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## Appeal Decisions

Inquiry held between 26 April – 6 May 2021

Site visits made on 1 April 2021 and 4 May 2021

**by C Masters MA (Hons) MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 14 June 2021**

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### **Appeal A: APP/B1930/W/20/3265925**

#### **Roundhouse Farm, Land Off Bullens Green Lane, Colney Heath**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
  - The appeal is made by Canton Ltd against St Albans City & District Council.
  - The application Ref 5/2020/1992/LSM was dated 28 August 2020.
  - The development proposed is outline application for the erection of up to 100 dwellings, including 45% affordable and 10% self build, together with all ancillary works (All matters reserved except access) at Land off Bullens Green Lane, Colney Heath.
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### **Appeal B: APP/C1950/W/20/3265926**

#### **Roundhouse Farm, Land Off Bullens Green Lane, Colney Heath**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Canton Ltd against the decision of Welwyn Hatfield Borough Council.
  - The application Ref 6/2020/2248/OUTLINE, dated 28 August 2020, was refused by notice dated 2 December 2020.
  - The development proposed is outline application for the erection of up to 100 dwellings, including 45% affordable and 10% self build, together with all ancillary works (All matters reserved except access) at Land off Bullens Green Lane, Colney Heath.
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### **Decision**

1. The appeals are allowed and planning permission is granted for the erection of up to 100 dwellings, including 45% affordable and 10% self build, together with all ancillary works (All matters reserved except access) at Land off Bullens Green Lane, Colney Heath, in accordance with the terms of the applications: 5/2020/1992 /LSM dated 28 August 2020 and 6/2020/2248/OUTLINE dated 28 August 2020, subject to the conditions set out on the attached schedule.

### **Preliminary Matters**

2. The boundary between St Albans City & District Council (SADC) and Welwyn Hatfield Borough Council (WHBC) transects the appeal site with the proposed access falling within WHBC off Bullens Green Lane and the western part of the site abutting Roestock Park and the Pumping Station falling within SADC. The planning applications, subject to these appeals, were essentially the same and were submitted to each of the planning authorities and considered collectively at the same public inquiry. For this reason, I have considered the proposed scheme in its entirety rather than as two separate and divisible schemes. I have thus determined the appeals on that basis.

3. In the context of appeal APP/B1930/W/20/3265925, this scheme was presented to planning committee on 18 January 2021 to request that members confirm how they would have determined the application had it not been subject to an appeal against non determination. At this committee meeting, it was resolved that the Council would have refused planning permission.
4. The reasons for refusal given by WHBC and putative reasons by SADC were similar, in respect to objections related to the suitability of the location, character and appearance, highways, ecology, archaeology, impacts on local infrastructure and services, Green Belt and heritage matters.
5. It was common ground that the Councils could not demonstrate a 5 year supply of housing sites. However, the parties disagreed on the extent of this shortfall. It was agreed that the variation between the two parties was not a matter which was material to the decision on these appeals. I will return to this matter below.
6. Since the appeals were submitted, the appellant has submitted an updated Ecological Impact Assessment. An agreed statement of common ground (SoCG) was submitted prior to the start of the inquiry which set out, amongst other things, principal matters of agreement and disagreement. This confirmed that objections relating to archaeology, ecology and impacts on local infrastructure and services could be addressed by suitably worded conditions/the completion of a Section 106 Agreement. Where necessary, I return to these matters within my report. In addition, appendix A to the SoCG included an agreed facilities plan illustrating the location and average distances to a number of services and facilities within Colney Heath and beyond. I return to this matter below.
7. At the start of the inquiry, a further SoCG was submitted in relation to highways matters. The Councils, Hertfordshire County Council (HCC) as highways authority and the appellant agreed that the appeals would have an acceptable impact on highways safety and therefore reason for refusal (RfR) number 3 on the WHBC decision and putative RfR number 4 of SADC were therefore withdrawn. Notwithstanding this position and in light of third party representations in relation to this issue, this topic was still subject to a round table discussion as part of the inquiry.
8. A replacement access drawing was submitted prior to the inquiry. It was subject to a separate consultation. Neither WHBC or SADC objected to the plan being substituted and all parties had an opportunity to comment on the drawing. Accordingly, I do not consider anybody would be prejudice by my taking this drawing into account and have considered the appeals on this basis.
9. The appellants submitted an unsigned Section 106 (S106) to the inquiry. This was discussed at a round table session and I allowed a short amount of time after the inquiry for the document to be signed. The signed version was received on 24 May 2021. The agreement made included a number of obligations and provision for payments to be made to WHBC, SADC and HCC. I return to this matter below.

### **Main Issues**

10. The appeal site is located within an area of Green Belt. It was agreed between the appellant and the Councils that in the context of the Framework, the

proposals would present inappropriate development within the Green Belt, a matter that must attract substantial weight against the proposals. I concur with this view. As a result and against the background I have set out above, the main issues are:

- the effect of the proposal on the character and appearance of the area;
- the effect of the proposal on the openness of the Green Belt and the purposes of including land within it;
- the effect of the proposed development on the setting of the nearby listed building 68 Roestock Lane;
- whether the site is in an accessible location with regards to local services and facilities;
- whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

## **Reasons**

### *Effect on Character and Appearance*

11. The appeal site comprises a parcel of land of approximately 5 hectares on the eastern edge of Colney Heath. It is bounded by residential development to the northern boundary. There is a short terrace of cottages to the eastern corner along Bullens Green Lane before the boundary opens out into open countryside and beyond. To the south, the site is contained by Fellowes Lane where again residential dwellings are present on the south western corner. The western boundary comprises Roestock Park and the Pumping Station.
12. The parties agree that the site is not a valued landscape under the Framework paragraph 170 definition and that no other landscape designations are applicable to the appeal site. The Hertfordshire Landscape Strategy, 2005 notes the site is located within the Mimms Hall Valley, where the landscape character is described, amongst other things, as being strongly influenced by the major transport routes and the surrounding settlement which give it an urban-edge rather than rural character.
13. The A1 and railway line do not have any visual impact on the appeal site. From what I saw on the site visits, the character of the area is a mix of edge of settlement and countryside. Walking along the footpaths which traverse the site, the experience is one of being on the edge of a settlement rather than a wholly rural context. Whilst the open countryside to the south and east is clearly visible, the surrounding residential properties either facing the site or their rear gardens and associated boundary treatment is also clearly visible. These range in scale and form from bungalows fronting Fellowes Lane, glimpsed views of the 3 storey dwellings within Admiral Close and Hall Gardens and the rear elevations and gardens of properties along Roestock Gardens. Bullens Green Lane and Fellowes Lane serve to enclose the appeal site and provide a degree of containment from the wider countryside and beyond. My judgement leads me to conclude that the site strongly resonates with this urban edge definition provided by the 2005 Landscape Strategy.

14. Turning to consider the area beyond the appeal site itself, the sense of countryside prevails via the public footpath network and road network. These public footpaths continue within Bullens Green Wood and further beyond the appeal site at Tollgate Farm. Contrary to the views expressed by the Council, my experience of the views to the appeal site within Bullens Green Wood are of glimpse views of the appeal site. From the south and in the wider landscape context, the appeal site appears against the backdrop of the existing dwellings as a relatively self contained parcel of land on the edge of the settlement. These longer distance views of the appeal site reinforce the urban edge definition.
15. The Councils contend that the appeal site provides a positive element of the countryside that frames Colney Heath. I do not agree. The very clear sense of countryside is only evident when you travel beyond the appeal site south along Tollgate Road. Here the landscape character changes from mixed residential and open field to predominantly open fields with dotted farm buildings and isolated residential dwellings set within this open landscape. This is entirely different to my experience of the appeal site which I have outlined above.
16. The Councils raised specific concerns regarding alleged harm which would arise as a result of the new vehicular access off Bullens Green Lane and also the new pedestrian footpath and access point along Fellowes Lane. The new access road would be located towards the northern end of Bullens Green Lane, where the character of the existing area is already influenced by cars parked on the public highway, and the visibility of the residential properties beyond, all contributing to the edge of settlement character. Along Fellowes Lane, a new pedestrian access to the site would be introduced along with a public footpath. These characteristics are entirely compatible with the urban edge environment which currently exists.
17. The changes brought about by the built development and changes to the surrounding roads would result in visual changes to the area, which in my view would be localised in impact. Landscaping of the site which would be the subject of any reserved matters submission would mean that in the context of the existing immediate locality, the impacts of the development would be significantly reduced over time. Nevertheless, the proposed development would introduce built development here where currently no development exists which would cause some harm to the character and appearance of the area.
18. Taking into account all of the above factors, I conclude that the proposals would cause limited harm to the character and appearance of the area. I attach moderate weight to this factor. There would be conflict with policy D2 of the Welwyn Hatfield District Plan, 2005. Policy D2 requires all new development to respect and relate to the character and context of the areas. Proposals should as a minimum maintain and where possible should enhance or improve the character of the existing area.
19. The Council have also referred to policies D1, RA10 and RA11 in their reasons for refusal. Policy D1 requires a high standard of design in all new developments. Policy RA10 relates specifically to the Landscape Character Assessment outlined above, requiring proposals to contribute, where appropriate to the maintenance and enhancement of the local landscape character. Policy RA11 refers to the location of the site within the Watling Chase Community Forest boundary. The policy requires, amongst other things,

that proposals seek to include planting, leisure and landscape improvements, where this accords with Green Belt policies. I shall return to the matter of Green Belt below. However, in broad terms I see no reason why these policy objectives could not be readily achieved at reserved matters stage through an appropriately designed scheme and landscape strategy for the site.

20. For the same reasons, the proposals would conflict with policy 2 of the St Albans Local Plan, 1994. Policy 2 of the St Albans Local Plan 1994 identifies, amongst other things, Colney Heath as a Green Belt settlement whereby development will not normally be permitted except for the local housing needs, local services and facilities needs of the settlement and development must not detract from the character and setting of the settlement.
21. The Council have also referred me to policies 69, 70 and 74 of the St Albans Local Plan, 1994. There would be some conflict with policy 69. In relation to the requirements regarding scale and character in terms of plot ratios, height, size and scale, as well as the requirements in relation to materials, I can see no reason why these matters could not be satisfactorily addressed at the reserved matters stage. However the policy also cross references to the requirements of policy 2 outlined above which I have already identified a conflict with. Policy 70 goes onto set out a number of design criteria and layout criteria including but not limited to the dwelling mix, privacy between dwellings, parking and materials. Policy 74 relates specifically to landscaping and tree preservation. Again noting this is an outline scheme, and subject to the reserved matters submission, I can see no reason why the matters raised by policies 70 and 74 could not be appropriately addressed at the reserved matters stage.

#### *Purposes of including land within the Green Belt*

22. The Framework and in particular paragraph 133 makes it clear that the Government attaches great importance to the Green Belt and the protection of its essential characteristics. It was common ground between the parties that the proposals represent inappropriate development as identified by the Framework. In terms of the five purposes of the Green Belt identified at paragraph 134 of the Framework, it was also common ground that the key tests in the context of these appeals are the effect on openness, encroachment and urban regeneration. I deal with each of these matters in turn.

#### *Openness of the Green Belt*

23. The appeal site comprises an open agricultural field with a number of public footpaths which traverse the site. It is entirely free from built development. The appeal proposals would introduce built development to the site in the form of 100 dwellings with associated access roads and pavements, residential gardens, open space and driveways. The precise layout and form of the development would be determined at reserved matters stage. Even taking into account the potential for boundary treatment and landscaping which could include open green space and play space and could be integral to the layout of the residential development proposed, this would have the effect of a considerable reduction in the openness of the site. The proposals would lead to conflict with policy 1 of the St Albans District Council Local Plan, 1994. This policy identifies the extent of Green Belt within the Borough, and outlines the developments which would be permitted which broadly align with the

development identified by the Framework. This, harm, in addition to the harm by inappropriateness, carries substantial weight against the proposals.

#### Safeguarding the countryside from encroachment

24. It was generally agreed that the impact of the appeal proposal would be limited in terms of the impact on the wider integrity of the Green Belt. This is a view that I share. In terms of the impact of the development on the purpose of safeguarding the countryside from encroachment, my attention has been drawn to a number of background evidence documents including Green Belt studies. These include a report prepared by SKM Consultants in 2013 which included an assessment of Green Belt in both WHBC, SADC and Dacorum Borough Council. Here, the appeal site is assessed as part of parcel 34, a 419ha parcel of land. Reflective of the size and scale of the parcel of land, the report sets out a number of key characteristics of the land. With reference to the gap between Hatfield and London Colney, preventing the merger of St Albans and Hatfield, and preserving the setting of London Colney, Sleafshyde and Tyttenhanger Park, the report states that the parcel makes a significant contribution towards safeguarding the countryside and settlement pattern and gaps between settlements. These characteristics bear little or no relationship to the appeal site, and given the sheer size and scale of the land identified within the report when compared to the appeal site, I place only very limited correlation between the conclusions drawn here in relation to the function of the land or assessment of its function relative to the purposes of the Green Belt when compared to the appeal site.
25. The most recent Green Belt Assessment which was prepared in relation to the WHBC Local Plan review is noted as a Stage 3 review and was prepared by LUC in March 2019. Only the part of the appeal site which falls within Welwyn Hatfield forms part of the assessment, and is included within the much wider site area known as parcel 54. The report notes that whilst residential development is visible across much of the parcel, the parcel *as a whole* makes a significant contribution to the safeguarding of the countryside from encroachment. The report notes that the impact of the release of the parcel *as a whole* from the Green Belt would be moderate-high, however the impact on the integrity of the wider Green Belt would be limited. Again, I place only limited weight on the findings of this report relative to the appeal site as the assessment and conclusions drawn relate specifically to parcel 54 *as a whole* which includes a much wider area and excludes part of the appeal site in any event.
26. I have already set out in my assessment of character and appearance above that the appeal site has an urban edge/ edge of settlement character. I have made a clear distinction between the appeal site and its separation from the countryside beyond to the south and east of the appeal site. In this way, the appeal site is influenced by the surrounding residential development. As a result of these locational characteristics and influences, the consequences of the development at the appeal site would mean that the proposals would have only a localised effect on the Green Belt. The broad thrust of, function and purpose of the Green Belt in this location would remain and there would be no significant encroachment into the countryside. I therefore conclude that the appeal proposal would not result in harm in term of the encroachment of the Green Belt in this location. This is a neutral factor which weighs neither in favour nor against the appeal proposals.

To assist in urban regeneration, by encouraging the recycling of derelict and other urban land

27. The harm alleged here is limited to WHBC where the Council contend that the proposal would not assist in respect of this fifth purpose of the Green Belt. I am aware that the emerging plan proposes a number of urban regeneration sites, some of which already have planning permission. However, I have no substantive evidence to suggest that the development at this site would disincentivise the urban regeneration of sites elsewhere. Given the scale of development proposed to be located within the WHBC boundary I do not consider that the proposals would be likely to adversely impact on the regeneration of urban redevelopment sites elsewhere. There would as a result be no conflict with this purpose. Again, this is a neutral factor which weighs neither in favour nor against the appeal proposals.

*The effect of the proposed development on the setting of the nearby listed building 68 Roestock Lane*

28. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special regard shall be had to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest that it possesses. It is therefore necessary to consider the effect of the appeal proposals on the setting of the listed building itself.

29. The heritage asset concerned is a grade II listed residential dwelling. It is located adjacent to the northern boundary of the site. The house which was formerly two cottages, dates from the late C17 and has been subject to a number of modifications and extensions over the years. The dwelling is accessed from Roestock Lane. In this context, it is seen within its garden enclosure set back from the road adjacent to the Pumping Station and within the build fabric of residential development along Roestock Lane extending into Roestock Gardens.

30. From what I saw on my site visits, the significance of the heritage asset is in the main, locked into its built form and fabric. Given the mature vegetation which borders the rear garden, the extent of its setting that contributes to its significance is limited to the rear garden, and the way the front of the house addresses the main road. From Roestock Lane, the aesthetic value of the dwelling is evident through architectural detailing to the front elevation which is clearly visible.

31. The appeal proposals would see residential development introduced to the existing open agricultural field which abuts the rear boundary of the heritage asset. There would be no change to the built form or fabric of the dwelling, or the relationship of the heritage asset with its immediate garden. To my mind, these are the factors which provide the greatest contribution to the significance of the heritage asset.

32. The Council's heritage witness stated that the listed building has an historical association with the surrounding agricultural land and that the appeal site allows the listed building to have uninterrupted longer range views towards the south east. I do not agree. There is no evidence which confirms that the occupiers of the heritage asset were engaged directly with the appeal site. Neither does this serve to demonstrate any functional relationship between the appeal site and the heritage asset concerned. There is no evidence of an

existing or former access that existed between the appeal site and the heritage asset. Whilst the property may well have been at times occupied by agricultural workers, I have no doubt that this would be common to many residential dwellings in the area at that time and would indeed be reflective of the historical associations with farming in years gone past in the immediate area and beyond.

33. Turning to consider the issue of views, I am unable to agree with the Councils contention that uninterrupted longer-range views across the appeal site from the property contribute to the significance of the listed building. The extensive and mature boundary vegetation to the property provides significant screening to the boundary of the property, such that these views would at best be described as limited. In any event, given my conclusions above regarding the linkage between the appeal site and the heritage asset, I am not convinced that longer-range views from the property make any contribution to the historical significance of the dwelling. As I have already set out, the main front of the dwelling addresses Roestock Lane. That situation would not be changed. Neither, given the existing screening, that could be augmented through reserved matters, would the significance the listed building derives from its garden setting be undermined by the proposals.
34. Looking at the issue of views of the dwelling from the appeal site, the appreciation of the architectural interest of the building is limited. The rear elevation has been subject to extensions over time. The property is seen in the context of the other immediate surrounding residential dwellings which lie adjacent to the appeal site, their rear gardens and extensive and mature vegetation to these boundaries, not as an isolated heritage asset with any functional or historical link to the appeal site. The reserved matters submission will afford the Councils the opportunity for enhancements to the landscape setting in the vicinity of the site boundary.
35. It is common ground between the parties that the harm to the significance of the designated heritage asset would be less than substantial. It is also common ground that the public benefits of the scheme outweigh the less than substantial harm. For the reasons I have outlined above, even the appellants assessment at the very lowest end of the broad spectrum of less than substantial harm overstates the schemes likely effect in this context. As I have already set out, the main aspect of the dwelling is from Roestock Lane. In such views, the appeal proposals would have a very limited effect on the current position.
36. I conclude that the proposals would not result in any harm to the setting or significance of the heritage asset concerned. As such, s.66(1) of the planning (Listed Buildings and Conservation Areas) Act 1990 is not engaged, and there would be no conflict with policy 86 of the St Albans District Local Plan (1994) which states, amongst other things, that where proposals effect the setting of a building of historic interest, the Council will have due regard to the desirability of preserving the building, its setting, or any features of architectural or historic interest which it possesses. Policy D1 is also referred to from the Welwyn Hatfield District Plan (2005). However, this policy concerns the provision of high quality design and is not of relevance to the heritage matters before me.



*Whether the site is in an accessible location with regards to local services and facilities*

37. The Councils contend that the appeal site is in an unsuitable and isolated location and as a result, it would fail to provide satisfactory access to services and facilities by means other than the private motor car. The appeal site is located on the eastern edge of Colney Heath. The parties agreed a facilities plan which clearly demonstrates the location of the appeal site relative to services, facilities and public transport and included walking and cycling distances from the appeal site. I will firstly assess the availability of and access to services and facilities outside of Colney Heath by means other than the private car, before turning to consider the facilities and services available within Colney Heath itself and how accessible these maybe to potential future occupiers at the appeal site.
38. In terms of public transport and travel outside of Colney Heath, there are a number of bus stops available most notably on Roestock Lane, Fellowes Lane and Hall Gardens. These are all within an 800m walking distance of the site, a flat comfortable walk. These stops provide services to both Potters Bar, Welwyn Garden City, St Albans and Hatfield Tesco Extra where more extensive shopping, medical, education, employment and leisure facilities are located. Whilst I accept that the buses serving these stops are limited in number and frequency and could by no means support regular commuting, they nevertheless provide an alternative mode of transport to the private car and could provide an important alternative to those sectors of the community who do not have access to a private car. Although the reliability of the services was questioned, I have no robust evidence to suggest that the service is so severely unreliable that it would lead me to reach a different conclusion on this issue.
39. For travel further afield, the nearest train services are provided at Welham Green, approximately 3.5km away with direct and frequent services to London. Turning to consider cycling, the Council's witness raised a number of concerns in relation to the nature of the roads and suitability for cycling. HCC as highways authority advised that cycling facilities are adequate with safe routes and access to the national cycle route network. These include National Cycle Route 61 approximately 3km from the appeal site providing access to St Albans and cycle route 12 approximately 2km to the south east providing access to both Welham Green and Hatfield. The agreed facilities plan indicates that taking into account average cycling times, a number of services and facilities would be available between 6 and 12 minutes away. I saw evidence on my site visits of both Bullens Green Lane and Fellowes Lane being well used for recreational purposes, including walkers and cyclists. Taking into account the average cycle times and distances to facilities outside of Colney Heath as set out within the facilities plan, I concur with HCC that cycling provides a reasonable alternative in this location to the private car.
40. Turning to consider journeys possible on foot, Colney Heath itself has a number of facilities and services which one would expect in a settlement of this size. These include but are not limited to a public house, primary school which has some albeit limited capacity and pre school, church, takeaway, village hall, hairdressers, scout hut, post office and mini mart. The availability of the public rights of way (PROW) within the site mean that these facilities and services could be accessible through a choice of routes, utilising the connections to

either Roestock Lane or Fellowes Lane and then onwards to the High Street. This choice of routes adds to the quality of the walking experience in this location however I acknowledge the concerns expressed regarding the use of the underpass under the A1 and the quality of the pedestrian environment provided here. In common with other lower order settlements in both SADC and WHBC, residents are expected to travel to larger settlements highlighted above for medical facilities, larger scale supermarkets, employment and secondary education and beyond. To my mind, the facilities and services available within Colney Heath and the accessibility of these facilities both on foot and by cycle mean that a number of day to day needs could be met without reliance on the private car. As a result, the location of the appeal site cannot be described as isolated. These factors weigh in favour of the appeal proposals.

41. Overall and to conclude, taking into account the essence of the Framework test as to whether a genuine choice of transport modes is on offer, the appeal proposals would in my view represent a sustainable location for new residential development.
42. My attention has been drawn to policy 2 of the St Albans Local Plan 1994 which identifies, amongst other things, Colney Heath as Green Belt settlement whereby development will not normally be permitted except for the local housing needs, local services and facilities needs of the settlement and development must not detract from the character and setting of the settlement. Given the policy wording, there would be a conflict with this policy. In relation to WHDC, I also conclude that the proposals would accord with policies SD1 and H2 of the Welwyn Hatfield District Plan, 2005. Policy SD1 confirms that development will be permitted where it can be demonstrated that the principles of sustainable development are satisfied. Policy H2 applies a criteria based approach to windfall residential development, which includes, amongst other things, the location and accessibility of the site to services and facilities by transport modes other than the car.
43. Policy GBSP2 is also referred to however this is a policy relating to towns and specified settlements where development will be located and the settlement of Colney Heath is not identified by the policy however the supporting text to the policy identifies Bullen's Green and refers to development to support services and facilities. Overall, the proposals would not accord with this policy.
44. Policy R1 requires development to take place on land which has been previously used or development. It goes onto state that development will only be permitted on 'greenfield' land where it can be demonstrated that no suitable opportunities exist on previously used or developed land. The proposals would conflict with this policy.

*Whether very special circumstances exist*

45. Substantial weight is attached to any harm to the Green Belt by reason of inappropriateness. Very special circumstances will not exist unless the potential harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. It is widely acknowledged that the definition of very special circumstances do not in themselves have to be rare or

uncommon<sup>1</sup>. I now turn to consider the factors which I have taken into account in making this assessment.

### *Provision of Market Housing*

46. Paragraph 59 of the Framework seeks to support the Governments objective of significantly boosting the supply of homes. In order to achieve this, the Framework notes that it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay.
47. I am aware of the Written Ministerial Statement of December 2015 which indicates that unmet need is unlikely to clearly outweigh harm to Green Belt and any other harm so as to establish very special circumstances. However, in common with the appeal decision<sup>2</sup> referred to, I note that this provision has not been incorporated within the Framework which has subsequently been updated and similar guidance within the Planning Practice Guidance has been removed. I can therefore see no reason to give this anything other than little weight as a material consideration.
48. It is common ground that neither SADC or WHBC can demonstrate a five year supply of deliverable homes. Whilst there is disagreement between the parties regarding the extent of this shortfall, the parties also agreed that this is not a matter upon which the appeals would turn. I agree with this position. Even taking the Councils supply positions of WHBC 2.58 years and SADC at 2.4 years, the position is a bleak one and the shortfall in both local authorities is considerable and significant.
49. There is therefore no dispute that given the existing position in both local authority areas, the delivery of housing represents a benefit. Even if the site is not developed within the timeframe envisaged by the appellant, and I can see no compelling reason this would not be achieved, it would nevertheless, when delivered, positively boost the supply within both local authority areas. From the evidence presented in relation to the emerging planning policy position for both authorities, this is not a position on which I would envisage there would be any marked improvement on in the short to medium term. I afford very substantial weight to the provision of market housing which would make a positive contribution to the supply of market housing in both local authority areas.

### *Provision of Self Build*

50. Turning to consider the issue of Self Build, as part of the overall dwelling numbers, the proposal would deliver up to 10 self build or custom build dwellings. The Government attaches great importance to the provision of this element of the supply. Notably, paragraph 61 of the Framework identifies that planning policies should reflect the housing needs of different sectors of the community including, but not limited to people wishing to commission or build their own homes. Footnote 26 gives further explanation with reference to the requirements of the Self Build and Custom Housebuilding Act 2015 (as amended). The Planning Practice Guidance advises that local authorities

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<sup>1</sup> Wychavon DC v Secretary of State for Communities and Local Government and Butler [2008] EWCA Civ 692.

<sup>2</sup> APP/C2741/W/19/3227359

should use the demand data from registers, supported by additional data from secondary sources, to understand and consider future need for this type of housing in their area. Furthermore, it goes onto note that the registers are likely to be a material consideration in decisions involving proposals for self and custom housebuilding.

51. In the case of these appeals, there are no development plan policies which relate specifically to the provision or delivery of self building housing in either authority. Emerging policy SP7 at WHBC identifies four allocations which would contribute towards self build plot provision although the allocations do not specify how many plots. Furthermore, neither authority has an up to date assessment of likely future demand for this type of housing in line with the Planning Practice Guidance. The appellant provided detailed evidence in relation to the Custom Build Register, none of which was disputed. Evidence also presented demonstrated that the statutory duty to provide for base period plot provision has also not been met in either authority, in some periods by a significant margin. Taking into account other secondary data sources, these shortfalls may well be on the conservative side.
52. In common with both market housing and affordable housing, the situation in the context of provision of sites and past completions is a particularly poor one. To conclude, I am of the view that the provision of 10 self build service plots at the appeal site will make a positive contribution to the supply of self build plots in both local planning authority areas. I am attaching substantial weight to this element of housing supply.

*Provision of affordable housing*

53. The uncontested evidence presented by the appellant on affordable housing for both local authorities illustrates some serious shortcomings in terms of past delivery trends. In relation to WHBC, the affordable housing delivery which has taken place since 2015/16 is equivalent to a rate of 23 homes per annum. The appellant calculates that the shortfall stands in the region of 4000 net affordable homes since the 2017 SHMA Update, a 97% shortfall in affordable housing delivery. If the shortfall is to be addressed within the next 5 years, it would require the delivery of 1397 affordable homes per annum. In SADC, the position is equally as serious. Since the period 2012/13, a total of 244 net affordable homes have been delivered at an average of 35 net dwellings per annum. Again, this equates to a shortfall also in the region of 4000 dwellings (94%) which, if to be addressed in the next 5 years, would require the delivery of 1185 affordable dwellings per annum.
54. The persistent under delivery of affordable housing in both local authority areas presents a critical situation. Taking into account the extremely acute affordable housing position in both SADC and WHBC, I attach very substantial weight to the delivery of up to 45 affordable homes in this location in favour of the proposals.

## Other Matters

### *Other Appeal Decisions*

55. I have been referred to no fewer than 21 other appeal decisions<sup>3</sup> in addition to 9 Secretary of State decisions<sup>4</sup> as part of the evidence before me in relation to these appeals. Both the appellant and the Councils have sought to draw comparisons and similarities between this extensive array of decisions before me for a variety of reasons. Two historical decisions at the appeal site, as acknowledged by the Councils, were determined under a different planning policy framework and accordingly I attach very limited weight to these. In relation to the appeal decision at the neighbouring site<sup>5</sup>, I do not have the full details of the evidence which was before that Inspector, the main issues were different to these appeals and the decision predates the current Framework.
56. Rarely will any other appeal decision provide an exact comparison to another situation. In some of the cases referred to, there are similarities in the size and scale of the proposal, in other cases there are entirely different planning policy positions, housing supply considerations, land use considerations, locational characteristics, main issues and other factors which have been weighed in the balance. Furthermore, it remained common ground that each appeal should be considered on its own merits as is the case here. It is for the decision maker in each case to undertake the planning balancing exercise and as a result, the weight I have attached to these other appeal cases is limited.

### *Other Matters*

57. I have considered the effect of the proposals on the occupiers of the neighbouring dwellings in terms of effect on living conditions, highways impacts, flooding and loss of agricultural land. There are no objections from either SADC, WHBC or HCC in relation to these matters. I acknowledge concerns expressed by local residents in relation to existing flooding which takes place on Bullens Green Lane, however I am satisfied that appropriately worded conditions in relation to surface water and drainage can satisfactorily address any impacts of the appeal proposals in this regard. Similarly, I have no evidence before me which would lead me to reach a different conclusion to the Councils in relation to the effect of the development on the living conditions of neighbouring properties.
58. In terms of highways impacts, I acknowledge that a number of local residents have expressed concerns regarding localised congestion and parking and overall highways impacts. I am also mindful of the concerns expressed by Colney Heath Parish Council in connection with the data used to support the appeal proposals. However, taking into account the likely vehicular traffic to be generated by the development and the conclusions reached by the supporting

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<sup>3</sup> Two historical appeal decisions at the appeal site E6/1973/3202 & E6/1954/0860, APP/B1930/W/19/3235642, APP/Y0435/W/20/3251121, APP/C2714/W/19/3227359, APP/D2320/W/20/3247136, APP/P0119/W/17/3191477, APP/P1615/W/18/3213122, APP/G2435/W/18/3214451 & 3214498, APP/W0530/W/19/3230103, APP/C1570/W/19/3234530 & 3234532, APP/X0360/W/19/3238048, APP/H1840/W/20/3255350, APP/P3040/W/17/3185493, APP/L3815/W/16/3165228, APP/D0840/A/13/2209757, APP/G1630/W/14/3001706, APP/G5180/W/16/3144248, APP/G5180/W/18/3206569, APP/E2001/W/20/3250240,

<sup>4</sup> APP/W4705/V/18/3208020, APP/Q3115/W/19/3230827, APP/C4235/W/18/3205559, APP/P1615/A/14/2218921, APP/A0665/W/14/2212671, APP/H1840/A/13/2199085 & 2199426, APP/P4605/W/18/3192918, APP/Q3630/A/05/119826, APP/W1850/W/20/3244410

<sup>5</sup> APP/B1930/W/15/3137409

transport assessments, I concur with the view that this will not have a severe impact on the operation of the wider highways network.

59. The site access would be located off Bullens Green Lane where it is currently subject to the national speed limit. The Highways Authority consider that the introduction of a transitional speed limit restriction may be necessary to the south of the site. As a result, two Grampian conditions are proposed to address this issue. I conclude that the development would not cause harmful levels of congestion or increase risk to highway safety.
60. I note the conclusions the Councils have drawn in relation to the loss of agricultural land and the inconsistencies between the development plan policies and the Framework in this regard and can see no reason to disagree with the conclusions drawn by the Councils in relation to this matter.
61. The Councils argued that the site is not a suitable location for housing as it does not form part of the emerging policy context for either SADC or WHBC. Whilst I acknowledge this to be the case, this in itself is not a reason that the appeals should fail. In neither SADC nor WHBC is there an emerging policy position to which any significant weight can be attached. The SADC Local Plan Review was adopted in 1994, some 27 years ago. The most recent replacement plan was withdrawn. As a result, there is currently no up to date strategic housing land requirement assessment which has been subject to any rigorous soundness assessment through the local plan examination process.
62. Turning to consider the position at WHBC, the adopted plan dates from 2005, some 16 years ago. The emerging plan was submitted for examination some 4 years ago. As was outlined during the inquiry, Interim Findings issued by the Inspector in October 2020 and subsequent round up notes issued by the Inspector in March 2021 set out that findings in relation to the FOAHN, windfall allowance and green belt boundaries at proposed development sites are yet to be issued. As a result, I am unable to conclude with any certainty when the WHBC Plan will be found sound and as such attach very limited weight to this emerging plan.

### *Biodiversity*

63. Policy R11 of the WHBC Local Plan requires, amongst other things, that all new development should demonstrate how it would contribute positively to the biodiversity of the site by meeting a number of identified criteria. In the case of these appeals, the criteria most relevant are (i) the retention and enhancement of natural features of the site and (ii) the promotion of natural areas and wildlife corridors where appropriate as part of the design. For SADC, my attention has been drawn to policy 106 of the SADC Local Plan 1994 however this policy deals specifically with the effect of planning applications on identified SSSIs, Nature Reserves, other sites of wildlife, geographical or geomorphological importance which is not applicable to the appeal site. This is a position confirmed by the Councils in their proof of evidence.
64. The appeals are supported by an amended Ecological Impact Assessment. Hertfordshire Ecology, as ecological advisors to both WHBC and SADC confirmed that subject to a suitably worded condition and obligations within the Section 106 agreement, both of which I set out later within this report, the appeal proposals adequately address the ecological impacts of the development

at the appeal site. I therefore conclude that the proposals would accord with policy R11 of the WHBC Local Plan in this regard.

### **Planning Obligation**

65. I have taken into account the various obligations identified within the executed Section 106 Agreement with regards to the statutory requirements in Regulation 122 of the Community Infrastructure Levy (CIL) as well as the tests identified at paragraph 56 of the Framework. The obligation would secure a number of provisions relating to HCC, SADC and WHBC. I deal with each of these individual matters in turn.
66. A number of clauses in relation to biodiversity measures are proposed. A biodiversity offsetting contribution is included within the obligation, which would contribute towards the creation of new habitats. This would be calculated by using the Biodiversity Net Gain Matrix which provides for a financial contribution based on the formula identified by the matrix which measures and takes into account biodiversity losses and gains resulting from the development. In support of this approach, the Councils have identified that adopting the use of this matrix approach allows for landscaping and open space proposals as well as on site mitigation to be taken into account at reserved matters stage. In addition, the parties have also referred me to an alternative appeal decision<sup>6</sup> to endorse the use of the Biodiversity Net Gain Matrix approach. Once calculated, a scheme would be submitted for approval to both Councils referred to as the biodiversity offsetting scheme. In addition to this offsetting, biodiversity onsite compensation would also be provided through the identification of biodiversity measures to be implemented within the site as part of an identified onsite compensation scheme. In both instances, the Councils would be approving the onsite and offsetting schemes with reference to the biodiversity metric formula approach.
67. A green space contribution, to be calculated based on the precise number of dwellings and mix, will deliver the creation of a wildflower meadow at Angerland public open space off Bishops Rise, South Hatfield. Officers confirmed that this was the closest facility to the appeal site to which improvement requirements have been identified.
68. I note the Councils expressed concerns that the appellant could rely on the green space contribution as part of the biodiversity offsetting scheme and biodiversity offsetting contribution. However the biodiversity offsetting scheme, by definition, requires a scheme to be approved by both Councils to include but not limited the identification of an appropriate receptor site(s). As a result, I consider that this matter is adequately addressed by the obligation and the concerns are unfounded.
69. Taking into account the information and evidence presented, I am content that the obligations in relation to biodiversity, including the offsetting contribution, offsetting scheme and onsite compensation are necessary, directly related to the development and fairly and reasonably related in scale and kind. I draw the same conclusion in relation to the green space contribution. These obligations therefore comply with Regulation 122 of the CIL Regulations and can be taken into account in the grant of planning permission.

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<sup>6</sup> APP/Y0435/W/20/3251121

70. In addition to the above, the obligation would secure the provision of affordable housing, apportioned equally between WHBC and SADC. The affordable housing scheme would also secure the mix of units and tenures. In a similar way, the obligation would secure the plots and associated provision for the self build and custom housebuilding plots on the site. A district community facilities contribution is sought, to provide improvements towards the Roestock Park Scout Hut. Obligations relating to the highways works necessary to implement the scheme, waste and recycling, bus stop improvements at Hall Gardens, travel plan, libraries contribution towards improvements to the Creator Space at Hatfield Library, education contribution for both primary and secondary school provision, youth contribution towards increased provision at Hatfield Youth Centre, indoor sports facilities contribution towards the University of Hertfordshire and/or Hatfield Swimming Pools, and medical facilities in the form of community healthcare, general medical services specified at Northdown Road and/or Burvill House Surgery and mental health contribution specified at Queensway Health Centre and Roseanne House are also included. Finally, a monitoring fee, not to exceed £5000 would be payable to WHBC to cover the reasonable and proper administrative costs of monitoring compliance with the obligations.
71. The delivery of up to 100 dwellings in this location will result in an increase in the local population, with subsequent impacts on schools, social infrastructure such as medical facilities, libraries, sports and transport. A number of the other obligations, for example the provision of self or custom build housing as well as the provision for affordable housing weigh in favour of the appeal proposals.
72. I conclude that all of the aspects of the obligations outlined above are necessary to make the development acceptable in planning terms, directly related to the development and fairly and reasonably related in scale and kind to the development. As a result, the obligations therefore comply with Regulation 122 of the CIL Regulations and can be taken into account in the grant of planning permission.
73. The obligation also includes a contribution towards outdoor sports facilities, specifically improving drainage at grass pitches at Welham Green recreation ground and/or towards repairs to the bowls ground in the same location. Welham Green is approximately 3.5km from the appeal site. There is an existing recreational facility next to the appeal site, as well as outdoor sports facilities, albeit within SADC, located locally within Colney Heath. I am not convinced that this contribution would be necessary to make the development acceptable in planning terms or directly related to the development. Accordingly, I do not find this part of the obligation would satisfy the necessary tests.

### **Conditions**

74. A round table session was held at the inquiry to discuss a list of agreed planning conditions. I have considered this list of conditions with reference to the tests as set out at paragraph 55 of the Framework. Where necessary, I have amended the wording of the conditions in the interests of precision and clarity.



75. In the interests of certainty and highways safety, conditions outlining the approved plans, including the access arrangements and their implementation, as well as the visibility splays, are necessary. I have however not included the suggested condition relating to the parameter plan as I do not consider a condition relating to this is necessary or reasonable in this instance. As the proposals are in outline form only, it is however necessary to specify the reserved matters to be submitted for approval and associated time limits for their submission and subsequent implementation. Two highways related conditions are attached. The first relate to submission, approval and implementation of any necessary Traffic Regulations Order (TRO). The second relates to the provision of a safe and suitable pedestrian crossing and footway on Fellowes Lane. Both of these conditions are necessary in the interests of highways safety.
76. A condition requiring an archaeological written scheme of investigation is both necessary and reasonable in order to establish the presence or absence of archaeological remains. Conditions requiring the submission of a scheme relating to surface water drainage and also relating to the arrangements for surface water to be disposed of are necessary and reasonable to ensure the satisfactory storage and disposal of surface water from the site. To address any risk of flooding, a further condition is attached requiring the development to be completed in accordance with the Flood Risk Assessment and Drainage Strategy. In addition, to prevent contamination, conditions have been attached which require full details of any substance containers to be submitted and approved in writing and also specific details of works involving excavation. A condition relating to indoor and outdoor noise levels is both necessary and reasonable to protect the living conditions of future residents. Furthermore, a condition relating to accessible housing is justified in order to ensure the needs of accessible or wheelchair housing are met.
77. The submission of a construction management plan is required by condition 11. This is necessary in the interests of highways safety and also the living conditions of nearby residents. In order to promote sustainable transport a condition relating to the provision of electric vehicle charging points has been included. Conditions covering landscaping details, a landscaping and ecological management plan and requiring a tree protection plan and method statement are necessary to ensure that the appearance of the development is satisfactory, biodiversity impacts of the development are suitably addressed and that where necessary, to ensure that retained trees and hedgerows are protected during the course of construction.

## **Conclusions**

78. The proposals would cause harm by reason of inappropriateness and harm to openness. Both of these attract substantial weight. I have also attached moderate weight to harm to the character and appearance of the area. However, these appeals involves two local authority areas, both of which have acute housing delivery shortages and acute affordable housing need. The proposals would make a contribution towards addressing these needs in the form of market, self build and affordable housing in both WHBC and SADC. I have attached very substantial weight to the provision of both market housing and affordable housing. I have attached substantial weight to the provision of self build housing. These factors, when considered collectively demonstrate that very special circumstances do exist.

79. I conclude that in the case of these appeals, I find that the other considerations in this case clearly outweigh the harm that I have identified. Looking at the case as a whole, very special circumstances do exist to justify inappropriate development in the Green Belt. My findings on the other matters before me do not lead me to a different conclusion. As a result, I therefore conclude that the proposals would comply with both the Framework and the development plans taken as a whole. For the reasons given above, and having considered all other matters raised, the appeals are allowed.

*C Masters*

INSPECTOR

## **APPEARANCES**

### FOR THE LOCAL PLANNING AUTHORITIES:

Matthew Fraser of Counsel                      Instructed by WHBC and SADC

He called:

Phillip Hughes BA(Hons)                      Director of PHD Chartered Town Planners Limited  
MRTPI FRGS Dip Man MCMi

### Other Participants at Round Table Discussions:

David Elmore                                      Senior Development Management Officer, Welwyn  
Hatfield Borough Council

Ruth Ambrose                                      St Albans Borough Council  
MA (Hons) MTP MRTPI

Martin Hicks                                      Hertfordshire Ecology

Martin Wells                                      Hertfordshire County Council Growth and Infrastructure  
Unit

Chris Martin                                      Hertfordshire County Council Children's Services  
(Education)

Lindsay McCauley                              Hertfordshire County Council Highways

Rob Walker                                      Solicitor, Welwyn Hatfield Borough Council

### FOR THE APPELLANT:

Zack Simons of Counsel                      Instructed by Russell Gray of Woods Hardwick

He called:

Andrew Crutchley BA (Hons)                      Director at the Environmental Dimension Partnership  
PG Dip (Oxon) MCIfA

John Freeman                                      Director of Woods Hardwick Ltd  
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Gary Holliday B.A (Hons) MPhil                      Director at FPCR Environment and Design Ltd  
CMLi Ltd

Andrew Moger BA (Hons) MA                      Associate Director at Tetlow King Planning Ltd  
MRTPI

James Stacey BA (Hons) Dip TP                      Senior Director at Tetlow King Planning Ltd  
MRTPI

Russell Gray BA (Hons) DIP UP MRTPI                      Director of Woods Hardwick Planning Ltd

Other Participants at Round Table Discussion

Paul Arnett                                      Town Legal

RULE SIX PARTY:

John Clemow – 4ColneyHeath

INTERESTED PERSONS:

Cllr Peter Cook                                      Colney Heath Parish Council

**DOCUMENTS SUBMITTED DURING INQUIRY**

CD 10.13                                      Appeal Decision, land at Church Lane, Wittington  
CD 7.07                                      Extracts from SADC SHLAA 2009

## **SCHEDULE OF CONDITIONS**

1. Details of the appearance, landscaping, layout, and scale, (hereinafter called, the reserved matters) shall be submitted to and approved in writing by the Local Planning Authority before any development begins and the development shall be carried out as approved.
2. Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.
3. The development hereby permitted shall be carried out in accordance with the following approved plans: drawing no. 17981 1002 (Site Location Plan), drawing no. 18770-FELL-5-500 Rev B (Revised Site Access) and drawing no. 18770-FELL-5-501 Rev A (Proposed Footpath Connection).
4. The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.
5. No development of the site shall commence until:
  - a) A scheme to reduce speeds (to support the access proposals designed to 30mph) on Bullens Green Lane, Colney Heath, is provided to and approved in writing by the Local Planning Authority. Any scheme is required to be designed in line with the requirements of Hertfordshire County Council's (HCC) Speed Management Strategy (SMS); and
  - b) Any necessary Traffic Regulation Order (TRO) is made in respect of part a) to this condition. 'Made' means that the TRO has been approved and can be implemented.

No occupancy of the site can occur until the Traffic Regulation Order referred to above is implemented and brought into force. Evidence of the implemented scheme, in the form of a Certificate of Completion of the Section 278 of the Highways Act 1980, must be submitted to and approved in writing by the local planning authority.
6. No development of the site shall commence until a scheme for the provision of a safe and suitable pedestrian crossing and footway on Fellowes Lane, Colney Heath, in line with drawing number 18770-FELL-5-501 Rev A in principle, is provided and approved in writing by the Local Planning Authority and is designed in line with the requirements as set out in Hertfordshire County Council's Roads in Hertfordshire: Highway Design Guide (3rd edition). No occupation of any part of the development may occur before implementation of the approved scheme referred to in Part 1 of the condition.
7. No works involving excavations (e.g. piling or the implementation of a geothermal open/closed loop system) shall be carried until the following has been submitted to and approved in writing by the Local Planning Authority.
  - a) An Intrusive Ground Investigation to identify the current state of the site and appropriate techniques to avoid displacing any shallow contamination to a greater depth
  - b) A Risk Assessment identifying both the aquifer and the abstraction point(s) as potential receptor(s) of contamination including turbidity.

c) A Method Statement detailing the depth and type of excavations (e.g. piling) to be undertaken including mitigation measures (e.g. turbidity monitoring, appropriate piling design, off site monitoring boreholes etc.) to prevent and/or minimise any potential migration of pollutants including turbidity or existing contaminants such as hydrocarbons to public water supply. Any excavations must be undertaken in accordance with the terms of the approved method statement.

All works shall be carried out in accordance with approved reports listed above.

The applicant or developer shall notify Affinity Water of excavation works 15 days before commencement in order to implement enhanced monitoring at the public water supply abstraction and to plan for potential interruption of service with regards to water supply.

8. Development must not commence until an Archaeological Written Scheme of Investigation has been submitted to and approved in writing by the local planning authority. The scheme shall include an assessment of archaeological significance and research questions; and:
- a) The programme and methodology of site investigation and recording;
  - b) The programme and methodology of site investigation and recording as required by the evaluation;
  - c) The programme for post investigation assessment
  - d) Provision to be made for analysis of the site investigation and recording;
  - e) Provision to be made for publication and dissemination of the analysis and records of the site investigation;
  - f) Provision to be made for archive deposition of the analysis and records of the site investigation;
  - g) Nomination of a competent person or persons/organisation to undertake the works set out within the Archaeological Written Scheme of Investigation.
- The development must not take place other than in accordance with the approved programme of archaeological works set out in the Written Scheme of Investigation.

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority.

An investigation and risk assessment and, where remediation is necessary, a remediation scheme must then be submitted to and approved in writing by the Local Planning Authority and implemented as approved. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works.

The investigation and risk assessment must assess the nature and extent of any contamination on the site, whether or not it originates on the site and must be undertaken by competent persons. A written report of the findings must be produced and the findings must include:

- (i) a survey of the extent, scale and nature of contamination;
- (ii) (ii) an assessment of the potential risks to:
  - human health;
  - property (existing or proposed) including buildings;
  - crops;
  - livestock;
  - pets;

- woodland and service lines and pipes;
- adjoining land;
- groundwaters and surface waters;
- ecological systems;
- archaeological sites and ancient monuments.

(iii) an appraisal of remedial options, and proposal of the preferred option(s).

The investigation and risk assessment must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

#### Remediation Scheme

Following completion of measures identified in the approved remediation scheme, a verification report which demonstrates the effectiveness of the remediation carried out must be submitted to and approved in writing by the local planning authority.

9. Development must not commence until the final design of the drainage scheme is completed and sent to the local planning authority for approval. The surface water drainage system should be based on the submitted the Flood Risk Assessment and Drainage Strategy (prepared by Woods Hardwick, ref: 18770/FRA and DS, dated August 2020). The scheme must also include:
- a) Detailed, updated post-development calculations/modelling in relation to surface water for all rainfall events up to and including the 1 in 100 year return period, this must also include a +40% allowance for climate change;
  - b) A detailed drainage plan including the location and provided volume of all SuDS features, pipe runs and discharge points. If areas are to be designated for informal flooding these should also be shown on a detailed site plan;
  - c) Exceedance flow paths for surface water for events greater than the 1 in 100 year including climate change allowance;
  - d) Detailed engineered drawings of the proposed SuDS features including cross section drawings, their size, volume, depth and any inlet and outlet features including any connecting pipe runs. This should include details regarding the connection into the existing Thames Water surface water sewer;
  - e) The drainage scheme shall also confirm use of an oil/water interceptor; and
  - f) Final detailed management plan to include arrangements for adoption and any other arrangements to secure the operation of the scheme throughout its lifetime.

The scheme shall be fully implemented and subsequently maintained, in accordance with the timing / phasing arrangements embodied within the scheme or within any other period as may subsequently be agreed, in writing, by the local planning authority.

10. Development must not commence until details of all substance containers are submitted to and approved in writing by the local planning authority. These details must include:
- a) Confirmation of bunding of 110% capacity; and
  - b) Confirmation of the presence of a leak detection system and methodology that includes immediate notification to Affinity Water

11. Development must not commence until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. Thereafter the construction of the development must only be carried out in accordance with the approved Plan. The Construction Management Plan must include details of:
- a) Construction vehicle numbers, type, routing;
  - b) Access arrangements to the site;
  - c) Traffic management requirements including arrangements for the PROW across the site during construction;
  - d) Construction and storage compounds (including areas designated for car parking, loading / unloading and turning areas);
  - e) Siting and details of wheel washing facilities;
  - f) Cleaning of site entrances, site tracks and the adjacent public highway;
  - g) Timing of construction activities (including delivery times and removal of waste) and to avoid school pick up/drop off times;
  - h) Provision of sufficient on-site parking prior to commencement of construction activities;
  - i) Post construction restoration/reinstatement of the working areas and temporary access to the public highway; and
  - j) Where works cannot be contained wholly within the site a plan should be submitted showing the site layout on the highway including extent of hoarding, pedestrian routes and remaining road width for vehicle movements.

12. No development above ground level shall take place until a scheme to protect the development from noise due to transport sources is submitted to and approved in writing by the local planning authority. The scheme must ensure that:

The indoor ambient noise levels in living rooms and bedrooms meet the standards within BS 8233:2014. Relaxed noise levels in BS 8233:2014 will not be accepted in living rooms and bedrooms unless it can be demonstrated that good acoustic design practices have been followed and the implementation of acoustic barriers/bunds to lower façade noise levels as much as reasonably practicable, have been implemented. Internal L<sub>max</sub> levels should not exceed 45dB more than ten times a night in bedrooms; If opening windows raises the internal noise levels above those within BS8233, the mechanical ventilation will need to be installed, with ventilation rates required to meet those found within The Noise Insulation Regulations 1975. Alternative methods (such as passive systems) and rates can be considered, however, evidence that overheating will not occur will need to be provided in the form of a SAP assessment conducted with windows closed, curtains/blinds not being used, showing the required ventilation rates to ensure that the medium risk category is not exceeded. Details must be provided of the ventilation system to be installed and to demonstrate that it will provide the ventilation rates shown in the SAP Assessment; and Outdoor amenity areas must meet the 55dB WHO Community Noise Guideline Level

The approved scheme must be implemented prior to first occupation, unless the Local Planning Authority otherwise agrees in writing.



13. No development above ground level shall take place until a scheme setting out the arrangements for the delivery of accessible housing will be supplied to the council in accordance with the following requirements:
- a) A schedule of units, together with appropriate plans and drawings, must be submitted to and be approved by the local planning authority setting out details of the number, layout and location of all units that will comply with Part M4(2) of the Building Regulations 2010. At least 20% of all new dwellings must meet Building Regulations Part M4(2) standards for 'accessible and adaptable dwellings';
  - b) All units specified as M4(2) in the agreed schedule and plans must be implemented in accordance with that approval and in compliance with the corresponding part of the Building Regulations in that regard;
  - c) The person carrying out the building work must inform the Building Control body which requirements apply; and
  - d) Written verification of the completion of all dwellings in accord with part (a) above will be supplied to the local planning authority within 30 days of the practical completion [of the block it forms part of].
14. Prior to the first occupation of the development hereby permitted the vehicular access must be provided and thereafter retained at the position shown on drawing no. 18770-FELL-5-500 Rev B in accordance with the agreed highway specification. Arrangement shall be made for surface water drainage to be intercepted and disposed of separately so that it does not discharge from or onto the highway carriageway.
15. Prior to the first occupation of the development hereby permitted a visibility splay must be provided in full accordance with the details indicated on drawing no. 18770-FELL-5-500 Rev B. The splay shall thereafter be maintained at all times free from any obstruction between 600mm and 2m above the level of the adjacent highway carriageway.
16. Prior to first occupation of the development hereby permitted, a minimum provision of 20% of the car parking spaces must be designated for plug-in Electric Vehicles (EV) and served by EV ready [domestic and/or fast] charging points.
17. The development permitted by this planning permission must be carried out in accordance with the Flood Risk Assessment and Drainage Strategy (prepared by Woods Hardwick, ref: 18770/FRA and DS, dated August 2020) and the following mitigation measures:
- a) Limiting the surface water run-off generated by the critical storm events so that it will not exceed the surface water run-off rate of 9.3 l/s during the 1 in 100 year event plus 40% of climate change event;
  - b) Providing storage to ensure no increase in surface water run-off volumes for all rainfall events up to and including the 1 in 100 year + climate change event providing a total storage volume in two attenuation basins;
  - c) Discharge of surface water from the private drainage network into the Thames Water surface water sewer system located in Bullens Green Lane. The mitigation measures shall be fully implemented prior to first occupation of the development hereby approved.

Surface water must not be disposed of via direct infiltration into the ground via a soakaway.

Notwithstanding the submitted 'Updated Arboricultural Assessment – Version 2 (by FPCR Environment and Design Ltd, July 2020), a detailed tree protection plan and method statement should be submitted as part of application(s) for reserved matters approval as required by Condition 1.

18. Full details of both soft and hard landscape works should be submitted as part of application(s) for reserved matters approval as required by Condition 1. The landscaping details to be submitted shall include:

- a) existing and proposed finished levels and contours
- b) trees and hedgerow to be retained;
- c) planting plans, including specifications of species, sizes, planting centres, number and percentage mix, and details of seeding or turfing;
- d) hard surfacing;
- e) means of enclosure and boundary treatments;
- f) Details of toddler play area including play equipment; and
- g) Any other structures (such as furniture, refuse or other storage units, signs, lighting)

19. A landscape and ecological management plan (LEMP) should be submitted as part of application(s) for reserved matters approval as required by Condition 1 and include:

- a) A description of the objectives;
  - b) Habitat/feature creation measures proposed
  - c) Maintenance of habitat/feature creation measures in the long term and those responsible for delivery;
  - d) Lighting strategy (aim to ensure that illumination of the existing hedgerows does not exceed 0.5 lux); and
  - e) A monitoring programme and the measures required to adapt the LEMP should objectives fail to be met.
- The LEMP should cover all landscape areas within the site, other than small privately owned domestic gardens.