

**Land to the Rear of 96 to 106
High Street, Colney Heath**

**Planning Proof of Evidence of
Steven Kosky BA (Hons) Dip TP MRTPI**

On behalf of Tarmac Ltd (Appellant) CD 9.5

Local Planning Authority Reference: **5/2022/0599**

Appeal Reference: **App/B1930/W/23/3333685**

March 2024

Contents

1.	Qualifications, Experience and Declaration	2
2.	Introduction and Scope of Evidence	3
3.	The Appeal Site and Scheme Proposals	5
4.	The Development Plan	6
5.	Other Material Considerations	16
6.	The Planning Balance and Overall Conclusions	29

Appendices

Appendix 1: Technical Statement: Five Year Housing Land Supply – Emery Planning

Appendix 2: Agricultural Land Considerations – Reading Agricultural Consultants

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Client

Tarmac

Our reference

TARC3006

March 2024

1. Qualifications, Experience and Declaration

- 1.1 My name is Steven Kosky. I am a Chartered Town Planner and a Member of the Royal Town Planning Institute with over 30 years relevant experience in both the public and private sectors. I have been a Member of the Institute for 26 years, having been awarded chartered status in 1997. I hold a Bachelor of Arts (Hons) degree in Town Planning and a Post Graduate Diploma in Town Planning. I am a Planning Director at Turley, who are a national, private sector, planning and design consultancy.
- 1.2 I have been a Director at Turley since 2017 and opened a Cambridge (East of England) Office for the Company in October of that year. Before joining Turley, I was a Planning Director at Barton Willmore (now Stantec) for 11 years, based in Cambridge.
- 1.3 Prior to joining Barton Willmore, I worked for Phillips Planning Services in Bedford for 4 years, as a Planning Associate, and prior to entering the private sector, I spent 11 years in Local Government with East Hertfordshire District Council, both in Local Plans (3 years) and Development Management (8 years).
- 1.4 I appear at this Inquiry on behalf of Tarmac Ltd to provide planning evidence with regard to an appeal against the refusal by St Albans City & District Council (the Council) for the outline approval of up to 45 dwellings, including affordable homes, with areas of landscaping and new public open space, including points of access, and associated infrastructure works, at the Appeal Site, with all matters reserved except for the means of access (planning application reference 5/2022/0599).
- 1.5 I have wide ranging experience in the promotion of land for residential development and have relevant experience of strategic residential and mixed use projects of all scales, up to and including new settlements. I regularly represent clients at Local Plan Examinations and have secured residential allocations and outline permissions for over 5,000 new homes in the past 10 years, including 2,350 new homes at West Cambourne, in South Cambridgeshire, 1,500 new homes at North and East Ware in East Hertfordshire, 1,000 new homes in Braintree, Essex and 750 new homes in Saxmundham in East Suffolk.
- 1.6 I have visited the Appeal Site on various occasions, having been involved with the project since 2022. I am familiar with the general characteristics of the Appeal Site and the issues under consideration. I am familiar with the relevant national and local planning policies, as well as the circumstances and material considerations affecting the overall planning balance and the determination of the application and current appeal.
- 1.7 The evidence which I have prepared and provide for this Appeal is true to the best of my knowledge and belief and has been produced in accordance with the guidance of the RPTI's professional Code of Conduct. I confirm that the evidence and opinions expressed in this proof are my own professional opinions, notwithstanding my client instructions.

2. Introduction and Scope of Evidence

- 2.1 The Inspector will note that there is a considerable degree of common ground between the Appellant and the Council on a number of key matters. For brevity, my evidence does not duplicate the content of the Planning Statement of Common Ground (SoCG) (CD 8.6) although relevant matters are referenced in context, as part of my evidence.
- 2.2 A set of topic-based SoCG's between the Appellant and SADC has also been produced for this Inquiry, notably in respect of:
- Affordable Housing (CD 8.2)
 - Housing Land Supply (CD8.3)
 - Heritage (CD 8.4)
 - Landscape and Green Belt (CD 8.5)
 - Planning (CD 8.6)
 - Planning Conditions (CD 8.7)
- 2.3 My evidence principally deals with the main identified issues and in particular on the areas of disagreement with the Council, which have a bearing on the overall planning balance. Within this context, my evidence focuses on the main issues identified by the Inspector in their Case Management Conference Summary Note.
- 2.4 These main issues are:
- The effect of the proposal on:
 - The openness and purposes of the Green Belt;
 - The landscape character and appearance of the area;
 - The setting of nearby Grade II listed buildings, namely Apsley Cottage, Crooked Billet Public House and 94 High Street;
 - Whether the site is a suitable location for a residential development having regard to the Council's spatial strategy and its accessibility to services and facilities;
 - Whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, including the provision of housing and other public benefits associated with the development, so as to amount to the very special circumstances necessary to justify the proposed development.
- 2.5 My evidence primarily addresses the final bullet and so should be read in conjunction with that of the proofs of the other Appellant witnesses, who deal with the preceding main issues identified, namely:

- Annie Gingell - Affordable Housing Proof of Evidence (CD 9.1)
- Andrew Josephs - Heritage Proof of Evidence (CD 9.2)
- Joanna Ede - Landscape and Green Belt Proof of Evidence (CD 9.3)
- Simon Tucker - Transport Proof of Evidence (CD 9.4)

2.6 Having read and understood the evidence of the Appellant's other witnesses, I confirm that I concur and support their professional conclusions. Accordingly, where relevant, I cross reference parts of their evidence to support my assessment of the overall planning balance for this Appeal.

2.7 I also refer to two appendices in my evidence: These comprise a Technical Note on Five Year Housing Land Supply, produced by Emery Planning (Appendix 1) and a Technical Note on Agricultural Land Considerations at the Appeal Site, produced by Reading Agricultural Consultants (Appendix 2).

2.8 A Draft Section 106 Agreement to mitigate the impacts of the Appeal Scheme is currently being negotiated and drafted in conjunction with the Council. Subject to the completion of this process, it is common ground that Refusal Reason 2 (RR2), which I consider to be mainly procedural, will be suitably addressed and so my following evidence is predicated on that assumed outcome.

3. The Appeal Site and Scheme Proposals

- 3.1 The Appeal Site is located off Colney Heath High Street, south of Colney Heath Football Club, to the immediate east of Colney Heath School and Nursery, as indicated on the submitted Site Location Plan (CD 4.15). A full description of the Site and its characteristics is set out in Section 2 of the Landscape and Green Belt SoCG (CD 8.5).
- 3.2 The Appeal Scheme is for a high quality outline residential development of up to 45 new homes, including affordable, self-build and custom homes, with areas of landscaping and public open space, including points of access, and associated infrastructure works.
- 3.3 The application is made in outline, with all matters reserved for later approval except access. The inclusion of detailed plans for the access road offers certainty and cumulative 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.
- 3.4 All other detailed matters (other than the primary access) will be determined by way of later reserved matter applications. A summary of the Appeal Scheme benefits is set out in the Appellant's Statement of Case (CD 7.1) and a full description of the proposals set out in the Design and Access Statement (CD 4.7). An agreed summary is also set out in the Landscape SoCG (CD 8.5).
- 3.5 The outline application was validated In February 2022, under reference 5/2022/0599 and multiple extensions of time were agreed and meetings held with the Council prior to the determination of the application. On 25 May 2023, the application was presented to the Development Management Committee, with an Officer recommendation to refuse the proposals (CD 6.1).
- 3.6 The outline application was subsequently refused for the reasons set out in the Decision Notice (CD 6.2).

4. The Development Plan

- 4.1 Pursuant to Section 70(2) of the Town and Country Planning Act 1990 and Section 38(6) of the Planning and Compulsory Purchase Act 2004, the determination of planning applications must be made in accordance with the approved Development Plan unless material considerations indicate otherwise.
- 4.2 Relevant case law (R. v. Rochdale Metropolitan Borough Council ex p. Milne, 31st July 2000) also confirms that in applying Section 38(6) regard is to be had to the accordance of the proposals with the Development Plan, taken as a whole (CD 13.1).
- 4.3 The SoCG (CD 8.1) confirms that the relevant Development Plan comprises:
- The Saved Policies of the St. Albans District Local Plan Review - 1994 (CD 2.1);
 - Herts County Council (HCC) Waste Core Strategy & Development Management Policies DPD 2012 (CD 2.2); and
 - The HCC Hertfordshire Minerals Local Plan - 2007 (CD2.3).
- 4.4 The SADC Local Plan was originally adopted in 1985 and subsequently reviewed in 1994. It is however significant from the introductory narrative to the 1994 Local Plan Review that the Council acknowledges that the evidence base of the Review Plan was predicated on already out of date housing requirements.
- 4.5 In this regard, the evidence relied upon by the Council to inform the 1994 Review was based on the Hertfordshire County Structure Plan 1986 Review, rather than the more up-to date (at that time) Hertfordshire County Structure Plan 1991 Alterations. This is clearly recognised at paragraph 1.18 of the 1994 Local Plan Review, which states:
- ‘Preparatory work on the District Plan Review was well advanced before the Structure Plan Alterations were finalised. Consequently the District Plan Review was prepared against the background of the County Structure Plan 1986 Review, rather than the Alterations 1991’.*
- 4.6 However, even at the time of adoption of the 1994 Review, paragraph 1.18 of the 1994 Local Plan recognised the seriousness of reliance upon an out of date evidence base:
- ‘The District Council recognises that there is a need to alter or review the District Plan as a matter of urgency’.*
- 4.7 However, the Council still relies upon a Local Plan which was adopted three decades ago, based on the housing requirements of an already out of date County Structure Plan, which set those original requirements nearly a decade earlier, in 1986. Notwithstanding the reliance on requirements which are approaching 40 years old, the Council’s stated objective to alter or review the District Plan ‘as a matter of urgency’ has not materialised.

- 4.8 Paragraph 225 of the National Planning Policy Framework 2023 (the Framework) (CD 1.4) makes clear that due weight should be given to relevant policies in existing plans according to their degree of consistency with the Framework, (i.e. the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given).
- 4.9 In September 2007, a number of policies were saved by Direction of the Secretary of State and the Council's document 'Saved and Deleted Policies Version (July 2020)' sets out which policies were saved by the Direction. A list of Development Plan policies which are agreed to be relevant to the determination of the Appeal Scheme are set out within the SoCG (CD 8.1) against which, I address the most relevant policies as follows:
- 4.10 The SoCG confirms that the most important policies in determining the Appeal Scheme are Policies 1, 2, 69, and 86 of the 1994 Local Plan. It is also common ground the most important policies of the Local Plan for the determination of applications are out of date. In this regard Paragraph 77 of the Framework (CD 1.4) requires local planning authorities to identify and update annually a supply of specific deliverable sites sufficient to provide either a minimum of five years' worth of housing, or a minimum of four years' worth of housing if the provisions set out in Paragraph 226 apply.
- 4.11 The 1994 Local Plan period expired in 2001 and in the interim 23 years there has been a complete absence of any plan-led strategy to meet the housing and other development needs of the District. This is the fundamental cause of the Council's unacceptably weak and fragile housing land supply position, noting also the wider Green Belt constraints that affect most of the District.
- 4.12 Turning to the development plan policies most relevant to the determination of the Appeal Scheme (as agreed with the Council), I set out my assessment of the compliance of the Appeal Scheme with these principal Local Plan Review policies as follows:

Policy 1 – Metropolitan Green Belt

- 4.13 Policy 1 of the 1994 Local Plan (CD 2.1) is agreed to be the most important policy in the determination of this Appeal and an alleged conflict with Policy 1 is cited in the Council's first Refusal Reason (RR 1). Policy 1 confirms the boundaries of the Green Belt within the District and at its second paragraph, it states:

'The boundaries of the Green Belt around these areas (as shown on the Proposals Map) have been defined by reference to the degree of long term expansion of the built-up areas acceptable in the context of the stated purpose of the Green Belt'.

- 4.14 Paragraph 2.3 of the supporting narrative to the 1994 Plan advises that the original St Albans District Plan (adopted in July 1985) placed all of the District in the Metropolitan Green Belt, except for the main built-up areas (Paragraph 2.3 of CD 2.1).

- 4.15 Supporting paragraph 2.4 of the 1994 Plan confirms the intention for a limited number of minor adjustments to the Green Belt *'in order to improve the long term permanence of the boundaries'*. More significant boundary adjustments were also made at London Colney, Frogmore and locations in Hemel Hempstead. However, since the adoption of the Plan in 1994, it is clear that Green Belt boundaries have remained static and have not been further reviewed in the District for three decades. It is important to note in this context that these boundaries were only defined to meet development needs until 2001.
- 4.16 In recognition of this limited timeframe, Preface Paragraph 4 of the Local Plan states the need to *'prepare Alterations or a full Review of the District Plan, looking to 2001 or beyond, as a matter of urgency.'* Policy Intention 35 - Monitoring and Review of the District Plan formalises this, at criterion iii, by stating that the District Council will:
- 'prepare, as a matter of urgency, alterations or a full review of the Plan, taking account of the County Structure Plan Approved Alterations 1991 and looking to 2001 or beyond'.*
- 4.17 However, whilst it is acknowledged that the Council has tried on several occasions to bring forward a replacement Local Plan, since 1994 (all failing, due to soundness issues or procedural irregularities) the fact remains that 30 years have now passed and the completion of the original 'urgent' review has still not taken place.
- 4.18 Policy 1 states that other than for development in Green Belt settlements as referred to in Policy 2 (not applicable to this Appeal Scheme) or in very special circumstances, permission will not be given for development other than for specific, identified purposes.
- 4.19 Within the context of this Appeal, the most relevant provision is therefore the term 'very special circumstances', which exists both within Policy 1 and the Framework. As such, whilst not all the exceptions listed in Policy 1 are wholly consistent with the Framework, the main synergy identified (i.e. very special circumstances) means that Policy 1 can be afforded full weight in the determination of this Appeal.
- 4.20 As I will expand upon, later in this evidence, the public benefits of the Appeal Scheme clearly outweigh any harm to the Green Belt in this location, and any other harms, such that very special circumstances exist in this case. Accordingly I conclude in this evidence that the Appeal Scheme accords with Policy 1 of the 1994 Local Plan Review.

Policy 2 – Settlement Strategy

- 4.21 Policy 2 establishes the hierarchy of settlements and the spatial strategy for the District for the plan period of 1994 – 2001. Whilst Policy 2 is noted in the SoCG as an important policy, I note that the Council's RR1 does not identify any conflict with Policy 2.
- 4.22 The hierarchy of settlements identified in Policy 2 is predicated on the above mentioned Hertfordshire County Structure Plan, adopted in 1986. The Structure Plan notes three distinct settlement types: Towns, Specified Settlements and Green Belt Settlements.

- 4.23 Policy 2, states that the Council will seek to *'protect and enhance the essential character of the existing settlements'*. Colney Heath is identified as a Green Belt Settlement where apart from the general exceptions identified in Policy 1, development will not normally be permitted except where it meets local housing needs or the local facilities and service needs of the settlement where the development is proposed. Development must also not detract from the character and setting of the settlement.
- 4.24 Commencing with the weight to be given to this aged policy, it is clear from the preceding case, that the hierarchy of settlements and spatial strategy contained within Policy 2 was defined to only meet development needs arising in the District between 1994 and 2001. Given the Council's clear acknowledgement of this fact in the 1994 Plan and the lack of the forecast urgent review over the past 30 years, Policy 2 can be seen to be patently out of date, as it was essentially devised to meet needs from the last century. In that time a whole new generation has since emerged, whose legitimate needs are frustrated by the reinforcement of the same, historic, settlement boundaries, which have long outlived their originally intended purpose.
- 4.25 Accordingly, a continued strict adherence to the settlement strategy has the effect of precluding what are otherwise sustainable development proposals, contrary to the Government's primary objective of *"significantly boosting the supply of homes..."* and ensuring *"a sufficient amount and variety of land can come forward where it is needed..."* (Paragraph 60 the Framework) (CD 1.4).
- 4.26 Paragraph 61 of the Framework states that to determine the minimum number of homes required, strategic policies should be informed by a local housing need assessment. However, in the case of the aged St Albans Local Plan, this is demonstrably not the case, as despite the priority to urgently review the 1994 Local Plan, the saved strategic policies of the Local Plan are still informed by out of date housing needs which were determined many decades ago. This is suitably demonstrated by the critical state of the Council's land supply position and its most recent (and lowest) Housing Delivery Test score of 55%.
- 4.27 The conclusion to be drawn is that if the Council is to make any progress in meeting its critical development needs, then the release of Green Belt sites is not only essential, but inevitable, given that over 81% of the district is currently designated as being within the Green Belt. This conclusion is also reflected by the proposed strategic release of Green Belt as part of the Council's recent Regulation 18 Local Plan (CD 3.1). Accordingly, I afford only limited weight to Policy 2.
- 4.28 In terms of assessing the compliance of the Appeal Scheme with Policy 2, there is a logical link to the exceptions identified in Policy 1, which as I identify above, the Appeal Scheme would comply with, in terms of meeting the very special circumstances criterion.
- 4.29 A key feature of Policy 2 is that it seeks to protect and enhance the essential character of the existing settlements and in relation to Part 3 (Green Belt Settlements) it states that *'development must not detract from the character and setting of these settlements within the Green Belt.'*

- 4.30 An important consideration in this regard is that the Appeal Scheme is in outline only which limits the extent to which the compliance of the Appeal Scheme with this aspect of Policy 2 can be fully assessed. Notwithstanding, the Concept Masterplan (CD 4.6) and the submitted Design Access Statement (CD 4.7) both demonstrate that great care has been taken to create a sustainable framework for the delivery of a high quality new residential development, which is both sympathetic to and respectful of the character of the existing settlement. Accordingly, I concur that the Appeal Scheme would protect and enhance the essential character of the existing settlement, including its setting.
- 4.31 I therefore consider that the Appeal Scheme to be in accordance with Policy 2. However, even if a conflict were to be found with this policy, in my opinion the policy can only be afforded limited weight, due to the exceptionally aged nature of the evidence base upon which it relies, and its consequent lack of consistency with the Framework.

Policy 34 – Highways Considerations in Development Control

- 4.32 Policy 34 on page 73 of the Local Plan Review (CD 2.1) states that development likely to generate a significant amount of traffic, or which involves the creation or improvement of an access onto the public highway, will not normally be permitted unless acceptable in terms of a number of identified highway considerations.
- 4.33 These include; road safety, environmental impact, road capacity, road hierarchy, car parking and impacts upon rural roads. The Policy states that in assessing applications, account will also be taken of the advice contained in current documents prepared by (the then) Department of the Environment, Department of Transport, Hertfordshire County Council and St Albans Council.
- 4.34 I note from the Council's RR 1 (CD 6.2) that '*impacts on social and physical infrastructure*' are alleged as part of the catch all narrative relating to alleged '*other harm*' in addition to the in-principle harm to the Green Belt. I however also note that no specific conflict with Policy 34 is identified in the Council's decision notice, only alleged conflict with the Framework and Policy 1.
- 4.35 Section 3 of the proof of Mr Tucker (CD 9.4) sets out a detailed schedule of the national and local transport policies relevant to the determination of this appeal, including those found in the Framework and those contained in the Hertfordshire County Council Local Transport Plan (2018-2031) (CD 17.1).
- 4.36 Mr Tucker provides technical evidence which demonstrates that the Appeal Scheme is acceptable in relation to highway matters. Mr Tucker also shows that in the context of District as a whole and the tests set out in the Framework, that the Site is appropriately accessible by active travel modes and public transport and so is a sustainable location for residential development. I concur with Mr Tucker that the development will support housing growth in an area with good accessibility to local facilities (in particular the primary school). This factor, alongside the sustainable travel information provided to residents and other supporting measures in the S106, will provide active travel choices.

4.37 Mr Tucker identifies that this position is agreed by the Local Highways Authority (HCC) who have confirmed no objection in relation to highways matters. Mr Tucker's evidence concludes that the Appeal Scheme is consistent with the requirements of Paragraphs 114 / 115 of the Framework and the relevant policies of the Local Highways Authority. The Appeal Scheme provides safe and secure access by all modes, direct access to public transport and local public realm improvements to reduce conflict between vehicles and other road users. I therefore consider the Scheme to be in accordance with Policy 34.

Policy 86 – Buildings of Special Architectural or Historic Interest

4.38 Policy 86 of the Local Plan Review (CD 2.1) is concerned with the protection of buildings of special architectural or historical interest and it is agreed through the SoCG that this is an important Policy. However, whilst the Council's RR 1 cites a number of collective '*detrimental impacts*', including '*the adjacent Grade II listed building*', I note that no specific conflict with saved Policy 86 is identified in the Council's decision notice (CD 6.2) only conflict with the Framework and Policy 1.

4.39 Criterion i of Policy 86 requires that:

'In considering any application for listed building consent for the demolition, alteration or extension of a listed building (and also any application for planning permission for development which affects a listed building or its setting), the Council will have special regard to the desirability of preserving the building or its setting or any features of architectural or historic interest which it possesses.'

4.40 Criterion i reflects the general duty of decision makers to have special regard to the desirability of preserving listed buildings and their settings or any features of special architectural or historic interest they possess, as set out in set out in Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990. I therefore judge criterion i of Policy 86 to remain consistent with the most up to date legislation and current national policy set out in the latest iteration of the Framework (Paragraph 205) (CD 1.1).

4.41 I do not consider Criterion ii to be relevant to this Appeal as this relates to the demolition of listed buildings and none are proposed as part of the Appeal Scheme. Similarly, I do not consider criterion iii of Policy 86 to be relevant as the historic guidance referred to (bearing in mind the very aged nature of this policy) has long been superseded and fully incorporated in the latest publication of the Framework (CD 1.1). Criterion iii of Policy 86 also defers to the likelihood of '*successive Government advice*'.

4.42 The proof of Mr Andrew Josephs (CD 9.2) identifies that a detailed Heritage Statement (CD 4.10) was submitted with the outline planning application, authored by Mr Josephs. I note that Mr Josephs has subsequently revisited the Appeal Site and is satisfied that the correct conclusions were reached in CD 4.10 in relation to the setting of designated heritage assets identified by the Council.

- 4.43 As part of this Appeal, a Heritage Statement of Common Ground (CD 8.4) has also been produced that focusses on identifying the effects of the Appeal Scheme upon the setting of three designated historic assets. These assets are:
- **Crooked Billet Public House**
 - **Apsley Cottage**
 - **94, High Street**
- 4.44 At Section 3 of his proof (CD 9.2) Mr Josephs confirms that the Appeal Site does not form part of the historic setting of Crooked Billet Public House and that there would be no harm or effect upon the significance of the historic asset. This is an agreed position with the Council (Mr Nick Collins), as set out in CD 8.4.
- 4.45 With regard to Apsley Cottage, Mr Josephs confirms that the Cottage is situated opposite modern housing and its significance is mainly appreciated from the High Street, the harm to the asset caused by development within its wider setting is therefore assessed at the lowest level of less than substantial harm. Consequently, Mr Josephs judges that there would be no effect upon the ability to appreciate the significance of this asset. This is a position similarly agreed with Mr Collins, on behalf of the Council, as set out in CD 8.4.
- 4.46 With regard to 94 High Street, Mr Josephs identifies that the significance of the asset has already been irreparably affected by modern extensions, including a garage inserted into the building, with modern housing immediately adjacent and opposite. Accordingly, with enhanced planting on the boundary of the Appeal Site, Mr Josephs judges that there would be no harm to the significance of the asset caused by development. Once again, this is an agreed position with the Council, as set out in CD 8.4.
- 4.47 Given that there are no areas of disagreement with the Council in relation to the impact on heritage assets from the Appeal Scheme, I concur with Mr Josephs' conclusion that the comments of the Design and Conservation Officer embedded within the Committee Report (CD 6.1) primarily failed to articulate, through structured assessment, how the Appeal Scheme would affect the significance of the identified heritage assets.
- 4.48 The comments from the Design and Conservation Officer raise concerns regarding the absence of parameter plans, unused green space adjacent to the boundary, and the uncertainty regarding the retention of existing tree and hedgerow screening. On this basis, the Officer considered that the application therefore failed to demonstrate how the Appeal Scheme would avoid harm to the adjacent heritage assets. Notwithstanding, it was still considered by the Officer that the alleged impact from the Appeal Scheme would be less than substantial harm, on the lower end of the spectrum.
- 4.49 I concur with Mr Josephs' assessment of that given the agreement reached on the impact on the significance of the identified heritage assets, that any detailed layout, design and landscaping concerns can be appropriately addressed at the Reserved Matters stage.

- 4.50 This is reinforced by the fact that, as agreed in CD 8.4, there would be no effect upon the significance of the assets if these matters are correctly addressed at that stage.
- 4.51 Having regard to the preceding assessment in relation to the above mentioned policies, the Heritage Statement of Common Ground (CD 8.4) and the agreement that the Appeal Scheme complies with, or can comply with, all the relevant criterion of Policy 86 at the Reserved Matters stage, I therefore consider that there is no conflict with this Policy.

Policy 69 – General Layout and Design

- 4.52 The 2023 Framework notes that good design is a key aspect of sustainable development. In this regard, Policy 69 of the Local Plan Review (CD 2.1) requires all development to have an adequately high standard of design, taking into account, the following factors:
- **Context** – the scale and character of its surroundings in terms of height, size, scale, density or plot to floorspace ratio;
 - **Materials** – shall normally relate to adjoining buildings. Large, isolated buildings in rural or settlement edge settings shall be clad in materials that take account of the general colour and tonal value of their background;
 - **Other polices** – Applicants shall take into account all relevant policies and requirements.
- 4.53 Whilst this policy is not cited in the Council’s RR 1, I consider this policy to be consistent with the Framework in its broad intentions and so it can be afforded full weight in the determination of this Appeal. The Appellant has provided a Concept Masterplan (CD 4.6) which demonstrates how the Appeal Site could potentially be laid out within the overall envelope set by the parameter plans and the identified development specification.
- 4.54 With regard to the scale and character requirements of Policy 69, in terms of plot ratios, height, size, scale, and materials (criteria i and ii), I am satisfied that these matters can be suitably addressed at the Reserved Matters stage, which is shared by the Council at Paragraph 8.3.8 of the Committee Report (CD 6.1).
- 4.55 I am also satisfied that there would be no harmful impact upon the residential amenities of adjoining occupiers, which is a view similarly shared by the Council at Paragraph 8.3.9 of the Committee Report (CD 6.1).
- 4.56 Having regard to the preceding assessment in relation to the above mentioned policies and the agreement that the Appeal Scheme complies with, or can comply with, all the relevant criterion of Policy 69 at the Reserved Matters stage, I consider that there is no conflict with this Policy.

Policy 102 – Loss of Agricultural Land

4.57 Policy 102 of the Local Plan Review (CD2.1) States that development which would result in the loss of agricultural land will be assessed against two criteria: land quality and farm economics and management.

4.58 Criterion (i) of Policy 102 states:

‘Development resulting in the loss of high quality agricultural land, classified by the Ministry of Agriculture as being of Grade 1, 2 or 3a, will normally be refused. An exception to the policy may be made if there is an overriding need for the development and there is no alternative land of a lower quality which could reasonably be used’.

4.59 In this regard, I acknowledge that the land quality of the Appeal Site falls within the scope of the above agricultural land classification categories (see **Appendix 2** of this proof).

4.60 The Appellant has not undertaken an alternative site assessment to establish whether there is other land available, of a lower quality, which could alternatively be used for the proposed development. Whilst there is an urgent and overriding need for new housing in the district as a whole, the Appellant has not specifically considered the use of other alternative sites for the proposed development, other than the Appeal Site. However, I consider there to be only very limited conflict with Policy 102, which is also balanced by other considerations, which I deal with further in Section 5 of my evidence.

Overall Compliance with the Development Plan, Taken as a Whole

4.61 As set out earlier in this section, relevant case law (CD 13.1) confirms that in applying Section 38(6) it is necessary to have regard to the accordance of the Appeal Scheme with the development plan taken as a whole. Given the numerous conflicting interests that a development plan must generally seek to reconcile, Mr Justice Sullivan noted, inter alia, at Paragraph 49 of his judgement that:

‘...it would be difficult to find any project of any significance that was wholly in accord with every relevant policy in the development plan. Numerous applications would have to be referred to the Secretary of State as departures from the development plan because one or a few minor policies were infringed, even though the proposal was in accordance with the overall thrust of development plan policies.’

4.62 Mr Justice Sullivan concluded at Paragraph 50 that for the purposes of according with the relevant legislation; *‘it is enough that the proposal accords with the development plan considered as a whole. It does not have to accord with each and every policy therein.’* I have concluded in my evidence that the Appeal Scheme accords with Policy 1, in that the public benefits of the Scheme clearly outweigh any harm to the Green Belt in this location, and any other harms, such that very special circumstances exist in this case.

- 4.63 I have also assessed the compliance of the Appeal Scheme with all other potentially disputed policies, noting that with the exception of Policy 1, the other harms alleged by the Council are set out as part of a general narrative in RR 1, and are not identified by the Council as being in conflict with the relevant specific policies to which they relate.
- 4.64 Nonetheless, I have found that the Appeal Scheme either complies, or is capable of complying, with such policies at the Reserved Matters stage, by reference to the expert evidence provided by the Appellant's other witnesses.
- 4.65 I also note that there is no other alleged conflict with any other relevant development plan policies. However, should any potential conflict with any relevant policies be found, this would not suggest an overall failure to comply with the Development Plan, when taken as a whole.
- 4.66 Under such circumstances a balanced judgement would need to be made as to the weight to be given to that policy (taking into account its degree of accordance with the Framework) the material extent of any conflict and the importance of that policy in the consideration of the Appeal Scheme.
- 4.67 On balance, I consider the Appeal Scheme to comply with the Development Plan, when taken as a whole, which is discussed further in Section 5 of this proof.

5. Other Material Considerations

National Planning Policy Framework

- 5.1 It is common ground amongst the parties that the Framework (CD 1.1) is a material consideration in the determination of this Appeal, to which significant weight should be given. In this regard, the Council alleges conflict with the Framework as part of its RR 1.

The Need for Local Plans to be Kept up to Date

- 5.2 In terms of effective plan making, the primary requirement of the Framework is that the planning system is genuinely plan led, and that Local Plans are regularly kept up to date. In this regard, Paragraph 33 is clear that:

'Policies in local plans and spatial development strategies should be reviewed to assess whether they need updating at least once every five years, and should then be updated, as necessary. Reviews should be completed no later than five years from the adoption date of a plan, and should take into account changing circumstances affecting the area, or any relevant changes in national policy. Relevant strategic policies will need updating at least once every five years if their applicable local housing need figure has changed significantly; and they are likely to require earlier review if local housing need is expected to change significantly in the near future.'

- 5.3 Footnote 18 of the Framework also makes clear that reviews at least every five years are a legal requirement for all local plans under Regulation 10A of the Town and Country Planning (Local Planning) (England) Regulations 2012.

- 5.4 Where adopted Local Plans are over 5 years old and so do not benefit from the provisions provided by Paragraph 76 of the Framework, then Paragraph 77 makes clear that in all other circumstances:

'local planning authorities should identify and update annually a supply of specific deliverable sites sufficient to provide either a minimum of five years' worth of housing, or a minimum of four years' worth of housing if the provisions in paragraph 226 apply. The supply should be demonstrated against either the housing requirement set out in adopted strategic policies, or against the local housing need where the strategic policies are more than five years old. Where there has been significant under delivery of housing over the previous three years, the supply of specific deliverable sites should in addition include a buffer of 20% (moved forward from later in the plan period).'

- 5.5 The Council has however clearly failed in this primary regard, notwithstanding that a number of previous abortive attempts to bring forward a new Local Plan have been made, most recently in 2020 (see below). Therefore, despite the stated objective to review the 1994 Local Plan *'as a matter of urgency,'* this extremely protracted process awaits any realistic completion three decades later, with no guarantee of a successful future outcome, based on past, abortive, examination experiences.
- 5.6 St Albans therefore continues to have one of the oldest operational development plans in the country, predicated on an even earlier (1986) evidence base designed to meet the housing requirements of past younger generations, most of whom are now approaching retirement. This is clearly contrary to Paragraphs 33 and 77 of the Framework and is driving an ever increasing housing and affordability crisis across the district, as evidenced by the evidence of Annie Gingell, together with the continuing annual decline in the Housing Delivery Test (HDT) result.
- 5.7 The Council did attempt to bring forward a new St Albans Local Plan for the plan period (2020-2036) which was submitted to the Secretary of State for examination in March 2019. However the examination was paused by the Inspector in January 2020 and in April 2020, the Inspector wrote to Council identifying a number of serious concerns. These concerns primarily related to the Duty to Co-operate and other serious matters.
- 5.8 Consequently , the Council took the decision to formally withdraw the Local Plan 2036, with effect from 23rd November 2020. This represented the second emerging Local Plan which had needed to be withdrawn by the Council, for similar reasons, since 2010.
- 5.9 The most recent Local Development Scheme (February 2024) (CD 3.3) identifies that the Council are currently preparing another Draft Local Plan for the period to 2041, which is targeted for examination in March 2025, with adoption anticipated during March 2026. Pursuant to the latest attempt to bring forward a new Local Plan, the Council held a Regulation 18 public consultation between July and September 2023 on an emerging Draft Local Plan (CD3.1) with a number of proposed draft housing and other allocations, primarily on land which is currently located within the Green Belt.
- 5.10 It is common ground that the recent emerging Draft Local Plan (CD 3.1) is a material consideration, but that it also carries limited weight in the determination of this Appeal. In this regard, it is outside the scope of my evidence to comment on the soundness (or not) of the latest emerging Local Plan, but I note the following key observations:
- The Local Housing Need, calculated by the Standard Method, is 888 new homes per annum. However, for the purposes of calculating the 4/5 year housing land supply, this will also need to include a 20% buffer, which is a total requirement of 1,066 dwellings per annum over the appropriate period.
 - Over 81% of the St Albans District Area is classified as Green Belt.

- The Housing Trajectory at Table 3.2 of the Local Plan (CD3.1), indicates that the Council will be unable to meet its housing need until at least 2028/29, notwithstanding an adopted, up to date, Local Plan in place.
- Colney Heath is to be retained as a ‘washed over’ Green Belt settlement, with no allocations proposed at the settlement in the period to 2041.
- The Appellant promoted the Appeal Site to the Council at the 2022 ‘Call for Sites’ and 2023 Regulation 18 stages, for residential purposes, in accordance with the Scheme currently under consideration as part of this Appeal.

The Need for New Market Homes

- 5.11 The Housing Land Supply Statement at **Appendix 1** of my evidence sets out the five year housing land supply situation within the district generally, in the context of a consensus that the Council is unable to demonstrate a 5 year housing land supply (5YHLS).
- 5.12 Paragraph 226 of the Framework enables an authority to only demonstrate a four year housing land supply (4YHLS) if it can show an emerging local plan that has either been submitted for examination or has reached the Regulation 18 or 19 stage and includes a policies map and proposed housing allocations.
- 5.13 These transitional arrangements apply for a period of two years from the publication date of the 2023 Framework (which is until 20th December 2025). As the Council held a Regulation 18 consultation on its emerging new Draft Local Plan 2041, with a number of proposed draft allocations, between July and September 2023, the Council currently meets the provisions of Paragraph 226 of the Framework and only needs to demonstrate a 4YHLS at this particular time.
- 5.14 However, even if the latest emerging Local Plan is successfully adopted on time, this would not take place before 2026, at the very earliest, based on the Local Development Scheme (CD 3.3) which is a gap of **32** years, since the last Plan adoption. Significantly, by this time, the Council would also have to revert back to demonstrating a full 5YHLS, as opposed to the currently lower, interim 4YHLS requirement. It is notable also that for at least 2 years after adoption, the Council will be unable to meet its required housing need.
- 5.15 Reference to the SoCG on Housing Land Supply (CD 8.3) indicates that the Council is not able to demonstrate a four year housing land supply of deliverable housing sites against the Council’s housing land supply requirement including the appropriate (20%) buffer. The current housing land supply falls substantially short of even the 4YHLS requirement and is agreed to be in the region of only between 1.7 years and 1.9 years.
- 5.16 This is also corroborated by the Council’s latest Authority Monitoring Report (AMR) for the period 1st April 2022 to 31st March 2023 (CD 10.11) which confirms at Paragraph 3.16:

'4 year housing land supply at 1,066 Dwellings Per Annum (888 Dwellings per Annum + 20% Buffer) at 1 April 2023 (for planning applications which are submitted and valid from 19 December 2023 onwards) = 1.7 years supply.'

- 5.17 Furthermore, since the introduction of the HDT in 2018, the Council has failed each and every annual HDT, with the lowest results so far to date being achieved in 2022 (CD 16.2). The latest test result shows the Council having a HDT result of only 55%, triggering the presumption in favour of sustainable development, irrespective of the 4YHLS position.
- 5.18 However, it is common ground (CD 8.3) that until the new Local Plan is adopted (which is after the end of the 2 year transitional arrangements) it is extremely unlikely that even the lower 4YHLS annual requirement will be met at any point.
- 5.19 I therefore consider the Development Plan to be out of date, having regard to the aged historical, nature of the evidence base and footnote 8 of the Framework, notably, that a) the Council cannot demonstrate a 4YHLS, b) the Council does not benefit from the provisions of Paragraph 76 of the Framework and c) the HDT indicates that the delivery of housing was below 75% of the housing requirement over the previous three years.
- 5.20 The tilted balance in relation to the presumption in favour of sustainable development as set out in Paragraph 11d) of the Framework, therefore clearly applies. The size of the housing shortfall against even the reduced 4 year requirement is also very substantial and so I consider that **very substantial weight** should be attached to the need for new market housing in the St Albans District.
- 5.21 I am also clear in my assessment that in the continuing absence of an up to date, planned spatial framework, within an area highly constrained by Green Belt, combined with the continuing lack of any planned, adopted and deliverable housing supply sources, can only result in further worsening of housing delivery for the foreseeable future.

The Need for New Affordable Homes

- 5.22 Paragraph 60 of the Framework states that to support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed.
- 5.23 Within this context of establishing need, Paragraph 63 of the Framework also states that:

'the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies. These groups should include (but are not limited to) those who require affordable housing; families with children; older people (including those who require retirement housing, housing-with-care and care homes); students; people with disabilities; service families; travellers; people who rent their homes and people wishing to commission or build their own homes.'

- 5.24 In this regard, the long term, ineffectual, housing land supply position in the district, outlined above, has had a very serious impact on the delivery of affordable housing, as confirmed by the evidence of Annie Gingell (CD 9.1).
- 5.25 The evidence of Ms Gingell identifies that there is a wealth of data to demonstrate that there is a national housing crisis in the UK. However, market signals in St Albans indicate a particularly acute situation and a worsening trend in affordability across the district. By any measure of affordability, Ms Gingell identifies that St Albans is an authority in the midst of an affordable housing emergency, and where urgent action must be taken to deliver more affordable homes.
- 5.26 The evidence of Ms Gingell confirms that the 2016 SHMA (CD 10.1) identified an objectively assessed need for 14,191 net affordable homes between 2013 and 2036, equivalent to an estimated annual need of 617 affordable homes across St Albans. However the most recent 2020 LHNA (CD 10.2) identified an objectively assessed need of 13,248 net affordable homes between 2020 and 2036, equivalent to an estimated revised annual need of **828** new affordable homes across St Albans (my emphasis).
- 5.27 The evidence of Ms Gingell identifies that the Help to Buy Register shows that, as of March 2023, 776 households were seeking affordable home ownership across St Albans. Ms Gingell further identifies that statutory homelessness data shows that in the 12 months between 1 April 2022 and 31 March 2023, the Council accepted 189 households in need of homelessness prevention duty, and a further 193 households in need of relief duty from the Council.
- 5.28 In terms of delivery, in the ten-year period since the start of the 2016 SHMA period in 2013/14, Ms Gingell identifies that net affordable housing delivery represented only 14% of overall housing delivery, equating to just 56 affordable dwellings per annum. This has led to a shortfall of -5,615 affordable dwellings against the needs identified in the 2016 SHMA. In addition, measured against the most recent assessment of affordable housing need, a shortfall of -2,201 affordable dwellings has arisen in the first three years of the 2020 LHNA period.
- 5.29 The Council will clearly also be unable to meet its affordable housing needs over the next five year period, as the Council's own best case scenario evidence shows that it can only deliver 65 affordable dwellings per annum over the next five years. This will therefore result in an accumulated shortfall of - 6,081 affordable dwellings against the needs set out in the 2020 Local Housing Needs Assessment (CD 10.2) by the end of 2027/28.
- 5.30 The Appeal Scheme proposes the development of up to 45 dwellings, of which 40% (up to 18 dwellings) are to be provided on-site as affordable housing. This level of affordable housing provision exceeds the Affordable Housing Supplementary Planning Guidance (2004) minimum requirement of 35% which relates to Policy 7A of the Local Plan Review (1994); and meets the requirements of Policy HOU2 of the emerging Local Plan 2041 (Regulation 18) which requires 40% affordable housing provision from qualifying sites.

5.31 Accordingly, in consideration of the Council's very poor record of affordable housing delivery and the worsening affordability indicators at both the District and local level, I fully concur with the findings of Ms Gingell and conclude that the provision of up to 18 affordable new homes on the Site should be afforded **very substantial weight** in the determination of this Appeal.

Public Benefits of the Appeal Scheme

5.32 Paragraph 7 of the Framework, inter alia, states that the purpose of the planning system is to '*contribute to the achievement of sustainable development, including the provision of homes, commercial development, and supporting infrastructure in a sustainable manner*'. Paragraph 8 of the Framework sets out the three dimensions for sustainable development. The Appeal proposals reflect the policy intentions of Paragraph 8 and are economically, socially and environmentally sustainable for the following reasons:

5.33 **Economically** - The Appeal Scheme would generate both direct and indirect economic benefits. New housing provides a range of economic benefits, and has significant and positive effects on economic output in terms of capital investment, construction work and occupational expenditure. The economic benefits of the Appeal Scheme include the direct creation of construction jobs, the creation of other jobs in associated construction related manufacturing and additional household expenditure in the local economy.

5.34 In March 2018, the Home Builders Federation (HBF) published a document entitled 'The Economic Footprint of UK House Building' (CD 16.5) which evaluated the economic benefits of housebuilding in the UK. Page 13 of the document confirms that housebuilding supports the equivalent of between 2.4 to 3.1 direct, indirect and induced jobs for every new home constructed. Applied to the Appeal Scheme, the direct, indirect and induced economic benefits of the proposals equate to between 108 and 140 new jobs. I consider that the economic benefits of new housing at the Appeal Site therefore carries **significant weight** in favour of the proposals.

5.35 **Socially** - The Appeal Scheme yields positive social benefits through the delivery of much needed new market and affordable housing. The Scheme will provide a mix of tenure and house types, including the provision of affordable housing at a rate of 40% (18 new homes) which exceeds the existing planning policy requirement of 35%. The substantial cumulative unmet need for new market housing and affordable housing in the district is a consideration which carries **very substantial weight** in favour of the proposals.

5.36 In addition, the Scheme provides for 8.9% of new homes to be for self and custom build housing (4 new homes) in the context of an Adopted Plan which is silent on this category of housing. However, there is clear, unmet demand for self-building and custom building in the district, by reference to the Self-Build Register.

5.37 It is common ground amongst the parties that the provision of 4 custom build housing plots will help to address an urgent identified need and also carries **substantial weight** as a benefit in the planning balance.

- 5.38 **Environmentally** - The conceptual vision for the Site at Colney Heath is to create a high quality, sustainable new neighbourhood, which successfully integrates with the existing settlement and which balances the need to ensure an efficient use of land, whilst respecting its edge of settlement location.
- 5.39 The proposal therefore includes generous areas of new public open space, a high quality landscaping scheme, with significant additional planting of native and new specimen trees and hedgerows; and a comprehensive Sustainable Urban Drainage system which will ensure that the surface water runoff rate from the Site is either at or below the existing rate. Approximately 22% of the Site is proposed for the new public open space and amenity area, for the benefit of both existing and future residents of the local community. On this basis, I consider that the environmental benefits of the Scheme, carries **significant weight** in favour of the proposals.

The Green Belt and Paragraph 153 of the Framework

- 5.40 Paragraph 152 of the Framework states that Inappropriate development is, by definition, harmful to the Green Belt and therefore should not be approved except in very special circumstances. Paragraph 153 of the Framework thereafter sets out the scope of the test required to assess whether ‘very special circumstances’ exist, when planning proposals are submitted and states:

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

- 5.41 The Paragraph 153 test does not preclude inappropriate development in the Green Belt. However when assessing the overall planning balance in the consideration of planning applications, the starting point is that any harm to the Green Belt is first given substantial weight in the balance. This Green Belt harm, together with any other harm resulting from the proposal (and the weight given to those harms) must then be weighed against any other relevant considerations, including the public benefits of the proposal.
- 5.42 Where the Green Belt harm and any other harms are shown to be clearly outweighed by such other considerations, then ‘very special circumstances’ will be deemed to exist and permission can be given for the proposed development. Furthermore, in circumstances where the Paragraph 153 test has been passed, then Footnote 7 of Paragraph 11(d) of the Framework does not apply, as the Green Belt designation alone does not provide a clear reason for refusing the development proposed, in circumstances where the tests set out by Paragraph 153 have been passed.
- 5.43 It is common ground that the construction of up to 45 new market and affordable homes at the Appeal Site comprises inappropriate development (CD 8.6) It is also agreed that the Appeal Scheme would reduce the openness of the Site itself.

- 5.44 However it is also agreed that the physical and visual openness of the wider Green Belt itself beyond the Appeal Site would be preserved. It is further common ground that the Appeal Scheme would not conflict with any of the five Green Belt purposes, with the exception of purpose c) (safeguarding the countryside from encroachment).
- 5.45 Reference to the Proof of Joanna Ede, relating to Landscape and Green Belt matters (CD 9.3) indicates that in her professional opinion, the Appeal Scheme would only have a 'limited and localised' impact on the openness of the Green Belt for a number of reasons, as set out in her Paragraph 6. These reasons are not reiterated in full here, but in broad summary, inter alia, include:
- The good level of containment of the Appeal Site.
 - No loss of important views across the Green Belt from public viewpoints.
 - A relatively low density of development (58% of the Site).
 - Generous areas of open land provision (POS).
 - Additional planting to reinforce the existing structure of the landscape.
 - No views (other than glimpsed) of the Appeal Site from the High Street.
 - The overarching character of the Colney Heath Farmlands, as a largely rural landscape would be maintained.
- 5.46 Ms Ede concludes that as a result of these considerations, whilst changes to the existing characteristics of the Appeal Site would be appreciable, a degree of openness within the Site would still be maintained. Ms Ede further concludes in her proof that whilst the proposals would result in a localised reduction in the physical openness of the Green Belt (within the Site itself) the impact of this on the wider visual openness of the Green Belt would be limited. As such, the integrity and functioning of the wider Green Belt, in terms of its contribution to Green Belt purposes, would be maintained.
- 5.47 I concur with these conclusions, notably on the basis that the most recent Green Belt assessment undertaken by the Council for the District has not considered the Green Belt impacts of the Appeal Site at the site specific level, as has the Appeal evidence of Ms Ede (my underlining). The harm to openness is therefore of significance at the Site level, but the impact on wider Green Belt openness is judged by Ms Ede to be limited. In this case, the harm to Green Belt purposes is also agreed in the Planning SoCG to be limited only to purpose c).
- 5.48 Notwithstanding, I do not diminish the weight to be given to such harms in the overall planning balance as substantial weight must be given to inappropriate development in the Green Belt. I therefore apply this level of weight to the limited harms identified by Ms Ede in my overall planning balance at Section 6.

The Approach to Green Belt and Development in the Emerging Plan

- 5.49 As stated earlier in my evidence, it is common ground that the emerging new Local Plan can be afforded only limited weight in the determination of the Appeal Scheme, at this time. However, the evidence underpinning the emerging new Local Plan is a material consideration.
- 5.50 Paragraph 3.2 of the emerging new Local Plan states that *'the Plan is taking the approach of identifying and allocating Previously Developed Land/ Brownfield sites first for development so that growth is as sustainable as possible'*.
- 5.51 Paragraph 3.13 goes on to say that 'the Local Plan seeks to make the most efficient use of land in the District and has undertaken an extensive and rigorous search for Previously Developed Land (PDL) (also known as 'Brownfield land' in national policy) within existing built-up areas. The approach has been underlain by the concept of *'leaving no stone unturned'* in the search for appropriate sites on brownfield land.' Paragraph 3.14 expands further by stating *'this extensive search also included potential PDL opportunities in the Green Belt'*.
- 5.52 Notwithstanding the Council's stated *'no stone unturned'* methodology, large tracts of land within the Green Belt are proposed for removal and allocation, as shown in Appendix 1 of the Emerging Local Plan – Local Plan Sites (CD 3.1) and Draft Policies Map (CD 3.2). These allocations mostly comprise large strategic and other sizeable allocations in the Green Belt.
- 5.53 The emerging St Albans spatial strategy, designed to meet the acute housing need, demonstrates the absolute necessity of the requirement to remove land from the Green Belt (as over 81% of the district lies within it) in order to address the accrued, chronic, housing shortages.
- 5.54 Notwithstanding the intention to allocate significant areas of Green Belt land, the Council acknowledges that it will not be able to begin meeting its annual housing need requirements until at least 2028/29. This reflects the fact that a significant number of these draft allocations are proposed on strategic scale sites, that will not deliver new housing as rapidly as smaller scale sites, as they will have need for forward infrastructure. This is not the case with the Appeal Scheme, which can be fully delivered within 5 years from outline approval.

Landscape Character and Appearance

- 5.55 The Framework requires that 'any other harms' which may arise as part of the Appeal Scheme are to be taken into account,. With regard to the landscape and visual impacts, it is common ground with the Landscape Officer at Hertfordshire County Council (HCC) that the landscape and visual impacts of the Appeal Scheme would be very localised and limited, due to the relatively ordinary nature of the landscape and the strong visual containment of the Site.

- 5.56 In this regard, a summary table of effects on a number of landscape character receptors are set out in the application LVA (reproduced as Table 4.1 in the Landscape SoCG (CD 8.5)). None of these stated landscape identified effects were disputed by the Landscape Officer at HCC, as confirmed in the consultation response received from HCC.
- 5.57 Jo Ede has undertaken a visual appraisal of the Site and evaluated its existing role and importance. In this regard Ms Ede concludes in her evidence (CD 9.3) that the Site forms part of an ordinary landscape, which is not covered by any statutory or local landscape or environmental designations.
- 5.58 The Site is level and has a good level of enclosure due to existing development and vegetation. Consequently, visibility of the Site from publicly accessible viewpoints is very limited. Furthermore, the existing landscape features present within the Site are located around its perimeter and development could be accommodated within the Site without harming any existing landscape features;
- 5.59 Ms Ede identifies that the Site lies within an area of settled landscape, that is to say that the landscape in this location, is characterised by the presence of residential development. The introduction of development would therefore not appear incongruent or inappropriate to the existing local landscape character. The Site also offers potential landscape enhancements which would contribute to the identified landscape guidelines in the published landscape character assessment for the area.
- 5.60 There are no public rights of way crossing the Appeal Site, however the Appeal Scheme does provide opportunities to deliver improved connections to the public rights of way network in the countryside to the east and south.
- 5.61 On the basis of Ms Ede's evidence, I consider the Site to have good capacity and is well suited to accommodate the scale of residential development proposed. I also concur with the HCC landscape conclusions. I therefore consider that the landscape harm to be considered within the planning balance is both limited and localised and so therefore carries **limited weight**.

Heritage Considerations

- 5.62 With regard to Heritage impacts, the evidence of Mr Josephs is convincing and is firmly supported by the level of agreement reached with the Council in the Heritage Statement of Common Ground (CD 9.2). Accordingly, it is common ground that there would be less than substantial harm to the setting of the designated heritage assets identified, and it is also agreed this would be at the lowest end of the spectrum.
- 5.63 In terms of assessing the heritage balance, Paragraph 208 of the Framework states:

‘Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.’

- 5.64 It is common ground that the impact on designated heritage assets is at the lowest part of the spectrum of less than substantial harm and that the public benefits of the Appeal Scheme collectively outweigh this harm.
- 5.65 I agree that the public benefits of the Scheme, notably, the provision of new market, affordable, self-build and custom-build homes, in circumstances where the existing Local Plan is very significantly out of date and the Council is unable to demonstrate a 4YHLS, together with the provision of new public open space, collectively outweighs this harm.
- 5.66 Therefore I judge the test of Paragraph 208 of the Framework to be passed, which is also the agreed position with the Council. I deal with the implications of this in my concluding Section 6.

Locational Sustainability

- 5.67 With regard to the suitability of the location, notably in terms of the Council’s spatial strategy and the accessibility of the Site to services and facilities, I am persuaded by the highways evidence of Mr Tucker (CD 9.4) that the Scheme has been considered through an agreed and comprehensive Transport Assessment (TA) process.
- 5.68 The TA identifies appropriate mitigation measures for safety and accessibility. The Scheme is therefore compliant with relevant national and local policy and this position is agreed by the Local Highways Authority, who have confirmed no objection in relation to highways matters.
- 5.69 Mr Tucker’s evidence is clear in that the Appeal Scheme is consistent with the requirements of both Paragraphs 114 / 115 of the Framework and the relevant policies of the Highways Authority, in that it provides safe and secure access by all modes, direct access to public transport and local public realm improvements to reduce conflict between vehicles and other road users.
- 5.70 Mr Tucker’s evidence concludes that there are no grounds to refuse the Scheme on the basis of highway safety, traffic impact or accessibility. More specifically, in relation to Paragraph 114 of the Framework, Mr Tucker also confirms that appropriate opportunities have been taken up. This includes the provision of pedestrian and safety improvements in the vicinity of the site and a significant (£307k) contribution towards the comprehensive improvements proposed by HCC on the local transport network to support sustainable development.

- 5.71 The access to the site has also been reviewed in detail by the statutory Highway Authority and they have confirmed that they have no objection and consider the scheme acceptable and suitable, and safe. This is further supported by the provision of an independent road safety audit and there is no credible evidence to the contrary.
- 5.72 With regard to the question as to whether any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree, Mr Tucker confirms that this has been thoroughly assessed in the TA and fully reviewed in detail by the statutory Highway Authority, who agree the approach and the outcome of the assessment.
- 5.73 It therefore follows that in the context of Paragraph 115 that development should not be prevented or refused on highway grounds. Accordingly, I consider the Appeal Scheme to be in accordance with Policy 34 of the Local Plan Review. Furthermore, **positive weight** should be given in the overall planning balance to the positive transport attributes of the scheme.

Loss of BMV Agricultural Land

- 5.74 As stated in my preceding evidence, the Appellant has not specifically considered any other alternative sites. Therefore there is some conflict with saved Policy 102. However, given the critical shortage of both market and affordable housing, in an area greatly constrained by Green Belt, and the lack of conformity of this policy with the Framework (CD 1.1) I consider this conflict with Policy 102 to be very limited.
- 5.75 This is demonstrated by the fact that the Framework, does not require applications on the best and most versatile agricultural land to pass an alternative sites test, but rather, encourages planning policies and decisions to recognise *'the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land and of trees and woodland'* (Paragraph 180, b) (my underlining).
- 5.76 Paragraph 181 of the Framework, states, inter alia that plans should distinguish between the hierarchy of international, national and locally designated sites and allocate land with the least environmental or amenity value, where consistent with other policies in the Framework. However, Policy 102 does not provide for such a balanced approach, as there is no public benefits test to apply within the policy, only the demonstration of an overriding need and a lack of alternatives, which is not consistent with the Framework.
- 5.77 In addition, Footnote 62 of the Framework states that where significant development of agricultural land is demonstrated to be necessary, areas of poorer quality land should be preferred to those of a higher quality. The availability of agricultural land used for food production should be considered, alongside the other policies in the Framework, when deciding what sites are most appropriate for development (my underlining).

- 5.78 Having regard to guidance produced by Natural England (Natural England Technical information Note TIN049 – Edition 2) (CD 16.19) and the Statement prepared by Reading Agricultural Consultants (**Appendix 2**) I do not judge the scale of the agricultural land under consideration, as part of this Appeal, to be significant in this case.
- 5.79 This is justified having regard to the definition of significant in TIN049, which states:
- ‘For planning applications, specific consultations with Natural England are required under the Development Management Procedure Order in relation to best and most versatile agricultural land. These are for non-agricultural development proposals that are not consistent with an adopted local plan and involve the loss of twenty hectares or more of the best and most versatile land’ (CD 16.19, page 3) (my underlining).*
- 5.80 The threshold for the determination of what is judged to be a significant loss of best and most versatile land (BMV) is therefore the same threshold as required for consultation with Natural England, which is set at the loss of **20 ha** or more.
- 5.81 In the case of the Appeal Site, the loss of agricultural land would be 1.68ha of Grade 2 BMV agricultural land, which would no longer be available for agricultural production following the development of the Site.
- 5.82 Paragraph 180 does not preclude the development of BMV land but indicates that the decision taker should take into account the economic and other benefits associated with the presence of BMV land. In most cases, these relate primarily to food production from the land. The existing economic benefits associated with agricultural land on the Appeal Site are set out in the Technical Note at **Appendix 2** (Section 4).
- 5.83 These existing benefits on the Site are limited to up to 15 tonnes of arable crops, with a gross margin of up to £1,800 per annum. The development of the Appeal Site would therefore remove around 5% of a block of arable land in its north-western corner in what is an awkward-shaped part of the field at the furthest point from the current farm access. To put the matter in context, this equates to a minimal loss of only around 0.02% of the existing BMV in the district.
- 5.84 Accordingly, for the reasons given above and having regard to the Technical Note at **Appendix 2**, I consider any conflict with Policy 102 to have **very limited weight**.

6. The Planning Balance and Overall Conclusions

- 6.1 The principal issues in this Appeal are the effect of the Appeal Scheme upon the openness and purposes of the Metropolitan Green Belt, the landscape character and appearance of the area, the setting of nearby Grade II listed buildings and the suitability of the Appeal Site, in terms of accessibility to facilities.

Heritage Balance (Paragraph 208 of the Framework)

- 6.2 It is common ground that the impact on designated heritage assets is at the lowest part of the spectrum of less than substantial harm and that the public benefits of the Appeal Scheme collectively outweigh this harm.
- 6.3 I agree that the public benefits of the Scheme, notably, the provision of new market, affordable, self-build and custom-build homes, in circumstances where the existing Local Plan is very significantly out of date and the Council is unable to demonstrate a 4YHLS, together with the provision of new public open space, collectively outweighs this harm. Therefore I judge the test of Paragraph 208 of the Framework to be passed, as agreed with the Council.

Very Special Circumstances Balance (Paragraph 153 of the Framework).

- 6.4 It is common ground with the Council that the Appeal Scheme would comprise inappropriate development in the Green Belt, to which significant weight should be given. Therefore the main consideration is to determine whether the harm, by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. These include the provision of housing and other public benefits associated with the proposals, so as to amount to the very special circumstances necessary to justify the Appeal Scheme.
- 6.5 I have set out in my evidence how the Council can only demonstrate a 4 year housing land supply of 1.7 years and only achieved an HDT score of 55% in 2022, triggering the presumption in favour of sustainable development, irrespective of the 4YHLS position, which cannot be met in any event. I have also found in this case that the limited harm to the Green Belt (to which I attach significant weight) and the very limited conflict with saved Policy 102 (to which I attach very limited weight) are both clearly outweighed by the public benefits, as set out in Section 5 of my evidence. Accordingly, I judge the test of Paragraph 153 of the Framework to be passed.
- 6.6 With regard to Paragraph 11(d) of the Framework, the primary test in this case relates to the requirements of Paragraph 153 of the Framework. As stated, I have found that the Paragraph 153 test has been passed and that very special circumstances exist in this case, as the public benefits of the Appeal Scheme, clearly outweigh the identified harm to the Green Belt and any other harms.

- 6.7 Accordingly, Green Belt policies within the Framework do not provide a clear reason for refusing the Appeal Scheme, which should be determined on its own merits, in accordance with criterion ii of paragraph 11(d) which requires an assessment of whether any adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
- 6.8 Given that I have established that very special circumstances are demonstrated in this case, I consider that the limited adverse impacts of the Appeal Scheme do not significantly and demonstrably outweigh the tangible public benefits.

Section 38(6) Balance

- 6.9 Finally, in terms of the assessment of the Section 38(6) balance (Planning and Compulsory Purchase Act 2004) where regard is to be had to the statutory Development Plan in determining an application for planning permission, I have found in my evidence that very special circumstances exist and that the Appeal Scheme therefore does not conflict with Policy 1 of the Local Plan Review.
- 6.10 I have also assessed compliance with all other disputed matters identified in general terms as part of RR 1 and found that the Appeal Scheme complies, or is capable of complying with, the relevant policies at the Reserved Matters stage.
- 6.11 Whilst there is some conflict with Policy 102, I consider this conflict to be of very limited weight, for the reasons given in Section 5, in particular, that Policy 102 is not consistent with the Framework, as it does not provide for a test of public benefits to be made against any non-compliance with the saved policy.
- 6.12 Consequently, as there is no other alleged conflict with any other development plan policies in the wording of RR1, I consider the Appeal Scheme to comply with the Development Plan, when taken as a whole.
- 6.13 Accordingly, in overall summary, I consider that in this case, the public benefits of the Scheme clearly outweigh the harms identified by the Council and the test of Paragraph 153 of the Framework has been satisfied.
- 6.14 This means that Paragraph 11(d)2 of the Framework is also passed, which leads me to the overall conclusion that the Scheme is acceptable and that planning permission should therefore be granted.

**Appendix 1: Technical Statement:
Five Year Housing Land Supply
Emery Planning**

Technical Statement re: Five Year Housing Land Supply and Delivery

For Tarmac Trading Ltd | 23-618

Residential development at land to rear of 96- 106 High Street, Colney Heath

Project: 23-618
Site Address: Land to rear of 96 – 106 High Street, Colney Heath
Client: Tarmac Trading Ltd
Date: 18 March 2024
Author: Ben Pycroft

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Contents

1.	Introduction	1
2.	Planning Policy Context	2
3.	St Albans City & District Council Housing Land Supply	6
4.	Housing Delivery in St Albans	13
5.	Conclusions	16



1. Introduction

- 1.1 Emery Planning is instructed by Tarmac Trading Limited (the Appellant) to provide this technical statement in relation to St Albans City and District Council's five-year housing land supply (5YHLS) and housing delivery. It has been prepared in support of an appeal against the council's decision to refuse outline planning permission for up to 45 dwellings including new affordable homes, with areas of landscape 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 (application reference: 5/2022/0599, PINS ref: APP/B1930/W/23/3333685).
- 1.2 This statement is prepared by Ben Pycroft who is a Director of Emery Planning and has extensive experience in dealing with housing supply matters and has prepared and presented evidence relating to five year housing land supply calculations at numerous Local Plan examinations and over 50 public inquiries across the country. It should be read alongside the proof of evidence of Steven Kosky, which deals with all other planning matters in relation to the appeal.
- 1.3 References in this statement to 5YHLS should be read as relating to a four year housing land supply (4YHLS) where appropriate. This is consistent with paragraph 002 of the Planning Practice Guidance (Reference ID: 68-002-20240205).
- 1.4 In summary, this statement explains the following:
- The Council meets the requirements of paragraph 226 of the National Planning Policy Framework (the Framework) and as such only needs to demonstrate a 4 year housing land supply (4YHLS) of deliverable sites against the five year requirement;
 - However, the Council cannot demonstrate even a 4YHLS of deliverable housing sites against the 5YHLS requirement, as it is required to by paragraph 77 of the Framework by a significant margin;
 - The deliverable 5YHLS at 1st April 2023 based on the council's trajectory would be 1.9 years (a shortfall of 3,268 dwellings against a 5YHLS requirement plus 20% buffer). This is one of the lowest 5YHLS positions in England. Even on the Council's figure the shortfall is substantial. We conclude that the position is even less than that claimed by the Council and conclude that the 5YHLS is **1.5 years**;
 - Even on the Council's latest timescales, the emerging local plan will not be adopted until March 2026 and there is no immediate plan-led solution to address the housing shortfall; and
 - Housing delivery in St Albans has historically been poor. The Council has failed each Housing Delivery Test since its inception in 2018.
- 1.5 The implications of these points are addressed in Steven Kosky's proof of evidence.



2. Planning Policy Context

- 2.1 Section 38(6) of the Planning and Compulsory Purchase Act (2004) requires applications for planning permission to be determined in accordance with the development plan unless material considerations indicate otherwise. The National Planning Policy Framework (“the Framework”) is a material consideration, which is discussed below.

Development Plan Context

Adopted development plan

- 2.2 The adopted development plan comprises the saved policies of the St Albans District Local Plan Review, adopted in November 1994 (policies saved September 2007).
- 2.3 Steven Kosky addresses the conformity of the appeal proposals with the development plan and the weight to be given to the policies in the adopted plan in his proof of evidence. However, of relevance to this technical statement is the fact that the housing requirement set out in adopted strategic policies is over five years old and therefore in accordance with paragraph 77 and footnote 42 of the Framework, the Council’s housing land supply should now be measured against the local housing need calculated using the standard method set out in the PPG. This is capped at 888 dwellings per annum.

Emerging development plan

- 2.4 The new Local Plan will cover the period 2024 to 2041. Regulation 18 consultation closed in September 2023. The timetable set out in the latest Local Development Scheme (LDS) (February 2024) indicates that regulation 19 consultation will take place between October and December 2024, with the plan being submitted in March 2025. The LDS anticipates that the examination will take place between March 2025 and February 2026 with adoption in March 2026.

Other material considerations

National Planning Policy Framework

- 2.5 The latest version of the Framework was updated on 20th December 2023. The relevant sections of the Framework in relation to this statement are:
- Footnote 8 which explains that the tilted balance to the presumption in favour of sustainable development applies where a) a local planning authority cannot demonstrate a 5YHLS (or



4YHLS if applicable as set out in paragraph 226 or b) where the Housing Delivery Test result is less than 75%;

- Section 5: Delivering a sufficient supply of homes, including:
 - Paragraph 60, which refers to the Government’s objective of significantly boosting the supply of homes;
 - Paragraph 61, which explains that the minimum number of homes needed should be informed by a local housing need calculated using the standard method set out in the PPG. The outcome of the standard method is an advisory starting-point for establishing a housing requirement for the area;
 - Paragraph 72, in relation to an allowance for windfall sites;
 - Paragraph 75, which states that strategic policies should include a trajectory illustrating the expected rate of delivery over the plan period. It states that local planning authorities should monitor their deliverable land supply against their housing requirement, as set out in adopted strategic policies;
 - Paragraph 76, which states that local planning authorities are not required to demonstrate a 5YHLS where a) the adopted plan is less than five years old and the adopted plan identified a 5YHLS of specific, deliverable sites at the time the examination concluded. Transitional arrangements set out in footnotes 40 and 79 explain that this should only be taken into account as a material consideration when dealing with applications made on or after 20th December 2023;
 - Paragraph 77, which explains that the requirement to demonstrate a 5YHLS (or in some circumstances a 4YHLS) is a minimum requirement and explains that the supply should be measured against either the housing requirement set out in adopted strategic policies, or the local housing need where the strategic policies are more than five years old. Footnote 42 explains that if the adopted housing requirement has been reviewed and found not to require updating, it should still be used. Footnote 42 also explains that where the local housing need is used it should be calculated using the standard method set out in the PPG. Paragraph 77 and footnote 43 also explain that a 20% buffer should apply where the latest HDT result is less than 85%. Finally, paragraph 77 of the Framework states that the PPG provides further information on calculating housing land supply, including the circumstances in which past shortfalls or over-supply can be addressed;
 - Paragraph 78, which explains the circumstances in which a 5YHLS can be confirmed through an annual position statement; and
 - Paragraph 79, in relation to Housing Delivery Test Action Plans and the policy consequences for failing the HDT.
- Annex 1: Implementation, including:
 - Paragraph 224, which explains that the policies in the Framework are material considerations which should be taken into account when dealing with applications



from 20th December 2023. As above, footnote 79 explains that as an exception to this, paragraph 76 and the related reference in footnote 8 should only be taken into account as a material consideration when dealing with applications made on or after 20th December 2023; and

- Paragraph 226, which explains the circumstances when a local planning authority only has to demonstrate a 4YHLS i.e. where an authority has an emerging local plan that has either been submitted for examination or has reached regulation 18 or 19 stage and includes both a policies map and proposed allocations towards meeting housing need. Paragraph 226 of the Framework explains that this does not apply to authorities who are not required to demonstrate a housing land supply, as set out in paragraph 76. These arrangements will apply for a period of two years from the publication date of this revision of the Framework (i.e. until 20th December 2025).
- Annex 2: Glossary, including:
 - The definition of “deliverable” on page 69; and
 - The definition of “windfall sites” on page 76.

Planning Practice Guidance (PPG)

2.6 The PPG was first published in March 2014 and has been updated since. The relevant chapters of the PPG in relation to this statement are:

- Chapter 2a - Housing and economic needs assessment;
- Chapter 3 – Housing and economic land availability assessments; and
- Chapter 68 – Housing supply and delivery.

2.7 As above, paragraph 77 of the Framework explains that national planning guidance provides further information on calculating the housing land supply, including the circumstances in which past shortfalls or over-supply can be addressed.

2.8 Chapter 68 of the PPG was updated on 5th February 2024. Of relevance is paragraph 68-055 (reference ID: 68-055-20240205), which confirms that;

“Both the 5 year housing land supply and the 4 year housing land supply that authorities should demonstrate for decision making should consist of deliverable housing sites demonstrated against the authority’s five year housing land supply requirement, including the appropriate buffer.”



St Albans City and District Council Four Year Housing Land Supply Position and Housing Trajectory 1 April 2023 (AMR 2023)

- 2.9 The Council's AMR 2023 sets out that the Council had a deliverable 4YHLS at 1st April 2023 supply of 1,802 dwellings, which demonstrated against the council's 4YHLS requirement including a 20% buffer equates to a 4YHLS of 1.7 years. The AMR was published after the revised version of the Framework on 20th December 2023 but before the updated PPG on 5th February 2024. The assessment of a 4YHLS against a 4YHLS requirement undertaken in the AMR 2023 is not consistent with paragraph 68-055 of the PPG as described above.

St Albans Borough Council Housing Delivery Test Action Plan (June 2022)

- 2.10 The Council's latest Housing Delivery Test Action Plan was published in June 2022. At the time of publication, the latest Housing Delivery Test results were those published by the Secretary of State in January 2022 and showed that St Albans delivered 69% of the Government's target. In reviewing the key issues facing housing delivery, the Action Plan explains that the step-change in the Government's housing requirements can only be delivered through the adoption of a new Local Plan that will almost certainly require the council to release Green Belt land for housing. Until that time sufficient permissions are not being granted (page 14).



3. St Albans City & District Council Housing Land Supply

- 3.1 Paragraph 226 of the December 2023 Framework explains that where an authority has an emerging local plan that has either been submitted for examination or has reached regulation 18 or 19 stage and includes both a policies map and proposed allocations towards meeting housing need, the authority will only be required to identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of four years' worth of housing (with a buffer, if applicable, as set out in paragraph 77). This applies in the case of St Albans. Prior to December 2023, the local planning authority was required to demonstrate a five year housing land supply as a minimum requirement.
- 3.2 The PPG confirms that both the 5YHLS and the 4YHLS that authorities should demonstrate for decision making should consist of deliverable housing sites demonstrated against the authority's five-year housing land supply requirement, including the appropriate buffer.

Previous positions

- 3.3 Until December 2023, the requirement to demonstrate a five-year housing land supply was the minimum requirement for St Albans. The failure to demonstrate even the minimum requirement results in the application of the tilted balance to the presumption in favour of sustainable development as set out in paragraph 11d) of the Framework. Within this context, it is of note that the Council has been unable to demonstrate a deliverable five-year (or indeed four-year) land supply since at least 2015:
- The Council's Annual Monitoring Report 2015 claims that the Council's position at 1st April 2015 was that it could demonstrate a deliverable supply of **3.49 years**.
 - The Council's Annual Monitoring Report 2016 claims that the Council's position at 1st April 2016 was that it could demonstrate a deliverable supply of **3.72 years**.
 - The Council's Annual Monitoring Report 2017 claims that the Council's position at 1st April 2017 was that it could demonstrate a deliverable supply of **3.3 years**.
 - The Council's Annual Monitoring Report 2018 claims that the Council's position at 1st April 2018 was that it could demonstrate a deliverable supply of between **2.4 and 3.4 years**.
 - The Council's Annual Monitoring Report 2019 claims that the Council's position at 1st April 2019 was that it could demonstrate a deliverable supply of between **1.9 and 2.6 years**.
 - The Council's Annual Monitoring Report 2020 claims that the Council's position at 1st April 2020 was that it could demonstrate a deliverable supply of between **2.4 and 3.4 years**.



- The Council’s Annual Monitoring Report 2021 claims that the Council’s position at 1st April 2021 was that it could demonstrate a deliverable supply of **2.2 years**.
- The Council’s Annual Monitoring Report 2022 claims that the Council’s position at 1st April 2022 was that it could demonstrate a deliverable supply of **2.0 years**.
- The Council’s 4 Year Housing Land Supply Position and Housing Trajectory 2023 claims that the Council’s position at 1st April 2023 was that it could demonstrate a deliverable supply of **1.7 years** against a 4 year requirement. The deliverable 5YHLS at 1st April 2023 based on the council’s trajectory would be **1.9 years**.

Current five year housing land supply position

Stage 1: Identifying the base date and five year period

3.4 The base date set out in the AMR 2023 is 1st April and the five year period would run to 31st March 2028.

Stage 2: Identifying the housing requirement

3.5 The adopted development plan comprises the saved policies of the St Albans District Local Plan Review, adopted in November 1994 (policies saved September 2007). The saved policies of the Plan do not contain an adopted housing requirement figure.

3.6 In accordance with paragraph 77 and footnote 42 of the Framework, the five-year housing land supply should be measured against the local housing need using the standard method set out in the PPG. Paragraph 2a-004 of the PPG¹ explains how local housing need is calculated. There are four steps:

- Step 1 – set the baseline by calculating the projected annual household growth over a 10 year period using the 2014-based household projections with 2023 being used as the starting point. For St Albans, the annual household growth from 2023-33 is 634.
- Step 2 – make an adjustment to take account of affordability using the most recent median workplace-based affordability ratios. For St Albans, the most recent median workplace-based affordability ratio (published 22nd March 2023) is 18.44. The affordability adjustment is 1.90. Therefore, the uncapped local housing need is 1,204.6 dwellings per annum.
- Step 3 – cap the level of any increase. For St Albans, the local housing need figure should be capped at 40% above the annual household growth of 634. This is 888 dwellings per annum.
- Step 4 – apply the cities and urban centres uplift – a 35% uplift is not applied because St Albans is not in the top 20 cities and urban centres list. This means that the local housing need is **capped at 888 dwellings per annum**.

¹ Paragraph: 004 Reference ID: 2a-004-20190220: “What is the standard method for assessing local housing need?”



3.7 The 'base' five year requirement is 4,440 dwellings (i.e., $888 \times 5 \text{ years} = 4,440$).

Stages 3 and 4: Identifying the past shortfall and how the past shortfall should be addressed

3.8 Paragraph 68-031 of the PPG² explains that where the standard method for assessing local housing need is used, step 2 of the standard method factors in past under-delivery as part of the affordability ratio, so there is no requirement to specifically address under-delivery separately when establishing the minimum annual local housing need figure.

Stage 5: Applying the appropriate buffer

3.9 The latest Housing Delivery Test result for St Albans was less than 75% (it was just 55%). As a result, the 20% buffer applies making the annual requirement 1,065.6 (i.e., $888 + 20\%$).

3.10 The five year housing land supply to be demonstrated is 5,328 dwellings (i.e., $4,440 + 20\% = 5,328$).

Stage 6: Identifying a Realistic and Deliverable Supply

3.11 The definition of "deliverable" is set out on page 69 of the Framework (December 2023) and states:

"Deliverable: To be considered deliverable, sites for housing should be available now, offer a suitable location for development now, and be achievable with a realistic prospect that housing will be delivered on the site within five years. In particular:

a) sites which do not involve major development and have planning permission, and all sites with detailed planning permission, should be considered deliverable until permission expires, unless there is clear evidence that homes will not be delivered within five years (for example because they are no longer viable, there is no longer a demand for the type of units or sites have long term phasing plans).

b) where a site has outline planning permission for major development, has been allocated in a development plan, has a grant of permission in principle, or is identified on a brownfield register, it should only be considered deliverable where there is clear evidence that housing completions will begin on site within five years."

3.12 Paragraph 68-007 of the PPG³ provides some examples of the types of evidence, which could be provided to support the inclusion of sites with outline planning permission for major development and allocated sites without planning permission. It states:

² Paragraph: 031 Reference ID: 68-031-20190722: "How can past shortfalls in housing completions against planned requirements be addressed?"

³ Paragraph 007 Reference ID: 68-007-20190722: "What constitutes a 'deliverable' housing site in the context of plan-making and decision-taking?"



“In order to demonstrate 5 years’ worth of deliverable housing sites, robust, up to date evidence needs to be available to support the preparation of strategic policies and planning decisions. Annex 2 of the National Planning Policy Framework defines a deliverable site. As well as sites which are considered to be deliverable in principle, this definition also sets out the sites which would require further evidence to be considered deliverable, namely those which:

- have outline planning permission for major development;
- are allocated in a development plan;
- have a grant of permission in principle; or
- are identified on a brownfield register.

Such evidence, to demonstrate deliverability, may include:

- current planning status – for example, on larger scale sites with outline or hybrid permission how much progress has been made towards approving reserved matters, or whether these link to a planning performance agreement that sets out the timescale for approval of reserved matters applications and discharge of conditions;
- firm progress being made towards the submission of an application – for example, a written agreement between the local planning authority and the site developer(s) which confirms the developers’ delivery intentions and anticipated start and build-out rates;
- firm progress with site assessment work; or
- clear relevant information about site viability, ownership constraints or infrastructure provision, such as successful participation in bids for large-scale infrastructure funding or other similar projects.

Plan-makers can use the Housing and Economic Land Availability Assessment in demonstrating the deliverability of sites.”

3.13 The AMR 2023 states that the deliverable four year housing supply at 1st April 2023 for the period 2023/24 to 2026/27 is 1,802 dwellings. This comprises:

- 1,442 dwellings on sites with planning permission (estimated future completions); and
- 360 dwellings on windfall sites.

3.14 Figure 3 (page 7) of the AMR 2023 also shows the trajectory for 2027/28 which would mean the deliverable 5YHLS at 1st April is 2,060 dwellings. This comprises:

- 1,520 dwellings on sites with planning permission (estimated future completions); and
- 540 dwellings on windfall sites.



3.15 We have reviewed the Council's deliverable supply set out in Figure 4 of the AMR 2023. This includes planning permission references for the sites in the trajectory but provides very little information on the current planning status of the sites. We conclude that **107 dwellings** should be removed from the Council's 5YHLS in relation to the following sites:

- **62 dwellings** at Verulam Industrial Estate, London Road, St Albans (5/2021/2417) – planning permission was granted on 7th June 2022. A non-material amendment was granted on 4 December 2022 to alter the residential core, the market and affordable housing mix amongst other things. There are several pre-commencement conditions on the planning permission including the implementation of a programme of archaeological works and ground investigations. No application has been made to discharge pre-commencement conditions to date. Whilst we accept the site is deliverable in principle, there is no evidence to demonstrate that dwellings will be completed in 2024/25. **20 dwellings** should be removed from the supply.
- **43 units** at 270-274 London Road, St Albans (5/2014/2136) – planning permission was granted on appeal for 83 C2 bedrooms resulting in a net uplift of 43 dwellings on 24th May 2016. Conditions were discharged on 18th January 2019. The permission would have expired in May 2019 and there is no evidence to demonstrate that the development is progressing. **43 units** should be removed from the supply.
- **44 dwellings** at Ridgeview Lodge, Barnet Road, London Colney (5/2020/1910) – planning permission was granted on 7th February 2022 for the conversion of the site from a hostel for homeless people (sui generis) to 25 units of temporary accommodation to persons in housing need and the provision of 19 units of private accommodation. The mix of units is provided in the committee report for the application and shows that all four blocks (A-D) would be converted as part of the proposals. Although subsequent applications were made to discharge conditions in relation to the planning permission, an application seeking prior approval for the demolition of blocks B and D of Ridgeview Lodge was submitted in August 2022 (5/2022/2010). The decision dated 6th September 2022 confirmed that prior approval is not required. There is no clear evidence to demonstrate that the permission will be implemented. **44 dwellings** should be removed from the supply.

Windfall allowance

3.16 The Council trajectory includes a windfall allowance of 540 dwellings in the five year supply. Windfalls are anticipated to start delivering at 180 per annum from year three (i.e. 2025/26).

3.17 The Council has not provided any compelling evidence to justify this windfall allowance within the supply. Firstly, it is unknown where the sites are located or why they are expected to come forward and deliver dwellings in the specified period. Secondly, it is unclear whether there is any overlap or double counting with sites with permission as set out in the trajectory, the majority of which are windfall sites in any event. Whilst no evidence is provided in the AMR, it appears the Council relies on the windfall allowance as set



out at Table 3.2 of the Regulation 18 Consultation Draft Local Plan Housing Trajectory which shows a windfall allowance of 180 from year 3 onwards. This has not yet been tested at examination.

- 3.18 The document titled 'Emerging Draft Windfall Topic Paper' dated December 2020 provides further context. However, the emerging draft topic paper is not listed as forming part of the evidence base for the emerging local plan therefore its status is unclear. This draft emerging topic paper states that based on historic rates, windfalls over the last 10 years have consistently provided the majority of housing provision of the district and that accounts for 84% of the residential completions (a historic average of 331 dwellings per annum over the last 10 years).
- 3.19 Section 7 of the emerging draft topic paper sets out a proposed windfall allowance of 191 residential dwelling per annum comprising 74 dwellings a year from large sites and 117 dwelling per year on small and medium scale sites including Green Belt previously developed land.
- 3.20 As the sites set out in the housing trajectory are predominantly windfall sites that either have permission or are under construction, we do not consider that there is compelling evidence to support the proposed figure of an additional 180 dwellings per annum from year three. There is no compelling evidence to support the inclusion of a windfall allowance year 3 of the trajectory having regard to the existing planning permissions and sites under construction.
- 3.21 On this basis, as no compelling evidence has been provided for the inclusion of a windfall allowance, we conclude that 180 dwellings are removed from year three and the windfall allowance is reduced to 100 for the remaining two years. **340 dwellings are removed from the five year supply.**
- 3.22 We therefore conclude that the deliverable 5YHLS at 1st April 2023 is 1,613 dwellings (2,060 – (107 +340)), which against the local housing need and a 20% buffer equates to **1.5 years**, as shown in the table 3.1 below.



Table 3.1 – St Albans’ Five Year Housing Land Supply at 1st April 2023

		Council	Appellant
A	Local housing need	888	888
B	Five year requirement	4,440	4,440
C	Supply to be demonstrated (B + 20%)	5,328	5,328
D	Annual supply to be demonstrated (C / 5 years)	1,066	1,066
E	Five year supply at 1 st April 2023	2,060	1,613
F	Supply in years (E / D)	1.9	1.5
G	Shortfall (E - C)	-3,268	-3,715



4. Housing Delivery in St Albans

4.1 The Council's Authority Monitoring Report (2022) sets out the net housing completions in St Albans from 1994/95 to 2021/22 and shows that the average completions per year over this period have been 395 dwellings. Completions from 2022/23 are provided in the AMR 2023 and these figures have been used to show the annual completions over the last 10 years in the table below:

Table 4.1 – Net completions in St Albans 2013/14 to 2021/22

Year	Net Completions
2013/14	375
2014/15	313
2015/16	396
2016/17	340
2017/18	385
2018/19	624
2019/20	437
2020/21	516
2021/22	314
2022/23	401
Total	4,101
Average	410

4.2 As shown in the table above, annual completions over the last 10 years have been on average 410 dwellings, significantly below the annual supply to be demonstrated of 1,066 dwellings per annum.

Housing Delivery Test

4.3 The Housing Delivery Test (HDT) is defined on page 71 of the Framework as follows:



“Housing Delivery Test: Measures net additional dwellings provided in a local authority area against the homes required, using national statistics and local authority data. The Secretary of State will publish the Housing Delivery Test results for each local authority in England every November.”

- 4.4 The following consequences apply where the HDT results confirm delivery falls below specific thresholds.
- 4.5 Firstly, where delivery falls below 95% of the requirement over the previous three years, the authority should prepare an action plan to assess the causes of under-delivery and identify actions to increase delivery in futures years (paragraph 79a) of the Framework).
- 4.6 Secondly, paragraph 79b) of the Framework explains that where delivery falls below 85% of the requirement over the previous three years, the authority should include a buffer of 20% to their identified supply of specific deliverable sites, as set out in paragraph 77 of the Framework.
- 4.7 Thirdly, Paragraph 79c of the Framework explains that where the HDT result is below 75%, of the requirement over the three previous years, the presumption in favour of sustainable development applies, as set out in footnote 8 of the Framework in addition to the requirements for an action plan and 20% buffer.
- 4.8 Guidance on the Housing Delivery Test is then provided in paragraphs 68-036 to 68-054 of the PPG, which should be read alongside the Housing Delivery Test measurement rule book.
- 4.9 The HDT Measurement Rule Book (July 2018) explains that HDT is calculated as a percentage of net homes delivered against the “number of homes required”. Paragraph 14 of the rulebook explains that where the latest adopted housing requirement is over five years old, unless the strategic policies have been reviewed and found not to require updating, the figure used for areas with a Local Plan will be the minimum annual local housing need figure.
- 4.10 The HDT was introduced in 2018. The Council has failed each HDT as summarised below:
- 2018 HDT result = 58%
 - 2019 HDT result = 63%
 - 2020 HDT result = 63%
 - 2021 HDT result = 69%
 - 2022 HDT result = 55%
- 4.11 The failure to meet the HDT means that the 20% buffer applies and the presumption in favour of sustainable development applies (in addition to it applying because of a housing land shortfall). It also means that the Council must produce a Housing Delivery Action Plan in accordance with paragraph 79c)



of the Framework to: “assess the causes of under-delivery and identify actions to increase delivery in future years”. The Council’s latest Housing Delivery Action Plan was published in 2022.

4.12 The Council’s Housing Delivery Test Action Plan explains that the majority of development in St Albans District is on previously developed land which comprised 87% of gross dwelling completions between 2001/02 and 2021/22. It states that over 81% of the land in the district is Green Belt and this is a limiting factor in land available for development. The Table at paragraph 4.3.1 of the action plan sets out an analysis review of key issues stating:

“The step-change in the Government’s housing requirements can only be delivered through the adoption of a new Local Plan that will almost certainly require the council to release Green Belt. Until that time sufficient permissions to deliver an average of 890 homes per annum are not being granted.”

4.13 As above, the new Local Plan is not likely be adopted until March 2026 (i.e. over 2 years from now). Therefore, the Council’s supply position is not expected to improve in the short term.



5. Conclusions

5.1 In summary, this technical statement demonstrates the following:

- A four year housing land supply cannot be demonstrated in St Albans against a five year requirement by a significant margin.
- We conclude that the 5YHLS at 1st April 2023 is **1.5 years** (1.9 years based on the Council's trajectory). The shortfall in the HLS is substantial.
- The Council has failed to meet the Housing Delivery Test for the fourth consecutive year.

5.2 The implications of this statement are addressed in the evidence of Steven Kosky.



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Appendix 2: Agricultural Land Considerations Reading Agricultural Consultants



**Appeal by Tarmac Ltd against the refusal of
application 5/2022/0599 on land to the rear of 96-106
High Street, Colney Heath**

Agricultural Land Considerations

March 2024

**Beechwood Court,
Long Toll, Woodcote,
RG8 0RR**

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1	INTRODUCTION	1
2	RELEVANT POLICIES	2
3	AGRICULTURAL LAND QUALITY OF THE APPEAL SITE	3
4	ASSESSMENT OF THE PROPOSAL	4
5	CONCLUSIONS	8

1 Introduction

- 1.1 Reading Agricultural Consultants Ltd is instructed by Tarmac Ltd to consider the agricultural land issues in relation to an appeal against the refusal of application 5/2022/0599 on land to the rear of 96-106 High Street, Colney Heath.
- 1.2 This statement has been prepared by Alastair Field who is a Director and the Company Secretary of Reading Agricultural Consultants Ltd. He holds an Honours Degree in Geography from the University of Durham, and a Postgraduate Diploma and Master of Science Degree in Agricultural Economics from the University of Reading. Following his qualifications, he was employed by the University of Reading as a Research Officer in the Department of Agricultural Economics and Management.
- 1.3 He has been a consultant in agriculture, agricultural economics, rural land use and soil science for over thirty five years and is a Fellow of the British Institute of Agricultural Consultants, a Practitioner Member of the Institute of Environmental Management and Assessment, and a Member of the Institute of Soil Science. Throughout his career, he has assessed the impact of developments on soils and agriculture. These assessments have related to major infrastructure projects (railways, highways and power-generation projects); mineral extraction and restoration; housing, industrial and commercial developments; and managed coastline retreat, flood protection and habitat creation and translocation schemes.
- 1.4 Outline application 5/2022/0599 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 was refused by St Albans City and District Council on 25 May 2023 for two reasons. Reason no. 1 is concerned principally with development in the Green Belt but identifies other harm including the *“loss of high quality agricultural land”*.
- 1.5 The Committee Report considered the loss of agricultural land in section 8.8. In response to concerns on the loss of the best and most versatile (BMV) agricultural land and impacts on food production and security, paragraph 8.8.4 indicated that:

“There is no evidence to suggest that release of this land would unduly impact upon the adjacent agricultural land being farmed and the indicative plans within the design and access statement indicate that access would be retained for the farm.”

1.6 The Committee Report also gave limited weight to the harm caused by the loss of agricultural land, given the small area involved (1.68ha) when compared to the amount of BMV land in the area.

2 Relevant policies

- 2.1 Paragraph 180 of the National Planning Policy Framework¹ 2023 (NPPF) states that planning policies and decisions should contribute to and enhance the natural and local environment by recognising the wider benefits from natural capital and ecosystem services, including the economic and other benefits of the BMV agricultural land.
- 2.2 Paragraph 181 and its accompanying footnote 62, which indicate that where significant development of agricultural land is demonstrated to be necessary, areas of poorer quality land should be preferred to those of a higher quality and that the availability of agricultural land used for food production should be considered when deciding which sites are most appropriate for development, relate specifically to plan-making rather than individual decision-taking.
- 2.3 Saved policy 102 of the St Albans District Local Plan Review 1994² indicates that development resulting in the loss of high quality agricultural land (which is defined in the policy as Grades 1, 2 or 3a and is equivalent to BMV land) will normally be refused unless there is an overriding need for the development and there is no alternative land of a lower quality which could reasonably be used. Applications for the development of agricultural land must be accompanied by an assessment of agricultural land quality.
- 2.4 Policy 102 also indicates that, where appropriate, the loss of agricultural land will be assessed against its effect on the integrity and viability of a farm holding.

¹ Department for Levelling Up, Housing & Communities (2023). *National Planning Policy Framework*. [National Planning Policy Framework \(publishing.service.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/115122/nppf-2023.pdf)

² [https://www.stalbans.gov.uk/sites/default/files/documents/publications/planning-building-control/district-local-plan-review-1994/District%20Local%20Plan%20Review%201994%20Saved%20and%20Deleted%20Policies%20Version%20\[July%202020\].pdf](https://www.stalbans.gov.uk/sites/default/files/documents/publications/planning-building-control/district-local-plan-review-1994/District%20Local%20Plan%20Review%201994%20Saved%20and%20Deleted%20Policies%20Version%20[July%202020].pdf)

3 Agricultural land quality of the Appeal Site

- 3.1 Guidance for assessing the quality of agricultural land in England and Wales is set out in the Ministry of Agriculture, Fisheries and Food (MAFF) revised guidelines and criteria for grading the quality of agricultural land³, and summarised in Natural England's Technical Information Note (TIN) 049⁴.
- 3.2 Agricultural land in England and Wales is graded between 1 and 5, depending on the extent of long-term limitations to agricultural use. The principal physical factors influencing grading are climate, site conditions and soil which, together with interactions between them, form the basis for classifying land into one of the five grades.
- 3.3 Grade 1 land is excellent quality agricultural land with no or very minor limitations to agricultural use. Grade 2 is very good quality agricultural land, with minor limitations which affect crop yield, cultivations or harvesting. Grade 3 land has moderate limitations which affect the choice of crops, timing and type of cultivation, harvesting or the level of yield. It is subdivided into Subgrade 3a (good quality land) and Subgrade 3b (moderate quality land). Grade 4 land is poor quality agricultural land with severe limitations which significantly restrict the range of crops and/or level of yields. Grade 5 is very poor quality land, with very severe limitations which restrict use to permanent pasture or rough grazing.
- 3.4 Land which is classified as Grades 1, 2 and 3a is defined in Annex 2 of the NPPF as BMV agricultural land. Natural England estimates in TIN 049 that 42% of farmland in England is BMV land.
- 3.5 The Appeal Site was surveyed in detail in accordance with the ALC guidelines by Land Research Associates in May 2022. The report of survey⁵ was submitted with the application.
- 3.6 The survey found that the soils are deep permeable loams, comprising medium clay loam topsoils over fine loamy subsoils that are often gleyed (greyish and pale colours with ochreous

³ **Ministry of Agriculture, Fisheries and Food (MAFF) (1988)**. *Agricultural Land Classification of England and Wales. Revised guidelines and criteria for grading the quality of agricultural land.*
<http://publications.naturalengland.org.uk/file/5526580165083136>

⁴ **Natural England (2012)**. *Technical Information Note 049 - Agricultural Land Classification: protecting the best and most versatile agricultural land.* [Agricultural Land Classification: protecting the best and most versatile agricultural land - TIN049 \(naturalengland.org.uk\)](http://publications.naturalengland.org.uk/file/5526580165083136)

⁵ <https://planningapplications.stalbans.gov.uk/planning/search-applications?civica.query.FullTextSearch=5%2F2022%2F0599#DOC?DocNo=9658293>

mottles), indicating slight waterlogging in the subsoils. The soils are however mostly freely to moderately-freely draining and are limited slightly by a combination of soil wetness, topsoil stone content and soil droughtiness to Grade 2.

4 Assessment of the proposal

- 4.1 There is no dispute that the Appeal Site amounts to 1.68ha of Grade 2 BMV agricultural land, which would no longer be available for agricultural production following the development of the site.
- 4.2 The NPPF (paragraph 180) requires that decisions should recognise the economic and other benefits of BMV agricultural land. There is no requirement in paragraph 180 in respect of individual decision-taking to consider whether the development represents the significant development of agricultural land, whether that development is necessary, whether areas of poorer quality agricultural land are available, and whether that land is available for food production. These are all matters raised by paragraph 181 in respect of plan making.
- 4.3 Paragraph 180 does not preclude the development of BMV land but indicates that the decision taker should take into account the economic and other benefits associated with the presence of BMV land. In most cases, these relate primarily to food production from the land.
- 4.4 The economic benefits associated with agricultural land on the Appeal Site comprise the production of arable crops. The Appeal Site would normally be expected to yield approximately 15 tonnes of milling wheat or 11 tonnes of malting barley. These would generate a gross margin (output less variable costs such as seed and fertiliser) of approximately £1,200 to £1,800 per annum.
- 4.5 Clearly, the economic benefits associated with the presence of BMV land at the Appeal Site are very small and within the context that the UK is largely self-sufficient in grains, which are also grown for export, with estimates of the 2023 harvest in England being 12.8 million tonnes of wheat and 4.8 million tonnes of barley.
- 4.6 The Appeal Site therefore produces very small yields of crops in which the country is largely self-sufficient.
- 4.7 It is also evident that the farming of the Appeal Site is constrained by the hedgerow along its southern/south-eastern boundary, which makes the Appeal Site an awkward area of land to farm relative to the larger expanses in the other fields in this block of arable land.

4.8 The Google Earth image in Figure 1 shows a complex pattern of tramlines in the Appeal Site, representing the multiple passes and manoeuvring that is needed to farm the site, particularly when compared to the simple, efficient tramlines of the remainder of the field and neighbouring fields. The Appeal Site is not an efficient size or shape to farm in an arable use, which diminishes yields within it.

Figure 1: Google Earth image of the Appeal Site (2013)



4.9 Saved Policy 102 of the Local Plan Review 1994 is clearly out of step with national policy which does not indicate that development resulting in the loss of BMV land should normally be refused unless there is an overriding need for the development and there is no alternative land of a lower quality which could reasonably be used.

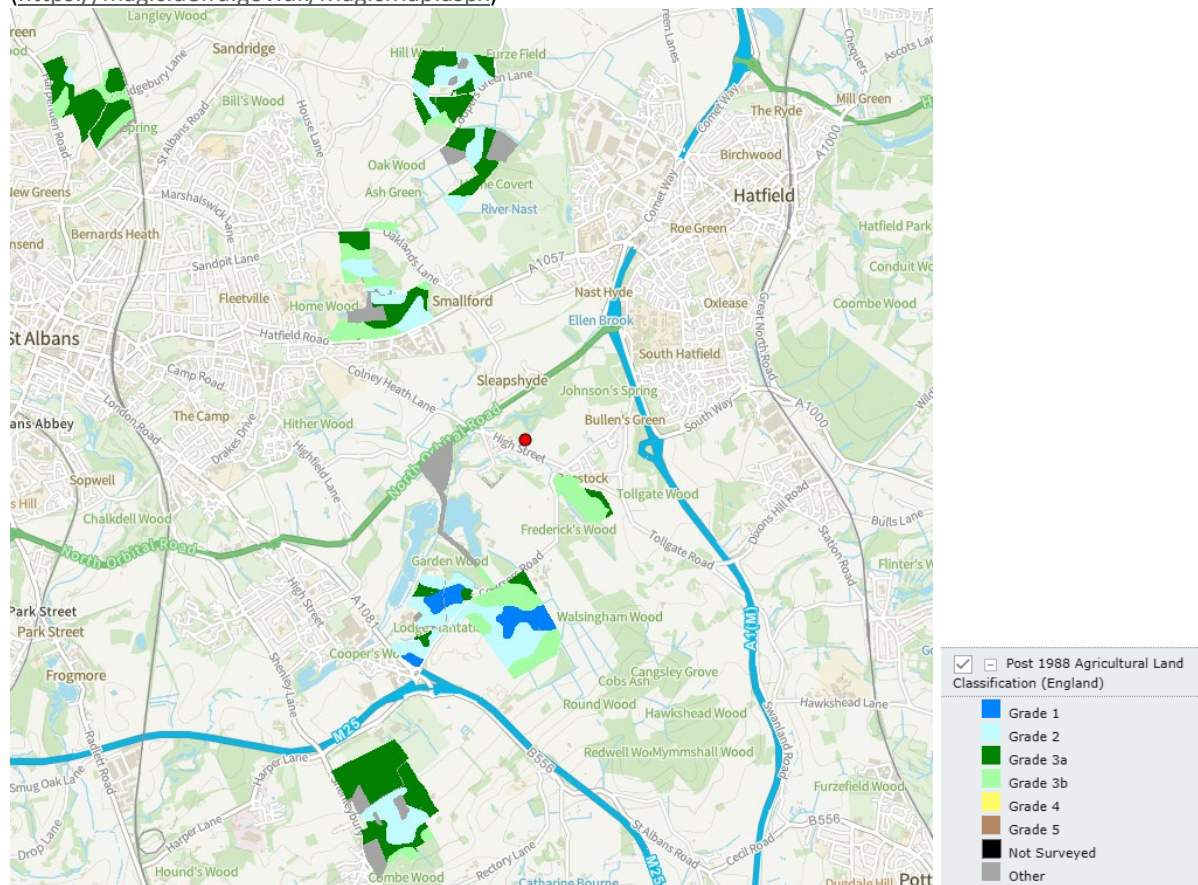
4.10 Policy 102 was set in the context of national policy in Planning Policy Guidance Note 7, which was cancelled twenty years ago in 2004, with national policy having been revised seven times since Policy 102 was drafted.

4.11 Even so, Policy 102 allows for the development of BMV land if there is an overriding need for the development, which is clearly the Appellant's case, and that there is no alternative land of a lower quality that could be used.

4.12 As can be seen from Figure 2, there are no detailed ALC surveys shown on magic.defra.gov.uk around Colney Heath which would demonstrate whether there is any alternative lower quality land available at the settlement. A number of detailed surveys have been undertaken in the

wider locality , with those within an approximately 5km radius of the Appeal Site shown in Figure 2.

Figure 2: Detailed ALC survey results within 5km of the Appeal Site (shown as red dot)
<https://magic.defra.gov.uk/MagicMap.aspx>



4.13 These surveys covered an area of 423ha, of which 323ha or 76% was classified as BMV land. This is a considerably higher proportion than the national average of 42% BMV land cited by Natural England in TIN 049. The opportunities to use lower quality agricultural land in this locality are therefore relatively limited, irrespective of any other planning considerations.

4.14 Defra statistics based on the Provisional ALC indicate that there are 12,110 ha of agricultural land in the District. The total area of BMV land is estimated to be approximately 6,415 ha (or 53% of all agricultural land) based on the assumption that the Provisional Grade 3 land is divided evenly between Subgrade 3a (BMV) and Subgrade 3b (non-BMV).

4.15 The District as a whole therefore has a higher than average proportion of BMV land (53% cf 42%) but the detailed available ALC survey results suggest that the areas of BMV are particularly concentrated in the locality of the Appeal Site.

4.16 The proposal to develop 1.68 ha at the Appeal Site would represent 0.01% of all agricultural land and 0.02% of BMV land in the District.

- 4.17 The effect of the proposal on the provision of agricultural land in the District is therefore negligible.
- 4.18 Policy 102 also indicates that the loss of agricultural land will need to be assessed against its effect on the integrity and viability of a farm holding, where appropriate. There is no equivalent policy in the NPPF.
- 4.19 The Appeal Site is farmed on a 12-month rolling Farm Business Tenancy and so there is no long-term security of tenure on which the farm relies. Instead, the land has been cropped on an opportunistic basis as it becomes available. The Appeal Site forms a small part of a larger 8.5ha arable field that in turn is farmed within a block of approximately 32ha of arable land that is accessed from the east at Roundhouse Farm.
- 4.20 The development of the Appeal Site would remove 5% of this block of arable land from production in the north-western corner at the furthest point from the access. It would not render the remainder of this block of arable land unviable to farm. Paragraph 8.8.4 of the Committee Report came to the same conclusion that the release of the land at the Appeal Site would not unduly impact upon the adjacent agricultural land being farmed.

5 Conclusions

- 5.1 The Appeal Site was surveyed in detail in accordance with the ALC guidelines and classified as 1.68ha of Grade 2 BMV agricultural land. The survey found that the soils are deep permeable loams but are limited slightly by a combination of soil wetness, topsoil stone content and soil droughtiness.
- 5.2 Paragraph 180 of the NPPF does not preclude the development of BMV land but indicates that the decision taker should take into account the economic and other benefits associated with the presence of BMV land.
- 5.3 The economic benefits associated with BMV agricultural land on the Appeal Site comprise the production of small volumes (up to 15 tonnes) of arable crops, generating a gross margin of up to £1,800 per annum. These benefits are clearly very small and set within a context of the UK being largely self-sufficient in grains, which are also grown for export.
- 5.4 Even though saved Policy 102 of the Local Plan Review 1994 is out of step with national policy, any conflict with it is limited because:
- the appellant has demonstrated an overriding need for the development;
 - agricultural land within the District generally but more particularly in the locality of the Appeal Site comprises much higher proportions of BMV land than average, which limits the opportunities to use lower quality agricultural land for development, irrespective of any other planning considerations;
 - the development of the Appeal Site would represent 0.01% of all agricultural land and 0.02% of BMV land in the District; and
 - the development of the Appeal Site would remove 5% of a block of arable land in its north-western corner in an awkwardly-shaped part of the field at the furthest point from the access; the proposal would not render the remainder of this block of arable land unviable to farm.

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