

**Town and County Planning Act 1990 (As Amended) - Section 78**

**Town and Country Planning (Inquiry Procedure) (England) Rules 2000**

**Appeal by Vistry Homes Limited against the refusal of St Albans City and District Council, as Local Planning Authority, to grant outline planning permission for residential development of up to 150 dwellings, all matters reserved except access at Land Rear of 42 - 100 Tollgate Road, Colney Heath, Herts, AL4 0PY**

**SUMMARY PROOF OF EVIDENCE OF PHILLIP E HUGHES MRTPI  
ON BEHALF OF ST ALBANS CITY & DISTRICT COUNCIL**

**AUGUST 2023**

**PLANNING INSPECTORATE REF: APP/B1930/W/23/3323099**

**LOCAL PLANNING AUTHORITY REF: 5/2022/1988**

- 1) The proposal is for residential development of up to 150 dwellings on a site in the Green Belt. This appeal relates to an outline planning application with only access to be determined at this stage and which was refused planning permission. Matters relating to landscape, layout, scale and appearance of the proposed development remain reserved.
- 2) It is common ground, as indicated in the Statement of Common Ground that the Council cannot demonstrate a five-year supply of deliverable housing land and their Housing Delivery Test Score is below 75% and as such the so-called tilted balance pursuant to paragraph 11(d) of the NPPF is engaged.
- 3) However, the site is in the Green Belt and policies of the Framework that protect areas or assets of particular importance provide clear reasons for refusing the development proposed. Therefore, the tilted balance is disengaged.
- 4) The appeal site comprises land extending to a total of 7.82 hectares. It is located to the south-west of a ribbon of houses fronting Tollgate Road that comprise the southerly extent of the washed over Green Belt settlements of Colney Heath.
- 5) The neighbouring land uses include the rear garden boundaries to houses fronting Tollgate Road to the north-east, open agricultural land to the south-east, open woodland and the River Colne and local wildlife site to the south-west and open land to the north-west. This side of Tollgate Road is characterised by a ribbon of detached and semi-detached dwellings and does not feature in depth residential development or estate style residential development.
- 6) A public footpath linking Tollgate Road to Coursers Road (Colney Heath 033) is located alongside the full length of the north-west boundary. The site is visible from the footpath and fields to the north west, east and south east as well as from Tollgate Road to the north and south of the appeal site.
- 7) The appeal site falls within the northern part of the Watling Chase Community Forest area which separates Hatfield and St Albans.
- 8) An illustrative master 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. A parameters plan accompanied the application the subject of this appeal.
- 9) The illustrative layout plan shows the proposed residential development confined to the area of the site within Flood Zone 1 which comprises the higher and more prominent land. The proposed development has an estate layout sited behind the ribbon of houses that front, and are directly accessed from, Tollgate Road. The proposal includes the following housing tenures:

- a. 60 affordable units (40%). The tenure is agreed to provide 2:1 affordable rental to shared ownership dwellings as well as 25% First Homes.; and
  - b. 81 market units (54%),
  - c. 9 plots for market self-build (6%).
- 10) There is no relevant planning history at the appeal site however I make reference to a recent appeal at Bullens Green and the appeal decision at Roestock depot.
  - 11) The development plan for the area comprises the St Albans District Local Plan 1994 (SADLP). It is common ground that Policies 1, 2, 69, 86 and 143b are most important policies. Policy 1 identifies the extent of the Green Belt and in respect of residential development states that permission will not be given except in very special circumstances. Policy 2 sets out the spatial strategy directing development to the higher order settlements of St Albans, Harpenden and London Colney.
  - 12) Policy 69 relates to General Design and Layout of all new development and requires such development to have regard to context as well as having regard to Policy 2. Policy 86 relates to Buildings of Special Architectural or Historic Interest (Listed Buildings) and requires decision makers to *inter alia* have special regard to the desirability of preserving the building or its setting. Policy 143a supports the establishment of the Watling Chase Community Forest and also requires proposals to be consistent with Green Bet policy.
  - 13) The emerging Local Plan is at Regulation 18 stage and is the subject of a current consultation process. It is at an early stage of preparation and can only carry limited weight at this stage.
  - 14) The plan identifies the extent of the Green Belt and does not seek to alter Green belt boundaries around Colney Heath and it does not allocate the appeal site to meet housing needs over the plan period to 2041.
  - 15) Supporting documents that accompany the emerging Local Plan include a Part 1 Green Belt Purposes Review that includes the appeal site within Parcel 34 and area that contributes positively to safeguarding the countryside from encroachment and preserving the character of settlements. The Green Belt Review: Washed Over Settlement Study was prepared by ARUP and comprises part of the evidence base. In respect of Colney Heath the recommendation is to retain it as a washed over settlement noting the open character of the village and its moderate settlement scale and form as well as the moderate settlement edge characteristics and setting. The Green Belt Review 2023<sup>Error! Bookmark not defined.</sup> endorsed the findings of the Green Belt Review: Washed Over Settlement Study and the built on the work of the Part 1 Assessment with consideration given to potential impacts upon the relative strength of the Green Belt boundary and whether new boundaries would be defined 'clearly, using physical features that are readily recognisable and likely to be permanent. No changes or allocations were proposed in Parcel 34.

- 16) 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 149), Policy 1 SADLP does not define development of up to 150 residential dwellings, access roads etc. as an exception from the definition of inappropriate development. The adopted development plan directs new housing development to the main settlements and applies a settlement hierarchy that does not identify the washed over Green Belt settlement of Colney Heath as sustainable locations for new housing development
- 17) It is common ground that the proposal comprises inappropriate development in the Green Belt. Paragraph 148 of the NPPF confirms that harm by way of inappropriateness and any other Green Belt harm is harm that is attributed substantial weight.
- 18) Given the overall package of harm to the Green Belt the loss of this open field to a residential housing estate comprises a substantial level of harm. The essential characteristics of Green Belts are their openness and permanence; the proposal would substantially erode openness to a degree that the land permanently remove it from the countryside or any meaningful contribution to openness such that it would no longer comprise part of the countryside and exhibit wholly suburban characteristics. In addition to the spatial loss of openness the visual component of openness will be harmed as the openness of the existing site can be appreciated in public and private views and the new estate style development will be visible as will the loss of openness. The proposal will cause substantial harm to the Green Belt and carry substantial weight at the very upper end of such weight. I also consider the encroachment of development would not safeguard the countryside and as such the proposal conflict with the purposes of including land in the Green Belt, such harm also carries substantial weight.
- 19) As to any other harm that is “non-Green Belt” harm, the proposals would not recognise and in fact harms the intrinsic character and beauty of the countryside and harms landscape character. In that respect it would not respect the landscape strategy as it does not comprise high quality design having regard to context failing to improve (enhance) or conserve landscape character.
- 20) Overall, in terms of the harm to the character and appearance occasioned by the development of the site for 150 dwellings the harm would be permanent, substantial and irreversible, which is an adverse factor carrying moderate to significant weight.
- 21) Given the location of the site away from a number of day to day facilities in neighbouring settlements and not easily accessible by quality public transport and cycling routes, I do not consider this to represent a location will encourage cycling or use of the limited public transport links and will result in 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 and contrary to the spatial strategy of the development plan and emerging Local Plan. I ascribe moderate weight to this harm.

- 22) The proposals would fail to preserve the setting of designated heritage assets, i.e. listed buildings and non-designated heritage assets. Whilst the public benefits of providing more housing in the circumstances of the Council's housing land supply position together with the oversupply of affordable housing set against the development plan requirement 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 designated and non-designated assets 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 paragraph 148. In the circumstances of the Green Belt balance great weight applies to the harm to the setting of the heritage assets, however I recognise that the harm lies toward the lower end of less than substantial harm and as such within a spectrum of great harm I would place this toward the lower end.
- 23) In respect of flooding and drainage the Council consider that subject to the imposition of suitably worded conditions as recommended by EA, LLFA and the Council that the development can be made safe, would not increase flood risk and would not detrimentally affect third parties.
- 24) It is common ground that there is a substantial and serious housing land supply shortfall in St Albans. The proposal would provide housing in an area of current need and thus is a benefit of the scheme. Overall it is common ground that the provision of housing carries very substantial weight. If it was considered necessary to disaggregate the components of housing, then the up to 60 affordable housing units and up to 81 market housing units carry very substantial weight and the 9 self-build plots or custom build houses carry substantial weight.
- 25) For the reason I have explained in respect of the access to cycling and public transport I do not consider the location of the appeal site is one that is a positive factor that weighs in favour of the grant of permission such that it comprises an "other consideration" in favour of the development.
- 26) Given its peripheral location across Tollgate Road from the majority of the settlement and less centrally located than Roestock park which includes open space, a MUGA and a playground I do not consider the provision of such factor warrants any more than very limited weight as benefits of the proposed development.
- 27) I acknowledge the proposals seek to deliver 10% Biodiversity Net Gains and are reliant on off-site provision to achieve such gains. I attribute limited to moderate weight to such matters.
- 28) I attribute moderate weight to the economic benefits of providing housing in this Green Belt location.

- 29) 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 148 of the Framework.
- 30) I do not consider that the housing land supply position in St Albans means that permission should be granted for residential development in the circumstances of this case. In that regard I note the conclusions of other Inspectors in recent Green Belt cases where the appeals were dismissed in areas with deficient HLS.
- 31) I therefore consider that in this case, the application of the Green Belt policy provides a “clear reason for refusing” the development proposal under NPPF paragraph 11(d)(i) and therefore the so called tilted balance is disengaged
- 32) The proposed development conflicts with the most important development plan policies, and as such conflicts with the development plan taken as a whole. In addition, the policies of the Framework provide clear reasons to refuse permission, and material or other considerations would not amount to very special circumstances or otherwise justify the grant of permission.
- 33) As such, I invite the Inspector to dismiss the appeal.