harm or benefit is added to a balance⁸⁴.
152. Accordingly, I have considered the totality of the benefits of the proposed development against the totality of its harms. Even though the provision of market and affordable housing attracts the highest level of weight of any consideration in this case, overall I judge that the housing and other benefits do not clearly outweigh the combination and extent of harms to the Green Belt, landscape character and appearance, and heritage assets, and arising from the limitations in the choice of sustainable transport modes. Therefore, I conclude that the other considerations in this appeal do not clearly outweigh the harm that I have identified.
153. Consequently, the very special circumstances necessary to justify the proposal as inappropriate development in the Green Belt do not exist. In these circumstances, paragraph 152 of the Framework dictates that the proposed development should not be approved. Accordingly, the policies of the Framework that protect the Green Belt also provide a clear reason for dismissing the appeal, under paragraph 11(d)(i) of the Framework. On this basis, the appeal scheme does not benefit from the presumption in favour of sustainable development, as defined in the Framework.
154. 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. It is common ground that saved Policy 1 of the Local Plan, which deals with the Green Belt is the most important policy in this case. Although the most important policies of the development plan are out of date in this case⁸⁵, I have established above that saved Policy 1 is consistent with the Framework in respect of the 'very special circumstances' test, and, therefore, carries weight in the appeal.
155. The main parties agree that whether or not 'very special circumstances' exist to justify the proposed development will determine the consistency of the proposed development with saved Policy 1 and, thereby, as the most important policy, with the development plan as a whole. As 'very special circumstances' do not exist in this case, saved Policy 1 also stipulates that permission for the appeal scheme should not be granted. Therefore, a decision to dismiss the appeal would be in accordance with the development plan, and there are no material considerations to indicate otherwise.

Conclusion

156. For the reasons given above, and taking account of all other matters raised, I conclude that the appeal should be dismissed.

M Hayden

INSPECTOR

⁸⁴ Paragraph 34 of *Sefton Metropolitan Borough Council v SSHCLG & Jerry Doherty* [2021] EWHC 1082 (Admin)

⁸⁵ By reason of Footnote 8 of the Framework

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Mike Rawlins	Neighbourhood Plan Project Officer, CHPC
Ian Skelt	Local Resident (<i>for Flooding Round Table</i>)
Lesley Bloomfield	Local Resident (<i>for Planning evidence</i>)

INTERESTED PARTIES:

Deepak Bhat	Local Resident
Lesley Bloomfield	Local Resident
Lynn Skelt	Local Resident
John Rowland	Local Resident
Susan Blunt	Local Resident
Peter Clarke	Local Resident

DOCUMENTS SUBMITTED AT THE INQUIRY

- CD 19.1 Appellant's Opening Statement and Appearances (dated 19/09/23)
- CD 19.2 Colney Heath Parish Council Opening Statement (19/09/23)
- CD 19.3 Opening Statement on behalf of Local Planning Authority (19/09/23)
- CD 19.4.1 Deepak Bhat - Interested Party Statement (19/09/23)
- CD 19.4.2 Lesley Bloomfield - Interested Party Statement (18/09/23)
- CD 19.4.3 Corrinne Doust - Interested Party Statement (18/09/23)
- CD 19.4.4 Margaret Nash - Interested Party Statement (submitted 19/09/23)
- CD 19.4.5 Lynn Skelt - Interested Party Statement (submitted 19/09/23)
- CD 19.4.6 Melvin & Marianne Davies - Interested Party Statement (16/09/23)
- CD 19.4.7 Peter & Jenny Stevenson - Interested Party Statement (16/09/23)
- CD 19.4.8 Ryan Simpson Flowerday - Interested Party Statement (16/09/23)
- CD 19.4.9 John Rowland - Interested Party Statement (19/09/23)
- CD 19.4.10 Nancy Taffs - Interested Party Statement (submitted 19/09/23)
- CD 19.4.11 Kate Day - Interested Party Statement (submitted 19/09/23)
- CD 19.4.12 Sue Slingsby - Interested Party Statement (submitted 19/09/23)
- CD 19.5 Round Table agenda for Flood Risk (dated 19/09/23)
- CD 19.6 Round Table agenda for Heritage (dated 19/09/23)
- CD 19.7 Round Table agenda for Landscape (dated 20/09/23)
- CD 19.8 St Albans City & District Council Map of Cycle Routes
- CD 19.9 305 Bus Route Plan (dated 19/09/23)
- CD 19.10 Colney Heath Parish Council presentation slides (22/09/23)
- CD 19.11.1 Summary of Obligations in S106 Agreement (dated 21/09/2023)
- CD 19.11.2 Final Draft of S106 Agreement (submitted 21/09/23)
- CD 19.11.3 S106 Agreement Site Location Map
- CD 19.11.4 List of conditions agreed between the LPA and Appellant (27/09/23)
- CD 19.12 CIL Compliance Statement (dated 27/09/23)
- CD 19.13 Local Cycling & Walking Infrastructure Plan for St Albans District, Dec 2022
- CD 19.14 Closing Statement on behalf of Local Planning Authority (28/09/23)
- CD 19.15 Colney Heath Parish Council Closing Statement (28/09/23)
- CD 19.16 Appellant's Closing Statement (28/09/23)

DOCUMENTS SUBMITTED FOLLOWING THE CLOSE OF THE INQUIRY

- S106 Agreement - signed and certified (dated 11/10/2023)
- Statement of Common Ground between St Albans City & District Council and Vistry Homes Ltd on the implications of the updated National Planning Policy Framework (dated January 2024)
- Position Statement - Implications of the revised NPPF, obo Vistry Homes Ltd (dated January 2024)
- Email from Colney Heath Parish Council on the implications of the revised NPPF (dated 5 January 2024)