

MADDOX PLANNING

**PLANNING PROOF
OF EVIDENCE**

MATTHEW HILL (MPLAN, MRTPI)

**LAND BETWEEN CARAVAN SITE AND WATLING
STREET, PARK STREET, ST ALBANS**

APP/B1930/W/24/3343986

16.08.24

Contents of this statement

1. Qualifications, experience and declaration
2. Introduction and scope of evidence
3. The Appeal Site / Appeal Scheme
4. The Development Plan
5. Other material considerations
6. Draft NPPF consultation
7. Rule 6 Party Comments
8. Planning balance
9. Summary of proof

1.0 Qualifications and experience

- 1.1 My name is Matthew Hill, and I am a Chartered Town Planner and Member of the Royal Town Planning Institute. I hold a Masters in Urban Planning (MPLAN) from the University of Sheffield.
- 1.2 I am a Planning Director of Maddox and Associates Limited and I have more than 11 years' experience and 8 years post qualification experience as a private consultant acting for a range of developers and housebuilders on town planning matters.
- 1.3 I have visited the Appeal Site and its surroundings and have examined the relevant plans and documents for the purpose of the inquiry. I also acted for the Appellant in connection with the planning application at issue in this Appeal.
- 1.4 The evidence which I have prepared and provide for the Appeal in this proof of evidence is true and has been prepared, and is given, in accordance with the guidance of my professional institution and I confirm that the opinions expressed are my true and professional opinions.

2.0 Introduction and scope of evidence

- 2.1 At the start of the Appeal Inquiry process, the Council confirmed it no longer sought to contest the Appeal and no matters were in dispute. There is also common ground with the Rule 6 Party on several matters. To avoid duplication with the content of the Statement of Common Ground (SoCG) (CD12.2), I do not outline these matters in full in my evidence.
- 2.2 My evidence addresses planning matters, including the framework of planning policy against which the Appeal should be assessed at both a local and national level. I also deal with the 'benefits' case for development in the Green Belt, relevant material considerations, the weight to be given to the benefits associated with, and any harm arising from, the scheme and the planning balance.
- 2.3 This proof of evidence should be read in conjunction with the Appellant's Statement of Case (CD9.1), the Statement of Common Ground and the evidence provided by other expert witnesses named below:
- 2.4 Detailed matters in relation to landscape and Green Belt are addressed in the evidence of Mr Dudley (CD9.4).
- 2.5 Detailed matters in relation to affordable housing are addressed in the evidence of Mr Aust (CD9.5).
- 2.6 Detailed matters relating to highway safety and sustainability are addressed in the evidence of Ms Currie (CD9.3).
- 2.7 The Inspector's CMC note referred to a need to address several technical matters on the effects of the proposed development on housing land supply, protected species, agricultural land (including best and most versatile agricultural land) and air quality. These matters are addressed via technical notes.
- 2.8 A draft Unilateral Undertaking in relation to the Appeal Scheme (in the event planning permission is granted) has been drafted based on what had previously been agreed with the Council and County Council prior to the Committee, and feedback on this is still awaited. Planning conditions have also been drafted and agreed with the Council.

3.0 The Appeal Site / Appeal Scheme

- 3.1 A full summary of the Appeal Scheme is set out in Section 6.0 of the SoCG.
- 3.2 The Appeal Site and surrounding area is described in full within Section 2.0 of the SoCG.
- 3.3 The outline application was submitted to the LPA and registered as valid on 18 February 2022. Three rounds of public consultation took place between March 2022 and December 2022, prior to the application first being reported to planning committee with a recommendation for approval in August 2023, but was deferred for reasons set out in the SoCG. The application was then reported to the 15 January 2024 Planning Committee with a recommendation for approval. It was ultimately refused on one reason, against the Officer's recommendation, which was the following:

The proposed development comprises inappropriate development, for which permission can only be granted in very special circumstances. There is harm to the Green Belt (harm in principle) and other harm to coalescence which is not clearly outweighed by other considerations (paragraphs 142, 152 and 153 of the National Planning Policy Framework 2023). We do not consider that the benefits outweigh the harm caused by this proposed development due to the harm to the Green Belt openness, coalescence and merging of towns, lack of social housing and a failure to demonstrate that the proposal would not exceed the capacity within the highway network. The proposal is therefore contrary to the National Planning Policy Framework 2023 and Policy 1 and 8 of the St Albans District Local Plan Review 1994.

4.0 The Development Plan

4.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that, where regard is to be had to the statutory development plan in determining an application for planning permission, the determination shall be made in accordance with the development plan, unless material considerations indicate otherwise. In applying Section 38(6) it is necessary to have regard to the accordance of the proposals with the development plan when read as a whole.

4.2 The SoCG confirms that the development plan comprises:

- Saved Policies of the St Albans District Local Plan Review (1994) ('the Local Plan'); and
- St Stephen Parish Neighbourhood Plan (2022) ('the Neighbourhood Plan')

Saved Policies of the St Albans District Local Plan Review (1994)

4.3 Several policies were saved by direction of the Secretary of State on 20 September 2007. The Council's document 'Saved and Deleted Policies Version (July 2020)' details which policies were saved by this Direction. Paragraph 225 of the National Planning Policy Framework ('the Framework') is clear due weight should be given to relevant policies in existing plans according to their degree of consistency with the Framework, which I address against the relevant policies below.

4.4 The most relevant Local Plan policies in determining the Appeal Scheme are Policies 1 and 8 as referred to within the reason for refusal. Policy 2 is also relevant as it deals with settlement hierarchy and assists in addressing the main issue on determining whether the location of the site accords with the development plan. As set out at paragraph 8.3 of the SoCG, the Council cannot demonstrate a four year supply of land for housing as required by the Framework. This means that the policies which are most important for determining the application are out of date.

4.5 As set out in the housing land supply technical note (CD9.15), it is the Appellant's position that the Council's land supply position is 1.5 years.

4.6 In addition, the development plan is out of date having regard to Footnote 8 of the Framework and also in the context of the Housing Delivery Test ('HDT') results 2022 (CD7.4), which show the Council as having a result of only 55%, triggering the presumption in favour of sustainable development. As such, the planning applications which are considered sustainable should be approved without delay. Indeed, Officers confirmed within the Committee Report (CD3.2) (Para 8.2.11) that the "*policies which are most important for determining the application are out of date, and paragraph 11(d) of the NPPF is engaged*".

Policy 1

4.7 Policy 1 is the most important policy and is referred to in the Council's reason for refusal. Policy 1 outlines that other than for a development in the Green Belt settlements referred to in Policy 2 (which does not apply to the Appeal Scheme) or in very special circumstances, permission will not be given for development other than for a specific number of purposes. These exceptions are not wholly consistent with those outlined at paragraphs 154 and 155 of the Framework. However, in the context of the Appeal Scheme, the relevant provision is 'very special circumstances' which exists within Policy 1 and the Framework. Accordingly, I am of the view that Policy 1 can be afforded full weight in the determination of this appeal.

- 4.8 As set out later in my evidence, the benefits of the Appeal Scheme clearly outweigh any harms and as a result, I consider the Appeal Scheme to be compliant with Policy 1.

Policy 2

- 4.9 Policy 2 of the Local Plan sets out the hierarchy of settlements and the spatial strategy. Although not noted by the Council as a conflict within the reason for refusal it is an important policy to address as it deals with the main issue raised by the Inspector in the CMC notes with regards to whether the location of the development is in accordance with the development plan.
- 4.10 In general terms, the policy seeks to protect and enhance the essential character of the existing settlements with development generally concentrated in the towns of St Albans and Harpenden. Park Street is identified as a 'large village' that is excluded from the Green Belt. The Site falls outside of the settlement boundary of Park Street, albeit adjacent to it.
- 4.11 Policy 2 is out of date as the settlement hierarchy was derived to address needs over the Local Plan period of 1994 to 2001. Indeed, although the Local Plan was reviewed in 1994, it was originally adopted in 1985. Paragraph 1.18 refers to the Local Plan Review (CD5.1, page 6) being prepared against the background of the County Structure Plan 1986 Review, which is some 38 years ago. Paragraph 1.22 outlines that the Plan seeks to provide housing provision for a 1981-96 dwelling increase of 6,400 and a 1986-2001 dwelling increase of 7,200. This clearly demonstrates how substantively out of date the Plan is given the strategy for housing provision lapsed 23 years ago. Moreover, Preface 4 of the Local Plan Review refers to the District Council recognising that there is a '*need to prepare Alterations or a full Review of the District Plan, looking to 2001 or beyond, as a matter of urgency*'.
- 4.12 The Council's land supply position is poor (as set out in the housing land supply technical note, CD9.15) and the HDT score is low, and so the presumption in favour of sustainable development is triggered. For the Council to meet its housing need, the release of land within the Green Belt, beyond the identified settlements will be required. Indeed, this is reflected in the Council's emerging Local Plan (regulation 18 consultation) which itself identified the Appeal Site for allocation (CD6.2). As such, Policy 2 can only be afforded limited weight.

Policy 8

- 4.13 Policy 8 is an important policy and is referred to within the Council's reason for refusal. Policy 8 refers to affordable housing in the Green Belt; however, it is of no weight to the Appeal Scheme as it is inferred at the preceding paragraph (3.42) that the policy relates to 'small scale affordable housing schemes' under the provision of the former PPG (now paragraph 154(f) of the Framework). I therefore attach no weight to this policy in the determination of the appeal.
- 4.14 The affordable housing thresholds which the Council relies on are set out within its Affordable Housing SPG 2004 (CD7.2). This sets a requirement for 35% affordable housing and that tenure will be agreed on negotiation. The Appeal Scheme seeks to deliver 40% affordable housing, so above the requirement in the SPG, in order to provide a meaningful contribution towards the significant shortfall of affordable housing in St Albans. This is discussed at greater length in the evidence of Mr Aust alongside the breakdown of the affordable housing tenure, which is also reflected within the draft Unilateral Undertaking.

St Stephen Parish Neighbourhood Plan 2022

- 4.15 On 5 May 2022, a referendum was held on the Neighbourhood Plan in which a majority vote was secured in favour of being made. The Neighbourhood Plan was subsequently made in July 2022.
- 4.16 The St Stephen Parish Neighbourhood Plan is considered up to date and is attached full weight. Policy S1 (location of development) of the Neighbourhood Plan is an important policy in the determination of the Appeal as it assists with dealing with the main issue on determining whether the location of the site accords with the development plan.

Policy S1

- 4.17 Policy S1 sets out the intended location for development with it being supported in the built up area boundaries of Bricket Wood, Chiswell Green and Park Street. However, the proceeding text to Policy S1 sets out at paragraph 4.3 that *'one of the challenges for St Stephen is the lack of available and suitable sites within the existing built-up area boundaries of the three main settlements'*.
- 4.18 Point 2 of the policy goes on to set out that development proposals outside the built up area boundary will be supported where it is on sites allocated in the St Albans District Local Plan or relates to utilities infrastructure or relates to uses appropriate in the Green Belt. The Appeal Site is identified as an emerging allocation within the Regulation 18 version of the Draft St Albans Local Plan (CD6.2); however, that attracts limited weight. The Appeal Scheme does not meet the additional requirements of point 2, namely infrastructure uses or appropriate uses in the Green Belt.
- 4.19 Point 3 of Policy S1 outlines that residential development which meets either the exceptions to inappropriate development in the Green Belt or demonstrates very special circumstances will be supported. It goes on to set out that where very special circumstances can be demonstrated, development of the following types will be supported:
- Affordable housing;
 - Smaller units for younger people;
 - Properties tailored to the ageing population; or
 - Provision of additional community benefit.
- 4.20 As outlined in paragraph 4.8 of my evidence, I set out later that the benefits of the Appeal Scheme clearly outweigh any harms. In addition, the Appeal Scheme seeks to deliver 40% affordable homes, which is above the existing St Albans Local Plan Policy of 35%. It provides an indicative range of unit sizes and mix from 1-bed flats to 4-bed homes and provides additional community benefit by way of public open space on site, a net gain in BNG, provision of self-build housing and the provision of active travel improvements including offsite infrastructure improvements as set out within the evidence of Ms Currie.
- 4.21 Point 4 of Policy S1 refers to development not being supported where it would be visually intrusive when viewed from publicly accessible locations unless it can be appropriately mitigated with landscape screening. As I set out in my evidence below and is discussed in greater detail within the evidence of Mr Dudley, the Site is well related to the existing settlement to the east and south, and the existing vegetation to the west provides an opportunity to deliver mitigation and enhancement to create a robust and defensible boundary to the open landscape to the west.
- 4.22 I, therefore, consider the Appeal Scheme is compliant with Policy S1.

Compliance with the development plan as a whole.

- 4.23 As set out above, it is necessary to have regard to the accordance of the proposals with the development plan when read as a whole in applying Section 38(6).
- 4.24 My assessment of compliance with both Policy 1 of the Local Plan and S1 of the Neighbourhood Plan has been on the basis that the relevant test in the Framework has been met. I have also assessed compliance with disputed Policy 8 in relation to affordable housing; however, I consider this policy to be of no weight to Appeal Scheme by virtue of the proposal not comprising a small scale affordable housing scheme.
- 4.25 There is no other alleged conflict with relevant development plan policies. On this basis, I consider the Appeal Scheme to comply with the development plan taken as a whole.

5.0 Other material considerations

National Planning Policy Framework

- 5.1 The Framework is a material consideration attached with significant weight in the determination of this Appeal. The current version of the Framework was issued in December 2023 (CD5.3). The Framework includes a range of policies relevant to the Appeal and the Council refer to policies in the Framework within the reason for refusal (paragraphs 142, 152 and 153).
- 5.2 Paragraph 153 of the Framework sets out the key test in relation to this Appeal. It sets out that substantial weight should be given to any harm to the Green Belt. When considering planning applications for inappropriate development in the Green Belt, they can only be justified if the harm to the Green Belt and any other harm resulting from the proposal is clearly outweighed by other considerations. The benefits of the scheme and any harm are discussed in detail within the following sections.
- 5.3 Paragraph 11 of the Framework provides a presumption in favour of sustainable development. I have set out at paragraph 4.6 why I consider the development plan not up to date for the purposes of paragraph 11(c) and why the presumption set out at paragraph 11(d) is engaged.
- 5.4 Paragraph 38 sets out that decision makers at every level should seek to approve applications for sustainable development where possible. The Site is in a highly sustainable location, within proximity to local facilities, services and sustainable methods of transport to facilitate journeys further afield. Indeed, this view was supported by Officers within the Committee Report (CD3.3) which acknowledged the *“application site enjoys a sustainable location close to good public transport links, which gives further weight to the fact that future residents at this site would not need to travel by car”*. The sustainability of the Site in terms of location is discussed further within the evidence or Ms Currie. The Appeal Scheme will also provide public open space and enhanced biodiversity habitats (securing an overall total BNG of at least 10%), which contribute to the sustainability of the development.
- 5.5 Paragraph 48 refers to the weight that can be given to relevant policies in the emerging plans according to the stage of preparation, the extent to which there are unresolved objections and degree of consistency with the Framework.
- 5.6 It is common ground that the emerging Local Plan can only be afforded limited weight in the determination of this Appeal and that the evidence underpinning it is a material consideration. Notwithstanding this, I would make the following key observations in relation to the Regulation 18 Local Plan:
- The Local Housing Need calculated by the Standard Method is 888 units per annum, or 15,096 over the plan period.
 - The Local Plan seeks to release residential and employment sites in the Green Belt and categorises them between broad locations, large, medium and small sites.
 - The Appeal Site is identified as a ‘large site’, which is one of only two sites identified for allocation under emerging allocation L2 (CD6.2).
 - Emerging allocation L2 identifies the Site to have a proposed use and indicative capacity of 104 residential units.

- 5.7 Although the emerging Local Plan is currently afforded limited weight, it provides a clear indication of travel with the need to release sites within the Green Belt to meet the identified need of 888 units per annum. This is assessed further within the evidence of Mr Dudley.
- 5.8 Paragraph 69 refers to the need to plan for a five year supply of deliverable sites for housing and paragraph 77 refers to identifying and updating annually a minimum 5 year's supply of housing (or a four years supply if paragraph 226 is applicable). St Albans has consulted on a Regulation 18 version of the Local Plan and as such, it is common ground that the Council must demonstrate a four year supply of housing for the benefit of this Appeal¹. As set out further in my evidence, it is also common ground that the Council cannot demonstrate a minimum four years supply of housing and the Appellant's position on this is detailed within housing land supply technical note (CD9.15).
- 5.9 Paragraph 85 of the Framework refers to significant weight being placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development.
- 5.10 The delivery of up to 95 dwellings would generate direct and indirect economic benefits through the provision of employment during the construction phases. This would include supporting the employment of 294 people, including 3 apprentices, graduates or trainees². It will also help to deliver a boost to the local economy by way of first occupation expenditure on goods and services and increased local spending from new residents once the development is fully occupied. This would assist with the long term general support towards the economy of Park Street and the surrounding area. In addition, there will also be benefits by way of Council tax receipts.
- 5.11 Section 9 of the Framework refers to the approach for sustainable transport and the acceptability of the scheme in this regard is discussed within Ms Currie's evidence (CD9.3).
- 5.12 Paragraph 114 requires applications for development to take opportunities to promote sustainable transport modes, achieve safe and suitable access and to mitigate the impacts of trip generation on the highways network. Paragraph 115 goes on to make it clear that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highways safety, or the residual cumulative impacts on the road network would be 'severe'.
- 5.13 With regards to impact on the road network, it is also common ground that page 4 of the Highway Authority's comments dated 24/03/2022 and Page 9 of the Highway Authority's comments dated 03/02/2023 state "*The results of the junction capacity assessment at the site access show that the junction would operate well within capacity during both the AM and PM peak scenarios*" (CD9.16 and CD9.17). Ms Currie discusses this further within her evidence (para 2.22) and sets out "*as the impact on the surrounding network is minimal and under the NPPF test would be classed as negligible*". As such, the 'negligible' impact of the Appeal Scheme does not meet the Framework test of the residual cumulative impact on the road network as being 'severe'.
- 5.14 Section 15 relates to the conserving and enhancing of the natural environment. The Site is not located within any formal designations and is not a valued landscape. It is common ground with the Council that the proposed development will change the landscape character from an open arable field to residential housing, but the significance of this is reduced due to the strong containment of the development within the field pattern, defined by existing vegetation that provides an opportunity to deliver mitigation and enhancements for the benefit of visual amenity and biodiversity.

¹ Albeit under the emerging Framework the requirement would revert to a five-year housing land supply

² Figure taken from the HBF housing calculator <https://www.hbf.co.uk/policy/policy-and-wider-work-program/hbf-housing-calculator/#tab-home>

- 5.15 In terms of landscape, Mr Dudley sets out within his evidence (CD9.4) (para 3.21) that *“the urban edge location of the Site and the embodied mitigation measures have been sufficient to ensure that the Appeal Scheme will not result in any significant adverse impacts, and none greater than Moderate/Minor significance. The greatest adverse impact was upon the use of the Site as an intensive arable field. Furthermore, the positive reinforcement of the Site’s boundary vegetation as part of the overall landscape strategy would result in beneficial impacts.”*
- 5.16 With regards to impact on the visual landscape, Mr Dudley outlines within his evidence (CD9.4) that the Appeal Scheme *“will not result in any significant impacts upon the identified receptors, with the greatest impact being upon the residents of the existing dwellings on Old Orchard, who are anticipated to experience an adverse impact of Moderate significance in the long term. In the case of those receptors to the east, the proposed planting associated with the scheme is anticipated to reduce the overall significance of impact to no greater than Minor adverse when mature.”*
- 5.17 Paragraph 180 of the Framework sets out that planning policies and decisions should have regard to the following principles which are relevant to the Appeal Scheme as they relate to matters raised within the Inspector’s CMC note:
- 180a: Protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils;
 - 180b: recognising the intrinsic character and beauty of the countryside and the wider benefits from natural capital and ecosystem services including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland.
 - 180d: minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures; and
 - 180e: preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability.
- 5.18 It is agreed between all parties that the proposals provide for a Biodiversity Net Gain (‘BNG’) contribution of at least 10%. With regards to protected species, a Preliminary Ecological Report (CD1.25) and Badger Walkover Survey (CD2.16) were submitted as part of the application. Hertfordshire Ecology was consulted as part of the application and provided a letter response (CD2.27) confirming that it did not consider that any protected species would be directly affected by the proposed development, in particular badgers. The impact on protected species is dealt with further as part of the evidence provided within the Jo Alderton Ecology Technical Note.
- 5.19 It is agreed between all parties that as outlined in the Appellant’s Land Classification Report (CD2.10), the majority (85%) of the Site does not constitute best and most versatile (BMV) agricultural land. This is discussed further within the agricultural land technical note (CD 9.7).
- 5.20 It is agreed between all parties that the Appeal Scheme is acceptable in respect of water, land contamination, flood risk and drainage and noise impact. The matter of impact of the proposals on air quality is dealt with by way of technical note prepared by Mayer Brown (CD9.6).
- 5.21 As such, it clear the Appeal scheme is in compliance with the relevant principles referred to in Paragraph 180.

Market housing

- 5.22 The housing land supply technical note (CD9.15) addresses housing land supply matters in the context of the agreement that the Council is unable to demonstrate a four year housing land supply contrary to the requirements of paragraph 77 of the Framework.
- 5.23 It is common ground between all parties that the Council cannot demonstrate a four year supply of land for housing and the Council's most recent confirmed position was 1.7 years supply as set out in the Statement of Common Ground. The Appellant considers the Council's current housing land supply position to be 1.5 years and the evidence behind this is detailed in the housing land supply technical note (CD9.15). This is also set within the backdrop of the latest HDT results (CD7.4) which currently show the Council as having a result of 55% and triggering the presumption in favour of sustainable development.
- 5.24 The Council has started preparation of a new Local Plan to address housing need and indeed, the Site is identified for allocation within emerging allocation ref L2; however, the emerging Local Plan is not intended to progress to Regulation 19 consultation until Autumn/Winter 2024 at the earliest and the current anticipated adoption date is a further two years away in which the acute housing land supply issues in the District will worsen.
- 5.25 As noted within the Officer's Report from January 2024 (CD3.3), at para 8.6.3, the provision of housing weighs heavily in favour of the proposals and the weight attached is a matter of planning judgement. Officers set out that in this regard the decision at Roundhouse Farm (CD8.2) is a relevant consideration as it was determined against a very similar housing and affordable housing position. As a result, Officers set out (CD3.3) at para 8.6.6) there is no material reason to apply a different weighting to the Appeal Scheme and as such, very substantial weight is attached to the delivery of market and affordable housing. It is agreed that the Appeal Scheme would make a meaningful contribution towards meeting the need of the district and must be afforded very substantial weight. This is consistent with other decisions and appeals within the District at Chiswell Green and Roundhouse Farm, Colney Heath and (CD8.1 and CD8.2).

Affordable housing

- 5.26 The provision of affordable is dealt with at length within the evidence of Mr Aust (CD9.5). It is agreed between all parties that there is a clear and pressing need for affordable housing within the District. It is also agreed between all parties that the proposals comprise 40% affordable housing provision, which is above the current policy requirement of 35%.
- 5.27 The draft Unilateral Undertaking (CD13.1) sets out a further breakdown on the tenure split of the affordable housing and confirms it will comprise 30% social rent, 30% affordable rent, 25% first homes and 15% other affordable routes to home ownership. This is consistent with the requirements of the emerging Local Plan.
- 5.28 In terms of affordable housing, Mr Aust sets out that there are serious and persistent affordability challenges across St Albans, which is evidenced at Paragraph 10.18 where it states that:
- “Against the most recent assessment of affordable housing need in St Albans, a shortfall of -2,201 affordable dwellings has arisen in the first three years of the 2020 LHNA period, which estimated a need 828 affordable dwellings per annum between 2020 and 2036.”*
- 5.29 As set out in Mr Aust's evidence at 10.24, when the shortfall is factored into the 2020 LHNA's identified need of 824 homes per annum, the number of affordable homes the Council will need to complete will be 1,268 per affordable homes per annum over the period of 2023/24 and 2027/28.

- 5.30 Mr Aust sets out at paragraph 10.27 that the Council, at worst, can deliver just 59 gross affordable dwellings per annum of the next five years, which will result in an accumulated shortfall of -6,046 affordable dwellings against the needs set out in the 2020 LHNA by the end of 2027/28.
- 5.31 On the basis of this evidence, I agree with Mr Aust that the provision of 38 affordable dwellings should be afforded very substantial weight.

Self-build and custom-build housing

- 5.32 The Council's AMR (2023) (CD9.8) sets out that across the base periods of 1-5 there was a total of 515 registrations and a total of 77 plots granted. As a result, the Council would need to address a significant undersupply within the proceeding base periods otherwise it will continue to fail its statutory duty. Indeed, in total between 1 April 2016 and 30 October 2023, there has been a total of 803 entries on the Register and 197 plots granted. As a result, self-build provision (5%) is attached substantial weight in the determination of this application. This aligns with the views of Officers in the Committee Report (CD3.2) and the weight applied within similar decisions across St Albans including Chiswell Green decisions (CD8.1) which refer to the sizeable contributions towards the identified needs.

Green Belt

- 5.33 It is agreed that the Appeal Scheme would amount to inappropriate development in the Green Belt and should only be allowed when the benefits clearly outweigh the harms as per paragraph 153 of the Framework.
- 5.34 The conflict with the Green Belt can be defined as per the main issues of the Appeal which are the effects of the proposal on the purpose of the Green Belt, in terms of effects on openness, coalescence and encroachment. The key test is whether any harm by reason of inappropriateness, and any other harm, would be clearly outweighed by benefits required to justify the proposal. The above components of Green Belt harm have been considered within Mr Dudley's evidence and are discussed below.

Green Belt Review

- 5.35 The Appeal Site is assessed under parcel SA-108 of the Green Belt Review (CD6.4). A detailed discussion on this evidence base is set out within the evidence provided by Mr Dudley.
- 5.36 The effect of the proposal on the purpose of the Green Belt in terms of openness is addressed in Mr Dudley's evidence (CD9.4) and he sets out the following:
- 5.37 With regards to physical openness, Mr Dudley sets out *"there will be a degree of harm arising from the Appeal Scheme as a result of the introduction of built mass into an area where it does not currently exist. The development design has sought to mitigate this through the sensitive arrangement of urban form and the incorporation of open space into the scheme, but it is nevertheless the case that a loss of physical openness will occur, albeit local to the Site. Given the quantum of development, the level of harm to physical openness is considered to be significant."*
- 5.38 With regards to impacts on visual openness, Mr Dudley outlines that the *"Site's visual relationship with the wider Green Belt is limited, whilst it shares a strong visual relationship with the adjacent urban area, and therefore any notable effects upon the visual openness of the Green Belt are anticipated to be limited to the Site itself."*

Impacts on the purposes of including land in the Green Belt

5.39 In terms of assessing any other harm, the starting point is to review the impact on the five purposes for including land in the Green Belt, as set out at paragraph 143 of the Framework.

5.40 It is common ground between all parties that that the Appeal Scheme does not conflict with purposes a), d) and e).

b) to prevent neighbouring towns merging into one another

5.41 The evidence of Mr Dudley sets out the following in respect of impacts upon Green Belt purpose b):

“It is equally important to note that the second purpose of the Green Belt is to prevent neighbouring towns merging into one another, not any form of settlement. In this respect, the nearest relevant town to St Albans is Watford, which is contained by the M1 and M25 corridors. Whilst the Site occurs in the space between these towns, there is already existing development extending through this space and the location of the Site is such that it will not in effect bring these towns closer together.” (para 5.28).

“The Appeal Scheme will inevitably result in a reduction in the overall separation between Park Street and Chiswell Green, although as the Council has identified, it will not bring the settlements closer together at their narrowest point. The presence of the strong vegetation on the western side of the Site will also serve to reduce the perception of coalescence by filtering views between the settlement areas, and the Appeal Scheme is anticipated to enhance this effect through its landscape design”. (Para 5.30).

“It is therefore the consistent position between Nicholsons and the Council’s planning officers that there will be no harm to the Green Belt in terms of coalescence” (Para 5.31).

c) to assist in safeguarding the countryside

5.42 The evidence of Mr Dudley details the impact of the proposal on purpose c) and sets out that *“there will be some encroachment into the countryside, although as reported in paragraphs 7.12 to 7.13 of our Landscape and Visual Impact Assessment, the Site is more closely associated with the adjacent settlement in character terms and the enhancement of the Site’s boundary vegetation would mean that it could relate positively to its setting. It is certainly the case that the retention and enhancement of the Site’s western boundary vegetation would reduce any perceived encroachment from the wider countryside in this direction.”*

5.43 As such, Mr Dudley outlines that harm to purpose c) will be *“low to moderate which is consistent with the effects of the loss of arable land in our landscape impact assessment”*

6.0 Draft NPPF consultation

- 6.1 On 30 July 2024, the Government consulted on a revised Framework (CD6.5) and a revised standard method for calculating local housing need. The draft Framework is already a material consideration in the determination of this Appeal on which limited weight should be applied.
- 6.2 The consultation is open until the 24 September 2024 and proposes several amendments to the Framework. It is feasible that the Government will look to adopt the draft Framework soon after the completion of the consultation and as such, the newly adopted Framework would form the national policy on which the Inspector will be required to determine this Appeal against. It is, therefore, imperative to understand how the draft amendments under consultation impact this Appeal.

Local housing need

- 6.3 As part of the consultation, the Government is consulting on a revised standard method for calculating local housing need which has a substantial impact on housing delivery in St Albans. The detail is specified within the housing land supply technical note (CD9.15); however, as a headline, this will increase St Albans' housing need from 885 homes per annum, to 1,544 homes per annum, which is close to a c75% increase in housing need.
- 6.4 The increase in housing need to 1,544 per annum has a consequential impact on the preparation of the emerging St Albans Local Plan. Paragraph 226 of the draft Framework sets out that the policies in this Framework will apply for the purpose of preparing local plans from one month following the publication date unless:
- a. *“The emerging annual housing requirement in a local plan that reaches or has reached Regulation 19 (pre-submission stage) on or before [publication date + one month] is no more than 200 dwellings below the published relevant Local Housing Need figure.”*
- 6.5 As set out at 4.11 in my evidence, the emerging St Albans Local Plan has reached Regulation 18 stage and is not due to reach Regulation 19 until Autumn/Winter 24. On the basis of the above, the impact of this is that the Council would need to progress the Local Plan against the policies of this new Framework. Even if the Council reached Regulation 19 prior to the publication of the new Framework, the emerging housing requirement would need to be no more than 200 dwellings per annum below the updated housing need figure to progress under the policies in the current Framework.
- 6.6 This would subsequently require the Council to identify additional land to accommodate the updated local housing need of 1,544 homes per annum. Given the emerging Local Plan (Regulation 18) seeks to accommodate 888 dwellings per annum currently, this would result in a need to accommodate at least an additional 459 dwellings per annum above what has already been identified. As set out within housing land supply note, if this revised method was adopted, the Council would have between 0.87 and 1.11 years supply of housing. The outcome is that additional Green Belt land would need to be allocated for development alongside the retention of all the draft allocations (including the Appeal Site) in future iterations of the emerging Local Plan.

Proposals affecting the Green Belt

- 6.7 Paragraph 152 of the draft Framework is an important new policy that directly relates to the Appeal Scheme. Paragraph 152 outlines that development in the Green Belt should not be regarded as inappropriate development where:

1. *“The development would utilise grey belt land in sustainable locations, the contributions set out in paragraph 155 below are provided, and the development would not fundamentally undermine the function of the Green Belt across the area of the plan as a whole; and*
2. *The local planning authority cannot demonstrate a five year supply of deliverable housing sites (with a buffer, if applicable, as set out in paragraph 76) or where the Housing Delivery Test indicates that the delivery of housing was below 75% of the housing requirement over the previous three years; or there is a demonstrable need for land to be released for development of local, regional or national importance.*
3. *Development is able to meet the planning policy requirements set out in paragraph 155.”*

6.8 Annex 2 of the Framework defines Grey Belt as being *“land in the green belt comprising Previously Developed Land and any other parcels and/or areas of Green Belt land that make a limited contribution to the five Green Belt purposes (as defined in para 140 of this Framework) but excluding those areas or assets of particular importance listed in footnote 7 of this Framework (other than land designated as Green Belt).”*

6.9 Notably, the Scope of Consultation³ (CD6.6) which was released by the Government alongside the draft Framework provides further discussion with regards to the Grey Belt and outlines that the Government seeks to provide clarity on ‘what land which makes a limited contribution to the Green Belt’ will comprise of by adding the following into the glossary appended to the draft Framework:

Land which makes a limited contribution to the Green Belt purposes will:

- a) *Not strongly perform against any Green Belt purpose; and*
- b) *Have at least one of the following features:*
 - i. *Land containing substantial built development or which is fully enclosed by built form*
 - ii. *Land which makes no or very little contribution to preventing neighbouring towns from merging into one another*
 - iii. *Land which is dominated by urban land uses, including physical developments*
 - iv. *Land which contributes little to preserving the setting and special character of historic towns*

6.10 The Appeal Site is not within an area listed in footnote 7 of the draft Framework. For it to be considered Grey Belt it must be therefore assessed against the five Green Belt purposes. As set out in the Statement of Common Ground, it is agreed between all parties, the proposals are not considered to cause harm to Green Belt purposes a), d) and e). The evidence of Mr Dudley deals with the impact on purposes b) and c) and as set out above, outlines that the Appeal Site would not perform strongly against any Green Belt purpose. In addition, the land would make no contribution to preventing neighbouring towns from merging into one another (b(ii)) and also does not contribute to preserving the setting and special character of historic towns (b(iv)). On this basis, the Appeal Site meets the purpose of a) and has two of the features referred to in b).

³ <https://www.gov.uk/government/consultations/proposed-reforms-to-the-national-planning-policy-framework-and-other-changes-to-the-planning-system/proposed-reforms-to-the-national-planning-policy-framework-and-other-changes-to-the-planning-system>

- 6.11 Consequently, the Appeal Site is considered to fall within the definition of 'Grey Belt' and would be within a sustainable location as I have addressed above and as discussed in further detail within the evidence of Ms Currie.
- 6.12 Dealing with paragraph 152(2), it is common ground the Council cannot demonstrate a five year housing land supply (note the draft Framework proposed to remove the four year housing land supply position) and the housing delivery test score is below 75%.
- 6.13 Paragraph 152(3) then refers to meeting the policy requirements in paragraph 155 which refers to several contributions which Green Belt sites permitted through development management should provide. Further submissions addressing paragraph 155 will be provided on this should the draft Framework be published prior to the determination of this Appeal. However, it is clear, the Appeal scheme complies with paragraph 155b and c as the scheme will deliver improvement to local infrastructure and provide new green space accessible to the public. However, the scheme currently does not provide 50% affordable housing (subject to viability) (paragraph 155a) as it is not an adopted policy at this stage.

7.0 Rule 6 Party Comments

7.1 *District Green Belt Alliance of 9 Old Orchard, Park Street* has been granted Rule 6 party status for the Appeal. It has produced a Statement of Case (CD11.1) which raises several matters. The Rule 6 Party has also been party to the SoCG CD12.2 with several matters remaining in dispute. The following matters raised by The Rule 6 Party have been dealt with as part of my evidence or that set out within the evidence of the Appellants additional witnesses.

- Green belt harm;
- Landscape harm;
- Housing land supply;
- Impact on protected species;
- Whether the location of the site accords with the development plan;
- Swept path analysis for refuse vehicles;
- Highways impact, safety and locational sustainability;
- The adequate provision of social housing;
- The effects of the proposal on agricultural land, including BMV agricultural land; and
- The effects of the development on air quality.

8.0 Planning balance

- 8.1 It is common ground between all parties that the Appeal Scheme would comprise inappropriate development in the Green Belt and by definition is harmful on which **substantial weight** should be attached. The Appeal Scheme, therefore, needs to be assessed using balance as set out within Paragraph 153 of the Framework.
- 8.2 The evidence of Mr Dudley outlines that whilst the development will have an impact on physical openness in which the extent of harm is significant, the Appeal Site is visually very well contained and has a strong relationship with the existing urban area and any harm to visual openness would be localised.
- 8.3 With regards to the Green Belt purposes, the only harms relate to purpose c) preventing encroachment. Referring to the evidence of Mr Dudley again, the Appeal Scheme makes no contribution towards purposes b) preventing the merging of towns and therefore, no harm arises. Mr Dudley sets out the Appeal Site makes a limited to moderate contribution towards purpose c).
- 8.4 As such, whilst substantial weight must be given to inappropriate development in the Green Belt and any other harm to the Green Belt, the significant harm to physical openness is mitigated due to its particular site characteristics. In addition, only limited to moderate harm to one purpose (purpose c)) of including land in the Green Belt arises as no harm is identified to the other purposes. Consequently, any harm to the Green Belt beyond inappropriateness is moderate at most, however, it does not diminish the **substantial weight** given to it.
- 8.5 As per the Framework, this harm must also be considered against ‘other harms’ that are a result of the development.
- 8.6 With regards to landscape character and visual amenity, the evidence of Mr Dudley confirms that Appeal Site is well related to the existing settlement to the east and south, and the existing vegetation to the west provides an opportunity to deliver mitigation and enhancement to create a robust and defensible boundary to the open landscape to the west. I agree with the view of Officers as set out in the Committee Report (para 8.16.4) (CD3.2) that the *“introduction of built form across the existing fields would cause some harm in respect of both landscape and visual effects, to which **limited to moderate weight** is given”*.
- 8.7 The loss of agricultural land, which includes 15% Grade 3a (BMV) land is afforded **limited weight**.
- 8.8 In my view, these harms are clearly outweighed by other considerations as outlined in my evidence and summarised below:
- 8.9 The provision of market housing: It is agreed between all parties that the Council’s current housing land supply is significantly below the required four years supply. The housing land supply technical note (CD9.15) suggests this is closer to 1.5 years supply, and the recently published HDT 2023 results show the Council delivered 55% of the housing requirement over the previous three years. With limited opportunities for this situation to improve within the short to medium term, due to the slow progress on the emerging Local Plan, the delivery of 95 dwellings within the next five years will provide a significant contribution towards the shortfall and should be afforded **very substantial weight**.
- 8.10 The provision of affordable housing: the proposed development includes the provision of 40% affordable housing compared to the 35% required by current policy. The evidence of Mr Aust notes

serious shortcomings in the past delivery trends of affordable housing, identifying an accumulated shortfall of -6,046 affordable dwellings. As such, the provision of affordable housing should be afforded **very substantial weight**.

- 8.11 The provision of self-build and custom housebuilding Plots: the Council has failed to meet its statutory duty in granting sufficient permission for self-build and custom housebuilding plots for three consecutive years against all relevant base periods. The provision of 5% self- build and custom build plots should therefore be afforded **substantial weight**.
- 8.12 The commitment to achieving a Net Biodiversity Gain: The Biodiversity Impact Assessment accompanying this application demonstrates that the site can achieve this, and if developed in accordance with the accompanying Illustrative Layout Plan, could achieve a net gain of at least 10% for habitat units. The commitment to achieve a minimum 10% biodiversity net gain is considered to represent a significant benefit of the proposals and should be afforded **moderate weight**.
- 8.13 The provision of economic benefits: the delivery of up to 95 dwellings would generate direct and indirect economic benefits through the provision of employment during the construction phases, operational expenditure from future residents and direct revenue to the Council through the s106 contributions and Council Tax receipts. It is considered that these benefits should be afforded **moderate weight**.
- 8.14 The provision of public open space and children’s play space as part of the Appeal Scheme should be afforded **limited weight**.
- 8.15 The Appeal Site’s sustainable location: the site is located on the edge of Park Street, within proximity to several services and facilities, including schools and public transport links. Three bus stops are located close to the site’s eastern boundary with Park Street, and the train station is c.320m to the south. As such, the suitability and sustainability of the site alongside the proposed Active Travel improvements should be afforded **limited weight**.
- 8.16 Based on the above, it is considered that the ‘other considerations’ (the benefits) clearly outweigh the harm to the Green Belt and any other harm, and thereby in accordance with paragraph 153, it has been demonstrated that very special circumstances exist.

The tilted balance

- 8.17 It is common ground between the parties that the Council cannot demonstrate a four year supply of land for housing and the Council only achieved a HDT of 55% in 2022. As a result, this means that the policies which are most important for determining the application are out of date, and paragraph 11(d) of the Framework is engaged.
- 8.18 My evidence demonstrates that limb i. of paragraph 11d) does not apply as the Green Belt policies do not provide a clear reason for refusing the development as any harm resulting from the Appeal Scheme is clearly outweighed by other considerations.
- 8.19 As such, limb ii. of paragraph 11d) is triggered and this 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. My evidence has set out that VSC exist and the adverse impacts of the Appeal Scheme do not significantly and demonstrably outweigh the benefits of the proposal.
- 8.20 It is clear that planning permission should be granted in accordance with paragraph 11d of the Framework.

Section 38(6) balance

- 8.21 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that, where regard is to be had to the statutory development plan in determining an application for planning permission, the determination shall be made in accordance with the development plan, unless material considerations indicate otherwise. As set out in section 4.0, it is necessary to have regard to the accordance of the proposals with the development plan read as a whole.
- 8.22 Paragraph 153 of the Framework has been applied and I have found that VSCs exists and as such, the Appeal Scheme complies with Policy 1 of the Local Plan and S1 of the Neighbourhood Plan. I have then assessed compliance with all other disputed policies and found the scheme to comply. As a result, the proposal complies with the most important policies for the determination of the appeals in the respective development plan when read as a whole.
- 8.22 There are no material considerations that warrant a decision other than in accordance with the development plans in these circumstances and planning permission should be granted.

9.0 Summary of proof

- 9.1 My name is Matthew Hill, and I am a Chartered Town Planner and Member of the Royal Town Planning Institute. I hold a Masters in Urban Planning (MPLAN) from the University of Sheffield. I appear at this Inquiry on behalf of the Appellant.
- 9.2 I confirm the evidence which I have prepared for this appeal is true to the best of my knowledge and belief and has been prepared in accordance with the guidance of my professional institution. The opinions expressed are my true and professional opinions.
- 9.3 It is common ground that the Council cannot demonstrate a 4 year supply of land for housing as required by the Framework. This means that the policies which are most important for determining the application are out of date, and paragraph 11(d) of the NPPF is engaged. Furthermore, land designated as Green Belt is confirmed as one such area or asset for the purposes of 11d.i). See paragraph 8.3 of the SoCG (CD12.2).
- 9.4 My evidence has demonstrated that the Appeal scheme complies with the relevant policies in the St Albans Local Plan and St Stephen Parish Neighbourhood Plan, including those considered to be most important for the determination of this appeal. As such, I consider the Appeal Scheme to comply with the development plan taken as a whole, subject to the very special circumstances balance required by the Framework. This is discussed within Section 8.0 of my proof of evidence.
- 9.5 There are multiple material considerations relevant to the determination of the appeal. This includes the policies included within the Framework, particularly in relation to the presumption in favour of sustainable development, the requirement to meet housing need of different types, Green Belt and the planning balance. This is discussed in detail within Section 5.0 of my proof. The draft Framework (2024) is also considered to be a material consideration in the determination of this Appeal and the relevant policies are discussed within Section 6.0 of my proof.
- 9.6 I accept that the Appeal Scheme would amount to inappropriate Green Belt development. As such, Paragraph 153 of the Framework requires the potential harm to the Green Belt by reason of inappropriateness, and any other harms resulting from the proposal, to be clearly outweighed by the benefits.
- 9.7 Whilst substantial weight must be given to inappropriate development in the Green Belt and any other harm to the Green Belt, the significant harm to physical openness is mitigated due to its particular site characteristics. In addition, only limited moderate harm to one purpose (purpose c)) of including land in the Green Belt arises as no harm is identified to the other purposes. Consequently, any harm to the Green Belt beyond inappropriateness is moderate, however, it does not diminish the substantial weight given to it.
- 9.8 The Framework requires ‘any other harm’ resulting from the Appeal Scheme to be taken into account. It is considered that there are two additional harms resulting from the Appeal Scheme in relation landscape impact and the loss of BMV agricultural land which are afforded limited to moderate and limited weight respectively. As set out in section 8.0 of my proof of evidence, in my view, these harms are clearly outweighed by other considerations, which are summarised below:
- The provision of market housing is afforded very substantial weight;
 - The provision of 40% affordable housing is afforded very substantial weight;
 - The provision of self-build and custom housebuilding plots is afforded substantial weight;

- The commitment to achieving at least 10% net gain for habitat units is afforded moderate weight;
- The provision of economic benefits is afforded moderate weight;
- The provision of public open space and children's play space is afforded limited weight; and
- The sustainable location of the site and proposed Active Travel improvements is afforded limited weight.

9.9 In conclusion, the other considerations resulting from the Appeal Scheme clearly outweigh the harm to the Green Belt that would result (given substantial weight), together with the other harm identified above. Very special circumstances therefore exist and justify the granting of planning permission.

The tilted balance

9.10 It is common ground between the parties that the Council cannot demonstrate a four year supply of land for housing and the Council only achieved a HDT of 55% in 2022. As a result, this means that the policies which are most important for determining the application are out of date, and paragraph 11(d) of the Framework is engaged.

9.11 My evidence demonstrates that limb i. of paragraph 11d) does not apply as the Green Belt policies do not provide a clear reason for refusing the development as any harm resulting from the Appeal Scheme is clearly outweighed by other considerations.

9.12 As such, limb ii. of paragraph 11d) is triggered and this 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. My evidence has set out that VSCs exist and the adverse impacts of the Appeal Scheme do not significantly and demonstrably outweigh the benefits of the proposal.

Section 38(6) balance

9.13 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that, where regard is to be had to the statutory development plan in determining an application for planning permission, the determination shall be made in accordance with the development plan, unless material considerations indicate otherwise. As set out in section 4.0, it is necessary to have regard to the accordance of the proposals with the development plan read as a whole.

9.14 Paragraph 153 of the Framework has been applied and I have found that VSCs exists and as such, the Appeal Scheme complies with Policy 1 of the Local Plan and S1 of the Neighbourhood Plan. I have then assessed compliance with all other disputed policies and found the scheme to comply. As a result, the proposal complies with the most important policies for the determination of the appeals in the respective development plan when read as a whole.

9.15 There are no material considerations that warrant a decision other than in accordance with the development plans in these circumstances and planning permission should be granted.