

**REBUTTAL PROOF OF EVIDENCE OF CLIVE SELF
Dip LA CMLI MA (Urb Des)**

LANDSCAPE AND VISUAL

In respect of:

APPLICATION REFERENCE: 25/2022/1988

PINS REFERENCE: APP/B1930/W/23/3323099

SITE ADDRESS AND DESCRIPTION OF DEVELOPMENT:

Land to the rear of 42 -100 Tollgate Road, Colney Heath
*Outline application (access sought) - Demolition of existing house and stables
and the construction of up to 150 dwellings including affordable and self-build
and custom housebuilding dwellings together with all ancillary works.*

1.0 INTRODUCTION

- 1.1 My name is Clive Self. Full details of my qualifications and experience are contained in my main proof of evidence.
- 1.2 This Rebuttal Proof of Evidence has been prepared in response to the evidence of Mr Philip E Hughes, acting on St Albans City and District Council. The Rebuttal only considers Landscape and Green Belt Matters.
- 1.3 This is not intended to be an exhaustive rebuttal and this document only deals with certain points where it is considered appropriate or helpful to respond in writing at this stage. Where a specific point has not been dealt with, this does not mean that these points are accepted and these other points may be addressed further at the Inquiry.

Mr Hughes Evidence; Green Belt

- 1.4 At paragraph 5.50, Mr Hughes refers to the SKM Consultants 2013 Green Belt Study which was commissioned by St Albans City and District Council, together with Welwyn Hatfield District Council and Dacorum Borough Council.
- 1.5 Paragraph 5.51 of his evidence goes on to say that *'the appeal site is located within Parcel 34 which is located to the southwest of Hatfield and the northeast of London Colney, covering an area of 419ha'*.
- 1.6 At paragraph 5.71 Mr Hughes concludes *'that the appeal site closely correlates with the characteristics of Parcel 34 and its functions as part of the Green Belt. I consider it a wholly false exercise to seek to subdivide character areas and separate their contribution toward the purposes as part of the wider parcel, the obvious outcome of such an exercise is that the wider parcel is undermined to the extent that the whole of the parcel is eroded in terms of its contribution'*.
- 1.7 In my evidence I have stated that, given the strategic nature of the 2013 Green Belt Review, I do not consider that its overall conclusion on the function of Parcel GB34, can be applied to smaller parcels of land, such as the Appeal Site.

1.8 Against that background, it is also relevant to refer to the Inspector's decision on the Roundhouse Farm, land off Bullens Green Lane, Colney Heath appeal (CD 14.6).

1.9 Paragraph 24 of the Inspectors decision stated that'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 patten 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 (my emphasis).

1.10 The 2013 Green Belt study was also considered by the Inspectorate in the post hearing letter on the withdrawn Local Plan (Post hearing letter Appendix B). Paragraph 32 of the post hearing letter stated that:

Whilst the Council indicated at the hearings that the 2013 Green Belt Review was not done with any level of development need or target in mind, it was prepared around the time that the Council was working on the previous SLP. At that time housing requirements were 8,720 (or 436 per annum) and so much lower than the current objectively assessed need (OAN) of 14,608 homes over the plan period. However, the Green Belt Review was not re-visited in the context of the much higher scale of unmet need which could only be met by Green Belt release that was subsequently identified in the Plan.

1.11 The Inspector then went on to conclude, at paragraph 45, that:

Overall, although previously recognised as a source of housing to be identified at some stage, smaller sites have been disregarded as part of the plan making process. It is our view that this approach has ruled out an important potential source of housing that may have been found to have a lesser impact on the purposes of the Green Belt than the sites selected without sufficient justification.

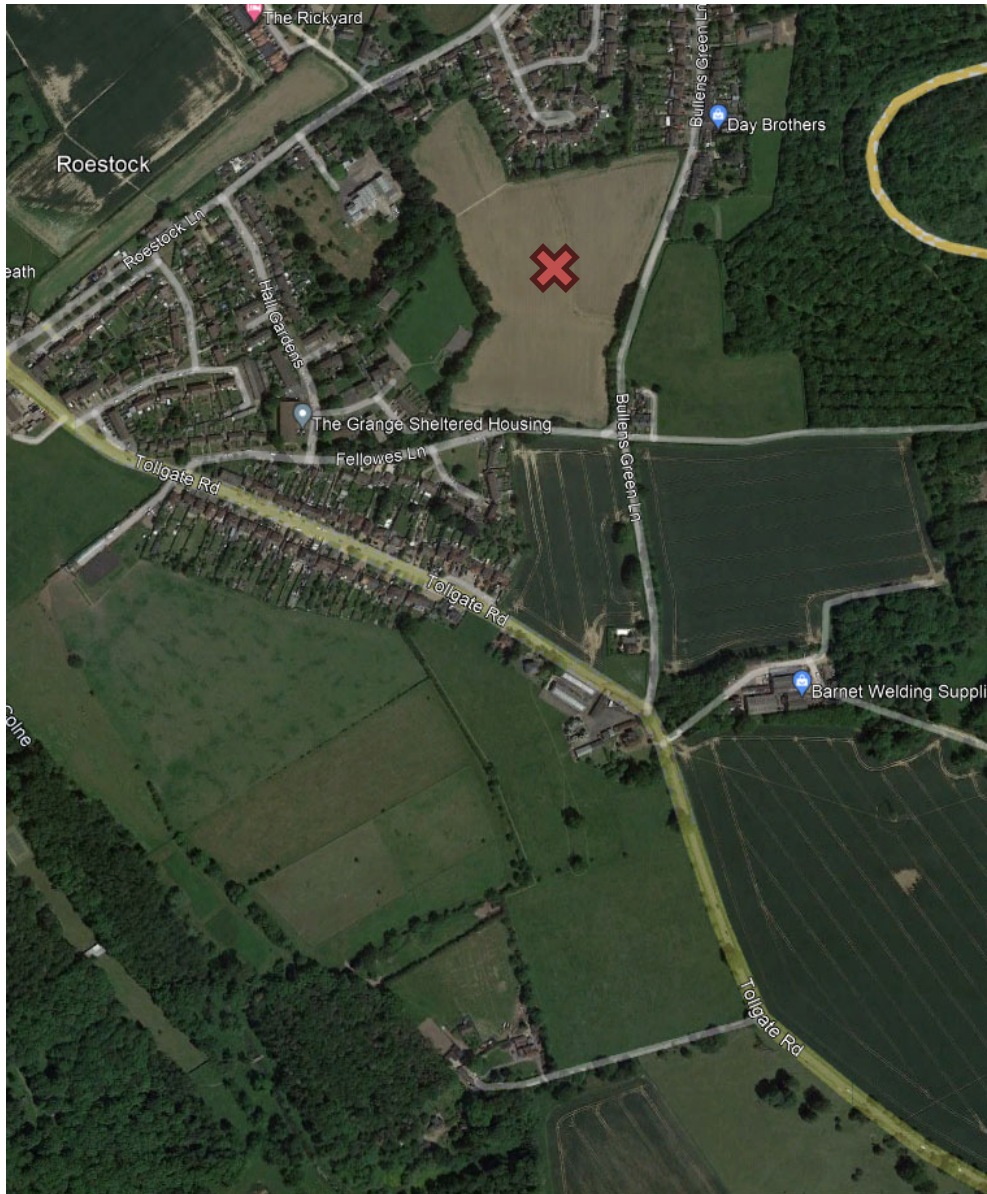
1.12 Clearly, all sites must be looked at on their own merit and for Mr Hughes to rely so heavily on the findings of a study that covered a parcel of 419 ha, I believe, is entirely inappropriate. My conclusion echoes the findings referred to above.

Landscape

1.13 In terms of landscape character, Mr Hughes also refers to the Bullens Green Lane Appeal decision and at paragraph 5.74 states:

'I agree that the context of that appeal site and Tollgate Road are markedly different, and my view is that Tollgate Road comprises a more rural aspect than the Bullens Green site. In particular the position to the south of Tollgate Road resonates with that Inspector's clear sense of countryside with open fields and I agree with her findings that: "The very clear sense of countryside is only evident when you travel beyond the appeal site south along Tollgate Road (my emphasis). 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.'

1.14 An extract of the aerial photograph showing the alignment of Tollgate Road is shown below with the Bullens Green Site marked by the red cross.



- 1.15 When travelling from the above mentioned site, the point at which Bullens Green Lane joins Tollgate Road is approximately 200 metres to the east of the Appeal Site. At this point the alignment of Tollgate Road changes from northwest/southeast, to a southerly alignment. As one heads southwards from this point, the road user passes through open farmland which occurs on both sides of the road.
- 1.16 The tranche of open farmland which runs alongside the western edge of this southerly section of Tollgate Road, separates the road from the Appeal Site and in any event there will be very little, or no, intervisibility with the Appeal Site.
- 1.17 One therefore cannot equate the experience of 'travelling south' on Tollgate Road to that of passing the Appeal Site, or leading up to it, on

Tollgate Road from the east. With the Appeal Scheme in place, there would be no material change to the experience of travelling south on Tollgate Road nor the relationship of that road to the neighbouring countryside.

- 1.18 On the approach to the Appeal Site on Tollgate Road from the east, one experiences intermittent commercial and residential development alongside the road. This contrasts with the rural section of Tollgate Road which follows a southerly orientation, which I believe the Inspector was referring to.

Character of the Appeal Site

- 1.19 At para 5.73 of his evidence, Mr Hughes draws a distinction between the character of the Appeal Site and that of the Bullens Green Lane site. He quotes from the Inspector's decision on the Bullens Green Lane site, which says;

"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...."

- 1.20 At paragraph 5.74, Mr Hughes goes to say that '*I agree that the context of that appeal site and Tollgate Road are markedly different, and my view is that Tollgate Road comprises a more rural aspect than the Bullens Green site*'.

- 1.21 I have already provided my own description of the character of the Appeal Site and the influence neighbouring development and equestrian activity has on it. I therefore will not be comparing the two sites. It is however, worth noting, that Mr Hughes provided evidence, at the Bullen's Green Lane appeal, on behalf of St Albans City and District Council (see Appendix A).

1.22 In 5.74 of his evidence, for the Bullens Green Lane appeal, Mr Hughes referred to an aerial photograph of the site and stated:

'The image below illustrates the relationship of the site to built development and in my estimation only 30% of the boundary of the development parcel of the appeal site will have a relationship with built development the remaining 70% will be more closely related to open land and the east, west and south boundaries relate predominately and overwhelmingly to open land' (my emphasis).

1.23 At paragraph 5.76 he goes on to say that *'the experience of travelling across the appeal site via the public rights of way is one of a rural experience crossing arable fields in the countryside with some fringe residential development that does not detract from the rural experience' (my underlining).*

1.24 Given the above descriptions of the Bullens Green Lane site by Hughes, and the fact that in his opinion, the fringe residential development did not detract from the rural experience, it is difficult to see why he now considers that the Bullens Green Lane site has an urban edge/ edge of settlement character.

APPENDIX A

Mr Hughes Evidence in respect of the Bullens Green Lane, Appeal

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Phillip Eric Hughes will say:

I am a director of PHD Chartered Town Planners Limited, a town planning consultancy that I established in 1995. I had also worked at a senior level in local government for 10 years in both Planning Policy and Development Control.

I have a Bachelor of Arts Honours Degree (BA [Hons]) in Town and Country Planning and have been a corporate member of the Royal Town Planning Institute (MRTPI) since 1990 and I am a Fellow of the Royal Geographical Society (FRGS). I also have a Diploma in Management Science (Dip Man) and I am a Member of the Institute of Management (MCMI). I am also a member of the Town and Country Planning Association and an affiliate member of the RIBA.

I have represented a wide variety of clients at appeals ranging from Local Planning Authorities (including LB Camden, RB Kingston, Spelthorne, Hertsmere, Watford and Walsall Boroughs and Central Bedfordshire, Uttlesford, Epping Forest and Bassetlaw Districts), Parish Councils including Bovingdon, Hartlip, Loddington and Tetsworth to housebuilders (New Homes Estates Limited, MASMA Limited, Whittleworth Homes, Fusion Residential, Henry Homes plc. etc.), developers (MS Oaklands Ltd, Lanz Group, Mitre Property Management Limited, Mark Stephen Limited etc.), property companies (Acre LLP, Orb Estates, Property Matters LLP, Property Matters LLC, Albermarle Property Investments plc.), businesses (Super Toughened Glass Limited, Williams Tenders Limited, JIRWL, Hollywell Spring Limited), amenity groups (Anglefield Residents Association, Stopit Action Group, Paynes Lane Association, Hemley Hill Action Group, Birch Green Residents Group, Bury Gate Residents Association) and individual householders.

I have visited the appeal site and general locality on a number of occasions and I am familiar with the policies applicable to the site. I am familiar with the local, national and regional planning policies relevant to this appeal.

The evidence that I have prepared and provide for this appeal has been prepared and is given in accordance with the guidance of the Royal Town Planning Institute and I confirm that the opinions expressed are my true and professional opinions.

1 Introduction

1.1 The proposal is for residential development of up to 100 dwellings on a site in the Green Belt ('the appeal site'). The appeal site is bisected by the district boundary between Welwyn Hatfield Borough Council ('WHBC') and St Albans City and District Council ('SADC'). This appeal relates to an outline planning application ('the application') which was refused planning permission on 2 December 2020 by WHBC and was subject to a resolution that, had they been in a position to do so, SADC would have refused planning permission (as per their Officer Report). A public inquiry into the appeal is scheduled to open on 27 April 2021.

1.2 All matters, excluding access, are reserved for future consideration.

1.3 Permission was refused by WHBC for the following eight reasons:

1. *The location of the development is unsuitable for the proposed development as it would fail to provide satisfactory access to services and facilities by means other than the private motor car and fail to demonstrate that the capacity of existing and potential infrastructure would absorb a development of this scale. Consequently, the proposal would conflict with Policies SD1, GBSP2, H2 and R1 of the Welwyn Hatfield District Plan 2005; Policy SADM1 of the Welwyn Hatfield Borough Council Draft Local Plan Proposed Submission August 2016; and the National Planning Policy Framework.*
2. *The proposal would represent inappropriate development in the Green Belt. It would also result in a material loss of Green Belt openness and conflict with two purposes of including land in the Green Belt as it would fail to assist the countryside from encroachment and fail to assist in urban regeneration, by encouraging the recycling of derelict and other urban land. Very special circumstances do not exist to clearly outweigh this harm. Consequently, the proposal would conflict with Policy SADM34 of the Welwyn Hatfield Borough Council Draft Local Plan Proposed Submission August 2016 and the National Planning Policy Framework.*
3. *The application has failed to demonstrate that the proposal would not result in an unacceptable impact on highway safety and the residual cumulative impacts on the road network would not be severe. In addition, the application has failed to demonstrate that it would allow for the efficient delivery of goods, and access by service and emergency vehicles. The proposal also fails to demonstrate that priority is given first to pedestrian movements and that access to public transport is appropriately facilitated. Consequently, the proposed development would conflict with Policies M1, M5 and M9 of the Welwyn Hatfield District Plan 2005; Policies SP4, SADM2 and SADM12 of the Welwyn Hatfield Borough Council Draft Local Plan Proposed Submission August 2016; and the National Planning Policy Framework.*
4. *The proposed development would severely detract from the character of the site and its area. It would urbanise the site and the character of the area, be a visually intrusive development within open countryside and fail to converse local landscape character. Consequently, the proposal would conflict with Policies D1, D2, RA10 and RA11 of the Welwyn Hatfield District Plan 2005; Supplementary Design Guidance 2005; Policy SP9 of the Welwyn Hatfield Borough Council Draft Local Plan Proposed Submission August 2016; and the National Planning Policy Framework.*

5. *The development would cause 'less than substantial' harm to the significance of a Grade II listed building adjoining the site (68 Roestock Lane) and the public benefits of the proposal would not outweigh this harm. The proposal would represent a poor standard of design in conflict with Policy D1 of the Welwyn Hatfield District Plan 2005, Policy SADM15 of the Welwyn Hatfield Borough Council Draft Local Plan Proposed Submission August 2016, the National Planning Policy Framework and the Planning (Listed Buildings and Conservation Areas) Act 1990.*
6. *Insufficient information has been submitted to enable the local planning authority to assess the impacts of the development on biodiversity. As such, it cannot be reasonably concluded that the proposal would not harm biodiversity. Furthermore, net gains for biodiversity would not be achieved. The proposal would therefore conflict with Policy R11 of the Welwyn Hatfield District Plan 2005, Policy SADM16 of the Welwyn Hatfield Borough Council Draft Local Plan Proposed Submission August 2016 and the National Planning Policy Framework.*
7. *Insufficient information has been submitted to determine whether remains of archaeological importance are likely to be present at the site. An informed decision in terms impact of the proposal on the historic environment cannot be made and, consequently, the proposal would fail to accord with Policy R29 of the Welwyn Hatfield District Plan, Policy SADM15 of the Welwyn Hatfield Borough Council Draft Local Plan Proposed Submission August 2016 and the National Planning Policy Framework.*
8. *The applicant has failed to satisfy the sustainability aims of the plan and to secure the proper planning of the area by failing to ensure that the development proposed would provide a sustainable form of development in mitigating the impact on local infrastructure and services which directly relate to the proposal and which is necessary for the grant of planning permission. The applicant has failed to provide a planning obligation under Section 106 of the Town and Country Planning Act 1990 (as amended). The Local Planning Authority considers that it would be inappropriate to secure the required financial contributions by any method other than a legal agreement and the proposal is therefore contrary to Policies IM2, H2 and H7 of the Welwyn Hatfield District Plan 2005; Policies SADM1, SP7 and SP13 of the Welwyn Hatfield Borough Council Draft Local Plan Proposed Submission August 2016; and the National Planning Policy Framework.*

1.4 The putative reasons for refusal of SADC are outlined in the Officer Report and set out below:

1. *The proposed development represents inappropriate development in the Green Belt. It would result in significant harm to and a material loss of openness in this location and represent significant encroachment into the countryside. Very special circumstances have not been demonstrated to outweigh the in principle harm and other harm identified. The proposal is therefore contrary to Policy 1 of the St Albans Local Plan Review 1994 and the NPPF 2019.*

2. *The proposed development is in an unsuitable and unsustainable location. It would comprise a significant number of dwellings in an isolated location with very limited public transport links and limited existing amenities and infrastructure, the future residents would be car-dependent. This is contrary to the aims of Policy 2 of the St Albans Local Plan 1994, and the relevant provisions of the NPPF.*
3. *It has not been demonstrated that an acceptable form of development could be achieved on the site. The proposed development would severely detract from the character of the site and the local area, and impact negatively on landscape character, contrary to Policies 69, 70 and 74 of the St Albans Local Plan Review 1994 and the NPPF. The development would detract from the character and setting of Colney Heath as a Green Belt Settlement, contrary to Policy 2 of the St Albans Local Plan 1994.*
4. *Insufficient information is provided to demonstrate that the impacts of development shall not have a severe impact on the wider operation of the network. Insufficient information is provided to demonstrate that necessary changes to local speed limits are achievable. Visibility from the access, without speed limit changes is insufficient. The proposed access shall be prejudicial to the safety of users of the highway contrary to Policy 34 of the St Albans Local Plan 1994 and the NPPF 2019.*
5. *The development would cause 'less than substantial' harm to the significance and setting of a Grade II listed building adjoining the site (68 Roestock Lane) and the public benefits of the proposal would not outweigh this harm, contrary to Policy 86 of the St Albans Local Plan Review 1994 and the National Planning Policy Framework 2019.*
6. *Insufficient information has been submitted to enable the local planning authority to assess the impacts of the development on biodiversity. As such, it cannot be reasonably concluded that the proposal would not harm biodiversity. Furthermore, net gains for biodiversity would not be achieved. The proposal would therefore be contrary to Policy 106 of the St Albans Local Plan Review 1994 and the relevant provisions of the NPPF 2019.*
7. *Insufficient information has been submitted to determine whether remains of archaeological importance are likely to be present at the site. An informed decision in terms of the impact of the proposal on the historic environment cannot be made and, consequently, the proposal would be contrary to Policy 111 of the St Albans Local Plan Review and the National Planning Policy Framework 2019.*
8. *In the absence of a completed and signed S106 legal agreement or other suitable mechanism to secure the provision of: Fire Hydrants, Open Space, Play Spaces, Community Facilities, Sports and Recreation, Travel Plan, Highway Works, Primary Education, Secondary Education, Health, and Affordable Housing; the infrastructure needs of the development would not be met and the impacts of the proposal would not be sufficiently mitigated. The proposal is therefore contrary to the National Planning Policy Framework 2019, and Policies 7A and 143B (Implementation) of the St. Albans District Local Plan Review 1994 and the Council's Affordable Housing Supplementary Planning Guidance.*

- 1.5 A copy of the Officer Report for WHBC is attached at CD4.03 and a copy of the WHBC decision notice is attached at CD4.01. The Officer Report of SADC is attached at CD4.02 and both reports comprise part of the Councils' case and should be read in conjunction with my proof.
- 1.6 This is an outline application with only access to be considered at this stage. The application plans include a parameters and schematic plan, however this does not and cannot set the layout, scale or appearance of the proposed development as these matters remain reserved. The Appellant relies on the illustrative proposed site layout plan¹ and I consider it helpful to proceed with reference to this plan as a reasonable indication of the Appellant's position on the scale and impact of development of up to 100 dwellings. However, this plan is not an application plan.
- 1.7 If the Appellant is requesting that the parameters plan is a material consideration it would have to be the subject of a suitably worded condition to guide the reserved matters submissions.
- 1.8 Common Ground between the parties confirms that work by the Appellant subsequent to the decisions and discussions between the parties has resulted in the biodiversity reason for refusal (WHBC and SADC RfR 6) being overcome by way of provisions within the planning obligation to mitigate on site losses. Therefore, I do not invite The Inspector to dismiss this appeal on such grounds.
- 1.9 It is also common ground, as indicated in the Councils Statement of Case, that further information submitted by the Appellant has addressed archaeology concerns (WHBC and SADC RfR 7) and I consider that such matters can now be overcome by the imposition of a pre commencement condition.
- 1.10 Discussions have been ongoing between the parties in respect of highway matters and subject to agreement on the form of Grampian style conditions I expect that the Councils will be in a position to agree that the appeal should not be dismissed on highway safety grounds (as distinct from locational considerations).

¹ Plan Reference 17891/1005 at CD1.07

2 Site and Surroundings

- 2.1 The appeal site comprises land extending to a total of 5.25 hectares. It is located between the Green Belt settlements of Roestock/Colney Heath to the south west and west and Bullens Green to the north.
- 2.2 Roestock/Colney Heath is situated entirely within the administrative area of SADC whilst Bullens Green is split between both Council areas.
- 2.3 The appeal site is split almost equally east to west between SADC to the west and WHBC to the east as illustrated on application plan 17981-1003.



Image 1: The Appeal Site Base Image © Google Earth

- 2.4 The appeal site has a 300 metre frontage onto the eastern side of Bullens Green Lane and a 120 metre frontage to the northern side of Fellows Lane. The remaining southern boundary backs onto the rear boundaries of 5 residential properties that front Fellows Lane. 215 metres of the west boundary is to the existing open land at Roestock Park. The northern boundary to the appeal site comprises the side boundary to 50 Bullens Green Lane, rear garden boundaries of properties fronting Roestock Gardens and Roestock Lane.
- 2.5 The boundaries of the appeal site are delineated by hedge and tree planting. The planting is 'gappy' in places and views into the site are available from Bullens Green lane, Fellows lane and Roestock Park.

- 2.6 The site is located within the Metropolitan Green Belt.
- 2.7 The site is currently open and in agricultural use.
- 2.8 Beyond the site to the east lies open countryside and predominately to the south the appeal site borders with open countryside.
- 2.9 To the west the appeal site borders open land in the form of Roestock Park and the site of the Roestock Depot/Pumping Station, which remains in use.
- 2.10 The appeal site is open and its boundaries albeit demarked by landscaping comprising trees, hedgerow and understorey growth provide a degree of permeability and views into and out of the site. The topography of the site and immediate area is generally level. Bullens Green Lane and Fellows Lane as they border the appeal site comprise narrow country lanes.
- 2.11 Public Rights of Way cross open agricultural fields comprising the appeal site. Footpath 23 runs north south from Roestock Lane to the Roestock Park and beyond to Admirals Close and Hall Gardens. Footpath Colney Heath 48 joins Footpath 23 and runs east to link to Bullens Green Lane where it crosses the boundary between the two council areas and becomes North Mymms Footpath 67. It then connects with the permissive footpath network through Bullens Green Wood.
- 2.12 Adjacent to the north west boundary of the site is 68 Roestock Lane a former pair of agricultural workers cottages and a Grade 2 building of special architectural and historic interest included on the National Heritage List for England (a “listed building”).
- 2.13 The appeal site is situated in a prominent location between St Albans and Hatfield and outside the Green Belt scattered settlement of Colney Heath (which incorporates Roestock and Bullens Green), accessed from a narrow country lane. The appeal site comprises a prominent site at the crossroad junction of country lanes.
- 2.14 The site and area lies within National Character Area 111: Northern Thames Basin and Hertfordshire Landscape Character Area (‘LCA’) 29: Mimmshall Valley, which features organic field patterns, woodland blocks and mixed farmland as key characteristics. The overall guidelines for managing change in the Mimmshall Valley LCA are ‘Improve and conserve’.
- 2.15 The appeal site is detached from any non-Green Belt settlement and falls in the open green space between St Albans and Hatfield. The extract from the Proposals Maps below and the aerial photograph will show the location of the appeal site within the open Green Belt between settlements.



Image 2: Extract of the Composite St Albans and Welwyn Hatfield Proposals Maps

- 2.16 I have provided a composite Proposals Map image above to show the appeal site in the context of both Proposals Maps; this is intended for illustrative purposes only and is not to be relied upon as a definitive representation.
- 2.17 Public Footpaths 23 and 48 are part of a wider network of public rights of way that cross this area of countryside linking to St Albans, Hatfield and neighbouring Green Belt settlements. These public rights of way are shown on the extract plan below:

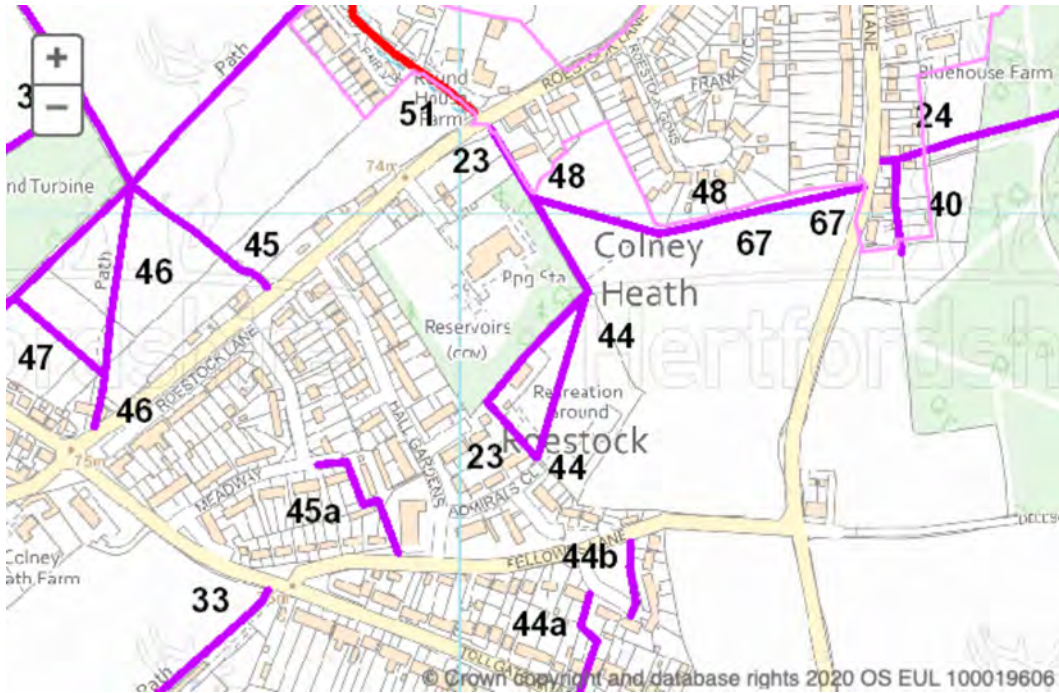


Image 3: Public Rights of Way

- 2.18 In addition, Bullens Green Wood is located to the east of the appeal site and Bullens Green Lane and within it are a network of permissive footpaths that link with footpath 24 and the permissive route along Dellsome Lane.
- 2.19 I will describe the viewpoints from which the site can be seen and describe these views contrasting the existing open agricultural appearance with the site developed for up to 100 dwellings in section 5 of my evidence.
- 2.20 The appeal site falls within the northern part of the Watling Chase Community Forest area which separates Hatfield and St Albans.

3 The Applications and Planning History

- 3.1 Outline planning permission is sought for the development of the land for up to 100 dwellings with internal access roads, car parking and other related development. All matters are reserved, save for access. Access is proposed from Bullens Green Lane. Bullens Green Lane in the area of the proposed access comprises a narrow country lane.
- 3.2 Given the site area is split between St Albans and Welwyn Hatfield Council areas the Appellant submitted applications to both Councils. The site is located entirely within Hertfordshire.
- 3.3 An illustrative layout plan has been produced to show how the site may be laid out should permission be granted and to illustrate the impact of a development of this scale and character. An illustrative landscape masterplan also accompanied the application.



Image 4: The Illustrative Proposed Site Plan

- 3.4 Consistent with the Officers Reports, I describe the proposals and comment on the illustrative layout and the likely impacts of a development of this scale and number of dwellings, and will contrast the proposal with the existing open condition of the appeal site at section 5 of my evidence.

- 3.5 In 1973 a cross boundary application for the development of the appeal site for 141 dwellings was refused planning permission under reference P.642-73 (Hatfield Rural) and D6776 (St Albans). The reasons for refusal identified the inappropriate nature of the proposed development in the Green Belt as well as the strain that would be placed on education facilities to accommodate children from the appeal site. Those decisions were the subject of an appeal heard at Inquiry and the Secretary of State issued his decision on 27 October 1975 (CD10.02).
- 3.6 In that decision the Inspector and Secretary of State found that the appeal site performed a valuable role in preventing the merging of parts of Colney Heath, that the tranquility of the area would be prejudiced by the development that would be a major intrusion into the rural landscape and that it would place a strain on local services. The Secretary of State rejected the proposition that the development of the appeal site would amount to rounding off of the settlement or that this part of the Green Belt did not perform a valuable role.
- 3.7 An earlier decision in 1955 (CD10.01) took note of the Green Belt designation of the appeal site and considered it:

“[...] of the utmost importance to keep free from new development”

and

“[...] cannot accept the contention made in support of the appeal that the proposal would do not more than ‘round off’ the existing development. It would substantially extend the settlement and he agrees with the Council that it would reduce the effectiveness both of Metropolitan Green Belt and the local belt.”

- 3.8 I also note the 2016 appeal decision on neighbouring land known as Roestock Depot². In that decision the Inspector found that much of the site was previously developed land but the proposals would lead to a greater loss of openness than existing development and did not amount to infilling:

“Given the sites location in a gap between to distinctly separate built-up areas (Bullen’s Green and Roestock) and the scale of the proposed development, which would not be flanked by existing built form on both sides for much of its depth, I do not consider that the development could be appropriately described as limited infilling in a village. This is notwithstanding the presence of houses either side of the site along the road frontage.”

- 3.9 Having concluded that the proposed development would have a greater impact on openness than the existing buildings the Inspector concluded:

² APP/B1930/W/15/3137409 at CD10.21

"[...] Therefore, the development would be at odds with the Green Belts essential characteristics, openness and permanence. Furthermore, it would be in conflict with its defined purposes, specifically to assist in safeguarding the countryside from encroachment."

- 3.10 Since the refusals of the applications the subject of these appeals the Appellant has submitted additional information to attempt to address reasons for refusal. In particular a revised parameters plan has been submitted showing a new point of pedestrian access to Fellowes Lane. I include an extract of that plan below:



Image 5: The Revised Illustrative Proposed Site Plan

- 3.11 Access is not a reserved matter and neither Council determined the applications the subject of these appeals on the basis of the above plan, therefore the Inspector will have to be satisfied that as decision maker the introduction of this revised plan will not prejudice the interests of other parties.

3.12 The Transport Assessment Addendum³ includes details of the proposed new pedestrian access which includes 2 metre wider footpaths, tactile paving crossing points and visibility spays of 2.0 x 43 metres. The crossing point is located outside the 30mph speed limit and therefore this part of the road is subject to the national speed limit.

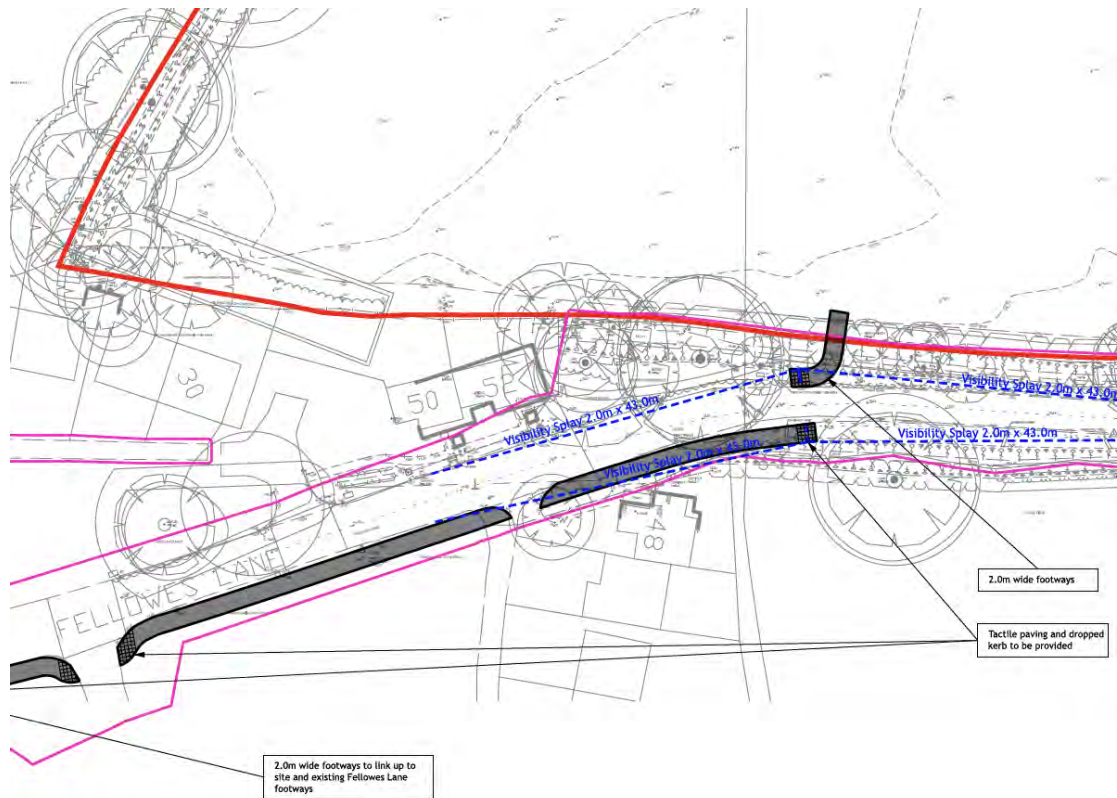


Image 6: Revised Proposed Footpath Access

³ Appendix H of the Transport Assessment Addendum – Woods Hardwick – November 2020 at CD2.06

4 Planning Policy

- 4.1 I will first consider the development plan for each Council area before looking at the Framework and then the emerging plan position in both Council areas before concluding in respect of housing land supply.

The development plan

- 4.2 The development plans for the respective areas of the appeal site comprise the St Albans District Local Plan 1994 (SADLP) and the Welwyn Hatfield District Plan 2005 (WHDLP).
- 4.3 The following saved policies of the SADLP (CD5.02) are relevant to consideration of the application the subject of this appeal. Those highlighted bold are those referred to in the putative reasons for refusal. Note: Policy 8 was erroneously referred to in the reason for refusal instead of Policy 7a.

- POLICY 1 - Metropolitan Green Belt**
- POLICY 2 - Settlement Strategy**
- POLICY 5 - New Housing Development in Specified Settlements
- POLICY 7a - Affordable Housing in Towns and Specified Settlements**
- POLICY 34 - Highways Considerations in Development Control**
- POLICY 35 - Highways Improvements in Association with Development
- POLICY 39 - Parking Standards, General Requirements
- POLICY 40 - Residential Development Parking Standards
- POLICY 69 - General Design and Layout**
- POLICY 70 - Design and Layout of New Housing**
- POLICY 74 - Landscaping and Tree Preservation**
- POLICY 84a - Drainage Infrastructure
- POLICY 86 - Buildings of Special Architectural or Historic Interest**
- POLICY 97 - Existing Footpaths, Bridleways and Cycleways
- POLICY 102 - Loss of Agricultural Land
- POLICY 104 - Landscape Conservation
- POLICY 106 - Nature Conservation**
- POLICY 111 – Archaeological Sites**
- POLICY 143a - Watling Chase Community Forest
- POLICY 143b - Implementation**

- 4.4 I am mindful of the conclusions of Inspectors in respect of the consistency of SADLP policies with the Framework, including those of Inspector Boniface in respect of Roestock Deport (CD10.21), wherein he concludes in respect of Policy 2:

“Policies 1 and 2 of the LP restrict development in the Green Belt other than for specified purposes. This general approach to Green Belt protection is consistent with that of the National Planning Policy Framework (the Framework) but I note that greater scope for exceptions are set out at paragraph 89 of the Framework and this is an important material consideration.”

4.5 Given the agreement reached on ecology and offsetting losses from site elsewhere off site, subject to the completion of a satisfactory planning obligation, I no longer consider Policy 106 to be a most important policy. I conclude likewise in respect of Policy 111 and Archaeology, subject to the imposition of a suitably worded condition. Subject to the completion of a satisfactory planning obligation securing the provision of affordable housing and necessary infrastructure I consider the most important policies to be:

POLICY 1 - Metropolitan Green Belt
POLICY 2 - Settlement Strategy
POLICY 69 - General Design and Layout
POLICY 70 - Design and Layout of New Housing
POLICY 86 - Buildings of Special Architectural or Historic Interest
POLICY 143b - Implementation

4.6 In addition, SADC has adopted relevant supplementary planning documents including:

- Revised Parking Policies and Standards, January 2002
- Design Advice Leaflet No. 1: Design and Layout of New Housing, November 1998
- Affordable Housing March 2004

4.7 The following saved policies of the WHDLP (CD5.01) are relevant to consideration of the application the subject of this appeal. Those highlighted bold are those referred to in the reasons for refusal.

SD1 - Sustainable Development
R1 - Maximising the use of previously developed land
R2 - Contaminated Land
R5 - Waste management
R7 - Protection of Ground and Surface Water
R9 - Water Supply and Disposal
R11 - Biodiversity and Development
R17 - Trees, Woodland and Hedgerows
R18 - Air Quality
R19 - Noise and Vibration Pollution
R29 - Archaeology
M1 - Integrating Transport and Land Use
M2 - Transport Assessments
M3 - Green Travel Plans
M4 - Developer Contributions
M5 - Pedestrian Facilities
M6 - Cycle Routes and Facilities
M9 - Bus and Taxi Facilities
IM2 - Planning Obligations

H2 - Location of Windfall Residential Development

H6 - Densities

H7 - Affordable Housing

D1 - Quality of Design

D2 - Character and Context

OS3 - Play Space and Open Space Provision in New Residential Development

RA10 - Landscape Regions and Character Areas

RA11 - Watling Chase Community Forest

RA15 - Agricultural Land

RA25 - Public Rights of Way

GBSP1 - Definition of the Green Belt

GBSP2 - Towns and Specified settlements

- 4.8 Given the agreement reached on ecology and offsetting losses from site elsewhere off site, subject to the completion of a satisfactory planning obligation, I no longer consider Policy R11 to be a most important policy. I conclude likewise in respect of Policy R29 and Archaeology, subject to the imposition of a suitably worded condition. Subject to the completion of a satisfactory planning obligation securing the provision of affordable housing and necessary infrastructure I consider the most important policies to be:

SD1 - Sustainable Development

M1 - Integrating Transport and Land Use

H2 - Location of Windfall Residential Development

D1 - Quality of Design

D2 - Character and Context

RA10 - Landscape Regions and Character Areas

RA11 - Watling Chase Community Forest

GBSP2 - Towns and Specified settlements

- 4.9 The Planning Obligations Supplementary Planning Document 2012 is also a material consideration as is the Welwyn Hatfield District Plan Supplementary Design Guidance - February 2005.

National Planning Policy Framework

- 4.10 The Framework sets out the Government's economic, environmental and social planning policies for England. These policies articulate the Government's vision of sustainable development, which should be interpreted and applied locally to meet local aspirations. In terms of the most relevant sections for this appeal, Section 9 promotes Sustainable Transport and Section 13 relates to Protection of the Green Belt. Section 2 includes the presumption in favour of Sustainable Development. Section 5 relates to the delivery of a sufficient supply of homes. Section 12 relates to achieving well-designed places, Section 15 relates to conserving and enhancing the Natural Environment and Section 16 relates to conserving and enhancing the Historic Environment.

4.11 Paragraph 11 sets out the approach to the presumption in favour of sustainable development. Paragraph 11d advises that the presumption means, for decision-making:

“where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date⁷, granting permission unless:

- i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed⁶; or*
- ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.”*

4.12 Footnote 7 states that in the situation where a Local Planning Authority is unable to demonstrate a five year supply of deliverable housing land then the policies which are most important for determining the application are deemed to be out of date. Footnote 6 provides (so far as relevant):

“The policies referred to are those in this Framework (rather than those in development plans) relating to: [...] land designated as Green Belt [...]; designated heritage assets (and other heritage assets of archaeological interest referred to in footnote 63); [...]”

4.13 As such, when considering planning decisions relating to land in the Green Belt it is necessary to first determine whether the application of the Green Belt policies and/or the Heritage policies in the Framework provide a clear reason for refusal under paragraph 11(d)(i). If they do, the application is not assessed against the tilted balance in paragraph 11(d)(ii) of the Framework.

4.14 Paragraph 145 of the Framework provides that “the construction of new buildings” is “inappropriate development” in the Green Belt, unless one of the stated exceptions applies. The proposal for up to 100 dwellings and access roads and other development to facilitate the proposed housing comprise inappropriate development. The development does not fall within the exceptions.

4.15 The Framework advises that inappropriate development is, by definition, harmful to the Green Belt should not be approved except in very special circumstances (paragraph 143). Paragraph 144 states:

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

- 4.16 It is common ground that less than substantial harm arises to the setting of a listed building. In those circumstances NPPF para. 196 requires a decision maker to weigh any harm to a designated heritage asset against the public benefits of the proposal.
- 4.17 The NPPF requires transport issues to be considered at the very earliest stage of development proposals, noting that significant development should be focussed on locations that are or can be made sustainable through limiting the need to travel and offering genuine choice (para. 103) whilst recognising that the opportunities may vary between urban and rural areas. Para. 108 requires applications for new development to ensure that:
- a) *appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location;*
 - b) *safe and suitable access to the site can be achieved for all users; and*
 - c) *any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.*
- 4.18 Having then acknowledged that development should only be prevented on highway safety grounds or where the residual cumulative impacts would be severe, the NPPF states at 110 that applications should inter alia:
- a) *give priority first to pedestrian and cycle movements, both within the scheme and with neighbouring areas; and second – so far as possible – to facilitating access to high quality public transport, with layouts that maximise the catchment area for bus or other public transport services, and appropriate facilities that encourage public transport use;*
- 4.19 The appeal site comprises land outside any designated settlement and thus comprises part of the countryside. Although not a “footnote 6 policy”, paragraph 170(b) of the Framework directs that decisions on planning applications should contribute to and enhance the natural and local environment by:
- “recognising the intrinsic character and beauty of the countryside ...”*
- 4.20 The *Cawrey*⁴ judgment accepts that the recognition of the intrinsic character and beauty and character of the countryside imparts a degree of protection to those matters.
- 4.21 The Framework seeks to achieve well designed places and as set out at paragraph 127(f) seeks to provide high standards of amenity for existing and future users and being sympathetic to context including landscape setting (127(c)).

⁴ i.e. paragraph 49 of **Cawrey Ltd and SoSCLG and Hinkley and Bosworth BC** [2016] EWHC 1198 (Admin) CD12.12

- 4.22 Paragraph 165 requires major development to incorporate sustainable urban drainage systems. Section 15 requires the protection and enhancement of biodiversity (174) and the refusal of schemes that lead to harm to biodiversity (175).

The Emerging Welwyn Local Plan

- 4.23 The Welwyn Hatfield Borough Council Draft Local Plan Proposed Submission 2016 - 2036 (August 2016) (“the eWHLP” or “emerging Local Plan”) (CD6.01) has been subject to examination with the main hearing sessions completed in 2019 and the hearing sessions relating to the allocation of sites in villages completed in August 2020. The Inspector published his interim report in October 2020 in respect of the earlier sessions.
- 4.24 Stage 9 hearing sessions were held during February and March 2021. Sessions were held on the Borough’s Full Objectively Assessed Housing Need (FOAN), treatment of Green Belt boundaries at allocated sites, and Local Plan Windfall Allowance. Hearing sessions were also held on further housing sites submitted to the Examination by the Council in November 2020. The Inspector also examined sites that passed the Council’s site selection process in 2019, but were subsequently rejected by the Council.
- 4.25 Following the conclusion of the Stage 9 hearing sessions the Inspector confirmed he is to write a series of reports as to his findings on the reassessment of housing need, the windfall allowance, Green Belt boundaries at proposed development sites and the sites that that were examined. The Inspector is to also write soundness assessments, similar to those provided in the interim report, for those sites that have recently been formally submitted to the Examination and were the subject of some of the hearings. The Inspector is to also conclude on those sites that were submitted at the Regulation 19 stage that he has not previously been able to conclude on.
- 4.26 The Inspector outlined that following the receipt of his findings on the recent hearings and the establishment of a new Council following the May elections, the Council will be asked to prepare a timetable for the adoption of the plan. This will include the requirement for the submission of sound sites to meet the housing requirement of the plan.
- 4.27 WHBC’s approach to identifying sites for inclusion within the local plan is consistent with National Planning Practice Guidance (PPG). The approach consists of six main steps that incorporate the requirements set out in PPG. In particular, the Council’s Housing and Economic Land Availability Assessment 2016 (HELAA), forms the first part of the approach, identifying a short-list of potential development sites for more detailed consideration.

- 4.28 The Council's site selection methodology comprised six steps as set out in Table 7.1 of the Welwyn Hatfield Local Plan Site Selection Background Paper 2019⁵. This shows that the first stage of the process considered 144 sites and at the end of stage 6, 78 sites are recommended for inclusion within the plan.
- 4.29 The Appeal Site was not submitted for consideration in the emerging Local Plan and has not been subject to any site specific assessments
- 4.30 The emerging Local Plan does not propose to amend the Green Belt boundaries in respect of the area around the appeal site. The appeal site was not promoted to the Council for allocation as part of the Local Plan process and was not the subject of consideration at recent hearings and nor is it scheduled to be discussed or considered as part of the ongoing plan process. There is no prospect of the appeal site (or more accurately the part of the appeal site in WHBC) being allocated for development as part of the current emerging plan process.
- 4.31 Given its stage of preparation the current position of WHBC is that the emerging Local Plan should be attributed limited weight in the determination of this appeal.
- 4.32 The strategy of the emerging plan is to focus development in the main two towns Welwyn Garden City and Hatfield which comprise tier 1 and 2 settlements and then allow limited development in large excluded villages (tier 3), small excluded villages (tier 4) and Green Belt villages (tier 5) settlements. Bullens Green is identified as a smaller Green Belt village (tier 6) which falls at the very bottom of the hierarchy of settlements (i.e. they comprise the least sustainable locations for new development) and are considered generally unsuitable for development unless that development is compatible with Green Belt policy.
- 4.33 As part of the evidence base the Council also undertook a Green Gap Assessment⁶. The Assessment considers the role gaps play between settlements, for example by providing a sense of separation and in maintaining settlement pattern and character.
- 4.34 The Assessment identifies the Appeal Site as within the Area between Hatfield and St Albans. The assessment notes that the gap between Smallford (St Albans) and Hatfield is relatively small and vulnerable to development pressure. It therefore considers that it would be appropriate to identify a gap policy area within Welwyn Hatfield's part of the gap to assist in preventing the merging of Hatfield with St Albans. The Assessment concludes that the Council could consider a 'gap policy area' for the whole of the area to the west of Hatfield that lies within the Welwyn Hatfield Borough boundary. The Appeal site is not within the suggested Green Gap Policy Area but its northern boundary is adjacent to it.

⁵ CD6.23

⁶ WHBC Green Gap Assessment 2019 at CD6.31

- 4.35 The Council has followed a comprehensive approach to assessing the Green Belt with three stages of work having been completed.
- 4.36 Stage 1 was jointly commissioned with neighbouring authorities in 2013 and provided a strategic level assessment (CD9.05). The Appeal Site is within Parcel GB34 Green Belt Land between Hatfield and London Colney. The Study identifies the principal function of the Parcel as providing a significant contribution towards safeguarding the countryside and maintaining the existing settlement pattern (providing gap between Hatfield and London Colney). Partial contribution towards preventing merging (of St Albans and Hatfield) and preserving the setting of London Colney, Sleafshyde and Tyttenhanger Park. Overall, the parcel contributes significantly towards 2 of the 5 Green Belt purposes.
- 4.37 The Stage 2 Green Belt Review (October 2014) (CD6.16) brought together key findings of the Stage 1 Green Belt Review with site level assessments of sites identified in the Council's Strategic Housing Land Availability Assessment (SHLAA – now replaced by the HELAA) and the Gypsy and Traveller Land Availability Assessment. It considered the contribution that each site makes towards the four national Green Belt purposes and one local Green Belt purpose. A similar classification was used to the Stage 1 assessment, so that levels of contribution that a site makes to the purposes of the Green Belt have been classified as either 'significant', 'partial' or 'limited or no'. The Appeal Site was not been put forward for consideration as a Local Plan allocation and was not therefore assessed as part of the Council's Stage 2.
- 4.38 The Stage 3 Green Belt Review (March 2019) built on the Stage 1 and Stage 2 Green Belt Reviews. It considered whether or not any of the washed-over villages should be released from the Green Belt, the potential harm to the Green Belt from new settlement locations and undertook a detailed assessment of all parcels of land adjoining the borough's settlements.
- 4.39 For the purposes of the Stage 3 review, land around the towns, inset villages and washed-over villages with the potential for inseting was divided into 95 parcels. Following the approach of the previous reviews, each parcel was assessed to the extent it performed a Green Belt function, categorised against each of the five NPPF purposes. The Stage 3 review also assessed the degree of harm that would result if a parcel, or a site(s) within that parcel, or a combination of parcels were to be released. Six categories of harm were identified: 'very high', 'high', 'moderate-high', 'moderate', 'moderate-low', and 'low'. The Welwyn Hatfield part of the appeal site falls within Parcel 54 and was assessed as making a significant contribution toward safeguarding the countryside from encroachment with the assessment noting:

"The land contains the characteristics of open countryside, comprising arable and grassland fields. It contains some very limited urbanising development, including a couple of isolated dwellings. Residential development within the adjacent settlement is visible across much of the parcel."

- 4.40 It assesses that release of the parcel in association with the inseting of Bullens Green would lead to moderate high harm.
- 4.41 Informed by the Green Belt Study Part 1, the site is considered to make a significant contribution towards 2 of the 5 Green Belt purposes. The review of washed over settlement proposed to retain Bullens Green as a washed over Green Belt settlement.
- 4.42 The Council's approach to the removal of land from the Green Belt is outlined in the Site Selection Background Paper 2019 at section 6 (CD6.23).
- 4.43 The Paper states that, as set out in the Council's hearing statement in response to Question 5 of the Stage 2 Hearing Sessions, there is no definition of what constitutes exceptional circumstances either in the NPPF or PPG. It is a matter of planning judgement. This is reinforced by a recent High Court decision Compton Parish Council⁷ where the judgement states:
- "There is no definition of the policy concept of "exceptional circumstances". This in itself is a deliberate policy decision, demonstrating that there is a planning judgement to be made in all the circumstances of a particular case ..."*
- 4.44 The Compton judgement also clarifies that 'Exceptional Circumstances' can be found in the accumulation or combination of circumstances, of varying natures, entitling a decision-maker to make a rational planning judgement, i.e. that circumstances are sufficiently exceptional to justify altering the Green Belt boundary.
- 4.45 As stated in the Local Plan Site Selection Background Paper 2019 the Calverton Judgement set out a number of matters that should be identified and dealt with in order to ascertain whether 'exceptional circumstances' exist to justify amending the Green Belt:
- i) The acuteness of the Objectively Assessed Need,
 - ii) The inherent constraints on supply and availability of land for sustainable development,
 - iii) The consequent difficulties in achieving sustainable development without impinging on the Green Belt,
 - iv) The nature and extent of the harm to the Green Belt (or those parts of it which would be lost if the boundaries were reviewed); and
 - v) The extent to which the consequent impacts on the purposes of the Green Belt maybe ameliorated or reduced to the lowest reasonably practicable extent.
- 4.46 It is generally considered that in making the case for exceptional circumstances points (i), (ii), and (iii) are relevant at a general/strategic level, whilst points (iv) and (v) require consideration of the specific areas or settlement proposed to be released from the Green Belt.

⁷ Compton Parish Council (and others) Vs Guildford BC (and others [2019] EWHC 3242 (Admin),

- 4.47 On this basis, the Council’s consideration of points (i) to (iii) are summarised in the Site Selection Background Paper 2019 at section 6. Points (iv) and (v) are considered on a site-by-site, and settlement basis and are summarised in the site assessment templates (Appendix A⁸) and the settlement sections of the Local Plan Site Selection Background Paper 2019 (Sections 10 to 24).
- 4.48 The relevant policies of the emerging plan are policies SP1, SP3, SADM1, SP4, SADM2, SADM3, SP7, SP9, SADM12, SP10, SP11, SADM13, SADM14, SADM15, SADM16, SADM18, SP13 and SADM34.

The Emerging St Albans Local Plan

- 4.49 The Regulation 22 Submission version of the St Albans Local Plan was submitted in March 2019. The Examining Inspectors expressed concerns that the duty to co-operate had not been satisfied and the Council has now withdrawn the plan.
- 4.50 However it is material to note that the Green Belt boundary in the area of the appeal site was not proposed to be amended and thus the appeal site was proposed to be retained within the Green Belt (in accordance with the principles of permanence).
- 4.51 The appeal site (or the part within St Albans administrative area) was promoted through the call for sites and considered in the Strategic Housing Land Availability Assessment 2009 (SHLAA) (subsequently updated in 2017 and 2018). The site was rejected for further consideration in 2009 for the following reasons:

“The site comprises agricultural land which is rural in character. Its development would constitute visual intrusion and encroachment into open countryside. Development of this relatively large site (approx 5 ha) could have a significant adverse effect on the size and character of Colney Heath village, where infrastructure is already stretched.

Development would also be likely to have an adverse effect on the setting of No. 68 Roestock Lane, a Grade II listed house, which lies to the north of the site and could prevent the land from making a positive contribution to the Watling Chase Community Forest.”

- 4.52 Furthermore, pursuant to the 2013 Green Belt Assessment (CD9.05), which comprised part of the evidence base for the now withdrawn draft Local Plan, no changes were proposed to the Green Belt boundaries around Colney Heath or the washed over status of the Green Belt settlements (such as Colney Heath). The appeal site was not identified as either a strategic site or a smaller scale site in the Green Belt Assessment. The Examining Inspectors described the Green Belt process as follows in a letter in April 2020⁹ at para. 31:

⁸ Local Plan Site Selection Background Paper 2019 - Appendix A

⁹ See Examining Inspector’s Post Hearing Letter of 14 April 2020 at CD7.01

“The Green Belt Review Purposes Assessment (November 2013) was prepared jointly for the Council with Dacorum and Welwyn Hatfield Councils by SKM (GB004). This Stage 1 of the review identified large parcels of land across the three authorities. Those areas contributing least to the Green Belt were determined and a number of strategic sub areas in St Albans were identified for further investigation. These were taken forward to Stage 2 where SKM undertook a review and detailed assessment of those strategic sub areas in the Green Belt Review Sites and Boundaries Study (February 2014) (GB001).”

4.53 In that letter the Inspectors raised concern that the GB Review process excluded consideration of sites of less than 500 dwellings (see paragraph 37) and that the capacity from smaller sites could be greater than estimated having regard to the smaller scale sites identified in the 2013 review not being an exhaustive list. The GB Review did not take forward the small scale sub areas assessed in 2013 *as making no or little contribution to the Green Belt purposes.*

4.54 I note that the appeal site is not located in a sub area that was assessed in 2013 as making little or no contribution to the Green Belt purposes and in fact was considered to make a significant contribution toward safeguarding the countryside from encroachment (therefore parcel 34 was not considered to perform poorly against the purposes or warrant subdivision).

4.55 The Inspectors’ concern is encapsulated at paragraph 41 wherein they state the following about the Council’s focus on strategic sites:

“This has ruled out a number of sites that have already been found to impact least on the purposes of the Green Belt. It may well also have ruled out other nonstrategic sites with limited significant impacts on the Green Belt which may have arisen from a finer grained Green Belt Review.”

4.56 It seems to me that the appeal site does not fall into the category of smaller sites that should have been considered further given it is located in an area of Green Belt that performs strongly against at least one of the purposes. Similarly, it does not have “limited significant impacts on the Green Belt” using the words of the Inspectors. For the reasons I give in this Proof as a whole, if the emerging plan had considered non-strategic sites in the manner requested by the Inspector, this site would not have been taken forward as an allocation.

4.57 In raising issues with the duty to cooperate pursuant to the previous draft Local Plan the Examining Inspectors did not indicate that the approach to Colney Heath or the washed over status of the Green Belt settlements was unsound. Rather, their concerns were founded in assessing whether exceptional circumstances existed to justify the proposed Green Belt releases because in the Inspectors’ view¹⁰ the Council *“carried out a GB review and reached conclusions about exceptional circumstances without first having asked its neighbours if they could accommodate any of their housing need.”*

¹⁰ See Examining Inspectors’ letter of 1 September 2020 (ED41A) at CD7.02

- 4.58 SADC has commenced work on preparing a new draft Local Plan for the period 2020 – 2036. A call for sites has taken place and the Council is now evaluating the sites put forward (of which this cross boundary site is one). SADC considers that no weight can be placed on this emerging plan which is at a very early stage of preparation for the purposes of this appeal and I agree.

Housing Land Supply - SADC

- 4.59 SADC accept that they are unable to demonstrate a five year supply of deliverable housing land.
- 4.60 The Government’s ‘standard method’ for Local Housing Need identifies an average of 902 new homes per annum for the District. The ‘Housing Delivery Test’ results require a 20% ‘buffer’ is to be applied to the Local Housing Need figure.
- 4.61 The Council can demonstrate a supply of 2.4 years of deliverable housing land¹¹.
- 4.62 Attached at **Appendix PH1** is a short statement from SADC setting out their position and summarising their response to the initial assessment of the Appellant (noting that no update has yet been forwarded to the Council).

Housing Land Supply - WHBC

- 4.63 WHBC accept that they are currently unable to demonstrate a five year supply of deliverable housing land.
- 4.64 The Government’s ‘standard method’ for Local Housing Need identifies an average of 877 new homes per annum for the District. The ‘Housing Delivery Test’ results require a 20% ‘buffer’ is to be applied to the Local Housing Need figure.
- 4.65 The Council can demonstrate a supply of 2.58 years of deliverable housing land¹².
- 4.66 WHBC’s housing land supply position will be reassessed once the emerging Local Plan is adopted having regard to the housing requirement of the eLP and the allocation of sites pursuant to that Plan.
- 4.67 Attached at **Appendix PH2** is a short statement from WHBC setting out their position on five year supply (noting that no update has yet been forwarded to the Council).

¹¹ St Albans Annual Monitoring Report 2019/20 (December 2020) see CD8.02

¹² WHBC Annual Monitoring Report 2019 – 2020 (January 2021) see CD8.01

Housing Land Supply - Conclusion

- 4.68 The Councils cannot demonstrate a 5 year housing land supply. Therefore, I consider that the policies which are most important for determining the application are deemed to be out of date by virtue of footnote 7 of the NPPF. The application of Green Belt policy in the NPPF provides a clear reason for refusal as per footnote 6 of the NPPF and therefore the “tilted balance” in paragraph 11(d)(ii) is not engaged. I do not consider that the application of paragraph 196 provides a clear reason for refusal as per footnote 6, albeit the heritage harm is a material consideration and must be taken into account within the category of “any other harm” in paragraph 144 of the Framework.
- 4.69 I accept that the provision of housing, having regard to the Councils’ supply positions, is a matter that carries significant weight and the provision of a level of affordable housing that exceeds policy requirements should carry substantial weight in favour of the proposals.

5 The Councils' Case

5.1 I will present my evidence under the broad topic headings that are covered in the reasons for refusal and putative reasons, namely:

- a. Green Belt;
- b. Character and Countryside;
- c. Location;
- d. Heritage Assets;
- e. Highway Network and Safety;
- f. Infrastructure;

5.2 It is common ground that the proposal comprises inappropriate development in the Green Belt. In that context I consider what other harm arises to the Green Belt. I then move on to consider harm to the character and appearance of the area, harm to the countryside and harm to a designated heritage asset, as well as the sustainability of the location to support new residential development.

5.3 I will briefly address matters of biodiversity, archaeology, and infrastructure. I then move on to consider whether any other considerations raised by the Appellant clearly outweigh the harm by way of inappropriateness and any other harm such that very special circumstances exist.



Image 7: The Green Belt around St Albans and Hatfield (the site is in Area 34)¹³

¹³ Green Belt Review Purposes Assessment Annex 1 Parcel Assessment Sheets for WHBC and SADC 2013 CD9.05

Green Belt – Inappropriate Development

- 5.4 The appeal site lies outside any existing settlement within the designated Green Belt as defined on the Proposals Maps of the adopted Local Plans. Consistent with the Framework (paragraph 145), Policy 1 SADLP does not define development of up to 100 residential dwellings, access roads etc. as an exception from the definition of inappropriate development. The adopted WHDLP refers to national policy in respect of the application of Green Belt policy. Both adopted development plans direct new housing development to the main settlements and apply a settlement hierarchy that does not identify Bullens Green, Colney Heath or Roestock as sustainable locations for new housing development.
- 5.5 The broad approach of policy in respect of the Green Belt is to designate areas of Green Belt land and then to consider development within the Green Belt to be inappropriate unless it is specifically identified as an exception¹⁴.
- 5.6 The erection of buildings is normally inappropriate development unless it meets an exception identified in NPPF paragraph 145.
- 5.7 The Framework requires at paragraph 144 that both harm by way of inappropriateness and any other Green Belt harm is harm that is attributed substantial weight.
- 5.8 It is common ground that the proposed development comprises inappropriate development¹⁵.
- 5.9 Inappropriate development should not be approved except in very special circumstances. “Very special circumstances” will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.
- 5.10 The essential characteristics of the Green Belt include its openness and permanence. The presence of the Green Belt and the character of this site and its role in preserving openness was acknowledged in the 1955 appeal decision (CD10.01) with the Minister of Housing and Local Government noting its location in the Metropolitan Green Belt and then stating:

“an area which he considers if of the utmost importance to keep free from new development, save in the most exceptional circumstances. He cannot accept [...] that the proposals would do no more than round off the existing development. It would substantially extend the settlement and he agrees with the Council that it would reduce the effectiveness of both the Metropolitan Green Belt and of the local belt.”

¹⁴ See *Timmins and Anr and Gedling Borough Council* [2014] EWHC 654 (Admin)

¹⁵ see para. 10.1 of the SoCG

- 5.11 These matters were again exercised in 1975 (CD 10.02) when the Secretary of State for the Environment supported his Inspector in dismissing an appeal at the site noting in particular:

“I am of the opinion that the pleasant open countryside of which the appeal site forms part and which extends to the east and south is valuable in preventing the coalescence of the parts of Colney Heath and essential to the retention of the separation between St Albans, Hatfield and Welhamgreen.”

- 5.12 The application of NPPF para. 144 is capable of providing a clear reason to refuse planning permission under NPPF 11(d)(i), and it would only ever be through the exercise of the Green Belt planning balance in NPPF para. 144 wherein other considerations are demonstrated to clearly outweigh the harm by way of inappropriateness and any other harm that permission could be granted.
- 5.13 Therefore the decision will have to be taken with all the harm first identified and weighed and then the other considerations relied on by the Appellant considered and weighed and only if those other considerations “clearly outweigh” the harm by way of inappropriateness and all other harm do very special circumstances exist.

Green Belt - Openness

- 5.14 The Framework (para. 133) identifies openness and permanence as the essential characteristics of the Green Belt with the fundamental aim of Green Belt policy to keep land permanently open and thereby prevent urban sprawl.
- 5.15 The concept of openness means the state of being free from built development; the absence of built form as opposed to the absence of visual impact¹⁶. However, the word “openness” is open-textured and a number of factors are capable of being relevant when it comes to applying it to the particular facts of a specific case. Prominent among these will be factors relevant to how built up the Green Belt is now and how built up it would be if the proposed development occurs and factors relevant to the visual impact on the aspect of openness which the Green Belt presents¹⁷.
- 5.16 In **Turner**, Sales, LJ stated as follows (so far as relevant):

“14. [...] The word “openness” is open-textured and a number of factors are capable of being relevant when it comes to applying it to the particular facts of a specific case. Prominent among these will be factors relevant to how built up the Green Belt is now and how built up it would be if redevelopment occurs (in the context of which, volumetric matters may be a material concern, but are by no means the only one) and factors relevant to the visual impact on the aspect of openness which the Green Belt presents

¹⁶ **R (Lee Valley RPA) v Epping Forest DC** [2016] EWCA Civ 404, Treacy, Underhill, Lindblom LJ, para. 7

¹⁷ **Turner v SSCLG** [2016] EWCA Civ 466, Arden, Floyd and Sales LJ CD12.03

15. *The question of visual impact is implicitly part of the concept of “openness of the Green Belt” as a matter of the natural meaning of the language used in para. 89 of the NPPF. I consider that this interpretation is also reinforced by the general guidance in paras. 79-81 of the NPPF, which introduce section 9 on the protection of Green Belt Land. There is an important visual dimension to checking “the unrestricted sprawl of large built-up areas” and the merging of neighbouring towns, as indeed the name “Green Belt” itself implies. [...]. Openness of aspect is a characteristic quality of the countryside, and “safeguarding the countryside from encroachment” includes preservation of that quality of openness. [...]*
16. *The visual dimension of the openness of the Green Belt does not exhaust all relevant planning factors relating to visual impact when a proposal for development in the Green Belt comes up for consideration. For example, there may be harm to visual amenity for neighbouring properties arising from the proposed development which needs to be taken into account as well. But it does not follow from the fact that there may be other harms with a visual dimension apart from harm to the openness of the Green Belt that the concept of openness of the Green Belt has no visual dimension itself.*
25. *The openness of the Green Belt has a spatial aspect as well as a visual aspect, and the absence of visual intrusion does not in itself mean that there is no impact on the openness of the Green Belt as a result of the location of a new or materially larger building there. But, as observed above, it does not follow that openness of the Green Belt has no visual dimension.”*

5.17 The Government updated the PPG in July 2019 (Para 001; ID 64-001-20190722) in respect of openness and it now states:

“Assessing the impact of a proposal on the openness of the Green Belt, where it is relevant to do so, requires a judgment based on the circumstances of the case. By way of example, the courts have identified a number of matters which may need to be taken into account in making this assessment. These include, but are not limited to:

- *openness is capable of having both spatial and visual aspects – in other words, the visual impact of the proposal may be relevant, as could its volume;*
- *the duration of the development, and its remediability – taking into account any provisions to return land to its original state or to an equivalent (or improved) state of openness; and*
- *the degree of activity likely to be generated, such as traffic generation.”*

5.18 In **Samuel Smith**,¹⁸ the Supreme Court (Lord Carnwath) issued the lead judgment (with which Lady Hale, Lord Hodge, Lord Kitchin and Lord Sales agreed) in respect of the interrelationship between visual impact and openness of the Green Belt, disagreeing with Lindblom LJ in the Court of Appeal. The Supreme Court judgment was handed down on 3 December 2019. Lord Carnwath said:

"22. The concept of "openness" in para 90 of the NPPF seems to me a good example of such a broad policy concept. It is naturally read as referring back to the underlying aim of Green Belt policy, stated at the beginning of this section: "to prevent urban sprawl by keeping land permanently open ...". Openness is the counterpart of urban sprawl and is also linked to the purposes to be served by the Green Belt. As PPG2 made clear, it is not necessarily a statement about the visual qualities of the land, though in some cases this may be an aspect of the planning judgement involved in applying this broad policy concept. Nor does it imply freedom from any form of development. Paragraph 90 shows that some forms of development, including mineral extraction, may in principle be appropriate, and compatible with the concept of openness. A large quarry may not be visually attractive while it lasts, but the minerals can only be extracted where they are found, and the impact is temporary and subject to restoration. Further, as a barrier to urban sprawl a quarry may be regarded in Green Belt policy terms as no less effective than a stretch of agricultural land."

"39. [...] As explained in my discussion of the authorities, the matters relevant to openness in any particular case are a matter of planning judgement, not law."

"40 Lindblom LJ criticised the officer's comment that openness is "commonly" equated with "absence of built development". I find that a little surprising, since it was very similar to Lindblom LJ's own observation in the Lee Valley case (para 23 above). It is also consistent with the contrast drawn by the NPPF between openness and "urban sprawl", and with the distinction between buildings, on the one hand, which are "inappropriate" subject only to certain closely defined exceptions, and other categories of development which are potentially appropriate. I do not read the officer as saying that visual impact can never be relevant to openness."

5.19 In effect what the Supreme Court found was that the visual component of openness is capable of being a material consideration but it is not necessarily a consideration in every case.

5.20 With this in mind it is pertinent to look at the lawful baseline for the site. The appeal site comprises an area of open land with no development present that is used for growing arable crops. Also the site sits adjacent to open countryside to the south and east boundaries and open land borders its western boundary. The site is located in a wider area of open countryside and attractive landscape.

¹⁸ R (**Samuel Smith Old Brewery (Tadcaster) & Ors v N. Yorks CC**) [2020] UKSC 3 CD12.02



Image 8: Aerial View of the Appeal Site © Google Earth

- 5.21 There are no buildings or development on the site. It is completely open in both a spatial and visual sense.
- 5.22 As established in section 3 the illustrative proposals for the site include details of layout that is developed in the parameters plans before this appeal. It is therefore possible to broadly appreciate the footprint of buildings proposed having regard to the details shown on the parameters plan and an estimate of the floorarea of buildings. If we assume the average dwelling is a three bedroom 5 person two storey dwellinghouse the minimum GIA for such a dwelling is 93m², if we add 15% to convert to GEA and half the total for each of these average dwellings to equate to a footprint of 53.5m². Overall that equates to a footprint of development for the dwellings of circa 5900m², if we add 15% to account for garaging, sheds, bin stores and other incidental buildings then building footprint on site would be approximately 6750m².
- 5.23 On top of such a footprint of building hardsurfacing is proposed on site which I consider having regard to the parameters plan and illustrative material would approximately comprise:

- 100 metre long access Road from Bullens Green Lane of 5.5 metres width with two 2 metres footpaths (950m²)
- Central north - south spine road of 230 metres length with a carriageway width of 5 metres and a footpath width of 2 metres with an additional footpath of 1 metres width over 150 metres of the road (1900m²)
- Other roads and turning heads (1200m²)
- 400m of access driveways at 3 metres width (1200m²)
- 1800m² of private driveways
- 1000m² of new footpath
- 15m² of patio and private hardstanding paths for 100 of the dwellings, 1500m²

5.24 Therefore on top of the footprint of proposed building the hardsurfacing proposed would amount to a further 9500m² of site coverage. Therefore, the total footprint of development proposed would equate to over 16,000m² on a site that currently has no development at all.

5.25 I realise that this figure is to a degree speculative but it is a reasonable, and I believe conservative, assumption given the scale of the proposed development.

5.26 In terms of three dimensional impact we do not have details of the house types but we can approximate a volume of built development by using the average dwellinghouse footprint of development (53m²) and using an eaves height of 5.2 metres and a roof height of 3 metres. I estimate the approximate volume of built development comprising dwellinghouses to be 40,000m³. Incidental buildings would need to be added to that figure but it is illustrative of the overall volume of proposed above ground development.

5.27 I would expect two storey dwellinghouses to range in overall height between 8 – 9 metres with houses with rooms in the roofspace rising to 10 metres. In that context I note the existing open boundaries of the site would be permanently changed to enclose those parts of the site. For instance the current open boundary to Bullens Green Lane would be occupied by 17 dwellings of which six are proposed as focal buildings. Assuming an average width of 13 of the building of 6 metres with the remaining 4 dwellings at 10 metres; that equates to an 8 – 10 metre high expanse of building development extending 120 metres along this 280 metre length of the site with the gaps between the dwellings infilled at depth with more two storey development.

5.28 Fellowes Lane would be occupied by 7 dwellings of which three are proposed as focal buildings. Assuming an average width of building of 6 metres that equates to an 8 – 10 metre high expanse of building development extending 42 metres along this 110 metre length of the site with the gaps between the dwellings infilled in depth with more two storey development.

- 5.29 On all and any measure having regard to the baseline the proposal would lead to a substantial and permanent loss of openness in both a spatial and visual context.
- 5.30 Permanent built form at two storey scale would stretch across the whole length and width of the appeal site, this would substantially erode openness compared to the existing open character of the site. The illustrative layout shows two storey development filling the width and length of the site and this is necessary to achieve the number of dwellings proposed. The disposition of buildings and their solid appearance from outside and within the site will substantially reduce openness.
- 5.31 I therefore consider that in addition to the substantial increase in permanent development as proposed the scheme will significantly increase the visual perception of enclosure and reduce further the openness of the site and this part of the Green Belt.
- 5.32 In coming to these views I am mindful that this is an outline application with all matters except access reserved but I am also aware that the Appellant has illustrative material designed to show how the proposed scale of development will impact on the appeal site. Whilst I have made reference to the illustrative material and I note that this is the Appellant's best effort to show how the site can accommodate the quantum of development proposed my conclusions on harm apply to the quantum of development as the harm is an inevitable consequence of such a quantum regardless of layout, design, landscaping, appearance etc..
- 5.33 I consider the impact on character and appearance later but in terms of openness I acknowledge it is capable of having two dimensions spatial and visual. I consider that in spatial terms the proposal would substantially erode openness and lead to substantial harm in that regard. I also consider it will have a substantial impact on the visual appreciation of openness. In coming to this conclusion I rely on both my analysis above as well as the perception of the site from neighbouring private dwellinghouses, adjacent country lanes and the footpath network that either cross the site or border or provide views over the appeal site.
- 5.34 It is common ground that the loss of the existing open agricultural field to a development of up to 100 dwellings would comprise a loss of openness in both a visual and spatial context¹⁹. The dispute concerns the extent of and harm caused by that loss. I conclude that the harm arising from the substantial loss of openness of the Green Belt is substantial, given the existing completely open nature of the entire appeal site and the scale of development and degree of harm to openness that is proposed.

¹⁹ SoCG para. 10.2

Green Belt - Purposes

5.35 The purposes of the Green Belt are set out in NPPF at paragraph 134:

- a) *“to check the unrestricted sprawl of large built-up areas;*
- b) *to prevent neighbouring towns merging into one another;*
- c) *to assist in safeguarding the countryside from encroachment;*
- d) *to preserve the setting and special character of historic towns; and*
- e) *to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.”*

5.36 The Councils, together with Dacorum Borough Council, commissioned SKM Consultants to carry out an independent Green Belt Review to inform their future plan-making. The Green Belt Review Purposes Assessment (November 2013) sets out findings and identifies that a number of the areas reviewed were considered to contribute least toward the purposes of including land in the Green Belt.

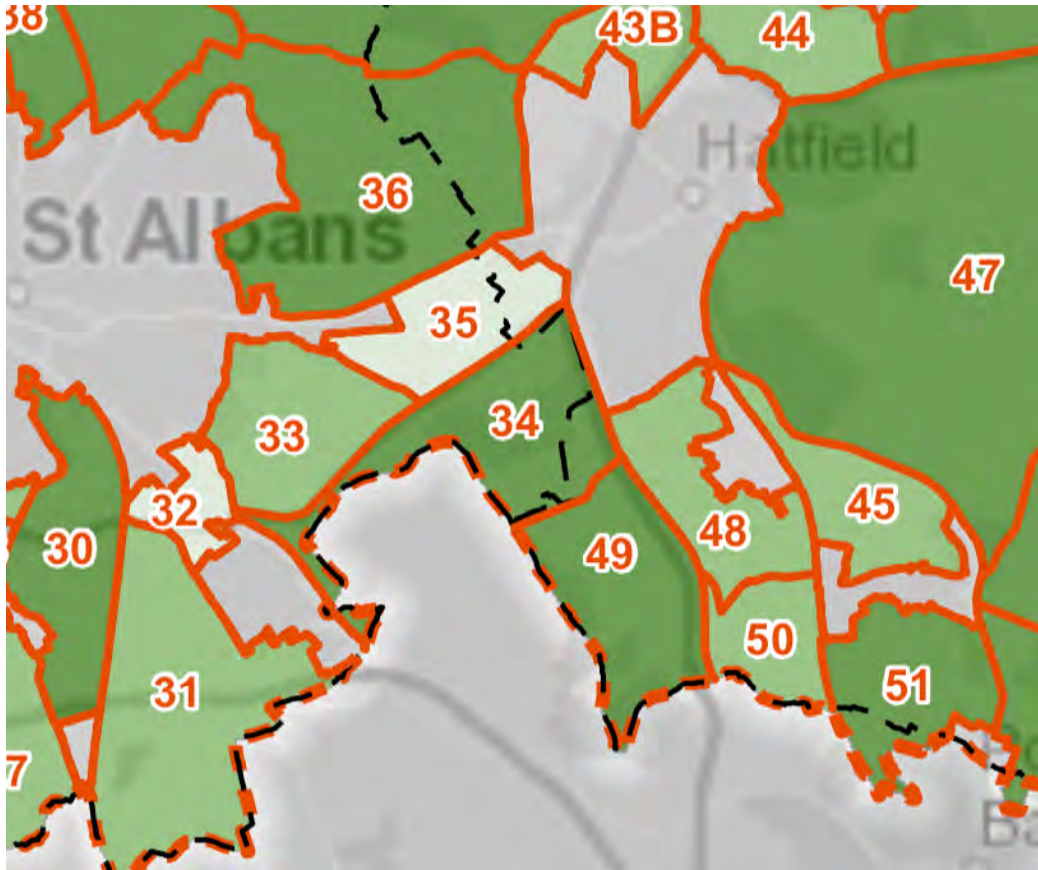


Image 9: Parcel 34 (the darker the green the more significant the contribution to safeguarding the countryside)

5.37 The appeal site falls within parcel 34 which was not one of the areas that performed poorly in the review. In that context Green Belt releases and allocation of land for housing were unlikely to be identified in Parcel 34. The rationale for the identification of parcel 34 is set out in Appendix 4 to the Assessment (p.95) as follows:

“Green Belt Land between Hatfield and London Colney – the parcel is defined around the Colne Valley and allows assessment of the gap between London Colney and Hatfield. Parcel boundaries follow main roads including the A414 and contains 3rd tier settlements.”

5.38 Parcel 34 is 419 ha in size and “comprises the broad and shallow basin of the meandering upper River Colne”: see the Parcel Assessment Sheet for Parcel 34. It is a land parcel of “predominately arable farmland and heathland” with some blocks of woodland which includes areas of water in lakes formed from previous gravel and sand works. Parcel 34 has not been subdivided, unlike some other parcels where sub areas of those parcels perform differently against the purposes. The narrow local gap at Bullens End Colney Heath is identified in the Assessment which includes a photograph of part of the gap (and chimes with the “local belt” identified by the Minister in the 1955 appeal decision). The assessment also identifies the strong and open characteristics of the land.

5.39 The Assessment summarises the principal function of the parcel and assesses it against the first 4 purposes of the Green Belt as well as assessing against the additional local Green Belt purpose of maintaining existing settlement pattern. The principal function is identified as follows:

“Significant contribution towards safeguarding the countryside and maintaining the existing settlement pattern (providing gap between Hatfield and London Colney). Partial contribution towards preventing merging (of St Albans and Hatfield) and preserving the setting of London Colney, Sleafshyde and Tyttenhanger Park. Overall the parcel contributes significantly towards 2 of the 5 Green Belt purposes.”

5.40 With respect to encroachment and safeguarding the countryside the Assessment grades the contribution of the parcel as significant and comments:

“The parcel displays typical rural and countryside characteristics, especially to the south, in medium sized arable fields with hedgerow boundaries, sheep pasture and substantial riverine wetland habitats along the Colne, and areas of heath and semi natural grassland which are locally important at Colney Heath. Tyttenhanger Park and Hall is located to the south. There is evidence of linear built development in the north part of the parcel which contains Colney Heath and Bullens Green. The A1(M) is also a major urban influence which is audibly intrusive. Levels of openness are generally high especially to the south due to an absence of built development.”

5.41 The parcel is also considered to contribute significantly to the maintenance of existing settlement patterns in particular with regard to the separation of London Colney and St Albans with Hatfield as well as smaller settlements such as Colney Heath and Bullens Green. In this context encroachment into the countryside or development that leads to merger has the potential to erode existing settlement patterns.

- 5.42 The proposed development will lead to the erosion of open space between St Albans and Hatfield as well as London Colney and Hatfield such that it will reduce the open space in the narrow gap between these settlements. However, I accept that the development itself will not lead to urban sprawl of any large built up areas and thus would not conflict with the first purpose at para. 134(a) NPPF.
- 5.43 Having regard to the Assessment, the wider area within which the appeal site is located (i.e. parcel 34 as identified in the Assessment) performs a valuable role in containing the Green Belt settlements of Colney Heath/Roestock/ Bullens Green, Sleafshyde and Tyttenhanger Park and preventing towns such as London Colney and Hatfield merging. The proposals will erode the degree of separate identity of the component parts of Colney Heath village especially when viewed along Bullens Green Lane. However this harm is predominately to the character of the area and the development of the site itself does not lead to the merging of neighbouring towns, albeit parcel 34 contributes positively to this purpose. Therefore, the proposal itself would not conflict with para. 134(b) NPPF.
- 5.44 I have already described the appeal site as an open arable field located in the countryside beyond the settlement. The aerial imagery and observations at site will support such a position. As a matter of common ground²⁰, the proposals will encroach into that countryside with a residential estate development of up to 100 dwellings and incidental development such as access roads etc. The quantum of development together with its spread across the site filling the length of the appeal site (such that the only open space remaining is located to the north contained by the proposed development and existing properties in Roestock Lane) will materially encroach into the open countryside. In my view, the degree of encroachment both in terms of the spread of development and the quantum of development is substantial and leads to substantial harm.
- 5.45 The Green Belt Purposes Assessment considered that parcel 34 makes a significant contribution toward safeguarding the countryside from encroachment and I agree with that assessment insofar as it relates to the appeal site. I also note that such matters were considered in the context of the neighbouring site at Roestock Depot (a site that comprises in part previously developed land) wherein the Inspector noted at DL17:

*“The existing buildings on the site undoubtedly have an impact on openness but the likely increase in volume and spread of mass and bulk across the site into areas currently absent of buildings would result in a greater impact on openness. Therefore, the development would be at odds with the Green Belts essential characteristics, openness and permanence. **Furthermore, it would be in conflict with its defined purposes, specifically to assist in safeguarding the countryside from encroachment.**”(emphasis added)*

20 SoCG para. 10.3

- 5.46 Should it be suggested that the nature of the site mitigates any harm by way of encroachment I reject that assertion and note the proposals will fill an open arable field with dense suburban development and extend development east and south into land that is open countryside.
- 5.47 There is therefore conflict with paragraph 134(c) NPPF and the harm by way of encroachment is substantial and carries substantial weight against the proposed development. In that context the harm by way of encroachment is onto arable land that is characteristically countryside and will no longer have countryside characteristics.
- 5.48 Notwithstanding that each application should be determined on its own merits I would also have some residual concerns about future pressure for development beyond the appeal site to the south in the event that this appeal is allowed. I note in this regard the comments of the Secretary of State in endorsing his Inspector's conclusion in 1975 (CD10.02) that:
- “Bullens Green Lane and Fellowes Lane would not constitute defensible boundaries and that further incursions into the Metropolitan Green Belt would be difficult to resist if the appeal were allowed.”*
- 5.49 I have concluded that the harm by way of loss of openness is substantial and I have further concluded that the proposal would conflict with the Green Belt purpose of preventing encroachment into the countryside as physical harm that would emanate should the proposals be permitted. I do not consider that the development of the appeal site would provide a rounding off of the settlement and in that respect I note the Minister rejected such an argument when determining the appeal at this site in 1955 (CD10.01). Not only do these conclusions support my own judgment but they provide support for the essential characteristics of this part of the Green Belt mirroring that of national policy in terms of openness and permanence.
- 5.50 The appeal site is located way from the historic core of Colney Heath and will not adversely impact on the setting or special interest of historic towns and therefore will not conflict with para. 134(d) NPPF.
- 5.51 The proposal would not assist in respect of the fifth purpose of Green Belt (paragraph 134(e) NPPF) as it would provide no assistance with urban regeneration by recycling derelict or other urban land. This purpose is offended insofar as it relates to Welwyn Hatfield Council area. The strategy for the area relies on housing coming forward on urban redevelopment sites and the provision of housing on open greenfield sites (over and above that identified in the emerging Local Plan) will disincentivise the urban regeneration sites where the cost of remediation and development is higher than simply developing an open field. To that extent the proposals will undermine the spatial strategy in the adopted and emerging plans.

- 5.52 I acknowledge that the Council (WHBC) is unable to currently demonstrate a five year supply of deliverable housing land and in that respect weight to any conflict with the fifth purpose necessarily reduces. The adopted and emerging plan strategies both prioritise the use of previously developed land ahead of green field releases. I consider moderate weight should be attributed to this matter insofar as it relates to the Welwyn Hatfield part of the site and overall therefore I attribute limited weight to any conflict (given it relates to only part of the appeal site).
- 5.53 However, my conclusions in respect of the fifth purpose do not diminish my overall conclusion that the proposals would conflict with the purposes of including land in the Green Belt especially insofar as the proposals would fail to protect the countryside from a significant encroachment by suburban development.
- 5.54 In terms of the appeal site and the approach of the emerging Local Plans and the spatial strategy of both Councils I note that it is not the strategy of either Council to identify allocation sites of 100 dwellings in the Green Belt away from main settlements. Colney Heath is a tier three settlement (a washed over Green Belt settlement) that has little by way of facilities to meet the day to day needs of future residents who will rely on private transport for access to such facilities.
- 5.55 The appeal site does not comprise previously developed land nor is it degraded urban fringe. In fact, the appeal site comprises best and most versatile land, i.e. good quality agricultural land in active arable use.
- 5.56 Given Parcel 34 was identified as contributing positively and significantly to the purpose of safeguarding countryside and preserving settlement patterns sites in this parcel were not identified for release or allocation. Rather the Councils looked to other parcels where the contributions were not as strong as parcel 34. In the further work undertaken at Stage 3 I note the WHBC confirmed the significant contribution of the WHBC part of the appeal site to the purpose of safeguarding the countryside from encroachment and the emerging Local Plan does not propose any changes to the Green Belt boundaries in the vicinity of the appeal site.
- 5.57 In that regard it is no surprise to me that the appeal site was not promoted by the Appellant in the Welwyn Hatfield emerging Local Plan, nor that it was not identified as a suitable site by the Council in the previous iteration of the St Albans Local Plan. Without prejudging matters I would be very surprised if it comprised an allocation in the forthcoming emerging Plan having regard to its contribution to the Green Belt and its poor access to day to day facilities.

Conclusion on Green Belt harm

- 5.58 The development comprises inappropriate development and would lead to a substantial loss of openness in both a spatial and visual dimension as well as offending the purpose of including land in the Green Belt relating to the safeguarding of the countryside from encroachment.
- 5.59 I have identified substantial weight to be given to both the loss of openness and the failure to safeguard the countryside, as well as the definitional harm by way of inappropriateness.
- 5.60 The proposal would conflict with the provision of Policy 1 of the SADLP and Policy SADM34 of the Welwyn Hatfield Borough Council Draft Local Plan Proposed Submission August 2016 as well as the Framework.
- 5.61 Given the overall package of harm to the Green Belt I consider that the loss of this arable field to a residential housing estate comprises a substantial level of harm to the Green Belt that should lie at the very top of substantial harm and carry substantial weight toward the upper end of such weight.
- 5.62 I will now move on to consider what other harm arises in respect of this development. The three themes I consider in respect of other harm are harm to the character and countryside, harm by reason of the unsustainable location for new residential development and harm to a designated heritage asset.

Other Harm - Countryside and Character Harm

- 5.63 In this section I consider the existing character of the area both in terms of the appeal site itself and the wider area generally and then move on to consider how the proposal would impact on that character having regard to on site aspects off site aspects including footpaths and the rural lanes as well as surrounding residents. Finally I consider whether the proposal is capable of being assimilated successfully in the landscape.
- 5.64 I have described in section 2 the overall character of the area and the network of public access and footpaths within the area. I have reproduced below a plan showing both public and permissive routes in the area of the appeal site.
- 5.65 I have seen the Appellant's Landscape and Visual Assessment and discussed this and the consultee responses with the St Albans Council's Landscape Planner and I concur with her overall conclusion that the proposed development would severely detract from the character of the site and surrounding area. It would urbanise the site, be visually intrusive within the open countryside and fail to conserve local landscape character.
- 5.66 I am not a Landscape Architect but I am an experienced chartered town planner and I have many years' experience assessing the impact of development on the character of an area. My criticisms of the LVA are related to the judgments that inform the outcomes of the report and not its methodology. I have undertaken my own assessment and had regard to the LVA and other documentation.
- 5.67 In my view the Landscape and Visual Assessment submitted with the application underestimates the impact of the development in landscape and visual terms. The proposed development would result in urbanisation of the site itself, adversely affect resident, rural road user and right of way receptors and have an adverse irreversible impact on the landscape character of a wider parcel of open countryside. My view is that this cannot be mitigated by screen planting as suggested.
- 5.68 The wider parcel of land comprising Bullens Green, Roestock, Colney Heath and surrounding countryside helps maintain local landscape character and the settlement boundaries are well defined. Development of the site would impact on the perception of openness of the whole parcel of land.
- 5.69 The presence of the motorway corridor has ensured physical severance between the urban centre of Hatfield and Roestock/ Bullens Green. The Green Belt land between the motorway corridor that then washes over the settlements of Roestock, Bullens Green and Colney Heath is a key feature helping to maintain local landscape character. The appeal site is characteristic of the landscape area.

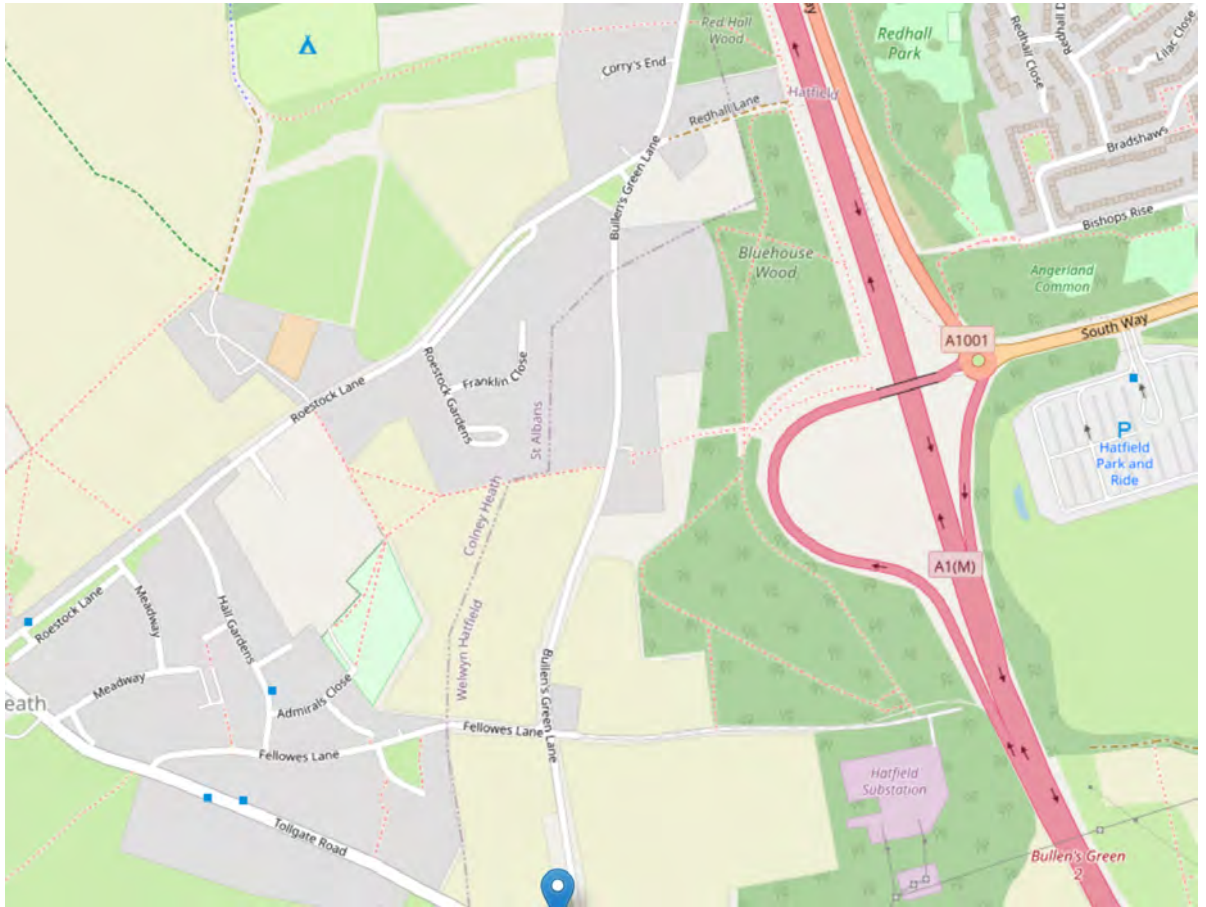


Image 10: The Footpath Network in the Area of the Appeal Site (source: OpenStreetMap.org)

- 5.70 The relationship of the appeal site is one that predominately bounds on open land as opposed to established residential properties. In that respect I note the main body of the site (on which the residential properties are located has found boundaries. The northern boundary is split between the rear boundaries of properties in Roestock Gardens and the flank of the closest property in Bullens Green Lane and the open land to the rear of 68 Roestock Lane.
- 5.71 The eastern boundary is predominantly open with the short terraces of cottages at the northern tip and the flank of 1 Tollgate Cottages at the southern tip. Both sets of properties are on the eastern side of Bullens Green Lane.
- 5.72 To the south the majority of the boundary is open to arable fields to the south of Fellowes Lane. The residential property at 48 Fellowes Lane is a bungalow and exerts little visual presence from the southern boundary of the site which remains essentially a soft open boundary, but the two pairs of bungalows in the western corner of the southern boundary back onto the appeal site.
- 5.73 The western boundary of the appeal site is predominantly to open land comprising Roestock park and part of the pumping station at its northern tip which does not exert any built influence on the appeal site.

- 5.74 The image below illustrates the relationship of the site to built development and in my estimation only 30% of the boundary of the development parcel of the appeal site will have a relationship with built development the remaining 70% will be more closely related to open land and the east, west and south boundaries relate predominately and overwhelmingly to open land



Image 11: Boundaries to Built Development

The Existing Site Experience

- 5.75 The appeal site is crossed by public footpaths including Footpath 23 which approaches the site from Roestock Lane travelling north west – south east alongside part of the western appeal site boundary until it arrives at the northern tip of Roestock Park. At that point the footpath splits and either travels south west through Roestock Park (Footpaths 23 and 44) or broadly east across the agricultural field (FP48) and then alongside the rear boundaries of properties in Roestock Gardens where it is renumbered after it crosses the administrative boundary between St Albans and Welwyn Hatfield to FP67.
- 5.76 The experience of travelling across the appeal site via the public rights of way is one of a rural experience crossing arable fields in the countryside with some fringe residential development that does not detract from the rural experience.



Image 12: Public Views into the Appeal Site : Base © Google Earth



Image 13: View from Footpath 67 Close to Bullens Green Lane Looking South

- 5.77 These footpaths link into a wider network of footpaths including FP24 which continues eastwards from Bullens Green Lane into the permissive rights of way in Bullens Green Wood. In passing through the woodland views across the site and wider area are available particularly at the southern end of the wood (also called Tollgate Wood).

- 5.78 Extensive views are available walking west/ north west along the southern limb of the circuitous route along the footpath straight toward the appeal site. In addition, given the nature of planting in the managed woodland views are also available through the gaps between rows of trees toward the appeal site from the permissive footpath.



Images 14 & 15: Views from Footpaths in Bullens Green Wood (Above and Below)



- 5.79 The appeal site reinforces the countryside setting of the woodland and provides a spatial and visual gap to the edge of settlement.
- 5.80 Bullens Green Lane and Fellowes Lane are widely used leisure routes utilised by walkers, ramblers, dog walkers, cyclists and horse riders to link other parts of the PROW network or as part of a leisure experience of itself. The experience as one passes the site is of a rural nature with the agricultural field adding positively to the countryside experience. Gaps in the site hedgerow and boundary tree cover allow views across the site and direct experience of the agricultural use of the land.
- 5.81 The character of these roads as they pass the appeal site reinforce the rural character of the area with Fellowes Lane a narrow country lane flanked by hedgerow and road side ditches with no pavements and no streetlighting. Similarly Bullens Green Lane is a country lane with hedgerow and tree planting wider verges and an area of hardsurface beyond the carriageway that allows some on street parking. There are no pedestrian footpaths and no streetlighting.
- 5.82 The two lanes have a distinctive rural quality and character as they pass the appeal site.
- 5.83 Despite its proximity to the A1(M) the appeal site and Bullens Green Lane experience a degree of tranquillity that erodes as you travel east toward the A1(M), however, even within Bullens Green Wood whilst the background of vehicular noise is evident bird song was the predominant aural experience on my visits.
- 5.84 The appeal site comprises a positive element of the rural character of the countryside that frames Colney Heath and separates the edge of Colney Heath from the A1(M) and Hatfield to the east.
- 5.85 I consider this parcel of land to be redolent of the landscape character of the North Mymms LCA comprising rectangular arable fields set close to woodland blocks including Bullens Green Wood with the excellent agricultural quality of the land reinforcing its productive use for agriculture.
- 5.86 As well as being visible and perceived in the close context it is also visible in longer views including from Bullens Green Lane south of its junction with Fellowes Lane as well as Tollgate Road south of the junction with Bullens Green Lane looking north across land south of Fellowes Lane and also Tollgate Road on approaches from the south east travelling north west as you approach the junction with Bullens Green Lane.



Image 16: View Looking North from Tollgate Farm on Tollgate Road

- 5.87 In these close and medium contexts I consider the appeal site performs a positive role in reinforcing the rural character of the area and containing Colney Heath.
- 5.88 Having established the existing character of the area and the contribution of the site it is now necessary to assess the impact of the proposed development. In this context the parameters plan and draft landscape masterplan provide a reasonable indication of the quantum and disposition of development as proposed.

The Impact of the Development (On site footpaths)

- 5.89 In approaches to the site from Roestock Lane along the public footpath the site would remain initially open to the rear of 68 Roestock Lane before being enclosed by a row of dwellings that enclose that space on an east west axis. The gaps between the dwellings would themselves be infilled by the depth of housing across the site (for instance the gap between the two houses to the west of the row would be infilled by the gable of the terraced housing running along the western boundary). That degree of enclosure would be in stark contrast to the attractive open vistas that are currently enjoyed across the appeal site and the proposals would also curtail any longer vistas over neighbouring countryside and agricultural land.

- 5.90 In my view the enclosure of this area and the impact on the footpath network would be a significant adverse impact for leisure users of the footpath network with a rural experience replaced by a suburban one dominated by a residential housing estate and a sense of enclosure.



Image 17: View from Footpath 23 looking south east

- 5.91 The replacement of the larger agricultural field with a small open parcel of land predominately required as a SUDS features is also a negative change for footpath users as they would experience a pocket of open land sandwiched between areas of residential development and not a transition into the countryside from the settlement or vice versa.
- 5.92 The users of Footpath 67 as it crosses west to east across the site will have a current experience which is dominated by exposure and openness to the south with the tranquil arable fields providing the setting for the experience replaced with a walk thorough a corridor with housing and hardstanding roads proposed to the south boxing in the footpath (closer that the houses to the north) and changing the experience from a countryside experience to a tunnel dominated by development and hardscape with the character of the experience changing to a suburban residential estate footpath.
- 5.93 These changes would have substantial negative impacts on the experience of leisure users of the PROW network as they cross the appeal site.

The Impact of the Development (Off-site footpaths)

- 5.94 I have restricted my commentary to the permissive footpath network in Bullens Green Wood/ Tollgate Wood and Fellowes Lane east of Tollgate Cottages (also I understand known as Dellsome Lane) as it links into the wider network.
- 5.95 Bullens Green Wood is a native woodland planted 30 years ago, it is owned and managed by Hertfordshire County Council and was formerly farmland associated with a farm to the east of the A1(M) which was severed when the road was upgraded. It was opened to the public in December 1991 and provides a network of permissive footpaths that link to the PROW network to the north and east and other rights of way to the south.



Image 18: Bullens Green Wood and the Network of Footpaths

- 5.96 At present views over the appeal site are obtained along the southern footpath as well as between the gaps alongside stands of trees viewed from that footpath. The openness of the arable fields comprising the appeal site provide depth beyond the appeal site that reinforce its rural location and provide separation from the settlement edge that enhances the experience within Bullens Green Wood. The view from the south eastern part of the footpath travelling north west opens up the further north west you travel to a point where the views are less enclosed and focused on the northern part of the appeal site to being more extensive and encompassing the whole appeal site (see Images XX). In that context the existing arable use of the appeal site contributes positively to the character and appearance of the area and the experience using the footpaths within Bullens Green Wood.
- 5.97 The development of the site would replace the open views across the appeal site with residential development aligning the site's western boundary, again any gaps between individual buildings would be infilled in depth by other dwellings. In these views the proposed housing at the appeal site would be sited much closer to receptors than any existing housing available in these views. I estimate that the proposed housing visible in views from the permissive footpaths would be sited 170 metres closer than the rear elevation of the closest houses in Roestock Gardens.
- 5.98 The role of perspective in such an enclosure of the space and closer proximity of development will substantially enclose views from the woodland looking west.



Image 19: View from pedestrianised part of Dellsome Lane looking north west with the flank of the rural Tollgate Cottages visible

- 5.99 In terms of the experience along Fellowes / Dellsome Lane east of the junction with Bullens Green Lane and beyond the gate preventing vehicular access beyond Tollgate Cottages (which comprises part of the permissive footpath network) the views are over the paddock to the arable field which is perceived as open in these views. Filtered views of the rear of houses in Roestock Gardens are available (filtered through both the landscaping on the appeal site and along the rear boundary of Roestock Gardens) and are sited 200 metres further away than the closest houses on the appeal site.
- 5.100 In these views Tollgate Cottages would be read with the proposed development and would not appear as the rural cottages as at present but rather a continuation of the development on the appeal site.
- 5.101 The impact on these views is negative and would erode the countryside experience from the permissive network as well as Fellowes/ Dellsome Lane.
- 5.102 Finally I turn to consider the impact on Footpaths 23 and 44 as they cross Roestock Park travelling away from the settlement. Views as you travel across the park open up and signal that footpath users are leaving the settlement. The views across the open arable land of the appeal site is a positive signal and contributes positively to the experience for leisure users on the footpath network.
- 5.103 This experience would be replaced by an almost total enclosure of the eastern boundary of the park by a row of 12 terraced houses or a similar form of development that is shown on the parameters plan or other illustrative material.
- 5.104 This highly urban enclosed outlook would replace the open rural aspect that currently exists and represents an erosion of the distinctiveness of place in respect of the edge of settlement location of the park and its contribution to the sense of leaving the settlement along the footpath network.

The Impact of the Development (The Rural Roads)

- 5.105 Both Fellowes Lane (west of the junction with Bullens Green Lane as it passes the appeal site and Bullens Green Lane are rural country lanes. They are narrow, without footways and largely free of lighting and have ditches and hedgerow framing them.



Image 20: The junction of Fellowes Lane and Bullens Green Lane looking west along Fellowes Lane

- 5.106 The existing views through the gaps in the hedgerow and perimeter tree cover reinforce the rural nature of this part of Fellowes Lane. The bungalows on Fellowes Lane are sited 130 metres back from this viewpoint and the houses in Admirals Close visible above are sited 250 metres back.
- 5.107 This compares to the illustrative layout which sites the closest dwelling (described as a key focal building) to this viewpoint just 50 metres away.
- 5.108 Other views along Fellowes Lane looking north into the appeal site will site at least ten dwellings within 20 metres of the site boundary with spaces between buildings infilled by buildings in depth across the site. The proposals bring residential development 280 metres closer to this part of Fellowes Lane. The proposals will enclose and urbanise the experience passing along this part of Fellowes Lane in contrast to its current open rural character and appearance.

- 5.109 This continuation of suburban development along Fellowes Lane would be a negative impact of the development which when taken together with the loss of the open arable character of the site and views across the site would substantially harm the experience passing along Fellowes Lane for the many leisure users as well as occupants of vehicles passing along this country lane.
- 5.110 I note the latest iteration of the Appellant's parameters plan shows a new pedestrian access to the site from Fellowes Lane. This comprises a material change to the planning application as it seeks to amend a matter for determination at this stage, i.e. access. I do not seek to comment on highway safety matters other than to note if such matters are not resolved then they would weigh further against the grant of planning permission.



Image 21: Fellowes Lane – the new access point aligns with the western part of the canopy of the tree on the left of the image

- 5.111 The proposals will lead to works to Fellowes Lane including punching a formal and permanent hole to the perimeter landscaping that aligns the northern side of Fellowes Lane and creating an area of hardstanding and a formal crossing point with tactile paving, kerbing and potentially railings for safety reasons on the northern side of the road on land that is currently read as part of the countryside.

5.112 On the southern side of the country lane a new pedestrian footway is now proposed. It starts opposite the proposed access to the appeal site and continues westwards. Once it reaches the flank of 48 Fellowes Lane I raise no issues with its impact on character as I consider that to be a suburban relationship within the settlement limits. However, the extent of the footpath from the proposed crossing point running west until the flank of 48 Fellowes Lane comprises an adverse impact on the character of the country lane and one that extends the suburbanisation eastwards irreplaceably and irreversibly harming the character of this pleasant country lane further and adding to the harm and my concerns raised earlier.

5.113 Bullens Green Lane along the length of the appeal site is a narrow country lane with a tree or hedgerow with gaps defining the western extent of the appeal site.



Image 22: Bullens Green Lane

5.114 The proposals will adversely change the character of this part of Bullens Green Lane from a country lane to a suburban road through a combination of the proximity of the proposed development to the road frontage with dwellings aligning the road frontage with any gaps between the dwellings infilled by in depth residential development together with the widening of the carriageway and creation of a T-junction access to serve the appeal development.

5.115 The illustrative plans show 17 houses aligning the road frontage with Bullens Green Lane. These houses are set within 20 – 25 metres of the site boundary with hardsurfacing comprising access roads and driveways infilling part of that gap.

- 5.116 In views east across the site from the southern part of Bullens Green Lane just beyond Tollage Cottages and their curtilages the proposed houses would be sited 200 metres closer to Bullens Green Lane than existing houses visible in Admirals Close.
- 5.117 At a point looking north toward the two focal buildings either side of the hammer head turning area located on the Bullens Green Lane frontage dwellings are located 200 metres closer than the rear of dwellings in Roestock Gardens in that view.
- 5.118 At the proposed access point to Bullens Green Lane the proposals will site two focal buildings either side of the access with driveways between the houses and Bullens Green Lane. The houses front Bullens Green Lane and follow its alignment. The focal dwellings are located 130 metres closer to the Bullens Green Lane frontage than the visible rear elevations of houses in Roestock Gardens.
- 5.119 The dwellings of themselves will suburbanise Bullens Green Lane changing its character from country lane to suburban access road. However, when combined with the new T-junction and localised road widening to 5.5 metres over a length of 150 metres of Bullens Green Lane and all the attendant development and consequential changes (such as hedgerow removal, additional surfacing, road markings, signage, lighting etc) as well as the creation of a very wide access corridors into the site from Bullens Green Lane will further urbanise the experience travelling along Bullens Green Lane.
- 5.120 In that respect I note the access road carriageway comprises a 5.5 metre wide road, it is accompanied by two 2 metre wide footways one either side of the access road itself. Overall the access plans show an opening of around 18 – 20 metres in the site boundary to accommodate the access arrangements. In addition removing existing hedgerow a planting replacement hedgerow further back from the road frontage the proposals will open up the site along the access corridor and provide unobstructed views of the proposed development.
- 5.121 The changes to Bullens Green Lane comprise negative changes that fundamentally change the character of this part of the country lane to a suburban access road framed by estate development. In this respect the 1975 appeal decision (CD10.02) is informative in the context of Green Belt and its permanence I note the Secretary of State adopted the Inspector’s conclusions that:

“[...] The scale of the proposals and the resultant widening of the frontage lanes would, I consider, be a major urban intrusion which would detract from this prized element of rural tranquillity.”

- 5.122 It is rarely informative to rely on appeal decisions in different areas with different characteristics when assessing the impact of proposals on the character of a particular area. However in an appeal decision in Bedfordshire²¹ that involved the widening of a road to facilitate a development in the Green Belt that Inspector commented:

²¹ SEE DL23 and 24 of APP/P0240/W/19/3239386 dated 14 April 2020 at **Appendix PH3**

“23 [...] the development would require the removal of the roadside hedgerow along the length of the site boundary on Bower Lane to accommodate proposed widening and realignment of the carriageway, provision of traffic calming measures, and extend footways. Though the hedgerow may be replaced or translocated further into the site, it would require time to re-establish itself. More so, however, it would result in a more expansive road corridor, which together with the precise, engineered appearance of the proposed highway works, would result in Bower Lane becoming distinctly more urban in appearance, which would further conflict with the rural surroundings.

24. For these reasons, I find that the proposed residential development and highway works to Bower Lane would significantly harm the character and appearance of the area. [...] conflict with the Framework which seeks recognition of the intrinsic character and beauty of the countryside and that developments are sympathetic to local character and history, including the surrounding built environment and landscape setting.”

- 5.123 I rely on the appeal decision not to parallel the exact harm that I have identified above but to illustrate that incidental development can have harmful impacts that of themselves justify the refusal of planning permission or weigh against the grant of permission.
- 5.124 In this case both the proposed works to the rural lanes themselves and the impact of the development on those lanes would be harmful and erode the rural characteristics that are currently an inherent part of any experience travelling along these lanes.

The Impact of the Development (Residential Occupiers of Existing Properties)

- 5.125 I finally turn to consider the impact of the changes on the occupiers of neighbouring development in terms of the character of area. As visual receptors occupiers of dwellinghouses (like leisure and recreational users of footpaths and rights of way) are highly sensitive to change.
- 5.126 In terms of outlook I consider the change in outlook (as opposed to view) for the residents of the following properties would be stark and incongruous and given their sensitivity to change and the degree of change from completely open rural views across an arable field to enclosure and estate type development I consider such changes to be both harmful and significant in their nature. The main receptor properties are listed below (others are less affected and not relied on for my analysis):

68 - 86 Roestock Lane
12 – 18 Roestock Gardens
56 and 58 Bullens Green Lane
45 – 61 Bullens Green Lane
1 – 4 Tollgate Cottages
48 – 52 Fellowes Lane
30 – 46 Admirals Close
17 Admirals Close

- 5.127 The experience in views from these properties as well as within their private gardens will change irreparably with the current tranquil and open aspect and outlook replaced by enclosure and a development of 100 dwellings.

Can Landscaping Overcome the Harm?

- 5.128 I have identified concerns relating to the principle of developing this site for residential purposes and landscaping would not attenuate any of this impacts.
- 5.129 Additionally, landscaping would not ameliorate, to any material degree, the impact of the proposed development on on-site rights of way.
- 5.130 Given the open character of the site and its contribution as part of longer vistas and a wider arable landscape I do not consider the introduction of screen landscaping along the site boundaries would overcome harm to the character of the area. Indeed the introduction of dense landscaping on the site boundaries would of itself lead to greater enclosure and a loss of openness to the detriment of the character of is area and the appeal site itself.

Conclusion on Character and Appearance

- 5.131 There will be significant visual effects and also significant landscape effects extending beyond the site resulting in a change of local landscape character. The proposed development would severely detract from the character of the site and the area comprising its context. It would urbanise the site, be visually intrusive within the open countryside and fail to conserve local landscape character. The level of local objection demonstrates the value placed on the site and its contribution to the local landscape and countryside by the local community. I note this value is long standing and has been recognised in the historic appeal decisions at this site.
- 5.132 The proposed development would harm and not improve or conserve the local landscape character in accordance with the guidelines for landscape change in the Mymmshall Valley Landscape Character Area as recognised in Policies RA10 and RA11 of the WHBLP as well as emerging Policy.
- 5.133 The proposals will not recognise the intrinsic character and beauty of the countryside and I have shown that the appeal site in its current condition contributes positively to the intrinsic character and beauty of the countryside of which it forms part.
- 5.134 Recognition of the intrinsic character and beauty of the countryside necessarily imparts a degree of protection (after Cawrey) and in my view the development of an estate of 100 dwellings, widening of country lanes and creation of new accesses to country lanes would fail to recognise the character and beauty of the appeal site and wider countryside of which it forms part.

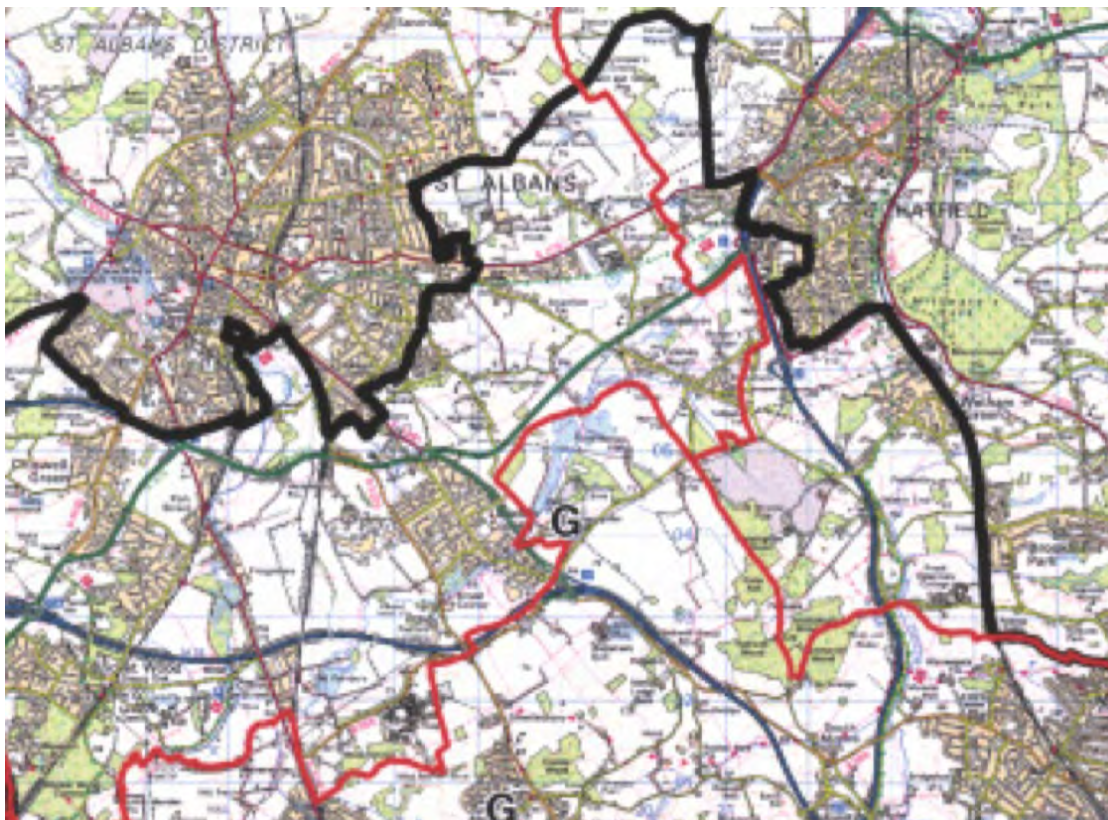


Image 23: The Watling Chase Forest Area

- 5.135 In my view the proposals would harm the intrinsic character and beauty of the countryside and would not comprise high quality of design having regard to context as well as failing to improve (enhance) or conserve landscape character contrary to provisions of Policies D1, D2 and RA10 of the Welwyn Hatfield District Plan and Policy SP9 of the Welwyn Hatfield Borough Council Draft Local Plan Proposed Submission August 201. Furthermore it would fail to achieve the objectives of the Watling Chase Community Forest consistent with Policies RA11 insofar as an estate development as proposed would fail to enhance natural beauty.
- 5.136 This failure to respect context, deliver high quality design and have proper regard to setting and the character of the area together with the loss of existing attractive arable landscape would also conflict with Policies 2, 69, 70 and 74 of the St Albans District Local Plan Review. Furthermore, it would fail to achieve the objectives of the Watling Chase Community Forest consistent with Policies 143A insofar as an estate development as proposed would not deliver landscape improvement in accordance with Green Belt.
- 5.137 I do not consider the proposal would make a positive contribution to local character and I consider the identified harm to lead to conflict with 127 b) and 127 c), 130 as well as 170(b) of the Framework. Furthermore, in the context of character the harm to the setting of the heritage asset would conflict with 192 c) of the Framework.
- 5.138 Overall in terms of the harm to the character and appearance occasioned by the development of the site for 100 dwellings I consider the degree of harm to be permanent, substantial and irreversible.

Other Harm - Location

- 5.139 I consider the appeal site and proposals in the context of the existing settlement and I assess the existing facilities within Colney Heath and the location of the day to day facilities required for residential living.
- 5.140 I first set out the facilities that exist within Colney Heath and their location before identifying the location of essential services and facilities in other settlements.
- 5.141 I then highlight the location of schools with capacity to receive children from the appeal site before I then move on to detail and assess public transport options and pedestrian and cycling routes and distances.

The Appeal Site and Services in Colney Heath

- 5.142 The appeal site is located on the south west periphery of Colney Heath, an elongated and scattered village with few facilities. The village is an amalgamation of a string of settlement comprising Colney Heath village, Roestock and Bullens Green. The majority of any facilities within Colney Heath are located in the main village as opposed to the Roestock/ Bullens Green part. I set out below the facilities in Colney Heath and the distance to them from the centre of the appeal site²². I understand these to be agreed distances and in due course the parties will present a plan to show the location and walking distance to each.

Colney Heath Primary School	1.7 kilometres
Colney Heath Football Club	1.8 kilometres
Colney Heath Village Hall (Including Nursery)	1.4 kilometres
Post Office and Mini Mart	1.1 kilometres
Hairdressers	1.0 kilometres
Public House	1.0 kilometres
Scout Hut	Neighbouring land

Table 1: Distance by Foot to Existing Village Facilities

²² To calculate the centre of the site by foot I have measured from Roestock Lane to the centre of the developable area of the site using the junction of the central north south estate road with the hammerhead cul-de-sac that runs east and then rounded it down to 300 metres.

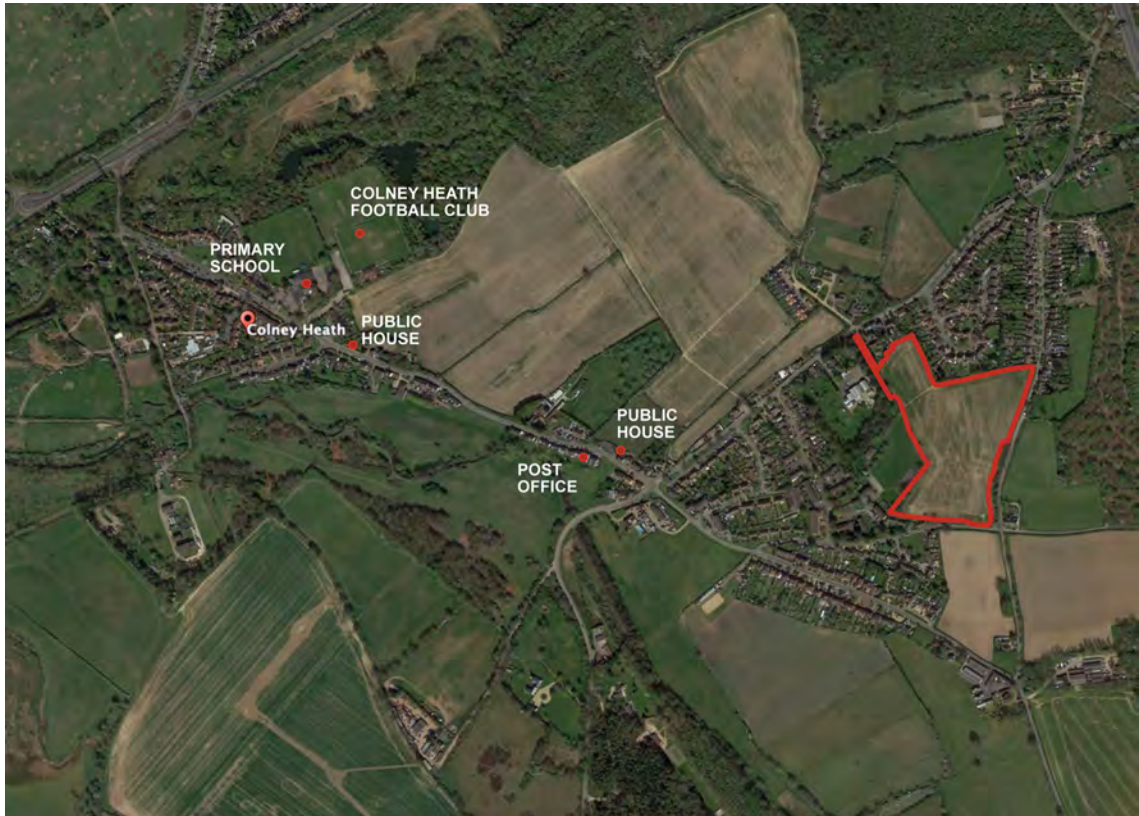


Image 24: Location of Main Facilities (Base Image © Google Earth)

5.143 The aerial image above illustrates the relationship between the appeal site and the few facilities that Colney Heath has to offer.

The Location of Day to Day Facilities not Provided in Colney Heath

5.144 The village relies on surrounding settlements to provide for the day to day facilities such as secondary and tertiary education, libraries, restaurants, supermarkets, banks, doctors surgeries, dentists etc.. The Table below summarises the distances to those facilities.

Secondary Schools	
Onslow St Audrey's Academy Secondary School	7.8 kilometres
Nicholas Breakspear RC School	4 kilometres
Primary Schools	
De Havilland Primary Hatfield	6 kilometres
St Mary's C of E Primary Welham Green	3.5 kilometres
Hospital	
QE2 Welwyn Garden City	11 kilometres
Doctors Surgeries	
Potterells Medical Centre Welham Green	4.4 kilometres
Highfield Surgery	5.4 kilometres
Chemist	
Kean Pharmacy Welham Green	3.4 kilometres

Dentists	
Hilltop Dental Surgery	6.5 kilometres
Welham Green Dental Surgery	3.2 kilometres
Supermarkets	
Sainsburys London Colney	4.1 kilometres
Tesco Extra Hatfield	4.4 kilometres
Morrisons St Albans	4.9 kilometres
Asda and Lidl Hatfield	6.8 kilometres
Lidl Welwyn Garden City	8.3 kilometres
Library	
Hatfield Library	7 kilometres
Banks	
Hatfield	8 kilometres

Table 2: Distance by Vehicle to Day to Day Facilities

Schools and the Appeal Site

- 5.145 I note the Appellant’s Transport Statement²³ refers to schools in assessing the accessibility of the appeal site. Therein in respect of secondary schools they rely on Beaumont School as the closest secondary school. Beaumont is a very popular and outstanding secondary school that is heavily oversubscribed with a significant waiting list. The appeal site falls well outside any catchment area for that school. My understanding is that children of secondary age from the appeal site would be educated in Hatfield at a new school to be provided at the allocation site HAT1, over 9 kilometres from the appeal site.
- 5.146 I understand that existing primary schools in the catchment of the appeal site are oversubscribed and I understand that future residents would have children directed to a new primary school proposed at a housing allocation site (Site HS11 in the emerging plan). That site is located 7.5 kilometres from the appeal site.
- 5.147 Even if primary schooling was available in the village at Colney Heath Primary School (which currently has no surplus places) that would necessitate a walk of 1.7 kilometres via Roestock Lane and High Street, that is a round trip of almost 3.5 kilometres. I do not consider that to be a realistic walk for parents with young children and I consider such a route unsuitable for young children on bicycles. As such, even if places were available it would encourage the use of the motor car.
- 5.148 The location of schools with capacity (or future schools which will have capacity) to serve the appeal site reinforce my view that this is the wrong type of development in the wrong location and that this would not comprise a sustainable location for new residential development.

²³ See paragraph 4.44 of the Transport Statement Woods Hardwick at CD1.23

- 5.149 Pre-school provision is made at Colney Heath primary school and may be available via a group that meets at the village hall (1.4 kilometres from the appeal site). Given the age of children attending such facilities such distances will not encourage walking as an alternative to the car.
- 5.150 In my view schools to serve the pupils from the appeal site are not located such that they will offer clear transport choices for the occupants of the appeal site.

The Appeal Site and Public Transport

- 5.151 Public transport is available in Colney Heath with bus services stopping in Tollgate Road/ Roestock Lane, Hall Gardens and Coursers Road.
- 5.152 The 305 service links St Albans with Potters Bar. There are 4 services per weekday to St Albans the first and last services do not stop at Hall Gardens the closest bus stop where all 4 buses to St Albans stop is at Roestock Lane at the junction with High Street Colney Heath. That bus stop is located 0.8 kilometres from the mid-point of the appeal site. There is only 1 service to Potters Bar which departs at 1747 each day from the Roestock Lane bus stop.
- 5.153 On Saturdays there are only 3 services and they only go as far as Hill End St Albans (i.e. they do not provide a serve to the town centre nor the railway station) and again 1 service to Potters Bar.
- 5.154 It takes 30 minutes to St Albans and 16 minutes to Potters Bar on the bus.
- 5.155 The 200 bus service provides a "Hail and Ride" service that provides one service on a Wednesday from Hall Gardens to London Colney Savacentre departing at 1022 and returning from the Savacentre at 1235.
- 5.156 Other services include once weekly (Wednesday) services from Hall Gardens to St Albans and Welwyn Garden City (230) and from Hall Gardens to Hatfield Tesco Extra and Bell Bar (312).
- 5.157 Bus services to and from Colney Heath are not extensive and do not provide a reliable and regular means of travel for potential future residents of the appeal site. The services are not frequent or regular and will not support regular commuting; I understand this to be common ground²⁴.

²⁴ See Transport Assessment Addendum November 2020 at CD2.06 paragraph 3.13 – "It is agreed that the current services are not ideal for all commuters"

- 5.158 Overall given the paucity of bus services and the lack of facilities available within the village I am of the view that occupants of the appeal site would be heavily reliant on the private motor car to meet their day to day needs. Having spent sometime in the village observing existing residents my impression is that the vast majority of travel out of the village takes place by private motor car. When buses have arrived and departed from local stops few if any passengers have either boarded or disembarked the buses.
- 5.159 I have also set out the paucity of bus services in Colney Heath and I note the closest railway station is at Welham Green (3.8 kilometres away) which provides services to Moorgate in London to the south and Welwyn Garden City in the north. The next closest station is 7 kilometres away at St Albans City (Mainline to St Pancras, London Bridge and on to Brighton to the south and Bedford to the north). Both stations would rely on the motor car for access from the appeal site.

Walking

- 5.160 I have previous set out the distances to various facilities I now review the guidance in respect of walking.
- 5.161 I note that *Manual for Streets* (MfS) at paragraph 4.4.1 discusses walking neighbourhoods which are characterised by having a range of facilities up to 800 metres walking distance. At 6.3.6 it notes that pedestrian routes need to be direct and match desire lines as closely as possible and that permeable networks help minimise walking distances. I have included an extract from MfS at **Appendix PH4**.
- 5.162 *Planning for Walking* published by the Chartered Institution of Highways and Transportation in April 2015 states that typical catchments for walking are around 800 metres or 10-minutes' walk (p29 Land use planning for pedestrians). It also advises that pedestrian catchments depend on the power of a destination with ranges of 400m for bus stops and 800m for railway stations (p 30). I have included an extract from Planning for Walking at **Appendix PH5**.
- 5.163 *Guidelines for Providing Journeys on Foot* (GPJF) published by the Institution of Highways and Transportation in 2000 at Table 3.2 (page 49) advises that for school trips an acceptable journey is 1km and a desirable distance is 500 metres with a maximum journey of 2km. For town centres the desirable distance is 200 metres with an acceptable distance of 400 metres and a maximum of 800 metres. Other facilities elsewhere the desirable distance is 400m, the acceptable distance is 800m and the preferred maximum is 1.2KM.). I have included an extract from GPJF at **Appendix PH6**.
- 5.164 I have set out above the distances to several facilities necessary for day to day living. Many facilities are in excess of the 2 Kilometre maximum walk distance and all are beyond typical catchments and desirable distances and would be outside the range of walking neighbourhoods.

- 5.165 I have already concluded that I do not consider Colney Heath to provide necessary facilities to serve the day to day needs of occupants of a residential estate of 100 family houses. In that respect I acknowledge my view is contrary to that of the Appellant as outlined in their Planning Statement and Green Travel Plan, however I consider my position is robust.
- 5.166 What is clear from the Table is that all facilities within the settlement are located more than 800 metres walking distance from the appeal site. Schools, doctors surgeries, supermarkets etc. are all located outside the settlement over 2 kilometres from the appeal site.
- 5.167 Moreover any walking journey that involves walking along Bullens Green Lane or other surrounding rural roads are along narrow unlit country lanes with no footpaths or crossing points and some of which features fast traffic (i.e. Tollgate Road). In my view walking to Welham Green would not be encouraged by reason of the distance and the nature of any walk along a narrow unlit road subject to the national speed limit. I also understand that Bullens Green Lane has recorded a serious incident involving a vehicle and pedestrian during the last five years.

Cycling

- 5.168 In terms of cycling I note routes along Coursers Road (to London Colney) and Tollgate Road (to Welham Green) are along two way roads with fast traffic with no street lighting along parts of the route.



Image 25: Coursers Road Between London Colney and Colney Heath

5.169 Routes to St Albans north would be via Colney Heath village and then crossing the A414 and via Colney Heath Lane to join the Alban Way. Colney Heath Lane is narrow and poorly unlit in parts, although subject to a 40 mph speed limit traffic moves fast along this road and the narrow carriageway is tight with two way traffic flows.



Image 26: Tollgate Road Between Colney Heath and Welham Green © Google

5.170 I do not consider that the nature of the routes for cyclists will encourage cycling as an alternative to the motor car. There is no existing cyclist infrastructure in the area of the appeal site and I note the Appellant acknowledges the lack of such infrastructure²⁵.

Conclusion

5.171 The reliance of this site on the motor car is probably best illustrated by reference to Table 3.2 of the Appellant's Transport Assessment Addendum and the St Albans Super Output Area. Therein 72.1% travel to work from site by car or van, 5.6% are passengers in cars or vans that come to the site, 0.4% get taxis and 0.6% travel by motorbike, that equates to 78.7% travelling by private motor vehicle.

²⁵ See Transport Assessment Addendum November 2020 CD2.06 paragraph 3.19

- 5.172 The table also identifies 6.4% of journeys to work to take place by train. However in my view the first part of such a journey is most likely to be by car to local train stations. Therefore the proportion of journeys originating at site by car would rise to 85.1% with only 1% by bicycle and 3.8% on foot.
- 5.173 I conclude that day to day facilities are not located within a suitable walking distance or via a suitable route and therefore the proposed development will encourage the use of the car and not promote the use of alternative methods of transport. I consider this to be especially acute when considering the distances that young children attending pre-school and lower school would have to take to access these facilities.
- 5.174 Accordingly, I do not consider the appeal site to comprise a sustainable location for new residential development, I note that the Framework at 102 seeks to promote opportunities for walking and cycling as well as public transport. I do not consider the proposal would assist in providing such opportunities and the appeal site is not located to reduce the need to travel nor would it offer a genuine choice of transport modes to the private motor car contrary to paragraph 103 even having regard to its rural location.
- 5.175 I do not consider that the proposed development would be located within walking distance of primary schools and pre-school and is well beyond normal walking distances for access to town centres. It will not make the fullest use of walking and cycling and will therefore conflict with the Framework.
- 5.176 I note the Appellant relies on cycling as an indicator of the sustainability of the appeal site. I am familiar with the roads around the appeal site and I would not seek to encourage inexperienced cyclists to ride the main roads (such as Tollgate Road to Welham Green or Coursers Road to London Colney) as the speed of traffic, narrowness of these roads, lack of run off areas or footways and lack of lighting provide challenges for even experienced cyclists.
- 5.177 I reject any suggestion that children attending schools would cycle from the appeal site. The nature of connecting roads and crossings are such that most parents and carers would, I expect, discourage their children from riding to schools in neighbouring settlements.
- 5.178 Given the site will lead to a reliance on the private motor car I do not consider it would help to reduce greenhouse gas emissions by reason of its location contrary to paragraph 150 NPPF. The site is located outside a settlement and is heavily reliant on car journeys for access to facilities and local services and thus conflicts with NPPF paragraph 92.

- 5.179 Given the location of the site remote from facilities by distance and route I do not consider this to represent a sustainable location for new residential development. In that respect it will not encourage cycling or walking and would not assist in reducing reliance on private motor vehicles. In that respect it would not ensure an integrated approach to the location of housing, economic uses and community facilities and services in conflict with the environmental role of sustainable development as well as paragraph 92(e) NPPF.
- 5.180 I also consider the proposal would offend local policies as it would not comprise a sustainable location for new residential development, accord with the principles of sustainable development and comprises a location with an over reliance on the private motor car for access to services and facilities. In that regard it conflicts with the spatial strategy of both plans and policies including SD1 (sustainable development), GBSP2 (settlements suitable for development) and H2 (location for windfall development) of the WHBLP as well as Policy SADM1 of the Welwyn Hatfield Borough Council Draft Local Plan Proposed Submission August 2016 and Policy 2 (settlement strategy) of the SADLP.
- 5.181 I note my own conclusions and judgements are consistent with the views of the Councils' Officers²⁶ who both conclude that future residents of the site would be heavily reliant on the motor car to access jobs, education, shopping and train services.
- 5.182 I also note that local residents and representative groups who would be most familiar with the need to travel in commenting on the applications the subject of these appeals have stated that the village is poorly served by public transport and cycle and pedestrian routes and therefore future residents of the appeal site would be dependent on the private car.
- 5.183 Therefore, such harm should be added to the inappropriateness and the other harm when assessing whether very special circumstances exist to justify this development in the Green Belt. Given the paucity of local facilities to serve day to day life for a development of 100 dwellings and the poor public transport services in the area Colney Heath is a washed over tier three Green Belt settlement in the SADLP where development will not normally be permitted in order to safeguard the character of such settlements I consider the weight to be given to such matters in the context of sustainable development and the planning balance should be substantial.

²⁶ see section 8.13 of the SADC Officer Report CD4.02 and pages 12 and 13 of the WHBC Report CD4.03

Other Harm - Setting of the Designated Heritage Asset

- 5.184 I attach at **Appendix PH7** a statement from Ruth Mitchell MA(Hons) MA the Design and Conservation Officer at St Albans City and District Council. Therein she sets her assessment of the proposals in terms of the setting of the Listed Building.
- 5.185 68 Roestock Lane is a former pair of dwelling on agricultural land. It was connected located within fields and surveyed the land over which the workers likely toiled. Its setting and association with the agricultural landscape have been eroded with the development of housing particularly in Roestock Gardens to the east.



Image 27: the Existing Visual Connection of the Listed Building to the Arable Fields

- 5.186 However, as illustrated above the house and its garden land retain a strong visual connection to, and association with, the land south of the asset via the appeal site which remains in active agricultural use. In terms of other perceptual qualities I note the tranquillity associated with the appeal site and its arable use also contribute toward the setting of 68 Roestock Lane.
- 5.187 The connections to the farmland are genuine, immediate and positive in terms of the special interest of this former agricultural workers dwellings. They go beyond merely theoretical connections and are readily discerned on the ground. Views to or from the building or its garden are not considered in the Appellant's Heritage Statement.



Image 28: Above From Fellowes Lane looking North
Image 29: Below from the Listed Building Looking South



5.188 The strong association between the listed building and surrounding agricultural land is evident at site. The proposals would create a relatively small area of open space to be used for SUDS purposes but retained open immediately to the south of the listed building.



Image 30: Ordnance Survey Plan from the 1925 showing the pair of Cottages

5.189 However the open aspect with a connection to the arable fields associated with the building would be permanently lost if the development were to progress as the vista would be enclosed by a row of suburban housing in line with the rear garden boundaries of properties in Roestock Lane, the arable fields would be lost and all views and connections to the south would be curtailed.

- 5.190 The listed building would therefore lose any connection with agricultural fields and the open countryside, that connection that is an integral part of its setting would be permanently lost. Such a loss would erode the ability to appreciate the special interest of the building.
- 5.191 In my view such a loss would arise to the setting of the building and would comprise less than substantial harm in the context of the Framework (which is a matter of common ground between the parties). I acknowledge the preservation of some open land adjacent to the listed building curtilage - which is preferable to its loss, but the loss of connection to the wider rural landscape and any association with the agricultural landscape comprises a negative impact of the proposal.
- 5.192 The Framework advises that great weight should be given when considering the impact of a proposed development on the significance of a designated heritage asset (193). The Framework requires clear and convincing evidence to justify any harm (194) and requires where less than substantial harm arises that it should be weighed against the public benefits of the proposal (196).
- 5.193 The proposals would fail to make a positive contribution to local character and distinctiveness as it will erode the setting of the listed building and replace it with a housing estate development. Such an approach conflicts with 192(c) of the Framework.
- 5.194 The parties agree that less than substantial harm arises to the setting of the designated asset²⁷. The dispute is where in that range the harm is to be gauged. The Appellant considers the harm to be at the lower end of the range whilst I consider the harm to be greater.
- 5.195 My position is set out above and I adopt the position set out by Ms Mitchell and this is harm that carries great weight and has to be first balanced against any public benefits and then considered in the context of the Green Belt balance.
- 5.196 I conclude that the proposals would lead to harm to the setting of a designated heritage asset removing permanently its association with the rural landscape and agricultural fields. As such, it conflicts with Policy 86 of the St Albans District Local Plan insofar as it would fail to preserve the setting of the building. Great weight is given the conservation of heritage assets and the permanent damage that would occur to the setting in this case.
- 5.197 Whilst the listed building is located within St Albans District its setting crosses the administrative boundary between the council areas and as such the proposals also conflict with Policy D1 of the WHDLP and Policy SADM15 of the Welwyn Hatfield Borough Council Draft Local Plan Proposed Submission August 2016.

²⁷ SoCG paragraph 10.23

- 5.198 Whilst the public benefits of providing more housing in the circumstances of the Councils' housing land supply position together with the proposed over provision of affordable housing set against the development plan requirements may outweigh the great weight that is given the conservation of this heritage asset taken in isolation; the permanent damage that would occur to the setting of a designated heritage asset in this case is a matter that weighs against the grant of planning permission in the planning balance. In that context I have concurred with Ms Mitchell that the level of harm to the setting of the building is low to moderate.
- 5.199 In the circumstances of this case and the Green Belt balance I have attributed moderate weight against the grant of planning permission in respect of the harm to the setting of the designated heritage asset.

Conclusion on Harm

- 5.200 The development comprises inappropriate development, which is by definition harmful to the Green Belt, and that harm must be given substantial weight. In addition, the development would lead to a substantial loss of openness in both a spatial and visual dimension as well as offending the purpose of including land in the Green Belt relating to the safeguarding of the countryside. I have identified substantial weight to be given to harms occasioned by both the loss of openness and the encroachment into the countryside.
- 5.201 Given the overall package of harm to the Green Belt I consider that the loss of this open arable field to a residential housing estate comprises a substantial level of harm. I am mindful that the essential characteristics of Green Belts are their openness and permanence; the proposal would substantially erode openness to a degree that the land would no longer comprise part of the countryside and permanently remove it from the countryside or any meaningful contribution to openness. I consider that the proposal will cause substantial harm to the Green Belt and carry substantial weight at the very upper end of such weight.
- 5.202 As to any other harm that is “non-Green Belt” harm, I have shown that the proposals would harm the intrinsic character and beauty of the countryside and harm landscape character. In that respect it would not respect the landscape strategy as it does not comprise high quality design having regard to context as well as failing to improve (enhance) or conserve landscape character. In addition, it does not achieve the objectives of the Watling Chase Community Forest contrary development plan policy and the Framework. Therefore, the proposal will harm the character and appearance of the area and it would fail to make a positive contribution to local character or distinctiveness in conflict with development plan policy as well as the Framework.
- 5.203 Overall in terms of the harm to the character and appearance occasioned by the development of the site for 100 dwellings I consider the degree of harm to be permanent, substantial and irreversible. I give the harm to landscape character and appearance significant weight.
- 5.204 Given the location of the site remote from facilities and infrastructure by distance and quality of route, I do not consider this to represent a sustainable location for new residential development. In that respect this location will not encourage cycling, walking or use of the very limited public transport links, and will result in over-reliance on the private car. It would not ensure an integrated approach to the location of housing, economic uses and community facilities and services, in conflict with the environmental role of sustainable development as well as paragraph 92(e) of the NPPF. It also results in conflict with development plan policies. It would, as I note, also reduce the quality of experience for existing leisure users of the PROW network. I consider this location manifestly unsuitable and unsustainable for new residential development and as such I attribute significant weight to the harm.

5.205 I have concluded that the proposals would lead to harm to the setting of 68 Roestock Lane, a listed building and therefore a designated heritage asset; removing permanently its association with the rural landscape and agricultural land. As such, it conflicts with development plan policy insofar as it would fail to preserve the setting of the building. Whilst the public benefits of providing more housing in the circumstances of the Councils' housing land supply position together with the oversupply of affordable housing set against the development plan requirements may outweigh the great weight that is given the conservation of this heritage asset taken in isolation, the permanent damage that would occur to the setting in this case is a matter that weighs against the grant of planning permission in the planning balance by constituting an "other harm" under NPPF para 144. In the circumstances of this case and the Green Belt balance I have attributed moderate weight to the harm to the setting of the designated heritage asset.

Other issues

- 5.206 The failure to provide a satisfactory mechanism to deliver necessary infrastructure to service the proposed development, and also secure the proposed affordable housing, was an issue at the application stage. In addition, there was a separate reason for refusal relating to biodiversity impact. However, it is now agreed between the parties that a section 106 obligation can address the provision of necessary infrastructure, the securing of affordable housing, and the provision of off-site biodiversity enhancements to off-set the on-site biodiversity net loss. In those circumstances I do not invite the Inspector to dismiss the appeal on such grounds, and these issues do not fall within the bracket of "other harms".
- 5.207 Finally I note there are outstanding highway safety objections to the proposal, addressed by a different witness. Should there be a failure to resolve these matters, harm arises in that respect and will need to be added to the basket of "other harms" already identified. Given the importance of ensuring highway safety, I would attach significant weight to such matters should they remain unresolved (noting that access is not a reserved matter). However, I have not included this harm in my balancing exercise on the basis that a Grampian style condition will address any residual concerns.

6 The Appellant's "Other Considerations" under NPPF para. 144

- 6.1 In this section I assess the other considerations relied on by the Appellant and consider whether they are capable of clearly outweighing the harm I have identified. I first comment on whether certain matters relied on by the Appellant comprise benefits.
- 6.2 The Appellant relies on a number of factors which can be summarised as:
- The provision of housing in an area of housing need
 - Affordable Housing provision
 - Covid-19 impacts on housing delivery
 - Sustainable location for new housing
 - Lack of conflict with purposes
- 6.3 I do not set out the dispute between the parties on the impact of the proposal on the Green Belt in terms of openness and purposes. I do not consider such arguments comprise "other considerations" that weigh in favour of the grant of permission. Instead, if supported (and I do not consider they should be), they would go to the degree of weight attributed to harm.
- 6.4 The alleged shortcomings of the site in contributing toward the Green Belt are not accepted. The suggestion that the appeal site comprises captured Green Belt²⁸ is not understood in the context of this area of Green Belt or the spatial context of Green Belt policy. The land between St Albans and Hatfield and London Colney and Hatfield is designated Green Belt. That Green Belt includes a number of small settlements that are washed over by Green Belt designation (including Colney Heath, Bullens Green etc).
- 6.5 Therefore any suggestion that the appeal site should have been excluded from the Green Belt is illogical and unsupported. To exclude an island of land in the middle of the gap between settlements would be contrary to the spatial approach of Green Belt policy. The Green Belt washes over Colney Heath and even if it had not washed over the settlement (and therefore excluded the settlement itself) it is clear to me that the appeal site would have been included as designated Green Belt²⁹.
- 6.6 The notion that the appeal site comprises captured Green Belt is not one I recognise and not one that in any way contributes in my view to a case of "other considerations". If it has any merit (and I do not accept it has) then it would be used to weigh harm as opposed to comprising a "benefit" of any scheme.

²⁸ See for instance the Appellant's Planning Statement CD1.15 at paragraph 5.5

²⁹ Having regard to my understanding of Green Belt designation and its permanence as well as the findings of the Green Belt Purposes Assessment 2013 at CD9.05

- 6.7 It is well established that it is for the Appellant to demonstrate that very special circumstances exist to warrant overriding normal Green Belt presumptions. Such circumstances will not exist unless the harm by reason of inappropriateness and any other harm³⁰ is clearly outweighed by other considerations. In addition, substantial weight must be given to Green Belt harm.
- 6.8 In these circumstances, I have already established that the development is inappropriate and will lead to an erosion of openness as well as damaging the character, appearance and visual amenity of and encroaching into the Green Belt. Additional harm by way of harm to character and the countryside, unsustainable location and harm to the setting of a listed building add to the weight of factors against the proposed development. In addition it may be necessary to add harm by way of highway safety harm (albeit the presence or absence of highway-related harm does not change the outcome of my overall assessment). Therefore, the circumstances relied on by the Appellant will need to be of sufficient calibre to **clearly** outweigh these components of harm that cumulatively amount to greater harm than just that of inappropriateness.
- 6.9 In this regard, I am mindful of the stringent test articulated by Sullivan, J (as he then was) in **Draper**³¹, which concerned national Green Belt policy in Planning Policy Guidance Note 2 ("PPG2"). Although PPG2 was replaced by the Framework, for present purposes, current national Green Belt planning policy has not changed. In paragraph 58 of his judgment, Sullivan, J states:
- "The combined effect of paragraphs 3.1 and 3.2 [of PPG2] is that, in order to justify inappropriate development in the Green Belt, (a) there must be circumstances which can reasonably be described not merely as special but as very special, and (b) the harm to the Green Belt by reason of inappropriateness and any other harm must be clearly outweighed by other considerations. Those other considerations must be capable of being reasonably described as very special circumstances. If they are capable of being so described, whether they are very special in the context of the particular case will be a matter for the decision maker's judgment."*
- 6.10 In **Temple**³², Sullivan, J (as he then was) clarified the test for demonstrating very special circumstances by confirming that it was not necessary for each factor, of itself, to be 'very special' and that factors which individually were otherwise quite ordinary could cumulatively become very special circumstances. This supports my view that very special circumstances are the outcome of the balancing exercise (and not the inputs to such an exercise) and only exist at the point when the other considerations clearly outweigh the harm by reason of inappropriateness and any other harm.

30 After **SoS CLG, Reigate and Banstead BC, Tandridge DC and Redhill Aerodrome Ltd** [2014] EWCA Civ 1386

31 **R (Chelmsford) v First Secretary of State and Draper** [2003] EWHC 2978

32 **R (Basildon District Council) v First Secretary of State and Temple** [2004] EWHC 2759 (Admin)

6.11 Further guidance was provided by the Court of Appeal³³, in which the Carnwath, LJ (as he then was) stated inter alia that:

"21. [...] The word "special" in PPG2 connotes not a quantitative test, but a qualitative judgment as to the weight to be given to the particular factor for planning purposes. [...]"

and

"26 [...] I see no reason, in terms of policy or common sense, why the factors which make a case "very special" should not be the same as, or at least overlap with, those which justify holding that Green Belt considerations are "clearly outweighed". To my mind, the wording of para 3.2 ("will not exist unless") reinforces that view. I prefer the formulation used by Sullivan J himself in a judgment the previous year on somewhat similar facts, Doncaster Metropolitan Borough Council v Secretary of State for the Environment, Transport and the Regions [2002] JPL 1509, para 70, where (also in the context of para 3.2 of PPG2) he said:

"Given that inappropriate development is by definition harmful, the proper approach was whether the harm by reason of inappropriateness and the further harm, albeit limited, caused to the openness and purpose of the Green Belt was clearly outweighed by the benefit to the appellant's family and particularly to the children so as to amount to very special circumstances justifying an exception to Green Belt policy." (Original emphasis.)"

The provision of housing in an area of need

6.12 It is common ground that there is a substantial and serious housing land supply shortfall in both Council areas (irrespective of whether the Councils' figures or the Appellant's figures are used). The proposal would provide housing in an area of current need and thus is a benefit of the scheme.

6.13 In considering the contribution that this scheme would make to housing supply, in my view it is relevant to consider the relationship between this site and the plan-making process.

6.14 The position in Welwyn Hatfield is expected to change in the near future with the adoption of a local plan (see section 4). The support of the Secretary of State through his Examining Inspector in respect of the emerging Local Plan is one that would necessarily accept that the spatial strategy of the Council (which excludes development on the part of the site in WHBC or any adjustment of the Green Belt boundary relative to this site) as well as the ability to deliver the housing needs of the Borough over the plan period maintaining a five year housing land supply was sound. I also understand that the part of the site lying within WHDC was not promoted in any call for sites (and therefore will not be allocated).

33 **Wychavon District Council v Secretary of State and Butler** [2008] EWCA Civ 692

- 6.15 In Welwyn Hatfield the emerging plan does not allocate the appeal site or any part of it to meet the housing requirement of the plan over the plan period. The Plan will have to meet its requirement to be considered sound. Put simply the appeal site will not be allocated as part of the current plan process in Welwyn Hatfield. The plan delivers sustainable development and Policy SP1 applies the principles to determine if development can be considered sustainable including in respect of the location which should prioritise pdl, minimise the need to travel by directing growth to areas with good transport networks that are well served by jobs services and facilities.
- 6.16 On any measure the appeal site is not located in an area with good transport networks that are well served by jobs services and facilities. The emerging settlement strategy identifies Bullens Green as a small Green Belt village noting:
- “Small villages and hamlets in rural areas or other areas of development all located within the Green Belt. Typically residential, communities must look towards larger settlements for services and facilities. Accessibility is mainly car dependant. Not generally suitable for further development unless it is compatible with Green Belt policy.”*
- 6.17 In that regard the existing plan concentrates new development in the two towns (Welwyn Garden City and Hatfield) or the specified settlements (Brookmans Park; Cuffley; Digswell; Little Heath; Oaklands and Mardley Heath; Welham Green; Welwyn; Woolmer Green). Bullens Green is not identified at all as a focus for any new development. The plan focuses windfall development on previously developed land in existing settlements with a range of facilities to meet day to needs of future residents (Policy H2)
- 6.18 I accept the position of St Albans is not as advanced but do note that in assessing suitable sites to provide for the housing needs of the district over the new plan period the half of the appeal site within SADC was not considered to comprise a sustainable and suitable location for new housing development. The Green Belt Assessment has determined that parcel 34 provided significant contributions to the safeguarding of the countryside and did not propose any alterations to the Green Belt boundaries or releases in this area. In addition the spatial strategy in St Albans identifying the main towns of St Albans and Harpenden as the focus for new development is unlikely to change as it is entirely consistent with the Framework. The next focus is the specified settlements of Bricketwood, Chiswell Green, How Wood, London Colney, Park Street, Redbourn and Wheathampstead which are excluded from the Green Belt. Colney Heath is one of the smaller villages washed over by the Green Belt and not a location for new residential development.
- 6.19 It is difficult to envisage how the part of the appeal site in St Albans would be allocated pursuant to an emerging Plan process having regard to the fact that the balance of the site would not have been allocated in Welwyn Hatfield and the St Albans part of the appeal site delivers the minority balance of housing units. Given access is provided within Welwyn Hatfield and that part of the site would not be allocated I would have some reservations about the deliverability of the site even if all other matters were resolved.

- 6.20 It had been agreed between the parties that the provision of housing should carry significant weight in the Green Belt planning balance. However the Appellant has revised their position in light of a recent appeal decision to consider the provision of housing should carry very substantial weight.
- 6.21 I maintain my position that the provision of up to 55 market dwellings at the site (disaggregated from affordable housing but including self-build plots) should carry significant weight. I do accept that it is at the upper end of significant weight and could reasonably be described as significant to substantial weight.
- 6.22 It is my view that the Appellant's reliance on housing need and supply are important considerations that weigh in favour. However, the application is in outline with only means of access included for consideration. As suggested by the highways evidence, any permission would be subject to *Grampian* conditions relating to the safety of the access and pedestrian access arrangements and I understand a Traffic Regulation Order would be required to change speed limits on Bullens Green Lane, potentially address on-street parking in the vicinity of the appeal site entrance, as well as any other related highway matters. If contested my understanding is that such processes could take 2 years with no guarantee of a positive outcome for the Appellant. The sale of the site, Reserved Matters applications, pre commencement conditions discharge, other regulatory processes (such as a TRO) and Grampian works would all have to be completed ahead of works first commencing on site and then the commencement of works on delivering houses.
- 6.23 The proposed development is therefore unlikely to contribute toward the five year housing land supply on the Appellant's measures (and those of the PPG and NPPF glossary). Therefore, whilst contributing as a benefit the weight to such a benefit should be tempered for such reasons as well as the scale of any contribution brought forward by the appeal site in light of the Appellant's reliance on the scale of the shortfall.
- 6.24 In ascribing such weight I do not consider that the use of either the Councils' or Appellant's housing land supply figures materially change the weight to be given to such matters given either approach reveals a significant shortfall on the level of need identified. I am mindful of the judgement in *Hunston*³⁴ where it was stated:

"the weight to be given to such a housing shortfall (and whether it constituted 'very special circumstances' for the purposes of the NPPF) is a matter of planning judgment. The weight to be attached to the shortfall may, as a matter of planning judgment, be reduced where a shortfall is inevitable due to a district being subject to policies which restrict development"

34 **St Albans v Hunston Properties Ltd and Anor** EWCA Civ. 1610

- 6.25 I consider my weighting to be fair having regard to the contribution of the site to the housing shortfall³⁵ and the scale of the shortfall as well as the restrictive Green Belt status of much of the land within both Council areas, applying *Hunston*.

Self-Build Homes

- 6.26 I recognise that self-build homes are a benefit of the scheme, as the delivery of a variety of homes would assist in providing houses of a size, type and tenure that meets a need in the area consistent with paragraph 61 of the Framework.
- 6.27 I have already ascribed significant weight to the delivery of up to 55 market houses and I do not propose to reduce that weight to account for the deduction of up to 10 self-build units from that total.
- 6.28 Therefore, I am content that the significant weight I give to the delivery of housing encompasses the delivery of self-build dwellings at the appeal site.

Affordable Housing

- 6.29 On the back of an under-delivery of housing generally, significant shortfalls in affordable housing provision has occurred in both Council areas. The appeal scheme proposes 45% of the proposed housing to be affordable. That equates to up to 45 affordable dwellings.
- 6.30 Subject to the affordable provision being secured by way of an obligation (which it is agreed between the parties is necessary³⁶) it is a benefit of the scheme that should carry substantial weight.
- 6.31 With regard to the Appellant's position it is fair to record that in contrast to their position in respect of housing they have maintained that very substantial weight should be afforded to such a benefit of the scheme.
- 6.32 I do not consider it is helpful to add the adjective "very" to the weighting as it would necessitate a similar exercise in respect of the harm where I have identified for instance that substantial harm to openness and encroachment is caused necessitating substantial weight to be applied in any balance. If the Appellant's approach was taken then the Green Belt harms equally could be given very substantial weight.
- 6.33 The difference between the parties is between "substantial" and "very substantial" weight. I accept that the weight to be given to the benefit would be substantial and I do not consider the difference between the parties to be material.

³⁵ On the Appellant's figures the contribution of 50 dwellings to their identified shortfall would equate to just 1.27% of the SADC shortfall and 1.6% of the WHBC shortfall (see section 13 of the Appellant's Five Year Housing Land Supply Statement from Emery Planning at CD1.16)

³⁶ See SoCG paragraph 9.6

Covid – 19 delivery

- 6.34 Whilst there have been some impacts on housing delivery in the sector these have generally been associated with supply side issues associated with materials and labour supply (not all associated with Covid) and I understand that they were most acute in the first lockdown in the first half of 2020. It is also not clear that the impacts on housebuilding have been to suppress delivery of housing in all instances or that such impacts continue.
- 6.35 Anecdotal evidence suggests that house building activity is returning to pre Covid levels and other considerations such as availability of finance, labour supply and materials are the main issues influencing housing development in 2021. In their blog on such matters³⁷ Savills acknowledge the reduction in construction capacity during lockdown but also attribute future suppression to economic factors including the economic impacts on confidence in the market for consumers as well as housebuilders.
- 6.36 Homes England (HE)³⁸ note the number of affordable housing starts were suppressed due to the pandemic and completions were down 25% compared to the previous year. This is attributed to both the effects of lockdown and social distancing as well as the fact that the Shared Ownership Affordable Homes Programme 2016-21 entered its final year and lower levels of affordable starts were always expected. HE noted:
- “Levels of completions were the lowest since the first six months of 2015-16 and can also be attributed to the housebuilding slow-down caused by the pandemic. Though some sites were able to re-open relatively quickly after the first lockdown, backlogs in the supply chain meant that some schemes faced delays. Partners reported shortages of plasterboard, bricks, mortar and logistical challenges which caused bottlenecks as supply chains caught up with demand.”*
- 6.37 Nonetheless there is no evidence to demonstrate that the development of this site would not also be subject to all the general impacts of COVID on materials supply, labour force issues and general economic conditions such that this site can be considered either immune from the general impacts or to benefit from special considerations that other sites cannot.
- 6.38 However the impacts of COVID-19 are immediate and upon us whereas this application is in outline with Reserved Matters and many other issues yet to be resolved.

³⁷ <https://www.savills.co.uk/blog/article/301680/residential-property/what-impact-will-covid-19-have-on-future-housing-supply-in-england-.aspx>

³⁸ New Homes England Press Release 8 December 2020

- 6.39 Resolution of Grampian conditions including the TRO process, lead in times for discharge of the Reserved Matters and other pre commencement issues as well as letting contracts pursuant to the start of works on site would mean that there are considerable doubts about the contribution of this site to housing land supply in the short term and in this regard a grant of outline permission would not result in housing from this site contributing toward five year housing land supply.
- 6.40 Furthermore, the Coronavirus pandemic is expected to be a temporary issue, albeit its impacts are large and significant. This proposed development would be permanent, and the loss of the Green Belt and its other impacts would also be permanent.
- 6.41 It is not considered that such matters add any weight to the general housing need arguments already identified above.

Sustainable Development

- 6.42 The Appellant has relied upon such matters in support of their proposal³⁹. I have already stated above that the site comprises an unsustainable location for new housing development and such matters weigh against the grant of planning permission. In my opinion this consideration weighs against the grant of planning permission and therefore cannot be relied on as a positive consideration in the Green Belt balance.

Lack of Conflict with Purposes

- 6.43 As I have already demonstrated the proposal will conflict with the purpose of safeguarding the countryside from encroachment and as such I reject this as a benefit of the scheme. Therefore, I do not consider it to be an “other consideration” that weighs in favour of the scheme and thus it carries no weight in favour (and in my view the conflict I have identified with the purposes carries weight against the grant of permission).

³⁹ See 5.3 of the Planning Statement CD1.15 albeit this is not relied upon in the Appellant’s Statement of Case CD13.06

7 Planning Balance

- 7.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 provides that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.
- 7.2 By reason of the local plan policy conflict identified above, the proposed development does not accord with the development plans of the respective Councils.
- 7.3 The Framework is a material consideration in the determination of these appeals. Under paragraph 11(d), the policies most important for the determination of the appeals are deemed to be out of date by reason of the housing land supply shortfall: see footnote 7. This requires the decision-maker to consider whether the application of policies in the Framework provide a clear reason for refusing the proposal. One of the key policies in the Framework are the policies protecting Green Belt land, and another is the protection of designated heritage assets.⁴⁰
- 7.4 I do not consider that the application of the heritage policies in isolation would provide a clear reason for refusal. However, I do consider that a clear reason for refusal is provided by applying the Green Belt policy.
- 7.5 The proposed development constitutes “inappropriate development” in the Green Belt. This is, by definition, harmful, and should not be approved except in “very special circumstances”. Substantial weight must be given to any harm to the Green Belt. Very special circumstances will not exist unless the harm to the Green Belt by reason of inappropriateness, and any other harm, is “clearly outweighed” by other considerations.
- 7.6 As explained above, the other Green Belt harm by loss of openness and harm to the purposes of the Green Belt leads to substantial harm and must carry substantial weight.
- 7.7 Added to this is “any other harm” arising from the other matters considered above.
- 7.8 In that respect, the failure to recognise the intrinsic character and beauty of the countryside and adverse impact on the character of the area carries significant weight against the appeal scheme, unsustainable location for new residential development carries significant weight against the appeal scheme and the adverse impact on the setting of a designated heritage asset carries moderate weight against the appeal scheme and all comprise additional harms that add to the harm to Green Belt matters. In addition, should matters pertaining to harm to impact on highway safety remain unresolved ahead of the appeal being determined then these matters would add further to the above factors weighing against the development.

⁴⁰ i.e. section 13 and footnote 6 of the National Planning Policy Framework 2019

- 7.9 I carry out my Green Belt balancing exercise assuming that a satisfactory obligation is presented to the appeal and that highway objections are overcome.
- 7.10 The weight of factors against the grant of permission present a high hurdle for the Appellant to demonstrate that these harms, taken together, are “clearly outweighed” by other considerations such that “very special circumstances” exist. This high bar is illustrated in a recent appeal decision in St Albans⁴¹ wherein the Inspector notes:
- “The determination of whether very special circumstances exist is a matter of planning judgement based on a consideration of all relevant matters. However, very special circumstances cannot exist unless the harm to the Green Belt, and any other harm, is clearly outweighed by other considerations. Consequently, for the appeal to succeed, the overall balance would have to favour the appellants case, not just marginally, but decisively.”* Emphasis added
- 7.11 The factors relied on by the Appellant comprise the contribution to housing (including self-build plots) which I acknowledge carries significant weight together with the over provision of affordable housing to which I have attributed substantial weight. I do not consider the COVID-19 factors are matters that add any additional material weight over and above the provision of housing generally.
- 7.12 In assessing the appropriate weight to be given to the delivery of housing in the circumstances of a current deficient housing land supply position I am mindful that housing land supply position is a snapshot in time. Whilst it may endure for some time in the circumstances of St Albans and is expected to last for less time in respect of Welwyn Hatfield it is not expected to comprise a permanent state of affairs (as the adoption of a local plan would likely be unsound in those circumstances). In contrast permanence is one of the essential characteristics of the Green Belt together with openness and the proposals would lead to the permanent loss of the openness of this part of the Green Belt. The permanent loss of land that positively contributes to the openness of the Green Belt would not change and the adverse impacts would endure.
- 7.13 The biodiversity scheme to be secured by the obligation will ensure biodiversity losses from the site are compensated off site. Therefore, this comprises a neutral factor in any planning balance that addresses a matter that would otherwise lead to the refusal of planning permission. Archaeology concerns can now be addressed by the imposition of suitably worded conditions and again is a neutral factor.
- 7.14 Notwithstanding the benefits of the scheme taken together, I do not consider these to “clearly outweigh” the harms such that they amount to very special circumstances for the purposes of paragraph 144 of the Framework.

⁴¹ APP/ B1930/W/19/3235642 at Burstons Garden Centre CD10.03

7.15 I am cognisant of the Written Ministerial Statement of July 2015, which sets out the Secretary of State's own view that housing need is unlikely to clearly outweigh harm to the Green Belt to justify the loss of Green Belt land and the grant of planning permission. I consider part of the rationale behind such an approach must lie in one of the two essential characteristics of the Green Belt being their permanence.

7.16 I understand the Appellant will rely on the appeal decision of March 2021 from the Secretary of State⁴². I am not aware of all the circumstances of that case but I do note a number of material differences between that appeal and these:

- This was a call in application (not an appeal against a refusal);
- The Inquiry sat in May 2019 prior to which the main evidence was produced;
- The City of Bradford draft Local Plan Preferred Options (Regulation 18 document) was published following the Inquiry (DLXX);
- The appeal site was the subject of a draft preferred allocation for housing development (DL19) and was envisaged in the adopted plan as being released from the Green Belt;
- The Local Planning Authority supported that application and invited the Secretary of State to allow the appeal;
- No harm through a loss of openness was weighed against the proposed development;
- The impacts of encroachment were considered capable of mitigation by landscaping (DL18);
- No issues associated with locational sustainability were identified as objectionable or considered by the Secretary of State;
- Net gains on site for biodiversity were delivered and weighed significantly in favour of that proposal;
- Net gains for heritage attracted very significant weight in favour;
- The provision of a new primary school attracted great weight in favour of the proposal; and
- New recreational facilities attract moderate weight in favour.

7.17 Therefore it is clear that a basket of other considerations combined to clearly outweigh the harm at that site. Such a basket of circumstances does not exist in the context of the appeal site which notably has not been identified as a draft allocation site (and does not benefit from support in the adopted plans). The policy context was completely different. In my view it is also clear that it was only when the whole basket of considerations were added together (i.e. housing need and other considerations) that very special circumstances existed.

⁴² APP/W4705/V/18/3208020 dated 3 March 2021 CD11.01

- 7.18 In assessing whether the proposals comprise sustainable development generic economic benefits of the proposed housing scheme are not unique to this scheme and the Council Tax spending and infrastructure spending will only contribute toward the needs emanating from this development and are not a benefit of the scheme. The construction employment and spend associated with up to 100 houses is modest in scale. Any economic benefits are tempered by the unsustainable location of the proposed housing and the lack of local facilities to benefit from additional local spend and the existing economic contribution as excellent quality agricultural land. Overall the position on economic impact is positive but carries limited positive weight.
- 7.19 There are some social benefits from the provision of housing and the provision of affordable housing. Such matters weigh in favour of the grant of planning permission. However the location of the site away from community and social facilities tempers the weight to the benefit of providing housing.
- 7.20 I consider that the proposal will lead to very substantial environmental harm such as the loss of openness, encroachment into the countryside and significant permanent built development in the Green Belt which adversely affect the character of the area. The impact on the environment is substantially negative.
- 7.21 Overall, notwithstanding the benefits of the scheme taken together, I do not consider these to “clearly outweigh” the harms and demonstrate “very special circumstances” to justify inappropriate development in the Green Belt for the purposes of paragraph 144 of the Framework.
- 7.22 As such, it is my view that the application of the Green Belt policy provides a “clear reason for refusing” the development proposal under NPPF paragraph 11(d)(i).
- 7.23 If the highways objection is not resolved, then this simply adds to the “other harms” under NPPF para. 144 and the scheme is even further away from being able to demonstrate that “other considerations” “clearly outweigh” the identified harm.
- 7.24 I therefore conclude that the proposed development conflicts with the development plans, and material considerations would not justify the grant of permission and I invite the Inspector to dismiss the appeals.
- 7.25 If the Inspector is minded to allow this appeal, I would request that the conditions that have been provided are imposed. In addition, a section 106 obligation to deliver necessary infrastructure and affordable housing is necessary.

8 Infrastructure and Section 106

8.1 The proposal would have a significant impact on local infrastructure and the proposal would be required to make provision to address its impacts on

- Affordable Housing at 45% plus an appropriate tenure split
- Open space/Green space;
- Play spaces;
- Community facilities;
- Local indoor and outdoor sports facilities; and
- Waste and recycling
- Library Service (towards the enhancement of Hatfield Library);
- Youth Service (towards the increase of capacity at Hatfield Young People's Centre);
- primary education;
- secondary education; and
- fire hydrants
- NHS and Health Care
- Management of Open Space on site
- Travel Plan and monitoring fee
- Off-site highway works
- Off-site sustainable transport improvements
- Biodiversity Losses Off Site Compensation Contribution
- Monitoring fee

8.2 The provision of an agreed obligation including Heads of Terms to cover the matters identified above agreed to meet the tests under CIL Regulation 122(2) and the NPPF⁴³. Should as satisfactory undertaking be provided that makes provision for the necessary infrastructure as well as securing the affordable housing offer it will enable the Council to invite the Inspector not to dismiss the appeal for the reasons set out in reasons for refusal 8 of both Councils.

8.3 The provision of necessary infrastructure is required pursuant to Policy 143b SADLP and IM2, H2 and H7 of WHDLP as well as emerging Policies SADM1, SP7 and SP13 eWHLP. These matters are consistent with the requirements of the NPPF in particular paragraph 56.

8.4 I understand that the Councils will be presenting a CIL Compliance Statement at the Inquiry.

43 See SoCG paragraph 9.6

9 Summary and Conclusions

- 9.1 The appeal site is a cross boundary site and the outline application the subject of this appeal proposes up to 100 dwellings and was refused for eight reasons by both Councils. Since the applications were determined the Appellant and Councils have been working together to address discrete reasons for refusal. In that respect ecology./ biodiversity and archaeology reasons have been addressed and can be overcome through the imposition of suitable conditions or the provisions of a section 106 obligation. Likewise the provision of an executed obligation will address infrastructure concerns and the two reasons for refusal.
- 9.2 Discussions have been ongoing between the parties in respect of highway matters and subject to agreement on the form of Grampian style conditions I understand that the Councils will be in a position to agree that the appeal should not be dismissed on highway safety grounds (as distinct from locational considerations).
- 9.3 The appeal site comprises land extending to a total of 5.25 hectares. It is located between the Green Belt settlements of Roestock/Colney Heath to the south west and west and Bullens Green to the north. The site is located within the Metropolitan Green Belt. The site is currently open and in agricultural use.
- 9.4 Beyond the site to the east lies open countryside and rights of way and predominately to the south the appeal site borders with open countryside. To the west the appeal site borders open land in the form of Roestock Park and the site of the Roestock Depot/Pumping Station, which remains in use.
- 9.5 The appeal site is open and its boundaries albeit demarked by landscaping comprising trees, hedgerow and understorey growth provide a degree of permeability and views into and out of the site. The topography of the site and immediate area is generally level. Bullens Green Lane and Fellows Lane as they border the appeal site comprise narrow country lanes.
- 9.6 Public Rights of Way cross the open agricultural fields comprising the appeal site.
- 9.7 The site and area lies within National Character Area 111: Northern Thames Basin and Hertfordshire Landscape Character Area ('LCA') 29: Mimmshall Valley, which features organic field patterns, woodland blocks and mixed farmland as key characteristics. The overall guidelines for managing change in the Mimmshall Valley LCA are 'Improve and conserve'.
- 9.8 The development plans for the respective areas of the appeal site comprise the St Albans District Local Plan 1994 (SADLP) and the Welwyn Hatfield District Plan 2005 (WHDLP). The most important policies for each plan in respect of this appeal are detailed in my main evidence. The policies are not inconsistent with the Framework to the extent that they are out of date.

- 9.9 However, neither Council is able to demonstrate a five year supply of deliverable housing land, therefore, the policies which are most important for determining the application are deemed to be out of date by virtue of footnote 7 of the NPPF. The application of Green Belt policy in the NPPF provides a clear reason for refusal as per footnote 6 of the NPPF and therefore the “tilted balance” in paragraph 11(d)(ii) is not engaged. With regard to heritage assets I do not consider that the application of paragraph 196 provides a clear reason for refusal as per footnote 6, albeit the heritage harm is a material consideration and must be taken into account within the category of “any other harm” in paragraph 144 of the Framework.
- 9.10 The development comprises inappropriate development and would lead to a substantial loss of openness in both a spatial and visual dimension as well as offending the purpose of including land in the Green Belt relating to the safeguarding of the countryside from encroachment.
- 9.11 I have identified substantial weight to be given to both the loss of openness and the failure to safeguard the countryside, as well as the definitional harm by way of inappropriateness.
- 9.12 The proposal would conflict with the provision of Policy 1 of the SADLP and Policy SADM34 of the Welwyn Hatfield Borough Council Draft Local Plan Proposed Submission August 2016 as well as the Framework.
- 9.13 Given the overall package of harm to the Green Belt I consider that the loss of this arable field to a residential housing estate comprises a substantial level of harm to the Green Belt that should lie at the very top of substantial harm and carry
- 9.14 As to any other harm that is “non-Green Belt” harm, I have shown that the proposals would harm the intrinsic character and beauty of the countryside and harm landscape character. In that respect it would not respect the landscape strategy as it does not comprise high quality design having regard to context as well as failing to improve (enhance) or conserve landscape character. In addition, it does not achieve the objectives of the Watling Chase Community Forest contrary development plan policy and the Framework. Therefore, the proposal will harm the character and appearance of the area and it would fail to make a positive contribution to local character or distinctiveness in conflict with *Policies D1, D2, RA10 and RA11 WHDLP and Policies 69, 70 and 74 SADLP* as well as SP9 of the emerging WHLP and the Framework including 170(b).
- 9.15 Overall in terms of the harm to the character and appearance occasioned by the development of the site for 100 dwellings I consider the degree of harm to be permanent, substantial and irreversible. I give the harm to landscape character and appearance significant weight.

- 9.16 Given the location of the site remote from facilities and infrastructure by distance and quality of route, I do not consider this to represent a sustainable location for new residential development. In that respect this location will not encourage cycling, walking or use of the very limited public transport links, and will result in over-reliance on the private car. It would not ensure an integrated approach to the location of housing, economic uses and community facilities and services, in conflict with the environmental role of sustainable development as well as paragraph 92(e) of the NPPF. It also results in conflict with Policy 2 SADLP and Policies SD1, GBSP2, H2 and R1 WHDLP as well as SADM1 of the emerging WHLP. It would, as I note, also reduce the quality of experience for existing leisure users of the PROW network. I consider this location manifestly unsuitable and unsustainable for new residential development and as such I attribute significant weight to the harm.
- 9.17 I have also concluded that the proposals would lead to harm to the setting of 68 Roestock Lane, a listed building and therefore a designated heritage asset; removing permanently its association with the rural landscape and agricultural land. As such, it conflicts with development plan policy insofar as it would fail to preserve the setting of the building. Whilst the public benefits of providing more housing in the circumstances of the Councils' housing land supply position together with the oversupply of affordable housing set against the development plan requirements may outweigh the great weight that is given the conservation of this heritage asset taken in isolation, the permanent damage that would occur to the setting in this case is a matter that weighs against the grant of planning permission in the planning balance by constituting an "other harm" under NPPF para 144. In the circumstances of this case and the Green Belt balance I have attributed moderate weight to the harm to the setting of the designated heritage asset having identified conflict with Policy 86 SADLP, Policy D1 WHDLP and SADM16 of the emerging WHLP.
- 9.18 I carry out my Green Belt balancing exercise assuming that a satisfactory obligation is presented to the appeal and that highway objections are overcome. If either are not addressed then it will add further weight against the appeal scheme (which does not affect my overall conclusion).
- 9.19 The weight of factors against the grant of permission present a high hurdle for the Appellant to demonstrate that these harms, taken together, are "clearly outweighed" by other considerations such that "very special circumstances" exist. This is a high bar to overcome.
- 9.20 The factors relied on by the Appellant comprise the contribution to housing (including self-build plots) which I acknowledge carries significant weight together with the over provision of affordable housing to which I have attributed substantial weight. I do not consider the COVID-19 factors are matters that add any additional material weight over and above the provision of housing generally.

- 9.21 In assessing the appropriate weight to be given to the delivery of housing in the circumstances of a current deficient housing land supply position I am mindful that housing land supply position is a snapshot in time. Whilst it may endure for some time in the circumstances of St Albans and is expected to last for less time in respect of Welwyn Hatfield it is not expected to comprise a permanent state of affairs (as the adoption of a local plan would likely be unsound in those circumstances). In contrast permanence is one of the essential characteristics of the Green Belt together with openness and the proposals would lead to the permanent loss of the openness of this part of the Green Belt. The permanent loss of land that positively contributes to the openness of the Green Belt would not change and the adverse impacts would endure.
- 9.22 The biodiversity scheme to be secured by the obligation will ensure biodiversity losses from the site are compensated off site. Therefore, this comprises a neutral factor in any planning balance that addresses a matter that would otherwise lead to the refusal of planning permission. Archaeology concerns can now be addressed by the imposition of suitably worded conditions and again is a neutral factor.
- 9.23 Overall, notwithstanding the benefits of the scheme taken together, I do not consider these to “clearly outweigh” the harms and demonstrate “very special circumstances” to justify inappropriate development in the Green Belt for the purposes of paragraph 144 of the Framework.
- 9.24 As such, it is my view that the application of the Green Belt policy provides a “clear reason for refusing” the development proposal under NPPF paragraph 11(d)(i).
- 9.25 If the highways objection is not resolved, then this simply adds to the “other harms” under NPPF para. 144 and the scheme is even further away from being able to demonstrate that “other considerations” “clearly outweigh” the identified harm.
- 9.26 I therefore conclude that the proposed development conflicts with the development plans, and material considerations would not justify the grant of permission and I invite the Inspector to dismiss the appeals.
- 9.27 If the Inspector is minded to allow this appeal, I would request that the conditions that have been provided are imposed. In addition, a section 106 obligation to deliver necessary infrastructure and affordable housing is necessary

APPENDIX B

Post Hearing Letter from the Inspector

Examination of the St. Albans City & District Council Local Plan
Inspectors: Mrs. Louise Crosby MA MRTPI and
Mrs. Elaine Worthington BA (Hons) MT MUED MRTPI

Programme Officer: Mrs Louise St John Howe
louise@poservices.co.uk Mobile: 07789 486419

14 April, 2020

Mr. Chris Briggs,
Spatial Planning Manager,
St Albans City & District Council.

By email only

Dear Mr Briggs,

EXAMINATION OF THE ST ALBANS CITY AND DISTRICT LOCAL PLAN

Introduction

1. The Stage 1 hearing sessions were held between 21 and 23 January 2020. Over those three days we heard discussion on legal compliance, the Duty to Cooperate, the spatial strategy and matters relating to the Green Belt.
2. We wrote to the Council on the 27 January 2020 to raise our serious concerns in terms of legal compliance and soundness and to cancel the subsequent hearing sessions arranged for February 2020. This letter sets out our concerns in detail. We are conscious that this is a difficult time for everyone due to Covid 19 and in particular Councils. We also appreciate that it is not a good time to receive unfavourable news. However, Mr Briggs has indicated to the Programme Officer that the Council wish to receive our letter as soon as possible.
3. Whilst we will not reach final conclusions on these points until you have had the opportunity to respond to this letter in summary our main concerns are:
 - Failure to engage constructively and actively with neighbouring authorities on the strategic matters of (a) the Radlett Strategic Rail Freight Interchange proposal and (b) their ability to accommodate St Alban's housing needs outside of the Green Belt;
 - Plan preparation not in accordance with the Council's Statement of Community Involvement;
 - Inadequate evidence to support the Council's contention that exceptional circumstances exist to alter the boundaries of the Green Belt;
 - Failure of the Sustainability Appraisal to consider some seemingly credible and obvious reasonable alternatives to the policies and proposals of the plan;
 - Failure of the plan to meet objectively-assessed needs; and
 - Absence of key pieces of supporting evidence for the plan.

Legal Compliance

Duty to Cooperate (DtC)

4. Section 33A of the Planning and Compulsory Purchase Act 2004 (The Act) indicates that the DtC applies to the preparation of local plans, so far as relating to a strategic matter. A strategic matter is defined in Section 33A(4) as: (a) sustainable development or use of land that would have a significant impact on at least two planning areas, including (in particular) sustainable development or use of land for or in connection with infrastructure that is strategic and has or would have a significant impact on at least two planning areas, and (b) sustainable development or use of land in a two-tier area if the development or use is a county matter (i) or has or would have a significant impact on a county matter (ii).
5. The DtC requires the Council to engage constructively, actively and on an on-going basis in relation to the preparation of local plan documents so far as relating to a strategic matter (in order to maximise the effectiveness of plan preparation).
6. Paragraph 25 of the National Planning Policy Framework (the Framework) states that strategic policy-making bodies should collaborate with one another, and engage with their local communities and relevant bodies, to identify the relevant strategic matters which they need to address in their plans. Paragraph 26 is clear that effective and on-going joint working between strategic policy making authorities and relevant bodies is integral to the production of a positively prepared and justified strategy. In particular, joint working should help to determine where additional infrastructure is necessary, and whether development needs that cannot be met wholly within a particular plan area could be met elsewhere.
7. Whilst Section 19 of the Act requires the Council to identify its strategic policies, the Courts have held that issues such as what would amount to strategic planning matters are all matters of judgement that are highly sensitive to the facts and circumstances of the case.
8. A large site in the district (the Radlett site) has planning permission for a Strategic Rail Freight Interchange (SRFI), but is proposed for housing in the Plan as the Park Street Garden Village (PSGV) Broad Location. The SRFI is not identified as a strategic matter by the Council. It is argued that this is because it is not a proposal included in the Plan. The proposed alternative development of PSGV has the effect of precluding the SRFI. On this basis, the Council considers that it did not need to cooperate in relation to this matter, since once the SRFI ceased to be a strategic site promoted under the Plan, it was no longer required to engage in the DtC discussions.
9. However, national policy and guidance is clear that unmet needs, and how they could be met elsewhere, are a key issue to be considered through the DtC. The Guidance (paragraph 022 Reference ID: 61-022-20190315) advises that strategic policy making authorities should explore all available options for addressing strategic matters within their own

planning area, unless they can demonstrate to do so would contradict policies set out in the Framework. If they are unable to do so they should make every effort to secure the necessary cooperation on strategic cross boundary matters before they submit their plans for examination.

10. It seems to us that it is illogical to argue that the DtC applies only to proposals in the Plan, since by their very nature, approaches to unmet needs will not be included in the Plan (as there is no provision to address them there). In our view, the SRFI is a strategic matter for the purposes of the DtC, as are allocations for housing development to meet identified housing need. Thus, the use of the land at the Radlett site, whether as a SRFI or a housing allocation, is a strategic matter which the Council should have been engaging and cooperating with neighbouring authorities about.
11. It is not evident from the Council's Duty to Cooperate Compliance Statement (CD028) or Matter 2 hearing statement (neither of which mention the SRFI) how the Council has engaged with other LPAs or interested parties on this matter. There is nothing before us to demonstrate that other nearby authorities have been approached in terms of the possibilities of accommodating either the SRFI, or the housing now proposed on the site (in order to safeguard the SRFI permission). Indeed, The Council's note at ED31 indicates that following the site's identification for PSGV the DtC discussions focussed on that housing scheme, rather than the loss of the SRFI.
12. Both the site promoter and Network Rail raise objections to the Plan under the DtC. Whilst the Council referred to verbal conversations with senior members of staff at MHCLG who were aware of the approach to the SRFI in the Plan, a lack of objections from MHCLG is not an indication that the DtC has been met.
13. Overall, there is no evidence of effective joint working or cooperation on this important strategic cross boundary matter regarding a nationally significance infrastructure scheme. We cannot be content that the Council has explored all available options to address this strategic matter within its own planning area or engaged with others in an attempt to secure its provision elsewhere or that it has reached the conclusion not to provide for it in the Plan in the full knowledge of neighbouring authorities' views on this.
14. For these reasons, we are not satisfied that the Council has provided evidence to demonstrate on-going, active and constructive engagement regarding the SRFI. Whilst the Council's decision not to pursue the allocation of the SRFI in the Plan does not in itself indicate a failure to comply with the DtC, the Council has not engaged or cooperated with other bodies (including other LPAs) with regard to this issue. This includes in relation to the reasons why it no longer considers it necessary to include the SRFI as an allocation in the Plan, or why housing is now proposed there. Thus, the effectiveness of the Council's plan preparation has not been maximised in this regard.

15. The Council's approach to the Green Belt is also of concern to us in relation to the DtC. The Plan proposes substantial Green Belt boundary alterations to enable land to come forward for development. Paragraph 137 of the Framework requires that before concluding that exceptional circumstances exist to justify changes to Green Belt boundaries, the strategic planning authority should be able to demonstrate that it has examined fully all other reasonable options for meeting its identified need for development. It has not been demonstrated that the Council's approach to the Green Belt has been informed by discussions with neighbouring authorities about whether they could accommodate some of the identified need for development, as demonstrated through a statement of common ground (SoCG), in accordance with paragraph 137(c) of the Framework.
16. Paragraph 1.4 of ED25C refers to on-going dialogue with neighbouring authorities throughout 2013-2016 and 2017-2019 to see if they could accommodate any of the Council's housing need. The Council refers to the June 2018 Planning Policy Committee (PPC) report which finds the DtC discussions with adjoining and nearby authorities currently show no reasonable prospect of the district's housing need being met elsewhere at this point in time. ED25C also refers to the DtC Compliance Statement (CD028) as evidence of this.
17. However, the meetings with nearby authorities referred to in CD028 took place for the most part between May and August 2018 and the notes of these indicate that the Council intended to meet all its housing needs within its boundary. Whilst we appreciate that neighbouring authorities are likely to have their own Green Belt constraints and housing pressures, there is no mention of the question being asked as to whether any of the neighbouring authorities could take any of St Albans' need (that would otherwise require the release of Green Belt land). This is another example of a lack of on-going, active and constructive engagement in relation to an important strategic matter.
18. Paragraph 27 of the Framework indicates that in order to demonstrate effective and on-going joint working, strategic policy making authorities should prepare and maintain one or more SoCGs, documenting the cross boundary matters being addressed and progress in cooperating to address these. These should be produced using the approach set out in the Guidance and be made publicly available throughout the plan-making process to provide transparency.
19. The Guidance indicates that a SoCG is a written record of the progress made by strategic policy making authorities during the process of planning for strategic cross boundary matters. It documents where effective cooperation is and is not happening throughout the plan making process and is a way of demonstrating at examination that plans are deliverable over the plan period. The Guidance is clear that a SoCG also forms part of the evidence required to demonstrate that the Council has complied with the DtC. The Council has provided a SoCG relating to the emerging Joint Structure Plan (JSP) but not in relation to this Plan. There are no SoCGs with any of the neighbouring or nearby LPAs or any of the DtC

bodies.

20. Although a joint Dacorum Borough Council and St Albans City and District Council Duty to Cooperate Updated Position Statement (January 2020) (ED32) has been provided, this is not a SoCG. It summarises the progress made to date to resolve the strategic planning matters between the Council and Dacorum. It states that since December 2019 discussions between the two Councils have continued at pace and both agree that they consider sufficient progress has been made on the principles of the strategic planning matters pertinent to the DtC. However, the DtC concerns cooperation prior to the submission of the Plan (which was in March 2019). The Updated Position Statement sets out a package of arrangements that will be put in place, the principles for which will be expanded upon and precise details given in a SoCG, a draft of which is anticipated in May 2020.
21. As such, contrary to the advice in the Guidance, there are no SoCGs before us to demonstrate that the Council has complied with the DtC. Consequently, we are not convinced that the Council has met the terms of the Guidance and cannot be assured that it has fulfilled its DtC duty in maximising the effectiveness of plan preparation by engaging constructively, actively and on an on-going basis with other bodies that are subject to the DtC.
22. A failure to meet the DtC cannot be remedied during the examination since it applies to plan preparation which ends when the Plan is submitted for examination. Section 20(7A) of the Act requires that the examiners must recommend non-adoption of the Plan if they consider that the Council has not complied with the DtC. As previously indicated and set out in more detail below, whilst our concerns are substantial, we will not make an absolute final decision as to whether or not the DtC has been met until the Council has had the chance to respond to this letter.

Statement of Community Involvement (SCI)

23. Each LPA is required to prepare a SCI setting out their policy for involving persons with an interest in the development of the area when preparing and revising their local plans. Amongst other things, the SCI should explain how the authority intends to go about publicising the Plan and undertaking consultation on it.
24. Section 19(3) of the Act states that in preparing local development documents the authority must comply with their SCI. The Council's SCI Update 2017 (Doc SCI 001) states that its purpose is to set out, amongst other things, how and when the community and other stakeholders will be consulted on the preparation and revision of documents that will make up the Plan.
25. Section 2 of the SCI considers consultation on the Plan and discusses the different stages in its preparation. Tables 1 and 2 detail the consultation techniques that may be used at each stage of the DPD and SPD preparation process. Paragraph 2.14 explains that the stages may vary

between different types of planning document and be subject to review over time. Even so, Figure 2 refers to Issues and Options/Preferred Options, and paragraph 2.17 refers to a Preferred Options stage.

26. Moreover, paragraph 2.22 of the SCI states that consultation will initially seek the views of specific and general consultation bodies to identify Issues and Options as part of on-going engagement after Regulation 18, and that wider consultation with these bodies, local communities and businesses and other interested parties and individuals will take place as 'preferred options' are identified. Table 1 includes a specific row for a Preferred Options consultation stage, that is separate and distinct from the Issues and Options stage, with a consultation period of a minimum of 6 weeks.
27. We consider that the wording of the SCI sets up a reasonable expectation that the Council would undertake a Preferred Options consultation on the Plan prior to its submission. However, this did not happen. The Plan progressed from Issues and Options in January/February 2018 to the Publication Draft Plan in September/October 2018 (with no Preferred Options stage). This being so, notwithstanding the flexibility allowed by paragraph 2.17 of the SCI, the Plan has not been prepared in compliance with the SCI and there has been a breach of Section 19(3) of the Act.
28. That said, a key issue in relation to this matter is whether any affected party has suffered any prejudice as a result of the breach, and if so whether any such prejudice can be remedied during the examination. If the examination were to continue, an assessment would need to be made as to whether the expectation which arose from the SCI of consultation on Preferred Options (and the omission of that stage) has prejudiced the interests of any parties. Consideration as to whether this could be resolved during the examination would also be necessary. Given our findings in relation to the DtC, we have not come to a view on this matter but raise it in the context of the Council's future plan making activities.

Soundness

29. In addition to the legal compliance matters identified above, we also have a number concerns in relation to the soundness of the Plan. Whilst we have not reached final conclusions on these issues and they may be matters which could potentially be resolved through the examination if it were able to continue, we believe it is helpful to highlight these points to you at this stage if only to assist your plan making in the future

Green Belt

30. Paragraph 136 of the Framework sets out that, once established, Green Belt boundaries should only be altered where exceptional circumstances are fully evidenced and justified, through the preparation or updating of plans. The Council's approach to the Green Belt is set out in Policy S3 and clarified in the response to our Initial Question 16 and in the subsequently produced Green Belt Topic Paper (ED25C). Further information has been

provided in the Council's hearing statement and via the hearings.

31. The Green Belt Review Purposes Assessment (November 2013) was prepared jointly for the Council with Dacorum and Welwyn Hatfield Councils by SKM (GB004). This Stage 1 of the review identified large parcels of land across the three authorities. Those areas contributing least to the Green Belt were determined and a number of strategic sub areas in St Albans were identified for further investigation. These were taken forward to Stage 2 where SKM undertook a review and detailed assessment of those strategic sub areas in the Green Belt Review Sites and Boundaries Study (February 2014) (GB001).

Scale of unmet need

32. Whilst the Council indicated at the hearings that the 2013 Green Belt Review was not done with any level of development need or target in mind, it was prepared around the time that the Council was working on the previous SLP. At that time housing requirements were 8,720 (or 436 per annum) and so much lower than the current objectively assessed need (OAN) of 14,608 homes over the plan period. However, the Green Belt Review was not re-visited in the context of the much higher scale of unmet need which could only be met by Green Belt release that was subsequently identified in the Plan.

Strategic and smaller sites

33. GB004 identifies a number of strategic sub-areas along with some small scale sub-areas which are recommended to be considered for further assessment. The 8 strategic sub-areas are then considered in GB001 which identifies sites for potential Green Belt release. However, the small scale sub-areas identified in GB004 as making no or little contribution to the Green Belt purposes were not considered further and were deemed to fall outside the scope of the subsequent GB001 study.
34. In 2018, the Council undertook its strategic site selection work to review the sites identified by SKM and to seek further potential sites to make up the shortfall. In determining the extent of this shortfall the Council estimated that the total capacity of the 8 SKM sites, combined with the identified non-Green Belt capacity in the district falls well short of the 14,608 homes required (ED25C paragraph 1.19).
35. Strategic scale sites were defined as those capable of accommodating residential development of a minimum of circa 500 dwellings or 14 hectares (ha) of developable land. Using this threshold, 70 sites were evaluated using a Red Amber Green (RAG) system over three stages. After Stage 3, the 8 strategic sub-areas identified in GB001 were the only sites to score green (low impact) and were taken forward (the ninth site is the employment site at East Hemel Hempstead). Additionally, four amber (medium impact) sites were identified at South East Hemel Hempstead, North Hemel Hempstead, PSGV and North East Redbourn.

36. The Council indicates that all of the 8 green sites, and 3 of the 4 amber sites were required to meet local housing need. The advantages of the three selected amber sites at South East Hemel Hempstead, North Hemel Hempstead, and PSGV were considered by the PPC to be greater than that for the non-selected site at North East Redbourn.
37. This approach raises a number of concerns. As part of the fundamental approach stemming from 2013/14, smaller sites (less than 500 dwellings or 14ha) have been excluded from the Green Belt Review and site selection process. This includes the smaller scale areas of land identified in GB004 as contributing least to Green Belt purposes. Paragraph 8.1.5 of GB004 is clear that the small-scale sub areas identified in that study may not be exhaustive. It also recognises that it is possible that additional potential small-scale boundary changes that would also not compromise the overall function of the Green Belt might be identified through a more detailed survey. Thus, the capacity from such smaller sites could be much higher than that estimated by the Council.
38. Additionally, a number of sites were submitted to the process which are not small, but do not meet the agreed threshold. These are identified in Table 2 to Appendix 1 of the May 2018 PPC report. Although they are between 10.5 and 14ha and/or a capacity of 375 to 500 dwellings they were considered to fall sufficiently below the overall scale and dwelling capacity not to be assessed. These are nonetheless large sites which could potentially deliver a good number of homes.
39. The withdrawn SLP identified the potential for small scale Green Belt greenfield sites to be looked at in more detailed in the then envisaged subsequent detailed Local Plan. Thus, at that time there was an anticipation that such sites would be included in the Council's overall housing strategy, alongside the larger strategic sites/ Broad Locations. However, in developing the Plan now being examined, it seems that that any consideration of the potential of such smaller sites has been overlooked.
40. In light of the large number of homes that would need to be accommodated, the Council decided that only strategic scale Green Belt sites would be taken forward in the Plan. The advantages of strategic scale sites over smaller ones was an explicit evaluative choice made by the Council. It was based on a judgement that the strategic scale sites offer infrastructure and community benefits in way that small sites do not and in light of points raised in the public consultation responses to the Plan.
41. In looking at Green Belt releases we have concerns about the narrow focus that has been placed on only strategic sites. This has ruled out a number of sites that have already been found to impact least on the purposes of the Green Belt. It may well also have ruled out other non-strategic sites with limited significant impacts on the Green Belt which may have arisen from a finer grained Green Belt Review.

42. Whilst the Council indicates in the May 2018 PPC report that small sites in the Green Belt are not needed (and so have not been assessed) this position appears at odds with the context of the identified shortfall situation. Moreover, the decision to discount all smaller sites in the Green Belt was made in 2013/14 and not in light of the higher levels of need for housing that are now being faced by the district. In terms of the contribution they make to Green Belt purposes, it has not been demonstrated whether a range of smaller sites would be preferable to the shortfall sites selected.
43. Additionally, we see no reason why the identification of some smaller sites would unacceptably spread the adverse impacts of development on Green Belt purposes. Whilst this would extend the impact of development over a wider geographic area, the extent of the resultant impacts would be likely to be smaller given the more limited scale of the sites (in comparison to the cumulative impact on the Green Belt purposes of developing large adjoining strategic sites, such as to the east of Hemel Hempstead as proposed).
44. We accept that large scale urban extensions would provide significant amounts of new infrastructure which both the new and already established communities would benefit from. On the other hand, a range of sites including smaller sites could also provide benefits. For example, they could be delivered more quickly without requiring additional infrastructure, provide choice and flexibility in the housing market and secure affordable housing more immediately.
45. Overall, although previously recognised as a source of housing to be identified at some stage, smaller sites have been disregarded as part of the plan making process. It is our view that this approach has ruled out an important potential source of housing that may have been found to have a lesser impact on the purposes of the Green Belt than the sites selected without sufficient justification.

Previously developed land (PDL)

46. Paragraph 138 of the Framework states that where it has been concluded that it is necessary to release Green Belt land for development, plans should give first consideration to land which has been previously developed and/or is well served by public transport.
47. GB004 does not consider PDL or apply any specific focus on PDL. At paragraph 5.2.20 it indicates that the fifth national purpose of the Green Belt to assist urban regeneration has been screened out. This explains that assisting urban regeneration, by encouraging the recycling of derelict and other urban land is considered to be more complex to assess than the other four purposes because the relationship between the Green Belt and recycling or urban land is influenced by a range of external factors.
48. Furthermore, as a result of the site selection process outlined above, any PDL site or site in a sustainable location well served by public transport in the Green Belt below the size threshold has been discounted for

consideration. This is so regardless of its impact on Green Belt purposes. This approach fails to give first consideration to PDL land and/or that which is well served by public transport in the Green Belt, and the required process of prioritisation is not evident.

Methodology for the assessment of sites

49. We also have concerns regarding the strategic site selection process. At Stage 1 a high number of sites were immediately discounted from further assessment on the basis of their Green Belt Review evaluation (and were rated red). The 4 identified amber sites all had only 1 or zero effects on the Green Belt Purposes (as identified for the relevant parcels in the 2013 Green Belt Review). However, representors refer to a number of sites that were rejected at Stage 1 despite also having zero or only 1 significant impact on Green Belt purposes (in the same way as the amber and green rated sites).
50. The 8 strategic sub-areas shortlisted in the 2013 study and carried forward were already the subject of a detailed Green Belt assessment. The amber rated sites were assessed by officers and this is evident from the additional text in the Site Evaluation Forms at Appendix 3 of the May 2018 PPC report. However, unless they had been considered as small sub-scale areas in the 2013 Green Belt Review, the red rated sites are subject only to an additional brief standardised paragraph of text. Whilst the Council confirms that these are the assessments upon which it relies, no reason is given as to why they were not subject to a detailed assessment in the same way as the green and amber sites. Without these, it is difficult to see why the amber sites were found to perform better.
51. Another anomaly is that in re-assessing the 4 amber sites, the impact they would have on the Green Belt seems to have decreased compared to the situation in 2013. This is the case for PSGV where the 2013 assessment of parcel GB30 found 3 significant effects to the Green Belt purposes, but the re-assessment (on the basis of a limited area south of the A414) finds it to have only one significant effect.
52. Thus, the significant effects of the smaller parcel of land on Green Belt purposes have reduced in comparison to that of the wider parcel. However, such an assessment of smaller parts of other discounted strategic parcels has not been undertaken. As a result, the impact of smaller sites as opposed to the larger parcels has not been consistently reviewed across the board to allow informed decisions on Green Belt release to be made.
53. Additionally, there are issues with the site evaluation forms. For example, although Stage 1 of the PSGV site evaluation form acknowledges the existing significant permission of the SRFI, this makes no changes to the site's amber rating. Additionally, under Stage 2 (suitability) it is found to be green with no overriding constraints to development (despite the permitted SRFI). Furthermore, under Stage 3 (availability), notwithstanding the planning permission for the SRFI, it is recorded that

there are no overriding constraints to development for housing in terms of land ownership, restrictive covenants etc (and a green score is given). This does not seem a fair or credible assessment of the site and calls into question its overall amber rating. It also casts some doubts as to the reliability of the overall assessment process.

Compensatory improvements

54. Paragraph 138 of the Framework sets out ways in which the impact of removing land from the Green Belt can be offset through compensatory improvements to the environmental quality and accessibility of remaining Green Belt land. The Council refers to Policy S6 and the requirements set out under each of the Broad Locations. It also anticipates that further compensatory improvements will emerge through the forthcoming masterplans for the Broad Locations and refers to the provisions of Plan Policy L29.
55. However, we have concerns as to whether such compensatory improvements have been identified in relation to all the Broad Locations, and if they would in fact be on land remaining in the Green Belt or on land within the Broad Locations themselves. There is also a lack of clear evidence to demonstrate that the developer or the Council owns or controls the land that would be needed in each instance.
56. Additionally, the Council confirmed at the hearings that the costs of the required improvements has not been specifically factored into the viability work for each of the Broad Locations. In the absence of the identification of particular schemes of improvement or any estimation of their likely costs, it is difficult for us to be satisfied that that the headroom in the viability of the Broad Locations would be sufficient to cover the required improvements as suggested by the Council. In light of all these factors, it is not clear to us how this important requirement of the Framework would be met.

Conclusion on the Green Belt

57. Paragraph 137 of the Framework states that before concluding that exceptional circumstances exist to justify changes to the Green Belt boundaries, the Council should be able to demonstrate that it has examined fully all other reasonable options for meeting its identified need for development. For the reasons set out above, we cannot be satisfied that this has been demonstrated. Nor can we agree with the statement in Policy S2 that the exceptional circumstances required for Green Belt release for development only exist in the Broad Locations.
58. The Council indicates at paragraph 1.3 of ED25C that the Plan process built on the earlier draft SLP work, in an updated context. However, the Green Belt Review was not re-visited in this updated context. If the examination were able to continue, a new Green Belt Review would need to be undertaken in accordance with the advice in the Framework and the Guidance and to address the concerns we have identified in this part of our letter.

Sustainability Appraisal

59. The Sustainability Appraisal (SA) of the Plan was carried out by TRL and the resulting report and appendices and Non-Technical Summary were published in September 2018 for consultation alongside the Plan. A subsequent SA Addendum was published in March 2019. This was prepared to report on the sustainability appraisal activities undertaken from the time of the representations on the Publication Plan in September/October 2018, up to the Submission of the Plan in March 2019.
60. The SA addendum report covers four main areas; analysis and responses to the representations made during the consultation on the Publication Plan and its accompanying SA; assessment of proposed Minor Modifications to the Plan; assessment of the proposed SRFI; and updates to the information in the SA Report (September 2018). These reports follow on from earlier SA work carried out to inform the previous SLP.
61. The 2018 SA is based on a previous strategy arrived at in 2014. Following an assessment of 4 different development strategy options, this found option 1a mixed location/scale development to be the most favourable. This was principally because the Council considered this option would provide the greatest social and economic benefits. Option 1b mixed location/scale development with smaller, but more sites, was another option considered and scored. The commentary in relation to this option indicates that "This would necessitate more work on detailed Green Belt Boundaries to see what might be appropriate as smaller scale alternatives in some of the selected locations".
62. As set out above, this additional Green Belt Review work has not been undertaken. Yet in table 5 (paragraph 73, Appendix E, Volume 2 of the 2018 SA), option 1a scores higher than option 1b in relation to the SA objectives; sustainable location, equality social, sustainable prosperity and revitalise town. It is difficult to see how these scores were reached objectively without the knowledge of where the smaller sites might be under option 1b. For example, they may have been on the edge of St Albans or Harpenden which to our minds could have scored at least the same if not higher in some or all of these categories than option 1a.
63. The SA generally makes optimistic assumptions about the benefits of option 1a and correspondingly negative assumptions about option 1b, without the evidence to support them. Consequently, these assessments lack the necessary degree of rigour and objectivity and are therefore unreliable.
64. This approach led to only the consideration of sites of more than 14ha and or 500 homes. This decision was underpinned to a large degree by the findings of the Green Belt Review and the strategic site selection work which we have expressed our concerns about above. Moreover, this threshold and strategy was conceived in the context of a different set of circumstances, such as a much lower housing requirement and at a time

when there was also no planning permission for the SRFI.

65. The assessment of development strategy options established in 2014 has not been properly reassessed to consider if the Plan's strategy is still an appropriate one, taking into account the material changes in circumstances between 2014 and 2018. Indeed, the Council's Regulation 18 consultation SA Working Note (January 2018) states in paragraph 4.3.3.3 "At this new Regulation 18 stage in the development of the Local Plan there has been no new assessment of sites or wider Broad Locations. This work will be undertaken during the SA that is undertaken as part of the development of the Publication Local Plan". However, this did not appear to happen in a transparent and objective manner, if at all.
66. In May 2018 a significant number of sites were submitted to the Council for consideration following a call for sites. These ranged in size enormously. However, only 12 were evaluated in detail and 11 of those were included in the Plan, the rest were disregarded. As recognised by the Council, the small sites that have been discounted from the strategic site selection process are not in all cases much smaller than 14ha. Some are of a considerable size and only just below the threshold. This is of particular concern given that the Plan contains two Broad Locations that are expected to accommodate less than 500 homes (S6 (ix) West of London Colney – 440 dwellings, and S6 (x) West of Chiswell Green – 365 dwellings).
67. As considered above, even when assessing the sites of 14ha and or 500 homes or more, those that scored red were given this score based on the 2013 Green Belt Review and the decision was taken not to revisit whether that was still appropriate. Importantly, some of the sites assessed through the RAG system were extremely large, in some cases hundreds of hectares in size. No consideration was given to whether parts of those sites would score better in Green Belt terms and therefore make them competitors for other sites scoring green or amber.
68. Leading on from this, there appears to have been no analysis of reasonable alternative sites that could accommodate less than 500 homes that may have scored better both in terms of the Green Belt purposes and/or sustainability objectives. This is despite references in the Framework for the need to plan for a variety of sites. For example, paragraph 68 indicates that, small and medium sized sites can make an important contribution to meeting the housing requirement of an area and are often built out relatively quickly. Whilst there is a list of 'small' sites in appendix 5 of the Plan, they do not amount to the 10% referred to in paragraph 68a of the Framework. There is also little information about whether these include, for example, replacement dwellings.
69. Although the Council contends that sites of less than 500 homes and or 14ha will come forward as windfall sites, given that the majority of the undeveloped or unallocated land in the district is in the Green Belt, any such proposals would need to demonstrate "very special circumstances".

However, the Courts¹ have found that ““exceptional circumstances” is a less demanding test than the development control test for permitting inappropriate development in the Green Belt, which requires “very special circumstances””. Therefore, it is unlikely that sites, other than those allocated in the Plan or small infill or redevelopment sites in existing towns and villages, would come forward for residential development. Importantly paragraph 136 of the Framework advises that the time for altering Green Belt boundaries is through the preparation or updating of plans.

70. Whilst smaller sites may come forward in Neighbourhood Plans (NP), the Plan does not apportion any development to NPs and any changes to Green Belt boundaries have to be established through strategic policies, as set out in paragraph 136 of the Framework.
71. As set out above, PSGV has planning permission for a SRFI. Despite this, the SRFI is deemed by the Council not to be a reasonable alternative for housing. We have serious concerns that the Council had clearly made up its mind on this matter of great importance before carrying out the SA or the SA addendum work. Twice the SA addendum states that “the view of the Council is that the SRFI is not a ‘reasonable alternative’ for that site and therefore it was not assessed in the SA. However, for purposes of completeness the principle of developing an SRFI on the same site as that allocated for PSGV has now been assessed as part of this SA report addendum”.
72. The Council argues that the SRFI is not a reasonable alternative since the Government’s approach has a primary focus on housing. However, that is not what the Framework says. When read as a whole it identifies a number of priorities for sustainable development including both housing and large scale transport facilities (amongst other things).
73. The SA tables take no account of displacing the SRFI. If they did, North East Redbourn would be likely to attract a positive score as it would allow the SRFI to be provided, and the PSGV housing site would be reasonably expected to receive a negative score as it would lead to the non-provision of the SRFI. Moreover, the SA addendum fails to properly consider the SRFI and appropriately weight its environmental advantages. It underscores the positive effect that it would have on greenhouse gas emissions and fails to acknowledge the benefits to the local economy of the additional jobs that would arise.
74. Another serious flaw in the SA process is that the PSGV site scores are changed in relation to some objectives in the SA addendum when it is tested against the SRFI. The objectives in relation to ‘use of brownfield land’ and ‘historic environment’ change from a question mark in the 2018 SA to a cross in the SA addendum. However, the Council has not gone

¹ Compton Parish Council, Julian Cranwell and Ockham Parish Council v Guildford Borough Council, Secretary of State for Housing Communities and Local Government, Wisley Property Investments Ltd, Blackwell Park Ltd, Martin Grant Homes Ltd and Catesby Estates Plc [2019] EWHC 3242 (Admin)

back and looked at the effect of the re-scoring in relation to the ruling out of the North East Redbourn site in the 2018 SA (a site which was considered more favourably in terms of the Green Belt Review).

Conclusion on the SA and SA addendum

75. On the basis of our concerns set out above, we consider that there are a number of obvious and seemingly credible reasonable alternatives that have not been considered. This being so, we are not convinced that either the SA or the SA addendum has considered and compared reasonable alternatives as the Plan has evolved, including the preferred approach, and assessed these against the baseline environmental, economic and social characteristics of the area and the likely situation if the Plan were not to be adopted.
76. Therefore, the SA has not demonstrated that the spatial distribution of development is the most appropriate strategy given the reasonable alternatives available. The discrepancies in the scoring of the sites as highlighted also undermines the robustness of the assessment and calls into question the objectiveness of that process. Moreover, the Council does not appear to have approached the SA or the SA addendum with an open mind and in our view should have consulted on the SA Addendum.
77. Thus, with criterion b of paragraph 35 of the Framework in mind, we cannot find that the Plan is justified since it fails to be an appropriate strategy taking into account the reasonable alternatives and based on proportionate evidence. If the examination were able to continue we would need to explore the extent to which these concerns could be satisfactorily addressed through the examination.

Meeting the area's objectively assessed needs

78. Paragraph 11 of the Framework indicates that plans and decisions should apply a presumption in favour of sustainable development. For plan making this means that plans should positively seek opportunities to meet the development needs of their area and be sufficiently flexible to adapt to rapid change (a). Strategic policies should, as a minimum, provide for objectively assessed needs for housing and other uses, as well as any needs that cannot be met within neighbouring areas.
79. Paragraph 20 of the Framework advises that strategic policies should set out an overall strategy for the pattern, scale and quality of development and make sufficient for infrastructure for transport (b). Paragraph 104 (e) states that planning policies should provide for any large scale transport facilities that need to be located in the area (footnote 42 clarifies that examples of these include interchanges for rail freight). In doing so they should take into account whether such development is likely to be a nationally significant infrastructure project and any relevant national policy statements. Additionally, paragraph 104 (c) requires planning policies to identify and protect, where there is robust evidence, sites and routes which could be critical in developing relevant infrastructure.

80. The National Policy Statement for National Networks (December 2014) (NPS) stresses the importance of SRFIs. It confirms that there is a compelling need for an expanded network of SRFIs. Paragraph 258 notes the limited number of suitable locations for SRFIs and the particular difficulties in provision to serve London and the south east.
81. As considered above, the Framework provides that planning policies should provide for any SRFIs that need to be located in the area taking into account the NPS for nationally significant infrastructure projects. SRFIs have extremely exacting locational requirements including the need for very large, unfragmented and flat sites close to the strategic rail freight and road networks and the conurbations they serve (NPS paragraph 2.45).
82. A planning application was submitted for a SRFI in Slough but refused and dismissed on appeal (a Secretary of State decision) and another in the Dartford area was also unsuccessful. Network Rail supports the creation of the SRFI in St Albans and it is clear that it has proved extremely problematic to find sites for one, especially in the south east, as recognised by the NPS. Indeed, it seems that the Radlett site in St Albans is the only realistic option and there is robust and compelling evidence to demonstrate that the SRFI needs to be located there.
83. As considered previously, in 2014 the Council was working on the basis of lower housing figures and the Broad Locations were found to be sufficient to meet the need for housing alongside the need for the SRFI, which was included in the Regulation 18 Plan as a commitment. However, in the re-evaluation of the strategy that followed, the Council did not consider whether it could continue to meet the needs of both the SRFI and the increased housing numbers or look at options as to how this could be achieved. Instead, the Council adopted an either/or position in relation to the SRFI and housing.
84. We have fundamental concerns about this approach and consider that the Council should have looked to accommodate both the SRFI and the required housing in the first instance. The requirement for the SRFI, an important piece of national infrastructure, is long established and specific to the Radlett site. Whilst the provision of housing is also an important requirement and a focus and priority recognised in the Framework, it is not fixed in location in the same way as the SRFI. In this instance there are compelling reasons to look to provide both, and we are not convinced that the two requirements should be regarded as competing.
85. Another shortcoming of the Plan's strategy is its reliance on PSGV to meet its housing requirement, given the possibility that the SRFI could proceed on the site on the basis of the existing planning permission. The site promoters indicate that development has commenced. Whilst it seems that this is disputed by the Council, notwithstanding a disagreement over the requested fee, a lawful development certificate has been submitted to deal with this matter.

86. Bringing these matters together, we consider that the Plan does not meet the development needs of the area and fails to make sufficient provision for infrastructure for transport in conflict with paragraphs 11 and 20 (b) of the Framework. Contrary to paragraph 104 (e) of the Framework, the policies in the Plan fail to provide for a large scale transport facility that needs to be located in the area (the SRFI) and have not taken into account what is a nationally important infrastructure project or had regard to the requirements of the NPS.
87. As set out at paragraph 35 of the Framework, plans must be positively prepared (criterion a). In omitting to provide for the SRFI (and in doing so to look elsewhere to meet its housing needs, either within the district or in neighbouring areas), the Plan does not provide a strategy which, as a minimum, seeks to meet the area's objectively assessed needs and is informed by agreements with other authorities. Furthermore, it has not been demonstrated that the plan is deliverable over the plan period and based on effective joint working on cross boundary strategic matters that have been dealt with rather than deferred, or that it aligns with national policy. This is at odds with paragraph 35 of the Framework which requires plans to be effective (criterion c) and consistent with national policy (criterion d).

Evidence Base

88. The Framework indicates at paragraph 31 that the preparation and review of all policies should be underpinned by relevant and up to date evidence. This should be adequate and proportionate, focussed tightly on supporting and justifying the policies concerned, and take into account relevant market signals. There are number of key documents missing from the evidence base.
89. There is no Heritage Impact Assessment as required by Historic England in relation to the Broad Locations. Work is still on-going with the 2019 AMR. Furthermore, it became apparent at the hearing session where we touched on the Council's reliance on windfalls as part of its housing strategy that they Council do not have the requisite historic windfall data available to support their reliance on them for future supply.
90. The Broad Locations are not supported by a Transport Impact Assessment even though it was evident from our site visits that most of them would be likely to require significant road improvements as many are currently accessed via relatively narrow roads. Hertfordshire County Council (HCC) recognises that the level of growth proposed within the Plan will require significant transport improvements at both a local and strategic level to enable to the transport network to function. This being so, HCC is concerned that there is no definitive identification of what strategic infrastructure is required to deliver the development at the proposed Broad Locations and and how that development would contribute towards any required mitigation. We share these concerns.
91. Although we understand that the Council has commissioned an updated Strategic Housing Market Assessment this has not yet been published. As

a result there is no up to date understanding of how many homes are needed and of what type, including the different sizes and types of affordable housing that may be required. Additionally, the Council rely on the brownfield register for its 10% smaller sites, but this is also not published. This list is not exhaustive, but it gives a flavour of the extent of missing documents that are critical to the examination of the Plan.

Overall Conclusions

92. In accordance with paragraph 35 of the Framework, we have assessed whether the Plan has been prepared in accordance with the legal and procedural requirements and whether it is sound. We have not been persuaded that the DtC has been satisfactorily discharged by the Council and if this is the case the failure cannot be rectified during the examination. We have also found legal compliance issues in relation to the SCI. Additionally, whilst we cannot reach a final conclusion on these matters at this stage in the examination, we have substantial soundness concerns with elements of the Plan as described above.

Next Steps

93. As set out in our letter of the 27 January 2020 and above, we will not reach an absolute or final position until you have had chance to consider and respond to this letter. However, in light of our serious concerns regarding the DtC, we consider it a very strong likelihood that there will be no other option other than that the Plan is withdrawn from examination or we write a final report recommending its non-adoption because of a failure to meet the DtC.
94. We have sought to be pragmatic in our approach to the examination but this cannot extend to ignoring a legal compliance failure with the Plan which cannot be rectified during the examination. We also appreciate how disappointed you will be with our findings but confirm that we have only come to this view following a great deal of thought and after hearing relevant evidence from both the Council and representors.
95. The Council will need some time to consider the contents of this letter and to decide on a response and we entirely understand that this may take longer than might otherwise be the case because of the current very difficult circumstances with regard to Covid 19. We are also happy to provide any necessary clarification to the Council via the Programme Officer. Responses from other parties to this letter are not invited and we do not envisage accepting them.

Louise Crosby and Elaine Worthington
Examining Inspectors