

Land to the Rear of 96 to 106 High Street, Colney Heath (“the Site”)

Outline application (means of access sought) for up to 45 dwellings including new affordable homes, with areas of landscaping and public open space, including points of access, and associated infrastructure works (“the Development”)

Appeal Reference: APP/B1930/W/23/3333685

OPENING COMMENTS

On behalf of St. Albans City and District Council

Introduction

1. The principal main issue in this appeal is whether the Appellant can demonstrate the Very Special Circumstances (“VSC”) necessary to justify its proposed inappropriate development in the Green Belt.
2. The Site is located within the Metropolitan Green Belt. The Government’s commitment to the protection of the Green Belt is unequivocal – and the National Planning Policy Framework (“NPPF”) states in terms that the Government attaches “*great importance to Green Belts*” (paragraph 142).
3. Planning permission should be refused unless VSC exist (paragraph 152 of the NPPF). Such circumstances will not exist unless the harm by reason of inappropriateness and any other harm is clearly outweighed by other considerations (see paragraph 153 of the NPPF).
4. In carrying out this balance, the NPPF expressly advises that substantial weight must be given to any Green Belt harm (paragraph 153), reflecting the importance of the protection of the Green Belt in national policy.

5. The requirement for something “very special” is deliberately framed in national policy. Needless to say, it is a high bar to meet. It requires more than the “exceptional circumstances” required to release land from the Green Belt – already a stringent test. Imposing a very high bar before inappropriate development is permitted in the Green Belt is key to ensuring permanence and avoiding the death of the Green Belt by “a thousand cuts”.
6. The Council’s position is that the Appellant’s case fails to demonstrate that the Green Belt and other harms is clearly outweighed by the benefits, when those harms and benefits are properly weighted. The Green Belt therefore provides a “clear reason” for refusing the Development and the proposal fails to comply with both the development plan, and also the NPPF.

Green Belt harm

7. The scheme constitutes “inappropriate development” in the Green Belt. Inappropriate development is “*by definition, harmful to the Green Belt*” (NPPF para. 152), even before one considers harm due to loss of openness and harm to Green Belt purposes.
8. In addition to that in principle harm, it is also common ground that the Development would result in additional harm to both Green Belt openness and purposes. One of the questions for this Inquiry is the level of the impact.
9. It is the Council’s position that the Development would result in very substantial loss of openness in this part of the Green Belt. Openness is defined as the absence of built development. Given the level of additional development proposed on what is currently an entirely open site, it is unsurprising that Mr. Hughes finds very substantial harm to openness. A field which is currently completely open would be replaced by a significant amount of urban development, comprising buildings, roads and other associated infrastructure. On the Appellant’s own evidence there would be a massive loss of undeveloped space – with nearly 60% of the site being characterised by built development. The Council estimates that there would be almost 16,000 cubic metres of built form on the site post-development, compared to none at present.

10. The impact would not be restricted to a spatial one. The Green Belt would appear visibly more built up with the Development than without it. There are a number of viewpoints, immediately adjacent to, and further away, from the Site where the visual impact from the proposed development would be substantially harmful to openness. Presently, views into the Site are of open countryside. The change to the view of a housing development would be profound and substantial. The development would be perceived as a significant, and – given its odd location, jutting out beyond the predominant pattern of ribbon development - incongruous protrusion of the settlement into the wider open countryside.
11. Overall, the harm to openness would be very substantial.
12. It is also common ground that the proposals conflict with the purpose of safeguarding the countryside from encroachment. Again, the issue in dispute is the degree of conflict. As Mr. Hughes will explain, this is substantial. The Site is currently perceived as open countryside, and integrally linked to the wider countryside to the east and south. Post-Development, it will clearly be seen as a suburban housing estate which will have encroached into the open countryside. Again, harm to this purpose would be exacerbated by the failure of the development to respect the settlement pattern of the village in this location. Considerable development pressure would also be placed on the undifferentiated areas of open undeveloped land to the south and east of the Site.

Any other harm

Character and Appearance

13. There is also harm to landscape character and appearance. Harm to the intrinsic character and beauty of the countryside is harm to be weighed against the grant of planning permission. Unlike a non-Green Belt case, there is no need to decide whether this harm would be “unacceptable” in its own right: all that is needed is to assess the level of harm caused and add it to the balance of harm arising.
14. Surprisingly, and unusually, the Appellant now appears to be contending that putting a housing estate in this location would result in no harm to landscape character (indeed, it is suggested that there may be beneficial effects). The visual effects of the development are variously described as being “minor” “negligible” and “neutral”. This seriously misjudges the effects of the development on landscape character and appearance.

15. The sense of these judgments will no doubt be explored at the roundtable session. However, Mr Friend's position is by far the most sensible and balanced. He finds that the development would result in a significant adverse effect at a site level; a moderate adverse effect to the landscape character of the wider area; and additional harm to the settlement pattern of the village resulting from the development sticking out prominently into the open landscape. The adverse effects on visual amenity would also be significant - particularly from a number of PROWs that cross the landscape close to the Site.
16. In order to properly assess the impact of this Development, these harms must be fairly assessed and then weighed into the overall balance. Mr. Hughes is right to give moderate to significant weight to the harm to landscape character and appearance.

Heritage

17. There are three designated heritage assets in the vicinity of the Site (Apsley Cottage, Crooked Billet Public House and 94 High Street). The adverse impact of the Development on the significance of those assets is a matter which must be given great weight both under the NPPF and as a matter of law.
18. There is a large amount of agreement between the Appellant and the Council's heritage witnesses on the nature and extent of the heritage impact of the Development. Harm arises from the loss of the historic agricultural setting of these buildings and the introduction of a "suburban" development in its place. However, there appears to be a dispute about the extent to which this harm could be mitigated. This will be a matter for the roundtable session.
19. The residual harm to the relevant listed buildings is at the lower end of the less than substantial harm spectrum, and it is common ground that the public benefits of the Development outweighs those harms for the purposes of paragraph 208 of the NPPF. However, that does not mean that the heritage impacts of the Development can be disregarded: the NPPF provides that great weight must be given to all such harms (paragraph 205), even if it is outweighed by the benefits of the proposal.

20. The heritage impacts identified by the Council are therefore a matter which carries great weight against the Development in the VSC balancing exercise.

Agricultural Land

21. The Development would also result in the loss of best and most versatile agricultural land. This is an additional harm that must be weighed in the VSC balance.

Benefits

22. The Council accepts that there are a number of benefits which weigh in favour of the grant of planning permission. There is no material dispute as to the extent of the general housing need. The Council does not have a five-year supply of housing land by a considerable margin, and there is no early prospect of that deficit being addressed. There is also accepted to be an acute affordable housing need in the District and a need for more custom-built homes. The Council's own emerging Local Plan ("eLP") recognises that Green Belt land will need to be released to meet these needs.

23. In consequence, on housing and affordable housing, the Council has afforded the very highest weighting level to the contribution which the appeal proposals would make towards meeting the unmet needs (very substantial weight). The delivery of four custom build homes is also agreed between the parties to have substantial positive weight. Much has already been said, and will be said, about the age of the Council's plan and its Green Belt boundaries, the extent of the housing shortfall, and the prospect of that being addressed in the short-term. There is of course nothing wrong with the Appellant emphasising the benefits of the proposal – but it is important to remember that all of those matters have been reflected in the Council's weighting of these benefits, which are agreed and which are a matter of common ground at this Inquiry. There can be no suggestion that the Council has somehow underplayed these benefits when it refused permission.

24. There remains some dispute as to the weight to be accorded to some of the other benefits, and those areas will be explored in the planning evidence.

Overall

25. The VSC balance is by its very nature tilted against the grant of planning permission. The benefits of any Green Belt development need to be very weighty indeed to demonstrate

VSC because the NPPF places very significant emphasis on protecting the Green Belt from harm.

26. The hurdle that needs to be surmounted is even higher here, given the combination of substantial Green Belt harm, both intrinsically and from the impact on openness and purposes, combined with permanent landscape harm and the great weight that must be attached to heritage harm.
27. Plainly, the delivery of much needed housing in the District is an important consideration. However, the existence of that need does not provide a blank cheque for Green Belt development on any site. A careful site-level assessment must be undertaken – as shown by the different approaches taken by Inspectors and the Secretary of State recently on Green Belt decisions in the District. Further, it does not follow from the existence of that general need that this Green Belt site is required to meet it. This site plays an important role in the Green Belt around Colney Heath and is not a suitable place for a village extension.
28. It is also relevant that the housing position in St Albans is actively being addressed through the local planning process and the eLP. That emerging plan is at an early stage, and it is agreed that only limited weight can be given to its policies. However, the eLP demonstrates that the Council is not shying away from the need to meet its housing need in full, notwithstanding the considerable constraints in the District, and is seeking to do so in an orderly and plan-led manner. This Site is not identified for release from the Green Belt in that process. Should this appeal be allowed in the meantime, the loss of this important Green Belt site, and the introduction of a curious thumb of development jutting out from Colney Heath into the open countryside surrounding the village, would be permanent.
29. Overall, the high hurdle of demonstrating VSC on this particular site has not been met, and in due course the Council will invite you to dismiss the appeal.

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