

# **Land to the Rear of 42-100 Tollgate Road & 42 Tollgate Road, Colney Heath**

Statement of Common Ground

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BETWEEN ST ALBANS CITY & DISTRICT COUNCIL AND [ABSTRACT]

July 2023

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On behalf of: St Albans City and District Council	On behalf of: Vistry Homes Ltd
Date: 25/07/2023	Date: 25/07/2023

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# 1. Introduction

1.1 This Statement of Common Ground (“SoCG”) has been prepared by Nexus Planning on behalf of Vistry Homes Ltd. (“the Appellant”) and St. Albans City and District Council (“the Council”), in accordance with the Procedural Guidance issued by the Planning Inspectorate in December 2022.

1.2 The appeal is lodged against the Council’s refusal of the following development:

*“Outline application (access sought) - Demolition of existing house and stables and the construction of up to 150 dwellings including affordable and custom-build dwellings together with all ancillary works” (“the Appeal Scheme”)*

At

*Land to the Rear of 42-100 Tollgate Road & 42 Tollgate Road, Colney Heath, St Albans, Hertfordshire (“the Appeal Site”).*

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## 2. The Appeal Site and its Surroundings

- 2.1 The Appeal Site measures approximately 7.82 hectares in total comprising the detached dwelling at 42 Tollgate Road which fronts Tollgate Road, along with equestrian facilities (including a 12-bay stable building, all-weather manège, equestrian storage) and associated paddocks to the rear. The Appeal Site is located on the south eastern edge of Colney Heath. The topography of the Appeal Site gently slopes to the south west.
- 2.2 The Appeal Site is located adjacent to and outside the settlement of Colney Heath, which is washed over by Green Belt. The Appeal Site is located within the Green Belt.
- 2.3 A ribbon of residential development fronts Tollgate Road and backs on to the Appeal Site to the north whilst land to the south east and north west comprises agricultural land the boundaries of which comprise hedgerows, the River Colne and a strong, mature tree line form a boundary to the south west.
- 2.4 The majority of Appeal Site is located within Flood Zone 1, with the south western part located within Flood Zones 2 and 3. There are no heritage assets within or directly adjacent to the Appeal Site. Any impacts on the setting of designated and non-designated assets located close to the appeal site are described in the evidence of the parties. The Appeal Site is located within a Minerals Safeguarding Area for sand and gravel. A Local Wildlife Site is located in the southern part of the Appeal Site.
- 2.5 A Public Right of Way (“PRoW”) runs alongside to the north-western boundary of the Appeal Site but it outside of the site itself.
- 2.6 Two existing vehicular accesses are available off Tollgate Road serving the existing dwelling and the equestrian facilities.

### Surrounding Area

- 2.7 The Appeal Site is located to the south west of Colney Heath. The development plan identifies Colney Heath as a Green Belt Settlement, which is defined as a ‘smaller village located within the Green Belt’.
- 2.8 The nearest bus stop is located on Tollgate Road within 75m of the Appeal Site entrance, with services 230, 305, 312 and 355 providing connections to Brookmans Park, Enfield, Hatfield, St Albans, Welwyn Garden City and Welham Green. Welham Green railway station is located 3.7km away, providing regular services to London (Finsbury Park), Moorgate and Welwyn Garden City.
- 2.9 Services and facilities located within 1200m of the entrance to the Appeal Site comprise:
- Colney Heath Primary School and Nursery (1,100m)
  - Colney Heath Village Hall (900m);
  - Colney Heath News convenience store (600m);
  - Colney Heath Football Club (1100m);
  - The Rice takeaway (600m); and
  - The Crooked Billet Free House (1000m).
- 2.10 Furthermore, within a 5km cycling distance from the entrance to the Appeal Site, are the following:
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- University of Hertfordshire (3700m);
  - Links Academy Hatfield (secondary school) (3700m); and
  - Welham Green railway station (3600m).
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### 3. Planning History

3.1 The relevant planning history of the Appeal Site is outlined within the table below:

Application Reference	Proposal	Outcome
5/1996/0787	Erection of stable	Refused 22 <sup>nd</sup> July 1996
5/1996/1240	Erection of stable with associated grooming and storage facilities	Approved 8 <sup>th</sup> October 1996 (appeal against condition allowed)
5/1997/0779	Hard-surfaced access, drive and turning area	Approved 19 <sup>th</sup> June 1997

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## 4. The Appeal Scheme

4.1 The Appeal Scheme was validated by the Council on 23<sup>rd</sup> August 2022. The statutory 13-week date from validation for the determination of the planning application was 20<sup>th</sup> November 2022. The Appeal Scheme was given reference 5/2022/1988. Extensions of time had been agreed with the Council, including until the 20<sup>th</sup> January 2023, 28<sup>th</sup> February 2023 and most recently until 27<sup>th</sup> March 2023.

4.2 The following documents were originally submitted in support of the Appeal Scheme:

- Application Form;
- Air Quality Assessment;
- Arboricultural Impact Assessment;
- Arboricultural Survey Report;
- Archaeology and Heritage Assessment;
- Design and Access Statement;
- Draft Heads of Terms for Section 106 Agreement;
- Ecological Impact Assessment;
- Flood Risk Assessment, Surface Water and Foul Water Drainage Strategy;
- Landscape and Visual Impact Assessment and Green Belt Assessment;
- Noise Impact Assessment;
- Planning Statement (including affordable housing statement);
- Statement of Community Involvement;
- Transport Assessment;
- Travel Plan;
- Utilities Appraisal Report;
- Concept Masterplan (drawing no. CSA/3925/117 Rev B);
- Existing Features Plan (drawing no. CSA/3925/122 Rev A);
- Existing Elevations and Floor Plan (drawing no. TR/01);
- Opportunity and Constraint Plan (drawing no. CSA/3925/108 Rev A);
- Illustrative Masterplan (drawing no. 3925/118 Rev A);
- Parameter Plan (drawing no. CSA/3925/120 Rev B);
- Proposed Access and Layout Plan (drawing no. JNY11289-RPS-0100-001 Rev A); and
- Site Location Plan (drawing no. CSA/3925/109 Rev E).

4.3 During the consideration of the planning application the following additional documents were submitted:

- Technical Note – Response to HCC Highways (November 2022);
  - Technical Note – Response to HCC Highways (February 2023);
  - Technical Note – Response to Resident Objection in relation to underground stream (January 2023);
  - EIA Screening Opinion;
  - Drainage Letter from Stantec (November 2022);
  - Health Impact Assessment;
  - Heritage Setting Addendum;
  - Hertfordshire Ecology Response Letter (December 2022);
  - Mineral Assessment Desk Study;
  - Phase 1 Ground Conditions Assessment;
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- Phase 2 Ground Investigation Report;
  - Transport Assessment (November 2022);
  - Travel Plan (November 2022);
  - View from North Mymms House (drawing no. CSA/3925/124);
  - Concept Masterplan (drawing no. CSA/3925/117 Rev E);
  - Concept Masterplan (drawing no. CSA/3925/117 Rev F);
  - Illustrative Masterplan (drawing no. CSA/3925/118 Rev C);
  - Illustrative Masterplan (drawing no. CSA/3925/118 Rev D);
  - Parameter Plan (drawing no. CSA/3925/120 Rev C);
  - Parameter Plan (drawing no. CSA/3925/120 Rev F);
  - Parameter Plan (drawing no. CSA/3925/120 Rev G);
  - Photosheets (drawing no. CSA/3925/121);
  - Photosheets (drawing no. CSA/3925/121 Rev A);
  - Photosheets (drawing no. CSA/3925/121 Rev B);
  - Photosheets (drawing no. CSA/3925/121 Rev E);
  - Proposed Access and Layout Plan (drawing no. JNY11289-RPS-0100-001 Rev B); and
  - Illustrative Landscape Cross-Section (drawing no. CSA/3925/123 Rev A).
- 4.4 A Screening Opinion was issued by the Council on the 15<sup>th</sup> February 2023 which confirmed that the Appeal Scheme does not amount to Environmental Impact Assessment (“EIA”) development.
- 4.5 For clarity, it is agreed that the plans forming the basis for determination of the Appeal Scheme are as follows:
- Site Location Plan (drawing no. CSA/3925/109 Rev E);
  - Parameter Plan (drawing no. CSA/3925/120 Rev G);
  - Proposed Access and Layout Plan (drawing no. JNY11289-RPS-0100-001 Rev B);
- 4.6 The following drawings and documents comprise material prepared in support of the Appeal Scheme:
- Concept Masterplan (drawing no. CSA/3925/117 Rev F);
  - Illustrative Masterplan (drawing no. CSA/3925/118 Rev D);
  - Illustrative Landscape Cross-Section (drawing no. CSA/3925/123 Rev A);
  - Photosheets (drawing no. CSA/3925/121 Rev E);
  - View from North Mymms House (drawing no. CSA/3925/124);
  - Air Quality Assessment;
  - Arboricultural Impact Assessment;
  - Arboricultural Survey Report;
  - Archaeology and Heritage Assessment;
  - Design and Access Statement;
  - Ecological Impact Assessment;
  - Existing Elevations and Floor Plan (drawing no. TR/01);
  - Existing Features Plan (drawing no. CSA/3925/122 Rev A);
  - Flood Risk Assessment, Surface Water and Foul Water Drainage Strategy;
  - Landscape and Visual Impact Assessment and Green Belt Assessment;
  - Noise Impact Assessment;
  - Opportunity and Constraint Plan (drawing no. CSA/3925/108 Rev A);
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- Planning Statement (including affordable housing statement);
  - Statement of Community Involvement;
  - Utilities Appraisal Report;
  - Technical Note – Response to Resident Objection in relation to underground stream (January 2023);
  - Technical Note – Response to HCC Highways (February 2023);
  - Drainage Letter from Stantec (November 2022);
  - Health Impact Assessment;
  - Heritage Setting Addendum;
  - Hertfordshire Ecology Response Letter (December 2022);
  - Mineral Assessment Desk Study;
  - Transport Assessment (November 2022); and
  - Travel Plan (November 2022).
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## 5. Planning Policy

### Development Plan

- 5.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications be determined in accordance with provisions of the development plan unless material considerations indicate otherwise.
- 5.2 The development plan comprises the following:
- Saved Policies of the St. Albans District Local Plan Review (1994) (“the Local Plan”).
  - HCC’s Waste Core Strategy & Development Management Policies DPD (2012); and
  - HCC’s Hertfordshire Minerals Local Plan 2007.
- 5.3 The Local Plan was originally adopted in 1985 and reviewed in 1994. A number of policies were saved by direction of the Secretary of State on the 20th of September 2007. The Council’s document ‘Saved and Deleted Policies Version (July 2020)’ details which policies were saved by this Direction. It is agreed that this document does not assess the extent to which these policies comply with the National Planning Policy Framework (“NPPF”) and the subsequent weight that should be afforded to each policy.
- 5.4 It is agreed that the following policies of the development plan are of relevance in the determination of the Appeal Scheme:
- Policy 1 – Metropolitan Green Belt;
  - Policy 2 – Settlement Strategy;
  - Policy 8 – Affordable Housing in the Metropolitan Green Belt;
  - Policy 34 – Highways Consideration in Development Control;
  - Policy 35 – Highways Improvements in Association with Development;
  - Policy 36A – Location of New Development in Relation to Public Transport Network;
  - 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 84 – Flooding and River Catchment Management;
  - Policy 84A – Drainage Infrastructure;
  - Policy 86 – Buildings of Special Architectural or Historic Interest;
  - Policy 106 – Nature Conservation;
  - Policy 111 – Archaeological Sites;
  - Policy 143A – Watling Chase Community Forest; and
  - Policy 143b – Implementation.
- 5.5 It is agreed that the following policies of the development plan are most important in the determination of the Appeal Scheme:
- Policy 1 – Metropolitan Green Belt;
  - Policy 2 – Settlement Strategy;
  - Policy 69 – General Design and Layout; and
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- Policy 86 – Buildings of Special Architectural or Historic Interest; and
- Policy 143b – Implementation

- 5.6 It is agreed that the most important policies in the determination of the Appeal Scheme are out of date by reason of the Council's inability to demonstrate the required five-year supply of deliverable housing land.
- 5.7 The parties do not agree whether a conflict with Policies 1, 2, 69 and 143b of the Local Plan arises in relation to the Appeal Scheme. However, both parties do agree that the Appeal Scheme complies with, or can comply with at the reserved matters stage, all other relevant policies in the Local Plan, as listed above, albeit the Council does not consider the Appeal Scheme to support the objectives of the Watling Chase Community Forest consistent with Policy 143A.

### **Supplementary Planning Documents or Guidance**

- 5.8 In addition to development plan policies, the Council has also adopted a number of relevant Supplementary Planning Documents ("SPDs") / Supplementary Planning Guidance ("SPGs") including the following:
- Design and Layout of New Housing Advice Leaflet No.1 (1998);
  - Revised Parking Policies and Standards (2002); and
  - Supplementary Planning Guidance – Affordable Housing (2004).

### **Other Material Considerations**

#### **Emerging Local Plan Documents**

- 5.9 The Council had been preparing a new St. Albans Local Plan (2020-2036). This was submitted to the Secretary of State for examination in March 2019. However, on 14<sup>th</sup> April 2020, the Inspector wrote to the Council identifying serious concerns regarding the Duty to Cooperate and that the plan would very likely need to be withdrawn. The Local Plan was subsequently formally withdrawn by the Council on 23<sup>rd</sup> November 2020.
- 5.10 Whilst the withdrawn Local Plan is no longer subject to the provisions of paragraph 48 of the NPPF (weight to emerging policies), its evidence base remains a material consideration.
- 5.11 The most recent Local Development Scheme (September 2022) sets out that the Council is preparing a new Local Plan. It identifies that the first Regulation 18 Consultation is proposed to be undertaken between July – September 2023, with adoption targeted for December 2025.
- 5.12 The Regulation 18 Local Plan to 2041 has been published the consultation period runs from 12 July to 25 September 2023. It is agreed that this emerging plan can only be afforded limited weight in the determination of this appeal.

#### **National Planning Practice Guidance**

- 5.13 On 6<sup>th</sup> March 2014, the Government published the PPG. The PPG is a live document that is actively updated to ensure that it remains up to date. The PPG is divided into different topic areas, which provide advice and guidance to inform the understanding and approach to implementation of the National Planning Policy Framework ("NPPF"). Reference will be made to this document throughout the Appeal.

#### **National Planning Policy Framework**

- 5.14 The National Planning Practice Guidance ("PPG") outlines that the NPPF represents up-to-date Government planning policy and is a material consideration that must be taken into account where it is relevant to a planning application or

appeal (ID: 21b-006-20190315). It is agreed that significant weight should be given to the NPPF in the determination of this appeal.

- 5.15 A consultation on proposed amendments to the NPPF ended in March 2023. At the time of writing this SoCG, the outcomes of this consultation are unknown.
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## 6. Areas of Agreement

### Housing Land Supply

- 6.1 Paragraph 8b of the NPPF states that in order to support strong, vibrant and healthy communities, the Government needs to ensure that a sufficient number and range of homes can be provided to meet the needs of present and future generations.
- 6.2 To support the Government's objective of significantly boosting the supply of homes, paragraph 60 of the NPPF sets out that: *"it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay."*
- 6.3 Paragraph 74 of the NPPF requires local planning authorities to *"identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing against their housing requirement set out in adopted strategic policies, or against their local housing need where the strategic policies are more than five years old"*.
- 6.4 It is agreed that the development plan is more than five years old and therefore the Council's housing land supply should be measured against the local housing need figure calculated using the standard method (PPG ref. ID: 68-005-20190722). This results in a local housing need of 887 dwellings per annum at the time of calculation.
- 6.5 The Council's latest Authority Monitoring Report (re-published in March 2023) covers 1 April 2021 to 31 March 2022 and identifies a supply of 2.0 years. The Appellant considers the Council's housing land supply to be 1.97 years. It is agreed that the difference between the parties does not warrant spending Inquiry time on such matters given the agreement on weight to the provision of housing.
- 6.6 Whatever figures are used, it is agreed that the housing land supply shortfall is substantial.
- 6.7 The Housing Delivery Test ("HDT") 2021 results show the Council having a result of 69%, triggering the presumption in favour of sustainable development irrespective of the housing land supply position.

### Use of Previously Developed Land

- 6.8 Paragraph 117 of the NPPF states that strategic policies should set out a clear strategy for accommodating objectively assessed needs, in a way that makes as much use as possible of previously developed or 'brownfield' land.
  - 6.9 Paragraph 120d of the NPPF promotes and supports the development of under-utilised land and buildings, especially if this would help to meet identified needs for housing where land supply is constrained, and available sites could be used more effectively. It is agreed that Green Belt is a constraint on new development.
  - 6.10 The Appeal Site comprises the detached dwelling at 42 Tollgate Road, along with equestrian facilities (including a single storey 12-bay stable building, all-weather manège, equestrian storage containers) and associated paddocks to the rear.
  - 6.11 It is agreed that the detached dwelling at 42 Tollgate Road and its private garden comprises previously developed land ("PDL").
  - 6.12 It is also agreed that the remainder of the Appeal Site is in lawful equestrian use.
  - 6.13 NPPF paragraph 149(g) provides an exception to the presumption against new buildings in the Green Belt. It is agreed that the proposals do not meet these exceptions.
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## **Green Belt**

- 6.14 Policy 1 of the Local Plan confirms the boundaries of the Green Belt within the District and it is agreed that the entirety of the Appeal Site lies within the Green Belt. It is also agreed that Colney Heath is identified as a smaller village washed over by the Green Belt as confirmed by Policy 2 of the Local Plan.
- 6.15 It is agreed that the essential characteristics of Green Belts are their openness and permanence (paragraph 137 of the NPPF).
- 6.16 It is agreed that the Appeal Scheme comprises inappropriate development in the Green Belt which should not be approved unless the potential harm to the Green Belt and any other harm is clearly outweighed by other considerations (paragraph 148 of the NPPF).
- 6.17 It is agreed that the proposed 150 dwellings and associated development will reduce the openness of this part of the Green Belt.
- 6.18 It is agreed that there are five purposes that Green Belts serve. The parties agree that the proposals will not assist in safeguarding the countryside from encroachment.

## **Effect on Character and Appearance**

- 6.19 Paragraph 130 of the NPPF sets out criteria to achieve well-designed places, including the creation of visually attractive development, sympathetic to local character and history and create places that are safe, inclusive and accessible.
- 6.20 Policy 69 of the Local Plan states that all development shall have an adequately high standard of design taking into account the scale and character of its surroundings in terms of height, size, scale, density or plot to floorspace ratio.
- 6.21 It is agreed that the Appeal Site is not subject to any statutory or non-statutory designations for landscape or heritage value.
- 6.22 It is agreed that the landscape impacts will not be significant on the character of the landscape / townscape in the immediate vicinity of the Appeal Site and there will be no material effects on the wider, rural landscape character around Colney Heath.
- 6.23 It is agreed that the site is within the countryside where the intrinsic character and beauty should be recognised.

## **Building a Strong and Competitive Economy**

- 6.24 Paragraph 81 of the NPPF states that significant weight should be placed on the need to support economic growth and productivity.
- 6.25 It is agreed that the Appeal Scheme will result in a number of economic benefits, including:
- the direct temporary creation of construction jobs;
  - the temporary creation of other jobs in construction related activities such as brick manufacturing; and
  - additional household expenditure in the local area.
- 6.26 The Council considers that moderate weight should be given to the economic benefits of the Appeal Scheme, whilst the Appellant considers significant weight should be given, having regard to paragraph 81 of the NPPF.
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## **Transport Considerations**

- 6.27 Paragraph 109 of the NPPF stipulates that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual impacts on the road network would be 'severe'.
- 6.28 Policy 34 of the Local Plan states that development likely to generate a significant amount of traffic, or which involves the creation or improvement of an access onto the public highway, will not normally be permitted unless acceptable in terms of road safety, environmental impact on traffic, road capacity, road hierarchy, car parking provision and local rural roads.
- 6.29 The Appeal Site is located on the edge of Colney Heath within close proximity to bus stops with limited services.

## **Highway Safety and Impact on Highway Network**

- 6.30 On the 9<sup>th</sup> January 2023, Hertfordshire County Council as Highway Authority recommended that permission be refused, subject to receipt of the following additional details:
- An updated site access plan showing pedestrian crossing facilities at the site access.
  - A plan showing the location of proposed mitigation measures.
  - A Stage 1 Road Safety Audit for the proposed site access (with crossing facilities).
- 6.31 Additional information was submitted by the appellant on 2<sup>nd</sup> February 2023 to Hertfordshire County Council Highways and the LPA addressing these comments.
- 6.32 On the 5<sup>th</sup> May 2023 immediately prior to the application reporting to the Planning Committee for determination, the County Highway Authority raised a new objection in relation to locational sustainability. The objection particularly focussed on the safety of identified cycle routes and further consultation being required with local bus providers to explore if further services could be provided with the Appeal Scheme. This objection is reflected in the reason for refusal.
- 6.33 The Appellant will seek to agree a separate Highways Statement of Common Ground in relation to locational sustainability with the County Council and Local Planning Authority to narrow points of difference.

## **Car and Cycle Parking**

- 6.34 As an outline application, it is agreed that this is not a reason to refuse permission of the Appeal Scheme.

## **Ecology**

- 6.35 Paragraph 179 of the NPPF seeks to protect and enhance biodiversity.
- 6.36 Natural England confirmed no objection on the 8<sup>th</sup> September 2022 and reconfirmed this position on the 24<sup>th</sup> January 2023.
- 6.37 Hertfordshire Ecology provided a response on the 12<sup>th</sup> October 2022 confirming that the Appeal Scheme is considered acceptable subject to the imposition of conditions. Hertfordshire Ecology then provided another response on the 7<sup>th</sup> February 2023 confirming how the provision of a biodiversity net gain could be achieved offsite.
- 6.38 It is common ground that the Appeal Scheme would not result in any significant residual negative effects on important ecological features.
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- 6.39 It is agreed that the Appeal Scheme would result in an overall biodiversity net loss in area based habitats. It is agreed that this can be compensated by the Appellant through an agreement with the Council for offsite compensation to achieve a biodiversity net gain and meet trading rules.
- 6.40 It is therefore agreed that the proposed development is satisfactory in respect of its ecological impact.

### **Arboriculture**

- 6.41 The Council's Tree Officer confirmed no objection to the Appeal Scheme on the 30<sup>th</sup> August 2022.
- 6.42 It is agreed that the Appeal Scheme is acceptable or can be made acceptable subject to conditions and the details presented at reserved matters stage in terms of arboricultural matters.

### **Promoting Healthy and Safe Communities**

- 6.43 Paragraph 98 of the NPPF states that "access to a network of high quality open spaces and opportunities for sport and physical activity is important for the health and well-being of communities, and can deliver wider benefits for nature and support efforts to address climate change."
- 6.44 It is agreed that the Appeal Scheme could provide 1.84ha of publicly accessible green infrastructure, to promote active lifestyle and a sense of wellbeing through the provision of new public open space, seating / picnic area, and recreational routes.
- 6.45 HCC Public Health provided a response 30<sup>th</sup> August 2022 requesting a Health Impact Assessment was submitted. The Appellant submitted a Health Impact Assessment to the Council 6<sup>th</sup> January 2023 which confirmed that positive health impacts relating to the Appeal Scheme include access to outdoor play areas, walking and cycling routes and provision of green infrastructure. A further response from HCC Public Health was issued 6<sup>th</sup> February 2023, this provided general recommendations relating to health and wellbeing, and confirmed they had no comments on the Health Impact Assessment.
- 6.46 The Crime Prevention Officer supports the Appeal Scheme which is in outline with no details of siting or house types, orientation etc. and requests that the Appellant seeks to achieve the relevant Secured by Design accreditation.
- 6.47 It is common ground that the Appeal Scheme could achieve a high standard of design and could provide a substantial area of landscaped open space which could be accessible to the public.

### **Affordable Housing**

- 6.48 Policy 7A of the Local Plan states that the Council will seek to negotiate an element of affordable housing on sites over 0.4ha. It is agreed this Policy is specific to sites contained within Towns and Specified Settlements as defined in Policy 2, which does not include Colney Heath and accordingly does not apply to the Appeal Scheme/Site.
- 6.49 St. Albans Affordable Housing SPG (2004) sets out the Council is applying the threshold of Circular 6/98, that being affordable housing is required on all sites of 1ha or more, or of 25+ dwellings, the Council will seek an on-site affordable housing provision equivalent to 35% of dwellings on the site. Circular 6/98 is no longer relevant and SADC therefore applies the threshold that affordable housing is required on sites where 15 or more dwellings are proposed, as set out in Policy 7A, across the entire District.
- 6.50 It is agreed there is an acute need for more affordable housing within St. Albans, and the delivery of 60 much needed affordable units (40%), which exceeds the minimum SPD requirement of 35% and reflects the emerging Policy requirement in the Regulation 18 Local Plan, represents a social benefit to which very substantial weight should be given. The Appellant intends to agree a separate Affordable Housing Statement of Common Ground with the Council.
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## **Market Housing**

- 6.51 Paragraph 60 of the NPPF seeks to support the Government's objective of significantly boosting the supply of homes.
- 6.52 The Council's Regulation 18 Local Plan identifies a local housing requirement of 888 dwellings per annum in the District. It is agreed that the Council has a severe and acute shortfall in the delivery of market housing.
- 6.53 The Appeal Scheme, at 81 market dwellings, could be delivered in full over the next five years and it is common ground that this would make a material contribution towards supply to which very substantial weight should be given.

## **Self-Build / Custom Build**

- 6.54 The provision of self-build and custom housebuilding is to be recognised as part of the overarching housing need of each district as set out in the NPPF (2021) and the PPG.
- 6.55 The Self-build and Custom Housebuilding Act (2015) requires the Council to keep a register of individuals and associations of individuals who wish to acquire serviced plots of land to bring forward self-build and custom housebuilding projects and places a duty on the Council (or other decision maker) to have regard to these registers in carrying out planning functions.
- 6.56 The Housing and Planning Act (2016) made amendments to The Self-Build and Custom Housebuilding Act and places a statutory duty on local authorities to permit enough serviced plots to meet demand arising from each Base Period of its Self-Build Register within three years of the end of a Base Period.
- 6.57 It is agreed that the Council is not meeting its statutory duty to meet Self-build Register demand.
- 6.58 It is agreed there is an unmet demand for serviced plots for self-build and custom housebuilding in St Albans.
- 6.59 It is agreed that the provision of 9 custom and/or self-build plots weighs in favour of the Appeal Scheme but parties do not agree on the weight to be afforded in this regard.

## **Flood Risk and Drainage Considerations**

- 6.60 Policy 84 of the Local Plan states that in areas liable to flood, development or the intensification of existing development will not normally be permitted. It goes on further stating that proposals shall not increase flood risk in areas downstream due to additional surface water run off and that if development is permitted, it must include appropriate surface water runoff control measures.
  - 6.61 Policy 84A of the Local Plan states that a detailed drainage impact study may be required at the planning application stage.
  - 6.62 Paragraph 159 of the NPPF states inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future). Where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere.
  - 6.63 A Flood Risk Assessment and Surface Water Drainage Strategy has been submitted in support of the Appeal Scheme. It is agreed that the majority of the Appeal Site is located within Flood Zone 1, with the south western part located within Flood Zones 2 and 3.
  - 6.64 The Environment Agency issued responses 3<sup>rd</sup> October 2022 and 30<sup>th</sup> January 2023 objecting to the Appeal Scheme because it involves works within 8 metres of a main river – River Colne and risks to groundwater. The Appellant provided additional information which satisfied the Environment Agency's concerns, and consequently it removed its objection 17<sup>th</sup> March 2023 subject to the imposition of conditions.
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- 6.65 The Councils Drainage Consultant confirmed that the Appeal Scheme is considered acceptable subject to the imposition of conditions.
- 6.66 It is agreed that the sequential test does not need to be applied as all built development would be located within Flood Zone 1. It is not also required in respect of surface water flood risk.
- 6.67 It is agreed that the Appeal Scheme is acceptable in terms of flood risk and drainage considerations, subject to the imposition of conditions.

### **Conserving and Enhancing the Historic Environment**

- 6.68 On the 31<sup>st</sup> August 2022 the Councils Principal Historic Environment Consultant confirmed that the Appeal Scheme is considered acceptable in terms of archaeological matters subject to the imposition of conditions.
- 6.69 It is agreed that the Appeal Scheme is acceptable in terms of archaeological matters, subject to the imposition of conditions.
- 6.70 There are three designated heritage assets in the vicinity, in which the Appeal Site forms part of their setting. These designated heritage assets are the Grade I listed North Mymms Park House, the Grade II listed Colney Heath Farmhouse and the Grade II listed barn on the north side of Colney Heath Farm. It is agreed that less than substantial harm will occur upon the significance of Colney Heath Farmhouse, Grade II listed barn and North Mymms Park House, and whilst the extent of harm is not agreed, it is agreed to be less than substantial and at the lower end of that spectrum. .
- 6.71 It is agreed that as less than substantial harm is identified to the designated heritage assets, paragraph 202 of the NPPF states that this harm should be weighed against the public benefits of the Appeal Scheme.
- 6.72 The parties agree that the public benefits outweigh the harm to designated heritage assets.
- 6.73 The appeal site also falls within the setting of two non-designated heritage assets, Tollgate Farmhouse and the landscape at North Mymms Park. It is agreed that the impact on their setting should be taken into account in determining the appeal.

### **Ground Conditions and Pollution**

- 6.74 Paragraph 174(e) of the NPPF states that planning decisions should contribute to and enhance the natural environment by “preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution”
- 6.75 On 12<sup>th</sup> January 2023, Environmental Compliance confirmed the Appeal Scheme is acceptable in terms of air quality and noise. A further response from Environmental Compliance was issued 13<sup>th</sup> February 2023, which concluded that the Appeal Scheme is acceptable in terms of contamination subject to the imposition of conditions.
- 6.76 It is agreed that subject to the imposition of conditions the Appeal Scheme could be made acceptable in terms of air quality, contamination and noise.

### **Minerals**

- 6.77 HCC Minerals and Waste lodged an objection to the Appeal Scheme on the 1<sup>st</sup> September 2022 and requested further information was provided in order to assess the potential for workable mineral deposits underlain at the site and to avoid the possibility of mineral sterilisation. The Appellant provided a Minerals Resource Assessment on the 6<sup>th</sup> January 2023. HCC Minerals and Waste responded on the 10<sup>th</sup> February removing its objection and confirming that the Appeal Scheme is considered acceptable subject to the imposition of conditions.
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6.78 It is agreed that subject to the imposition of conditions the Appeal Scheme could be made acceptable in terms of minerals.

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## 7. Planning Obligations / Conditions

7.1 It is agreed that both parties will work together to prepare a Section 106 in advance of the Inquiry and it is likely to include the following matters:

- Affordable Housing;
- Self-Build and Custom-Build Housing;
- Open Space and Play Space;
- Highways / Sustainable Transport;
- Biodiversity Net Gain;
- Legal Costs;
- Education;
- Waste Service;
- Health Service Contributions.

7.2 A list of conditions will be provided in advance of the Inquiry.

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## 8. Areas of Disagreement

### 8.1 Areas of disagreement include:

- Whether the Appeal Site represents a sustainable location for housing;
  - The impact on the openness of the Green Belt;
  - The extent of the Appeal Site comprising previously developed land;
  - The impact on the Green Belt in respect of purpose c) of NPPF paragraph 138;
  - The weight given to the provision of self build / custom build housing.
  - The weight given to the economic benefits of the Appeal Scheme;
  - Whether the benefits of the Appeal Scheme clearly outweigh the potential harm to the Green Belt and any other harms; and
  - Whether the Appeal Scheme complies with the development plan as a whole.
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## 9. Core Documents

9.1 An agreed list of Core Documents will be prepared in advance of the Inquiry.

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