

Draft Statement of Common Ground

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

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

Ref No 5/2022/0599

November 2023

Turley

Contents

1.	Introduction and Background	1
----	-----------------------------	---

Matters Agreed

2.	The Appeal Site and Surroundings	5
3.	The Planning Application and the Planning Application Documents	6
4.	Planning Policy Context	9
5.	The Principle of Development	10
6.	Housing Land Supply	10
7.	Affordable Housing	11
8.	Density, Open Space and Amenity	12
9.	Heritage	12
10.	Landscape and Visual Impact	13
11.	Green Belt	14
12.	Ecology	15
13.	Flood Risk and Drainage	16
14.	Utilities	17
15.	Highways and Transport	17

Matters Not Agreed

16.	Green Belt	19
17.	Other Considerations	19

Appendix 1	Suggested Planning Conditions	20
Appendix 2	Suggested Planning Obligations	26
Appendix 3	Summary of Statutory Consultation Responses	27

Steven Kosky
steven.kosky@turley.co.uk

Tarmac Ltd

Our reference
TARC3006

November 2023

1.0 INTRODUCTION AND BACKGROUND

1.1 This Statement of Common Ground (SoCG) has been prepared by Turley on behalf of Tarmac (the Appellant) against the refusal by St Albans City and District Council (SADC) of outline planning permission (the Application) for an:

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

1.2 The Application (all matters reserved except means of access) for up to 45 new homes was submitted to SADC in February 2022 and validated on 8th March 2022, under planning reference 5/2022/0599 (the Appeal Scheme) relating to the site (the Appeal Site). Pursuant to Section 78 of the Town and Country Planning Act 1990 (as amended) the Appellant has submitted an Appeal against the refusal by SADC of outline permission for the proposed development.

1.3 To assist the appeal process, the purpose of this SoCG is to reduce the scope of matters in dispute between the parties. Accordingly, this SoCG sets out the matters which are agreed between the Appellant and SADC. The scope of matters which are not agreed are set out at Section 16 of this SoCG, and are proposed to be provided to the Inquiry by way of a jointly prepared ‘Scott Schedule’ or similar.

1.4 Matters Agreed

- (a) Description of the Appeal Site and surroundings (Section 2);
- (b) The planning application and the Appeal Scheme (Section 3)
- (c) The relevant planning policy context (Section 4); and
- (d) Other planning and site specific issues associated with the Appeal Scheme that are agreed (Sections 5 - 15).

1.5 The SoCG has been jointly prepared and agreed by:

Signed:

Date:

Position:

On behalf of the Appellant

Signed:

Date:

Position:

On behalf of St Albans District Council

Background to the Appeal

- 1.6 Upon validation, the application was assigned to a temporary contract Planning Officer (Mr M. Gavin) who left SADC at the expiry of his contract in June 2022. A replacement temporary contract Case Officer was allocated in July 2022 (Mr M. Banks). To assist Mr Banks, a summary application update note, setting out the current position at that time, was provided by Turley and sent by email to SADC, dated 29th July 2022.
- 1.7 A virtual meeting was held with the new Case Officer on 4th August 2022, wherein Mr Banks conveyed his intention to present the submitted application, inter alia, for internal assessment, to the SADC Major Applications Team, on the 24th August. To facilitate this, an extension of time was granted by the Appellant, by email, to 1st September 2022.
- 1.8 Other matters discussed at the meeting with Mr Banks, held on 4th August 2022, related to highways and access. SADC were informed that Tarmac proposed to improve the footway to the east of the site access, by widening it to 2.0m and providing dropped kerbing with tactile paving near the junction of Park Lane.
- 1.9 On 10th August 2022, an email was sent to Mr Banks with an updated Transport Note prepared by Tarmac's consultant, DTA. The Transport Note set out Tarmac's response to the Highways Authority's comments on the application.
- 1.10 The Note contained an updated proposed access plan and a letter from Colney Heath Football Club (the Club), which confirms that the Club has no objection to the shared use of its car park for school drop off purposes, as the training and match day requirements of the Club for the use of the car park do not conflict with the use of the car park for school drop off purposes at other times (see Section 15 of this SoCG).
- 1.11 A phone call was received by Turley from Mr Banks on 6th September 2022, conveying the outcome of the internal review of the application at the Major Applications Team. Mr Banks confirmed that SADC's position, arising from the team meeting, was that there was an objection in principle in relation to development in the Green Belt and also an additional concern in relation to perceived impact on landscape character.
- 1.12 Mr Banks indicated that there were minor height concerns with the indicative layout. However, as the application is in outline only, Turley confirmed that the Appellant was not seeking specific approval for the layout, which is indicative. Turley however sought clarification as to whether there were any other issues of concern and that SADC's current objections to the scheme related only to the above two issues. This was verbally confirmed by Mr Banks as being the case, with no other site-specific issues being raised.
- 1.13 On 14th September 2022, an email was sent by Turley to Mr Banks, seeking confirmation of SADC's written landscape response. Mr Banks responded on 15th September with the landscape response which had been received from the Herts County Council (HCC) Growth and Infrastructure Unit.

- 1.14 These comments from HCC had been received on 5th May 2022 but had not been uploaded to the SADC's website by Mr Gavin. Contrary to the landscape comments arising from the earlier meeting of the Major Applications Team, conveyed by Mr Banks, the landscape response of HCC was, in contrast, very positive. In this regard, HCC are only seeking some minor revisions to the Masterplan. Subject to those revisions being made, the HCC response concluded:

'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.'

- 1.15 The Appellant noted that SADC had been in possession of these statutory consultee comments prior to reaching their own conclusions. On this basis, a further meeting was sought with SADC. On 16th September 2022, Turley sent an email to Mr Banks, setting out the Appellant's updated summary response to the outstanding matters of concern to SADC.
- 1.16 The Turley email stated that, as there were no substantive landscape reasons to resist the proposal, as acknowledged by HCC, then it also reasonably followed that there are similarly no substantive reasons to resist the proposal on Green Belt grounds when the site is assessed in the same context; that is to say, on a site specific basis and on its own merits, and not in the context of the assessment of a much wider strategic generic Green Belt parcel, which is addressed in the submitted Planning Statement.
- 1.17 The email set out that the Green Belt Review Purposes Assessment: November 2013 (Green Belt Study) is the only extant strategic Green Belt evidence currently available to SADC, relative to this site. In this regard, Colney Heath lies within assessed Green Belt Parcel **GB 34**. This assessed Parcel is however some 419 ha in total area and so the application site equates to less than 0.5% of this area, as assessed by the Study.
- 1.18 In this regard, SADC were reminded that the Green Belt Review was also criticised by the Local Plan Inspector in 2020 as having been undertaken at too strategic a level, which is suitably demonstrated by the Appeal Site as an example. SADC were also reminded that the Site had been specifically assessed on its own merits by Turley (site specific Landscape and Visual Impact Appraisal (LVIA)).
- 1.19 The email concluded that there are no substantive landscape or Green Belt reasons to resist the proposal, given the recommendations made by HCC Growth and Infrastructure Unit, on the basis that the wider assessment of strategic Parcel GB 34 is not specifically relevant to this particular site.
- 1.20 SADC were therefore invited to confirm that the Application remained open to further consideration to discuss the appropriate revisions to the Masterplan, which had been suggested by HCC.

- 1.21 However at a subsequent Teams meeting with Mr Banks, on 3rd October 2022, he advised that the most likely outcome for this application from Officers would still be a recommendation to Members to refuse the application. This was provisionally scheduled to take place at committee on 19th December 2022.
- 1.22 However, Mr Banks left the employment of SADC at very short notice and SADC were unable to provide a replacement temporary Case Officer until January 2023 (Mr N. Kasmani).
- 1.23 On 28th February 2023, a virtual meeting was held with Mr Kasmani, as the new SADC case officer, together with Turley and the Appellant. In addition, the Team Leader (East) for Development Management Community and Place Delivery (Ms Sarah Smith) also attended the meeting on behalf of SADC.
- 1.24 Officers advised Turley and the Appellant that notwithstanding the May 2022 landscape comments of HCC, the application would still be recommended for refusal at the next available committee, in May 2023, due to the perceived harmful impact upon the Green Belt and landscape character, and a perception of encroachment into the Countryside. Whilst officers acknowledged the benefits of the proposals and SADC's long term lack of a Local Plan and a five year housing land supply, this did not alter their view.
- 1.25 At the meeting with officers, the Appellant again sought to specifically determine whether SADC had any other site-specific potential reasons for refusal, in addition to the principle of resisting inappropriate development in the Green Belt and preserving the existing use of the Appeal Site (arable farmland). In this regard, officers verbally confirmed that the only cause for objection were the matters of principle outlined above, which is reflected in the following SoCG, provided as part of this Appeal.
- 1.26 A subsequent email from Mr Kasmani, received on 24th April 2022, requested additional plans and further details of the affordable housing mix to inform the assessment of HCC Planning Obligations, notwithstanding that the email also made clear that the intention of SADC was still to refuse the application at the next available committee opportunity.

Matters Agreed

2.0 THE APPEAL SITE AND ITS SURROUNDINGS

- 2.1 The Appeal Site is located off Colney Heath High Street immediately south of Colney Heath Football Club, approximately 60 metres due east of Colney Heath School and Nursery, as indicated on the Site Location Plan, submitted with the Appeal.
- 2.2 The Site comprises approximately 1.68 ha of arable land and lies within the St Albans Green Belt. The Site is accessed from Colney Heath High Street via a shared, hard surfaced, private road. The Site is rectangular in form and is located adjacent to the urban edge of Colney Heath. The Site constitutes a small extension of the settlement, in a location largely influenced by adjoining existing development to the west.
- 2.3 The Site is bounded to the north by the clubhouse and sports pitches associated with Colney Heath Football Club. The Site is bounded to the south by other arable land, although this is visually separated by a significant linear boundary of trees, hedgerows and a drainage ditch, which run parallel with the northern access track.
- 2.4 The western boundary of the Site adjoins the rear gardens of a small cluster of dwellings which similarly take access directly from the High Street. The south western corner of the Site is bounded by other residential properties and is located within 30 metres of the nearby Crooked Billet Public House on the High Street.
- 2.5 It is agreed by the parties that the Site is not covered by any statutory environmental designations. It is also agreed that the Site is not a valued landscape under the NPPF Paragraph 174 definition and that there are no protected trees or designated heritage assets which directly affect the Site.
- 2.6 It is agreed that the Site is shown on the Environment Agency's 'Flood Map for Planning' as being within Flood Zone 1 and therefore is at very low risk of flooding. Furthermore, that the local area around the western and southern areas of the Site is predominately characterised by existing residential development which forms the eastern village edge of Colney Heath.
- 2.7 It is agreed that access to the Site from Colney Heath High Street is via a private road, wholly owned by the Appellant, which is also shared with the Football Club. This private access runs close to the southern boundary of Colney Heath Primary School and Nursery, which is located 60 metres from the entrance to the Site.
- 2.8 It is further agreed that the current, and informal, use of the private access for school drop off purposes takes place entirely at the discretion of the Appellant, as the relevant landowner, and does not constitute any current or future permanent right of public access. Consequently, if the access road were to be brought up to adoptable standards, as part of this Appeal, and made available for permanent adoption by the Highways Authority, that this would constitute a material public benefit.

- 2.9 It is agreed that the closest bus stops to the Site are located on Colney Heath High Street, approximately 400m from the centre of the Site. These bus stops are served by services (230, 305, 312 & 355) and provide links to St Albans and beyond.
- 2.10 These services stop at a number of key destinations along their route, further details of which are set out in the Transport Assessment submitted with the planning application. The Site is well connected to the strategic road network and benefits from direct access onto the A414, via Colney Heath High Street.

3.0 THE PLANNING APPLICATION AND THE PLANNING APPLICATION DOCUMENTS

- 3.1 The Appellant's advisors undertook relevant pre-Application consultation with a number of statutory consultees and members of the local community. The submitted Statement of Community Involvement, prepared by the Appellant, sets out in detail the nature of the engagement process undertaken and how this helped to shape the Appeal Scheme.
- 3.2 The Application (all matters reserved except access) was submitted to SADC in February 2022 and validated on 8th March 2022 under reference 5/2022/0599. It sought permission for up to 45 dwellings including up to 18 new affordable homes, with areas of landscaping and public open space, including points of access, and associated infrastructure works at land to the rear of 96 To 106 High Street Colney Heath.
- 3.3 The inclusion of detailed plans for the long term future of the access road offers certainty and cumulative public benefit. The new access road will provide betterment by including footpaths, which will provide pedestrian segregation and enable the access road to be offered for adoption. In summary, the proposed residential development, the subject of the appeal, comprises the following elements:
- Up to 45 high quality, sustainable new homes of a range of scales;
 - A mix of tenure and house types, including the provision of affordable housing at a rate of 40% (18 new homes) which exceeds existing SADC planning policy requirements;
 - Circa 10% additional provision for custom homes (4 new homes);
 - Vehicular access provided from existing access off Colney Heath High Street;
 - New access footpaths, which will provide pedestrian segregation and suitability for adoption by the highways Authority;
 - A high quality landscaping scheme with retention of most of the existing high-value boundary tree specimens, with significant additional planting of native and new specimen tree/hedge planting to create new landscaped boundaries;

- Excluding drainage areas, around 28% of the Site is proposed for new public open space and amenity area, for both existing and future residents, complemented by the proposed new landscaping; and
 - Surface water to be drained via a Sustainable Urban Drainable System (SuDS).
- 3.4 The developable area for the residential dwellings (including residential parcels and streets) will comprise approximately 0.97 ha, whilst the remaining 0.71 ha will comprise new public open space and the required attenuation areas.
- 3.5 The proposed overall indicative land budget, as set out in the illustrative Masterplan and Planning Statement, which accompanies this appeal, is agreed as set out below. The land use budget is also set out in more detail in the submitted Design and Access Statement.

Red Line Site Area	1.68 ha
New Residential Areas	0.97 ha
Public Open Space	0.47 ha
Self-Build	0.15 ha
Access Road	0.09 ha

- 3.6 In terms of the pattern of settlement, the development of the Site will consolidate an area adjacent to the eastern village edge of Colney Heath, which is already in significant community use, by reason of the adjacent school and clubhouse.
- 3.7 The limited development proposed on the Site will therefore sympathetically reflect the existing pattern of residential development in this part of the village. The proposed green open spaces and additional structural planting will together also help to create an attractive environment for residents in addition to improving local biodiversity.
- 3.8 New planting across the western edges of the scheme will assist with containment in relation to adjoining residential boundaries and new structural landscaping adjacent to the eastern boundary will also assist with softening views into the Site from the west.
- 3.9 Ecological enhancements will also be a key element in the green infrastructure provision to help achieve Biodiversity Net Gain (BNG).

Application Documents

3.10 The following planning application documents are agreed to be relevant to this Appeal:

- (a) Application Form
- (b) Site Location Plan
- (c) Concept Masterplan and Illustrative Layout
- (d) Planning and Affordable Housing Statement
- (e) Design and Access Statement
- (f) Statement of Community Involvement
- (g) Air Quality Statement
- (h) Ecology Impact Assessment and BIA Baseline Plan
- (i) Level 1 Utilities Study
- (j) Flood Risk Assessment and Drainage Strategy
- (k) Heritage Statement
- (l) Landscape and Visual Impact Assessment (LVIA) and Green Belt Appraisal (Part 1 and Part 2)
- (m) Tree Constraints Plan / Tree Protection Plan
- (n) Tree Survey / Tree Schedule
- (o) Archaeological and Heritage Assessment;
- (p) Phase 1 Geo-Environmental Desktop Study;
- (q) Transport Assessment Parts 1 -3 and Travel Plan.
- (r) Updated Transport Note
- (s) Arboricultural Impact Assessment
- (t) Soils and Agricultural Report
- (u) Ground Investigation Phase 1 Desk Study Parts 1-3
- (v) BIA Calculations

3.11 Where any subsequent revisions have been made to the above documents, the most up-to-date versions are the relevant documents for the purposes of the determination of this Appeal.

4.0 PLANNING POLICY CONTEXT

- 4.1 It is common ground with SADC that the following national and local planning policy and supplementary planning documents are of the most relevance to the determination of this Appeal:

Adopted Development Plan

- 4.2 The Adopted Development Plan for SADC comprises the Saved Policies of the District Local Plan Review 1994, the Hertfordshire Minerals Local Plan 2007, the Waste Core Strategy 2012 and the Waste Site Allocations July 2014.

Emerging Draft Local Plan

- 4.3 The NPPF allows weight to be given to policies in emerging Local Plans according to their stage of preparation, the extent to which there are unresolved objections to relevant policies and the degree of consistency with national policy.
- 4.4 The Council is currently in the process of preparing a new emerging Local Plan, following the termination of the previous emerging Local Plan, in November 2020. In this regard, the Council held a Draft Local Plan Regulation 18 public consultation in July 2023, which concluded on 25th September 2023.
- 4.5 The Draft Local Plan covers the period to 2041 and contains draft housing allocations for 11,779 new homes during the plan period, 10,911 of which are proposed on land which is currently within the Metropolitan Green Belt. The allocations comprise a mix of Broad Locations of 250+ homes and other smaller sites.
- 4.6 Whilst the Council has recently consulted upon proposed draft housing allocations, the Draft Local Plan is still at an early stage in its preparation and reference to the Council's Local Plan consultation portal provides evidence that there are a substantial number of unresolved objections to the Local Plan.
- 4.7 Accordingly, it is agreed at this time, that only limited weight can be attributed to the Draft Local Plan in the planning balance, which therefore carries limited weight in the determination of this Appeal.

Material Considerations

- 4.8 The National Planning Policy Framework (NPPF) is an important material consideration in the determination of this Appeal. The NPPF sets out the Government's planning policies for England and how these policies are expected to be applied. The parties may also refer to the Planning Practice Guidance (PPG).
- 4.9 Paragraph 219 of the 2021 NPPF allows local planning authorities to give due weight to adopted, albeit outdated, policies according to their degree of consistency with the policies in the NPPF.

5.0 THE PRINCIPLE OF DEVELOPMENT

- 5.1 The Site lies outside, but closely adjoining, the current settlement boundary of Colney Heath. It is agreed that the Saved Policies of the SADC 1994 Local Plan and the settlement boundaries were drafted only to meet the development needs of the St Albans District up to 2001, and were based on a much earlier Core Strategy, dating from the mid 1980's.
- 5.2 The original adoption of the Local Plan took place in 1985 and the Plan was subsequently reviewed in 1994. This later review was however predicated on the evidence base of an earlier 1986 Hertfordshire County Structure Plan, which at the time, was already out of date, having been superseded by Hertfordshire County Structure Plan 1991 Alterations.
- 5.3 This is recognised at paragraph 1.18 of the Local Plan which states that preparatory work on the District Plan Review was well advanced before the 1991 Structure Plan Alterations were finalised. Consequently it is common ground that the 1994 District Plan Review was prepared against the background of the County Structure Plan 1986 Review, rather than the Alterations 1991.
- 5.4 As a result, the evidence base which underpins the Saved Policies of the St Albans Local Plan, including the settlement boundaries, are around 40 years old. It is also common ground that the existing Local Plan was prepared under an entirely different legislative and local strategic policy framework to that prevailing in 2023.
- 5.5 The considerable and persistent lack of a deliverable five year housing supply, over many of the subsequent years, means that the most important development plan policies for determining the Appeal are deemed to be out of date by virtue of Paragraph 11(d) of the NPPF, as they do not provide for a sufficient supply of housing land. The policies are also substantively out of date, due to the considerable and extensive passage of time since their original conception and the ancient spatial strategy to which they relate.
- 5.6 The Site is in a sustainable edge of settlement location, adjacent to existing education and community facilities, and within a reasonable walking distance of other local services. Importantly, the Site is located within 5 minutes of bus stops on the High Street which provide a frequent service into St Albans Town Centre and to nearby London Colney, which has an extensive, sub-regional retail offer (Colney Fields). The Site is therefore a suitable and highly sustainable location in principle and this attracts significant positive weight in the planning balance.
- 5.7 It is agreed that given the current status of the adopted Local Plan, the fact that the Site lies outside of the existing settlement boundary of Colney Heath is not, in itself, a determinative factor upon which this Appeal should be determined. It is further agreed amongst the parties that, in principle, the provision of new housing in this location would make a positive contribution to the local economy and also provide positive social benefits and should therefore be given very substantial weight in the planning balance. The Parties also agree that any Green Belt harm should be afforded substantial weight, in the planning balance (see following section 11).

6.0 HOUSING LAND SUPPLY

- 6.1 It is agreed that whilst the Saved Policies of the 1994 Local Plan remain part of the Development Plan for the district, in the absence of an adopted replacement Local Plan SADC does not currently have an up to date a strategic housing policy framework to meet its identified housing and other development needs. SADC is therefore required to calculate housing supply using the Government’s standard methodology until the new Draft Local Plan has been tested, by way of examination, and adopted.
- 6.2 It is agreed that a key Government planning priority is to significantly boost the delivery of new housing. The NPPF recognises that small to medium scale sites, particularly those of 1 hectare or less in area, such as the Appeal Site, which are unconstrained and do not require significant upfront infrastructure can be built out relatively quickly.
- 6.3 It is further agreed that the Housing Trajectory in the latest published AMR shows a five year housing land supply of 2.2 years. This is corroborated by SADC’s published Housing Delivery Test, dated December 2021, which represents only 44% of the national minimum policy requirement, which is materially significant to this Appeal.
- 6.4 However, pursuant to a recent appeal on Land North of Chiswell Green Lane, St Albans, this figure has been revised further downwards to **2.0** years by SADC. This is confirmed by the following statement, made at Paragraph 30 of SADC’s Opening Comments, to the Land North and South of Chiswell Green Lane Inquiry, prepared by Andrew Parkinson of Landmark Chambers, on behalf of SADC:

‘There is no material dispute as to the extent of the general housing need. The Council does not have a five-year supply of housing land. For the five-year period (2021/2 to 2025/26) there is just a 2-year supply of deliverable housing sites and no early prospect of that deficit being addressed. There is also accepted to be an acute affordable housing need in the District’.

- 6.5 It is agreed that the supply of deliverable housing sites that SADC can demonstrate falls very substantially below five years and that SADC only has a stated maximum of 2 years of deliverable housing land supply at the current time. Notwithstanding, the Appellant reserves the right to adduce further related evidence to show that the housing land supply position has materially declined further since 2021.

7.0 AFFORDABLE HOUSING

- 7.1 It is common ground that the Appeal Scheme will provide 40% affordable housing, in excess of the standard 35% policy requirement, to which a further 10% of Custom Build homes will be added to achieve 50% of the overall scheme as being ‘other types of housing offering choice’ This will be secured by way of a Section 106 Agreement and equates to up to 18 new affordable homes. Four of these homes will be First Homes and the remainder of the affordable housing provision will be for affordable rent.

7.2 It is agreed by the parties that the provision of 40% affordable housing will help to address an urgent identified need and carries very substantial weight in its own right as a benefit in the planning balance.

8.0 DENSITY, OPEN SPACE AND AMENITY

8.1 The precise number (up to 45) and layout of the new homes on the Appeal Site will be determined at the Reserved Matters stage. The submitted Illustrative Masterplan provides an indicative layout showing that the Site can accommodate the quantum of units proposed at an appropriate density with a significant area of green open space, including equipped play areas, SuDs, and new landscape planting.

8.2 The Illustrative Masterplan provides for approximately 0.47ha of informal and formal areas of open space, equating to around 28% of the Site.

8.3 In addition to the areas of informal open space, the Appeal Scheme includes the provision of children's play areas. These new areas of public open space will deliver social and environmental benefits for the local community. It is agreed that these benefits can therefore be afforded significant weight in the planning balance. The aforementioned public open space will similarly be secured by way of a S106 agreement.

9.0 HERITAGE

9.1 With regard to Heritage matters, the following policies and other considerations are agreed to be relevant and material to the determination of this Appeal:

- (i) Saved Heritage Policy 86 of the SADC Local Plan Review
- (ii) Historic England: Good Practice Advice Note 2:
- (iii) Historic England: Good Practice Advice Note 3:
- (iv) Paragraph 194 of the NPPF

9.2 A Heritage Assessment has been undertaken for the Site and has been submitted in support of the application. The potential for direct effects upon archaeology and indirect effects upon off-site statutorily designated assets have been fully assessed within the framework of national planning policy and guidance, as well as the saved policies in the SADC Local Plan Review. Specifically, the Heritage Assessment has been undertaken in line with paragraph 194 of NPPF.

9.3 The Heritage Assessment concludes that there would be only a slight change to the setting of one Grade II listed building, at Apsley Cottage. Two further Grade II assets, The Crooked Billet Public House and 94 High Street, would also experience change, albeit of negligible magnitude.

- 9.4 Accordingly, it is agreed between the parties that there would be no effect upon the ability to appreciate the significance of these three heritage assets, arising from the appeal proposals. It is further agreed that each of these assets 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.
- 9.5 With regards to archaeology, in line with the Heritage Assessment, it is agreed 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 Heritage Assessment notes that the Site has also been continually ploughed since the 19th century, which has truncated any archaeology present.
- 9.6 It is therefore agreed that, overall, there would be no known effects upon archaeology and only a slightly adverse effect upon the setting of one listed building (Apsley Cottage). There would accordingly be no effect upon the ability to appreciate the significance of any designated assets, which is the test set by Historic England.
- 9.7 As such, it is agreed by the parties that S.66 (1) of the planning (Listed Buildings and Conservation Areas) Act 1990 is not engaged, and there would be no conflict with Policy 86 of the St Albans District Local Plan (1994) which states that where proposals effect the setting of a building of historic interest, SADC will have due regard to the desirability of preserving the building, its setting, or any features of architectural or historic interest which it possesses.
- 9.8 Notwithstanding the assessment of less than substantial harm, at the lowest end of the scale, relating to one individual building, it is however agreed that any residual minor adverse harm is clearly outweighed by the public benefits of the proposals, which are set out at paragraph 3.4 of the Planning Statement.
- 9.9 In summary, the public benefits which are to be weighed against the identified 'less than substantial harm' are agreed to include:
1. The provision of up to 27 new Market and 18 new Affordable Homes.
 2. Circa 10% additional provision for custom homes (4 new homes).
 3. Public Open Space Provision (0.47ha)
 4. Significant Biodiversity Net Gain.
 5. Economic benefits, including capital investment and local spending.

10.0 LANDSCAPE AND VISUAL IMPACT

- 10.1 A Site specific Landscape and Visual Impact Appraisal (LVIA) and Site specific Green Belt Assessment (GBA) has been undertaken by Turley and submitted in support of the planning application.

10.2 Pursuant to the determination of the application, SADC sought landscape advice from the HCC Growth and Infrastructure Unit (GIU) who responded to SADC by letter, dated 5th May 2022.

10.3 The response of the GIU was positive and HCC support the proposals. HCC have asked only for some minor revisions to the Masterplan. Subject to these minor revisions being made, the GIU Landscape response concludes:

‘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.’

10.4 The landscape support of the GIU, subject to the above conditions, is a matter of public record, and so is not a matter in dispute between the parties.

10.5 The Appeal Site falls within Landscape Character Area (LCA) 30: Colney Heath Farmland within the Hertfordshire Landscape Character Assessment.

10.6 It is agreed that although the Site and immediate context have some positive attributes and characteristics, these are not beyond the ordinary in landscape terms and the area should not be considered as forming a ‘Valued Landscape’ in the context of Paragraph 174 of the NPPF.

11.0 GREEN BELT

11.1 The Appeal Site and the adjacent settlement areas of Colney Heath, Roestock and Bullen’s Green all lie within the Green Belt.

11.2 It is agreed that the Appeal Scheme would reduce the openness of the Site itself but the physical and visual openness of the wider Green Belt beyond would be preserved.

11.3 It is agreed that the Appeal Scheme would make no material change to the functioning of the Green Belt in the vicinity of the Site in relation to the following purposes:

- Purpose a – Checking unrestricted sprawl of large built up areas.
- Purpose b – Preventing neighbouring towns from merging.
- Purpose d – Preserving the setting and special character of historic towns.
- Purpose e - Assisting in urban regeneration, by encouraging the recycling of derelict and other urban land.

11.4 The extent to which the proposed development would affect the functioning of the Green Belt in relation to Purpose c – assisting in safeguarding the countryside from encroachment, is a matter of dispute between SADC and the Appellant.

- 11.5 The degree of harm arising from the proposals in terms of Green Belt impact is a matter of dispute between SADC and the Appellant. The Parties however agree that this harm should be afforded substantial weight, in the weighing of the planning balance, as required by Paragraph 148 of the NPPF.

12.0 ECOLOGY

- 12.1 An Ecological Impact Assessment (EclA) has been undertaken and has been submitted in support of the Application. The EclA also includes a Biodiversity Net Gain (BNG) calculation, which is favourable (10%) and of material weight. It is agreed amongst the parties 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.
- 12.2 The hedgerows and tree lines were noted for their ecological value, providing linear features for commuting and foraging species and these will be retained where possible. 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.
- 12.3 The parties agree that there are no impacts upon statutory designated sites anticipated from the proposals, as it is not within the categories listed for any SSSI IRZ. It is also agreed that there are no water bodies (including ponds suitable for amphibian breeding) within the Site. There are two ponds within 250m of the Site and three more ponds within 500m of the Site. These are mostly stocked with fish and, as such, any amphibians within the lakes are likely to be subject to predation.
- 12.4 With regard to bats, it is agreed that no roosting features were identified on the Site during the preliminary ecological appraisal. A number of mature trees were present within the hedgerows and boundaries, however no roosting features were noted at ground level. With regard to birds, the tree lines and hedgerows along the boundaries of the Site provide habitat for nesting birds, including birds of conservation concern.
- 12.5 However due to the limited size of the Site, the EclA 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. Based on the successful implementation of the proposed avoidance, mitigation and enhancement measures, it is agreed that the development is not anticipated to result in any significant residual negative effects on any important ecological features.

Biodiversity Net Gain Assessment

- 12.6 A Biodiversity Net Gain (BNG) Assessment has also been undertaken and a BNG Report and Metric form part of the application. The Government has confirmed its intention to mandate BNG at a minimum of 10% through the Environment Act 2021, which has been enacted into UK law. Schedule 14 (which will require 10% BNG as a condition of future permissions) however still requires secondary legislation prior to coming into force.

- 12.7 In the interim, any increase in BNG on proposal sites will attract due weight in the planning balance, proportionate to the scale of the BNG proposed. It is agreed that development proposals which are able to achieve a 10% BNG in advance of the requirement should be afforded significant weight in the planning balance.
- 12.8 The Appeal Scheme has the capability to materially increase the existing biodiversity baseline by at least 10%. Following input of habitat data into the DEFRA Metric 3.0, it is agreed that there will be quantified net gain in biodiversity of 0.85 habitat units (22.56%) and a gain of 0.39 linear units (15.53%) across the Site.
- 12.9 This equates to a net BNG increase of over 10% based on the indicative Masterplan submitted with the application, which the parties agree can therefore be afforded significant weight in the planning balance.
- 12.10 The Herts Wildlife Trust has commented that given 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, they had 'no reason to doubt that the proposals will deliver a 10% + biodiversity net gain'.

13.0 FLOOD RISK AND DRAINAGE

- 13.1 It is agreed that that the Site falls within EA Flood Zone 1 and so is at very low risk of flooding and appropriate for the residential use proposed. The EA Risk of Flooding from Rivers and Sea mapping, shown in Figure 3.2 of the FRA, indicates that the Site has less than a 1 in 1,000 annual probability of flooding from Rivers and Sea.
- 13.2 The FRA identifies that whilst the River Colne, an EA Main River, is located approximately 151m to the south of the Site, this River is located on the opposite side of the High Street. As such, given that the Site is located on ground higher than that to the south of High Street it is therefore not at risk of fluvial flooding from the River Colne.
- 13.3 Thames Water advises that, if the sequential approach to the disposal of surface water is followed, they will have no objection. Thames Water also expects the Appellant to demonstrate what measures will be undertaken to minimise groundwater discharges into the public sewer.
- 13.4 The intention of the Appellant is for the sequential approach to be followed and the Site will incorporate SuDS for on-Site disposal of all surface water.
- 13.5 It is further agreed with the Council that there is no requirement for the sequential testing of the Appeal Site against any other sites.
- 13.6 The information provided by Thames Water in relation to minimising the impact upon existing sewers and the SPZ are also noted. In this regard, the Appellant proposes a relevant planning condition where planning permission is granted (see Appendix 1).

14.0 UTILITIES

- 14.1 A Level 1 Utility Study has been undertaken by Utilities Connections Management Ltd (UCML) and submitted in support of the application.
- 14.2 The UCML Study concludes that, based on the information currently available for review, the existing utility infrastructure within the vicinity of the development Site appears to be capable of supporting the additional demand required to provide connections for the proposed development of up to 45 new homes.
- 14.3 The parties agree that there are existing electricity, gas, clean water, and telecoms services in the vicinity of the Site, which should therefore have sufficient capacity to serve the modest scale of development proposed by the application.
- 14.4 Given the location and proximity to existing services, it is also considered possible to undertake the connections works as part of a multi utility offering which would combine the installation of electricity, gas, water and telecoms under a single works contract.

15.0 HIGHWAYS AND TRANSPORT

- 15.1 A Transport Assessment has been prepared on behalf of the Appellant by DTA and considers the traffic impact of the Appeal proposals on the adjacent highway network. The initial issues raised by HCC as the relevant Highways Authority have been fully addressed in a written response prepared by Tarmac's transport consultant (Technical Report dated 9th August 2022).
- 15.2 The DTA note contained an updated proposed access plan and a letter from the Club, which confirms that the Club has no objection to the shared use of its car park (see below). The Transport Note was forwarded to the Highways Authority for comment by SADC in October 2022. The Highways Authority formally responded on 24th November 2022 in relation to the amended proposal.
- 15.3 The HCC letter confirmed that under Article 22 of the Town and Country Planning (Development Management Procedure) Order 2015 that HCC as Highway Authority does not wish to restrict the grant of permission subject to the imposition of a number of highways related conditions.
- 15.4 There are therefore no highway or transportation issues in dispute with the LPA, subject to agreement of conditions and the S106.
- 15.5 These conditions relate to details required at the reserved matters stage, off-Site works, construction, traffic management and parking signage. A S106 sustainable transport contribution of £307,170, subject to formal confirmation of CIL Compliance by the LPA, is acceptable to Appellant.

- 15.6 The full list of draft conditions sought by HCC can be found at **Appendix 1** of this SoCG.
- 15.7 It is agreed between the parties therefore that a completed Section 106 obligation to secure the relevant provision of any required off-Site Highway Works will be undertaken as part of this Appeal and financial contributions will be made towards improvements to local cycling infrastructure.
- 15.8 On that basis it is agreed that the Appeal Scheme is consistent with the requirements of the NPPF Chapter 9 and Paragraphs 110 and 111 specifically. It is also therefore consistent with LPA Policy 34.
- 15.9 In relation to the detail of access strategy and concerns raised by third parties in relation to car parking the agreed position with the LPA is thus:
- 15.10 Discussions have been undertaken by the Appellant with the adjacent Club. The Club confirm that they currently already consent to the Club car park being used by parents dropping off children at the Colney Heath Primary School and Nursery.
- 15.11 Whilst there are no formal arrangements in place with the School, the Club have never had any objection to its use, as this has no adverse impact on their parking requirements, which are generally evenings and weekends.
- 15.12 The Club has been provided with a copy of the Appeal proposals for the new, adoptable, access road to serve their proposed development and understand that this will result in the removal of some of the, informal, parking areas currently used on the unadopted access road.
- 15.13 The Football Club raise no objection to the application and the LPA (or indeed LHA) have requested no further assessment of this point.

Matters Not Agreed

16.0 GREEN BELT

- 16.1 The extent to which the proposed development would affect the functioning of the Green Belt in relation to Purpose C – assisting in safeguarding the countryside from encroachment, is a matter of dispute between SADC and the Appellant.
- 16.2 The extent to which the potential harm to the Green Belt by reason of inappropriateness and any other harm resulting from the proposal, is outweighed by other considerations, is also a matter of dispute between SADC and the Appellant.

17.0 OTHER CONSIDERATIONS

- 17.1 Other areas of dispute between SADC and the Appellant relate to RR1 and in particular:
- The assessed level of harm to landscape character,
 - The extent to which there is a loss of high quality agricultural land and;
 - The level of impact upon social and physical infrastructure.
- 17.2 Matters relating to RR2 are dealt with at **Appendix 2** of this SoCG.

APPENDIX 1: SUGGESTED PLANNING CONDITONS

1 Time Limits for Implementation

Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.

Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission. The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.

2 Approved Plans

The development hereby permitted shall be carried out in accordance with the following approved plans: *(to be agreed)*.

The submission of reserved matters applications pursuant to this outline planning permission shall together provide for up to 45 dwellings, public open space, landscaping, surface water attenuation and associated infrastructure.

Prior to the submission of the first reserved matters a site-wide design guide for all areas of housing development, public realm and character areas, shall be submitted to and approved in writing by the local planning authority. All reserved matters submissions shall accord with the approved site wide design guidance.

3 Details of Landscaping

The landscaping scheme required by this permission shall incorporate a detailed specification of all soft and hard landscaping works. This shall include plant/tree types and sizes, plant numbers and distances, soil specification, seeding and turfing treatment, colour and type of material for all hard surface areas and method of laying, refuse storage, signs and lighting.

All planting, seeding or turfing contained in the approved details of the landscaping scheme shall be carried out in the first planting and seeding seasons after the commencement of the development unless otherwise previously agreed in writing by the local planning authority.

Any trees or plants which die, are removed, or become seriously damaged or diseased within a period of 5 years from the completion of the development, shall be replaced in the next planting season with others of a similar size and species, unless the local planning authority gives written consent to any variation.

4 **Concurrent with Reserved Matters – Construction Environmental Management Plan (CEMP: Biodiversity).**

No development or site clearance shall commence, or on site investigation works take place, until a Construction Environmental Management Plan for the site, which sets out the site wide strategy for protecting and enhancing biodiversity including the detailed design of proposed biodiversity enhancements and their subsequent management upon completion of the development, is submitted to and approved in writing by the Local Planning Authority in line with the recommendations contained in the submitted Ecological Appraisal. The Development shall be implemented in accordance with the approved Management Plan and thereafter maintained.

5 **Concurrent with Reserved Matters – Landscape and Ecological Management Plan**

Concurrent with the first submission of the reserved matters under Condition 1 of this permission, a Landscape and Ecological Management Plan (LEMP) shall be submitted to, and approved in writing by, the local planning authority.

The LEMP shall include details of the funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery.

The plan shall also set out how contingencies and/or remedial action will be identified, agreed and implemented so that the development delivers the fully functioning biodiversity objectives of the approved scheme. The approved plan will be implemented in accordance with the approved details.

6 **Prior to Commencement - Programme of Archaeological Works**

No development or preliminary ground works can commence until a programme of archaeological trial trenching has been secured and undertaken in accordance with a written scheme of investigation which has first been submitted to and approved by the local planning authority.

A mitigation strategy detailing the excavation/preservation strategy shall be submitted to the local planning authority following the completion of this work.

7 **Protection of Retained Landscape Features**

No development shall take place, including any ground works or site clearance, until details of the means of protecting trees, shrubs and hedges within and adjacent to the site has been submitted to and approved in writing by the Local Planning Authority. The approved means of protection shall be installed prior to the commencement of any building or engineering works or other activities on the site and shall be adhered to throughout the construction period.

8 Protection of Retained Natural Habitat Features

No development shall take place, including any ground works or site clearance, until details of the means of protecting retained habitats on site have been submitted to and approved in writing by the Local Planning Authority. The approved means of protection shall be installed prior to the commencement of any building or engineering works or other activities on the site and shall be adhered to throughout the construction period.

No clearance of trees and shrubs in preparation for (or during the course of) development shall take place during the bird nesting season (March - August inclusive) unless a bird nesting survey has been submitted to and approved in writing by the Local Planning Authority. If such a survey reveals the presence of any nesting birds, then no development shall take place within those areas identified as being used for nesting during the period specified above.

9 Details of Lighting Scheme

Prior to occupation of any dwelling, details of the proposed lighting for public areas will be submitted to and approved in writing by the Local Planning Authority. The details shall include a lighting strategy for bats. All external lighting shall be installed in accordance with the specifications and locations set out in the strategy, and these shall be maintained thereafter in accordance with the strategy.

10 Hours of Operation

No site clearance, demolition or construction work shall take place on the site, including starting of machinery and delivery of materials, outside the following hours:

Monday to Friday - 07:30-18:00 hours

Saturday - 07:30-13:00 hours

Sunday and Bank Holidays - No work

11 Construction Management Plan

No development shall commence, including any ground works, until a Construction Management Plan has been submitted to, and approved in writing by the Local Planning Authority. The Statement shall provide for:

- a) Safe access to/from the site including details of any temporary haul routes and;
- b) The parking of vehicles of site operatives and visitors;
- d) The storage of plant and materials used in constructing the development;

- e) Wheel washing facilities;
- f) Measures to control the emission of dust and dirt during construction;
- g) Measures to ensure that no burning of refuse, waste materials or vegetation is undertaken on the site;
- h) A scheme for recycling/disposing of waste from demolition and construction;
- i) A scheme to control noise and vibration during the construction phase;
- j) Measures to minimise the risk of off-site flooding caused by surface water run-off and groundwater during construction;
- k) Provision of a dedicated telephone number(s) for members of the public to raise concerns/complaints, and a strategy for pre-warning residents of noisy activities/sensitive working hours.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

12 **Prior to Commencement - Surface Water Management Scheme**

No works shall take place until a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro-geological context of the development, has been submitted to and approved in writing by the Local Planning Authority.

The scheme should include but not be limited to:

- Limiting discharge rates to 1 in 1 year greenfield for all storm events up to and including the 1 in 100 year rate plus 40% allowance for climate change;
- Provide sufficient storage to ensure no off-site flooding as a result of the development during all storm events up to and including the 1 in 100 year plus 40% climate change event;
- Final modelling and calculations for all areas of the drainage system;
- The appropriate level of treatment for all runoff leaving the site;
- Detailed engineering drawings of each component of the drainage scheme.
- A final drainage plan which details conveyance routes, FFL and ground levels, and location and sizing of any drainage features.

The scheme shall subsequently be implemented prior to first occupation.

13 **Prior to Occupation - Surface Water Drainage Maintenance Plan**

No works shall take place until a Maintenance Plan detailing the maintenance arrangements including who is responsible for different elements of the surface water drainage system and the maintenance activities/frequencies, has been submitted to and agreed in writing by the Local Planning Authority.

Should any part be maintainable by a maintenance company, details of long-term funding arrangements should be provided as part of the Maintenance Plan. The approved Maintenance Plan should be in place prior to the first occupation.

14 **HCC Highways Conditions Agreed by the Appellant**

Condition 1: Outline Application: The detailed plans submitted in connection with approval of reserved matters shall show, to the satisfaction of the Local Planning Authority:

- The details of all hard surfaced areas within the site. This includes, but is not limited to, all roads, footways, forecourts, driveways, parking and turning areas, and foul and surface water drainage.
- The level of footway and carriageway visibility from each individual vehicle access, and the level of visibility from and around each main junction within the site, within which there shall be no obstruction to visibility between 600mm and 2 m above the carriageway level.
- That service vehicles, including refuse and emergency vehicles, can safely and conveniently access and route through the site, to include the provision of sufficient turning and operating areas.
- The provision of sufficient facilities for cycle storage.
- The provision of sufficient EV charge points. All these features shall be provided before first occupation and maintained in perpetuity.

Reason: To ensure suitable, safe and satisfactory planning and development of the site in accordance with Policy 5 of Hertfordshire's Local Transport Plan (adopted 2018).

Condition 2: Offsite Works Before first occupation of the development, additional plans must be submitted to and approved in writing by the local planning authority, in consultation with the Highway Authority, which show the detailed engineering designs and construction of the site access and associated highway works, as shown indicatively on drawing number 23356-04b. These works shall be constructed to the specification of the Highway Authority and Local Planning Authority's satisfaction, and completed before first occupation of the development.

Reason: To ensure the provision of a vehicle access which is safe, suitable, and sustainable for all highway users.

Condition 3: Construction Traffic Management Plan: No development shall commence until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. Thereafter the construction of the development shall only be carried out in accordance with the approved Plan: The Construction Management Plan / Statement shall include details of:

- a. Construction vehicle numbers, type, routing;
- b. Access arrangements to the site;
- c. Traffic management requirements
- d. Construction and storage compounds (including areas designated for car parking, loading / unloading and turning areas);
- e. Siting and details of wheel washing facilities;
- f. Cleaning of site entrances, site tracks and the adjacent public highway;
- g. Timing of construction activities (including delivery times and removal of waste) and to avoid school pick up/drop off times;
- h. Provision of sufficient on-site parking prior to commencement of construction activities;
- i. Post construction restoration/reinstatement of the working areas and temporary access to the public highway;
- j. where works cannot be contained wholly within the site, a plan should be submitted showing the site layout on the highway including extent of hoarding, pedestrian routes and remaining road width for vehicle movements;
- k. Phasing Plan.

Reason: In order to protect highway safety and the amenity of other users of the public highway and rights of way in accordance with Policies 5, 12, 17 and 22 of Hertfordshire's Local Transport Plan (adopted 2018).

Condition 4: No Parking Signage Before first occupation of the development, additional plans must be submitted to and approved in writing by the Local Planning Authority, in consultation with the Highway Authority, which show the provision of 'No Parking on the Footway' signs on the section of the internal access road that bounds Colney Heath School and Nursery.

Reason: In order to protect highway safety and the amenity of other users of the public highway in accordance with Policies 5 of Hertfordshire's Local Transport Plan (adopted 2018). HCC as Highway Authority recommends inclusion of the following Advisory Note (AN) / highway informative to ensure that any works within the highway are carried out in accordance with the provisions of the Highway Act 1980:

APPENDIX 2: SUGGESTED PLANNING OBLIGATIONS

- 1 In the event that the Appeal is allowed, it is common ground that the following schedule of planning obligations, as set out below, will be secured by way of a Section 106 agreement attached to the planning permission.
- 2 The following obligations are subject to the Inspector determining that these obligations meet the requirements of Regulation 122 of the CIL Regulations and attaching weight to these obligations as material considerations in determining the appeal.

Schedule of Planning Obligations to be Agreed

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

APPENDIX 3: SUMMARY OF STATUTORY CONSULTATION RESPONSES

- 1 The Appellant will refer to the following responses from the statutory consultees within its evidence:

Hertfordshire Property - Growth and Infrastructure Unit (GIU)

- 2 Hertfordshire Property GIU requested an indicative mix of the affordable housing tenure and the proposed building trajectory. The indicative housing mix was provided to SADC on 6th June 2022, as set out in the indicative housing mix table below:

Colney Heath Indicative Housing Mix	
Dwelling Type	Number
1 Bed Maisonette	2
2 Bed House	13
3 Bed House	13
3 Bed Detached House	6
4 Bed House	5
5 Bed House	2
3 Bed Self Build	4
Total	45

SADC Housing Department

- 3 The Housing Department anticipates a policy compliant development for affordable housing and welcomes discussion on the size and tenure mix, but would anticipate family homes for general needs rent.
- 4 Of the 18 affordable homes to be constructed, 25% will be First Homes. The remainder will comprise a mix of shared ownership and affordable rent, some of which, it is anticipated, will be family homes available for affordable rent, as shown in the above housing mix table.

Thames Water (TW)

- 5 TW advises that if the sequential approach to the disposal of surface water is followed they will have no objection. TW expects the Appellant to demonstrate what measures will be undertaken to minimise groundwater discharges into the public sewer. TW notifies that the development boundary falls within a Source Protection Zone (SPZ) for groundwater abstraction, where a tiered, risk-based approach to regulate activities that may impact on groundwater resources is required. A link to best practice guidance is provided in the Thames Water response.

- 6 The intention of the Appellant is for the sequential approach to be followed and the Site will incorporate SuDS for on-site disposal of all surface water. The information provided in relation to minimising the impact upon existing sewers and the SPZ are further noted. In this respect, the Appellant anticipates a relevant planning condition to be imposed, where the Appeal is allowed and this will be agreed as part of the SoCG.

Herts Wildlife Trust (HWT)

- 7 The Metric provided to HWT demonstrates that the Site has the capability to materially increase the existing biodiversity baseline by at least 10%.
- 8 Following the input of habitat data into the DEFRA Metric 3.0, it is considered by Ramm Sanderson that there will be quantified net gain in biodiversity of 0.85 habitat units (22.56%) and a gain of 0.39 linear units (15.53%) across the site.
- 9 HWT have commented that given 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, they had *'no reason to doubt that the proposals will deliver a 10% + biodiversity net gain'*.
- 10 HWT therefore raise no objection to the Appeal proposals.

Hertfordshire Constabulary

- 11 Hertfordshire Constabulary raise no objection in principle to the proposed development, subject to the proposed LAP at the end of the development, having more informal surveillance from nearby properties.
- 12 The Appellant notes that the submitted Masterplan is illustrative only and are confident that the matter can be appropriately dealt with at the Reserved Matters stage.

Hertfordshire Minerals and Waste Team

- 13 Hertfordshire County Council (HCC) identify that in relation to minerals, the site falls entirely within the 'Sand and Gravel Belt' as identified in Hertfordshire County Council's Minerals Local Plan 2002 – 2016.
- 14 However, whilst it is identified that there could be minerals present, there are unlikely to be significant mineral (sand and gravel) deposits within the area in question. On this basis, the development may only give rise to 'opportunistic' use of some limited or poorer quality minerals that could be utilised in the development itself.
- 15 As a major minerals operator, the Appellant notes that the wider local area has already been extensively worked and minerals already extracted. The application Site was not worked by Tarmac due to a lack of minerals present on the Site.

Waste

- 16 HCC states that a development of this size would require the consideration of waste generated during construction and subsequent occupation. This includes minimising waste generated by development during demolition, construction and its subsequent occupation, encouraging the re-use of unavoidable waste where possible and the use of recycled materials where appropriate.
- 17 The Appellant will provide a Site Waste Management Plan (SWMP) to be secured by a planning condition as part of the Appeal and for the SWMP to be implemented, the wording of which will be agreed in the SoCG. The SWMP will be prepared prior to commencement of the development and submitted to the Waste Planning Authority for comments.
- 18 HCC note that the Site is situated within 250m of a number of historic landfill sites, as recorded by the Environment Agency. However HCC, as the Waste Planning Authority, does not consider the presence of the above sites to have an impact on the proposed development, to which Tarmac concurs.

Hertfordshire Fire and Rescue (HFR) – Water Officer

- 19 HFR note that the application will require a condition for the provision and installation of fire hydrants, at no cost to the County, or the fire and rescue service.
- 20 This is to ensure there are adequate water supplies to cover all the proposed dwellings for use in the event of any emergency. This is likely to be covered by the Water Infrastructure Act.

Contaminated Land Officer (CLO)

- 21 The CLO identifies that 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. This will require investigation to ensure that potential risk to future site users and the wider environment are identified and remediation measures developed.
- 22 The CLO raises no objection to the application in principle, but suggests three planning conditions relating to Site Investigation, Options Appraisal and Remediation Strategy and the requirement of a Verification Report.
- 23 Based on the advice received by its consultants, the Appellant does not consider that the development of the Site poses any significant risks. However, they are content to have these matters dealt with by way of the conditions proposed.

Highways and Transport

- 24 The initial issues raised by Herts County Council, as the Highways Authority, in their first consultation response (17th March 2022) have been addressed in a Technical Note response prepared by the Appellant's transport consultant (DTA).
- 25 On 10th August 2022, an email was sent to SADC (Mr Matthew Banks) with an updated Transport Note (9th August 2022). The DTA Technical Note set out Tarmac's response to the Highways Authority's comments on the submitted application.
- 26 This included discussions with the adjacent Colney Heath Football Club, who confirm that they currently consent to the Club car park being used by parents dropping off children at the Colney Heath Primary School and Nursery. The Note contained an updated proposed access plan and a letter from Colney Heath Football Club, which confirms that the Club has no objection to the shared use of its car park.
- 27 The report concludes that matters relating to pedestrian access, vehicular access design and parking have been responded to and it can be seen that the impact of the development would not materially affect the operation of the local and wider highway network.
- 28 The development would not result in a severe impact on highway safety or capacity and would therefore not be contrary to para 111 of the NPPF in relation to capacity and safety. The Transport Note was thereafter forwarded to the highways Authority for comment by SADC. The Highways Authority formally responded on 24th November 2022 in relation to the amended proposal and agree with that assessment.
- 29 The HCC formal response confirms that under Article 22 of the Town and Country Planning (Development Management Procedure) Order 2015 that Hertfordshire County Council as Highway Authority "does not wish to restrict the grant of permission subject to the imposition of a number of highways related conditions".
- 30 These conditions relate to details required at the reserved matters stage, offsite works, construction, traffic management and parking signage. The letter also sets out the level of the total S106 sustainable transport contribution sought by HCC.
- 31 A full list of draft conditions sought by HCC is provided at Appendix 1 of this SoCG. These conditions are acceptable to the applicant / appellant:

Spatial Planning Policy Team SADC

- 32 The response of the Spatial Planning Team (SPT) is that a number of significant harms and significant benefits would result from the proposed development and that a recent appeal decision in the District allowing permission for residential development in the Green Belt is also significant. The Appellant concurs that the Bullens Green appeal decision in question is materially relevant, as set out in the Planning Statement.

- 33 The SPT state that the SKM Green Belt Review considered that overall, parcel GB 34 (of which the Site forms part) 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.
- 34 The Appellant acknowledges that the wider parcel GB 34 is noted for having these characteristics, when judged in its entirety. SADC does not have any Green Belt evidence specifically in relation to the Appeal Site itself, other than that provided by the Appellant, which shows that the Site, when judged in isolation, has different characteristics.
- 35 The Appellant will provide further, detailed evidence as part of this Appeal to demonstrate that when judged on its own merits, that the Site does not make the same level of contribution to safeguarding the countryside and maintaining the existing settlement pattern as the wider parcel GB 34.

Hertfordshire Landscape Response

- 36 On 14th September 2022, an email was sent to Mr Matthew Banks seeking confirmation of the Council's written landscape response. Mr Banks responded on 15th September with the landscape response which had been received from Herts County Council GIU.
- 37 These comments from HCC had been received on 5th May 2022 but had not been uploaded to the Council's website at that time. The response of HCC Landscape was positive and HCC have supported the proposals. HCC have asked only for some minor revisions to the Masterplan.
- 38 Subject to these minor revisions being made, the HCC (GIU) Landscape response concludes that the proposed development should not give rise to any unacceptable landscape and visual effects.
- 39 The Appeal scheme is therefore supported by HCC in principle, providing that the proposed mitigation is effectively delivered within the masterplan. In this regard, the Appellant will provide further illustrative plans to the Inquiry to demonstrate that the requirements of the GIU can be accommodated on the Site.
- 40 The implications of this statutory HCC response, relative to the Council's own reasons for refusal, will be dealt with in detailed evidence.

Green Spaces Officer

- 41 The Green Spaces Officer has requested some additional information from the planning case officer prior to calculating the leisure contribution.
- 42 The Appellant is content to assist in providing any further information required. The Public Open Space proposed is as set out in the Planning Statement, namely: **0.47** ha.

Colney Heath Parish Council (CHPC)

- 43 CHPC have raised issues in relation to Highways and Access, Green Belt, Sustainability, Infrastructure, Affordability and Listed Buildings. The various issues raised by CHPC are reflected and largely addressed in the preceding responses of the statutory consultees.
- 44 The Appellant will address the issues raised by CHPC with appropriate evidence as part of this Appeal.

Turley Office
8 Quay Court
Colliers Lane
Stow-cum-Quy
Cambridge
CB25 9AU

T 01223 810990

Turley