

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. APP/C1950/W/23/3333685

March 2024

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1. Introduction and Background

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

‘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 and validated on 8th March 2022, under planning reference 5/2022/0599 relating to the site (the Appeal Site). Planning permission was refused by Notice dated 25 May 2023. 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 on 2023. The appeal was started by PINS on 2024.

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.

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 - 16).

1.5 The SoCG has been jointly prepared and agreed by:

Signed: *S. Kosky* **Date:** 22 March 2024

Position: Director, Turley

On behalf of the Appellant

Signed: Nabeel Kasmani **Date:** 26 March 2024

Position: Principal Planning Officer

On behalf of St Albans District Council

Background to the Appeal

- 1.6 Following a meeting between the parties 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.
- 1.7 On 10th August 2022, an updated Transport Note prepared by Tarmac's consultant, DTA, setting out Tarmac's response to the Highways Authority's comments on the application was provided.
- 1.8 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).
- 1.9 On 6th September 2022, SADC confirmed their position that there was an objection in principle in relation to development in the Green Belt and also an additional concern in relation to impact on landscape character.
- 1.10 On 28th February 2023 the new SADC case officer, and his Team Leader advised the Appellant that the application would 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.

2. Matters Agreed (Sections 2 – 16)

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 and the countryside. 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 with its short south-western boundary adjacent to the rear garden boundaries of 96 – 106 High Street beyond the edge of the village of Colney Heath.
- 2.3 The Site is bounded to the north by the single storey clubhouse and open sports pitches associated with Colney Heath Football Club. The Site is bounded to the south and east by arable land. The parties disagree whether the arable land to the south and east is open and will deal with such matters in their evidence.
- 2.4 Alongside the appeal site are a network of public rights of way including public footpaths.
- 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 180 definition and that there are no protected trees or designated heritage assets on 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.
- 2.7 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 existing Football Club. This private access runs close to the southern boundary of Colney Heath Primary School and Nursery, the access to which from High Street is located 60 metres from the junction of the entrance to the Site and High Street.
- 2.8 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 (1 service per week on a Wednesday), 305 (4 times a day Monday to Saturday 1000 – 1600 hours), 312 (1 service per week on a Wednesday) & 355 (1 service in each direction on schooldays) and provide links to St Albans and beyond.
- 2.9 The Site is well connected to the strategic road network with access onto the A414, via Colney Heath High Street.

3. The Planning Application and the Planning Application Documents

- 3.1 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 them to shape the Appeal Scheme. There was no pre application engagement between the applicant and Local Planning Authority.
- 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 application included detailed plans for the long term future of the access road. The new access road includes 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 new homes;
 - The provision of up to 18 affordable houses (40%);
 - Up to 4 custom homes (8.9%);
 - Vehicular access provided from existing access off Colney Heath High Street;
 - New access footpaths, which will provide pedestrian segregation and are intended for adoption by the Highways Authority;
 - Retention of most of the existing high-value boundary tree specimens (2 trees and three groups are to be removed) and creation of new landscaped boundaries;
 - Excluding drainage areas, around 28% of the Site is proposed for public open space; and
 - Surface water intended to be drained via a Sustainable Urban Drainable System (SuDS).
- 3.4 The developable area for the residential dwellings (including residential parcels, CSB Plots and streets) will comprise approximately 1.12 ha, whilst the remaining 0.56 ha will comprise new public open space, landscape margins, the access road 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 including drainage basin	0.37 ha
Landscape Margins	0.12 ha
Custom-Build	0.15 ha
Access Road	0.09 ha

3.6 The 45 dwellings will be accommodated on 1.12 hectares of land

Application Documents

3.7 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

3.8 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. 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 has published a Regulation 18 emerging Local Plan. The Local Plan Regulation 18 public consultation ran from July 2023, until 25th September 2023.
- 4.5 The Draft Local Plan covers the period to 2041 and currently 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 appeal site does not comprise a draft allocation site in the emerging Local Plan.
- 4.6 The Draft Local Plan is still at an early stage in its preparation and there are currently unresolved objections to the Local Plan.
- 4.7 Accordingly, it is agreed at this time, that the Draft Local Plan is a material planning consideration which carries limited weight in the determination of this Appeal.

Material Considerations

- 4.8 The National Planning Policy Framework December 2023 (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 225 of the 2023 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. The Principle of Development

- 5.1 The Site lies outside, the settlement of Colney Heath a washed over Green Belt settlement. It is agreed that the Saved Policies of the SADC 1994 Local Plan were drafted to meet the development needs of the St Albans District up to 2001.
- 5.2 The evidence base which underpins the Saved Policies of the St Albans Local Plan, was prepared under different policy framework to that prevailing in 2024.
- 5.3 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.
- 5.4 The policies which control the scale and location of new development are also substantively out of date, due to the extensive passage of time since their original conception.

6. 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 having regard to 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.
- 6.3 It is agreed that the supply of deliverable housing sites that SADC can demonstrate falls substantially below five years.
- 6.4 It is agreed by the parties that the provision of up to 23 market houses will help to address an urgent identified need and carries very substantial weight as a benefit in the planning balance.
- 6.5 Both parties agree that the deliverable supply is within the range of 1.5 -1.7 years. The parties agree that the precise position within the bracket does not alter their assessment of very substantial weight to the benefit of providing 45 new homes.
- 6.6 In those circumstances the parties agree that it is not necessary for the Inspector to make a finding as to where within that bracket the housing land supply falls or to resolve any of the outstanding issues in dispute between the parties relating to the housing land supply calculation

7. Affordable and Custom Build Housing

- 7.1 It is common ground that subject to the provision of a suitable section 106 undertaking the Appeal Scheme is proposed to provide 40% affordable housing, which is in excess of the standard 35% policy requirement. This equates to up to 18 new affordable homes compared to 16 dwellings at 35%. The tenure of the affordable housing has yet to be finalised by the Appellant and will be agreed with the Council.
- 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 as a benefit in the planning balance.

CUSTOM BUILD HOUSING

- 7.3 In addition a total proportion of 8.9% of Custom Build homes will be provided.
- 7.4 It is agreed by the parties that the provision of 4 custom build housing plots will help to address an urgent identified need and carries substantial weight as a benefit in the planning balance.

8. 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 public open space, equating to around 28% of the Site.
- 8.3 As part of the public open space, the Appeal Scheme includes the provision of a children's play area.. The aforementioned public open space is intended to be secured by way of a S106 agreement.

9. 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. A topic specific heritage statement of common ground has been agreed by the parties.

9.3 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.

9.4 It is therefore agreed that, overall, there would be no known effects upon archaeology.

9.5 Notwithstanding the assessment of less than substantial harm, at the lowest end of the scale, as set out in the Heritage Statement of Common Ground, it is however agreed that any residual minor adverse harm is clearly outweighed by the public benefits of the proposals.

9.6 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 including 4 custom build dwellings plus 18 new Affordable Homes.
- 2. Biodiversity Net Gain of at least 10%.
- 3. Economic benefits, including capital investment and local spending.

9.7 The parties will address the appropriate weight to such benefits in their evidence.

10. Landscape and Visual Impact

- 10.1 A Site specific Landscape and Visual Impact Appraisal (LVIA) and Site specific Green Belt Assessment (GBA) was undertaken by Turley and submitted in support of the planning application.
- 10.2 A topic specific landscape and visual impact statement of common ground is the subject of agreement between the parties.
- 10.3 It is common ground between the parties that the appeal site comprises best and most versatile agricultural land (BMV).

11. Green Belt

- 11.1 The Appeal Site and the adjacent settlement of Colney Heath lie within the Green Belt. It is agreed that the erection of up to 45 dwellings at the appeal site comprises inappropriate development
- 11.2 It is agreed that the Appeal Scheme would reduce the openness of the Site itself both visually and spatially but the physical openness of the wider Green Belt itself beyond the appeal site would be preserved.
- 11.3 It is agreed that the Appeal Scheme would not conflict with the following Green Belt purposes:
- Purpose a – Checking unrestricted sprawl of large built up areas.
 - 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 It is agreed that very limited harm arises to purpose b and that the proposal will not safeguard the countryside from encroachment (purpose c), however, the extent to which the proposed development would affect purpose c 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 153 of the NPPF.

12. 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 pedestrian connections and proximity of proposed dwellings are not factors. 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.
- 12.6 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

- 12.7 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) will come into force on 12 February 2024.

12.8 Any increase in BNG on proposal sites will attract due weight in the planning balance, proportionate to the scale of the BNG proposed having regard to the minimum requirement of 10%. It is agreed that should the appeal proposal be able to demonstrate and secure at least 10% BNG on site then that is a benefit of the scheme that should be afforded weight in the planning balance.

13. 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 the appeal site is 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 Appellant has yet to provide full details but its intention 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 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 material planning considerations. In this regard, it is agreed that a relevant pre commencement planning condition would be necessary should planning permission is granted (see Appendix 1).

14. 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 parties agree that there are no reasons to resist the grant of planning permission on the basis of access to utilities.

15. Highways and Transport

- 15.1 A Transport Assessment has been prepared on behalf of the Appellant by DTA. The initial issues raised by HCC as the relevant Highways Authority have been addressed in a written response prepared by the Appellant's transport consultant (Technical Report dated 9th August 2022) which contained an updated proposed access plan and confirmation that the Club has no objection to the shared use of its car park (see below)..
- 15.2 The Highway Authority confirmed that under Article 22 of the Town and Country Planning (Development Management Procedure) Order 2015 that they did not wish to restrict the grant of permission subject to the imposition of a number of highways related conditions.
- 15.3 There are therefore no highway or transportation issues in dispute with the LPA, subject to agreement of conditions and the S106.
- 15.4 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, subject to formal confirmation of CIL Compliance by the LPA, is agreed as necessary by Appellant.
- 15.5 The full list of draft conditions sought by HCC, and agreed as meeting all the NPPF tests by the Appellant, can be found at **Core Document 8.7**.
- 15.6 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.
- 15.7 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.
- 15.8 In relation to car parking the parties agree that the access would not generate a reason for refusal on the basis of prejudicing the car parking arrangements for the neighbouring football club.

16. High Quality Agricultural Land

- 16.1 It is agreed that the appeal site comprises the best and most versatile agricultural land. The parties further agree that its loss is a matter that should be recognised and that the availability of agricultural land used for food production should be considered when deciding what sites are most appropriate for development.

17. Matters Not Agreed (Sections 17 – 19)

Green Belt

- 17.1 The extent to which the proposed development would affect the purpose of the Green Belt in relation to assisting in safeguarding the countryside from encroachment, is a matter of dispute between SADC and the Appellant.
- 17.2 The extent of harm to openness in both the spatial and visual dimension by reason of the proposed development.
- 17.3 Whether, and to what extent, the loss of openness on the appeal site will be appreciated from other land within the Green Belt.
- 17.4 The extent to which 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, is also a matter of dispute between SADC and the Appellant.

18. Housing Land Supply

- 18.1 Other areas of dispute between SADC and the Appellant relate to the specific calculation of the current Housing Land Supply over a 4 or 5 year period. Further details are set out in the Housing Land Supply Statement of Common Ground.
- 18.2 Both parties agree that the deliverable supply is within the range of 1.5 -1.7 years. The parties agree that the precise position within the bracket does not alter their assessment of very substantial weight to the benefit of providing 45 new homes.
- 18.3 In those circumstances the parties agree that it is not necessary for the Inspector to make a finding as to where within that bracket the housing land supply falls or to resolve any of the outstanding issues in dispute between the parties relating to the housing land supply calculation

19. Other Considerations

- 19.1 Other areas of dispute between SADC and the Appellant relate to RR1 and in particular:
- The assessed level of harm to landscape character,
 - The level of impact upon social and physical infrastructure.
- 19.2 The parties also disagree whether the location of the Appeal Site comprises a benefit that weighs in favour of the grant of permission. The Appellant considers that it is a benefit, whilst the Council does not consider it to be a benefit.
- 19.3 Matters relating to RR2 are dealt with at **Appendix 1** of this SoCG. It is agreed that subject to agreement of the Heads of Terms and the successful completion of a satisfactory section 106 Agreement that reason for refusal 2 could be overcome.
- 19.4 However it is also agreed that the failure to provide a suitable mechanism to secure the provision of affordable housing, CSB and necessary infrastructure would comprise a reason to refuse planning permission.

Appendix 1: 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 It is agreed between the parties that the following obligations meet the requirements of Regulation 122(2) of the CIL Regulations and paragraph 57 of the NPPF.

Schedule of Planning Obligations to be Agreed (subject to detailed calculation)

- 3 The following S106 obligations are agreed as part of the development:
 - The delivery and securing of 40% affordable housing (up to 18 dwellings) with a satisfactory tenure mix details of which, will be secured as part of the S106 agreement.
 - 4 of the new homes (8.9%) to comprise Custom Build Homes.
 - Public Open Space and play provision to be provided on site.
 - Financial contributions will be made towards education, as agreed with Hertfordshire County Council, as the relevant Education Authority (*amount to be agreed*).
 - Financial contributions towards health care provision will be agreed with the NHS Clinical Commissioning Group.
 - Financial contributions to Library services to accommodate increased usage at the Marshalswick Library (*amount to be agreed*).
 - Financial contributions toward youth services to assist in the reprovision of facilities (*amount to be agreed*).
 - Financial contributions toward increased capacity at the local recycling facilities (*amount to be agreed*).
 - Financial contributions toward transport infrastructure (*amount to be agreed*).
 - Securing off site works to facilitate access to the appeal site
 - Where required, financial contributions towards new community facilities in Colney Heath will be agreed with SADC.

- Financial contributions toward SADC community infrastructure (*amount to be agreed*).
- An increase in Biodiversity Net Gain (BNG) will be secured across the site without being compromised by other provision at site. All new public open space areas will be suitably managed in terms of long term stewardship.