



**Quantum
Golf**

Planning for Golf

DLA Ref: 22/035

October 2022

Planning Statement

Outline Planning Application

Erection 9 dwellings and new access to Golf Club Road

The Paddock, Brookmans Park Golf Club, Hatfield AL9 7AT



Golf Club Potential

CONTENTS

1.0	INTRODUCTION	1
2.0	SITE & CONTEXT ANALYSIS.....	3
3.0	RELEVANT PLANNING HISTORY	6
4.0	POLICY CONTEXT	8
5.0	DESCRIPTION OF DEVELOPMENT.....	10
6.0	PLANNING CONSIDERATIONS.....	12
7.0	CONCLUSIONS	23
8.0	APPENDICES	24

1.0 INTRODUCTION

1.1.0 Background

1.1.1 This report relates to an outline planning application for the erection of 9 dwellings on land comprising the Paddock at Brookmans Park Golf Club, Hatfield. Other than access, all matters are reserved.

1.2.0 Scope

1.2.1 This document comprises an overarching Planning Report. Sections 2 to 4 consider the physical, economic, social and historical context of the site, identifying the relevant local, regional and national planning policy framework; Section 5 sets out the details of the proposal. All these sections inform the evaluation of the proposal in Section 6 against the identified planning policy framework. The overall conclusions are set out in Section 7, and which are summarised below at paragraph 1.3.0.

1.2.2 This report provides an overview of the proposal and should be read in conjunction with the following documents.

Report	Author	Date
Arboricultural Survey	DCCLA	October 2022
Transport Statement	Milestone Transport Planning Ltd	October 2022
Reptile Survey	Cherryfield Ecology	September 2022
Landscape and Visual Impact Assessment	James Blake Associates	October 2022

1.3.0 Summary

- The site is allocated by Welwyn Hatfield in their Emerging Local Plan as a housing site. The site is therefore considered suitable for residential development by the Council.
- There is a clear District-wide need for and in the context of paragraph 11 of the NPPF, the planning balance shifts in favour of the grant of permission for residential development, with permission to be refused only if any adverse impacts of doing so would significantly and demonstrably outweigh the benefits. The benefits noted in recent appeal decision within Welwyn Hatfield as being given "very substantial weight" given the "bleak" position of the WHBC housing land supply.
- The proposal would result in 9 dwellings of an attractive design that would be appropriate to the character of the area. The dwellings would comply with local plan policies and supplementary design guidance, and would create a good standard of accommodation.
- There will be no loss of amenity to surrounding residents. A spacious setting and gardens would be provided for the proposed dwellings.



- There would be no detrimental impact upon landscape features as a result of development on the site.
- The proposed access would meet County Council requirements and adequate parking provision would be made



2.0 SITE & CONTEXT ANALYSIS

2.1.0 Location

2.1.1 Brookmans Park Golf Club is located on the western side of Golf Club Road to the north and east of Brookmans Park on the northern edge of the settlement boundary. The land subject to this report (as shown in Figure 1) lies on the edge of the golf course, within the Golf Club ownership, but does not form part of the course. It fronts Golf Course Road to its eastern boundary; the Golf Course to the west and north and the rear gardens of houses in Brookmans Avenue to the south.

2.2.0 Application Site

2.2.1 The site itself is a broadly triangular parcel of land, some 0.65ha in area. It is a level piece of land that is laid to grass and has a substantial tree belt (within the site boundaries) separating it from the 'active' golf course. The site is allocated (HS21) in the Welwyn Hatfield Draft Local Plan.

2.3.0 Context

2.3.1 The site lies on the edge of the urban area of Brookmans Park and abuts houses in Brookmans Avenue, a residential street of suburban character to the south. To the north and west are the Golf Club buildings and the Golf Course land. To the east of Golf Club Road are the buildings and playing fields of Chancellor's School.

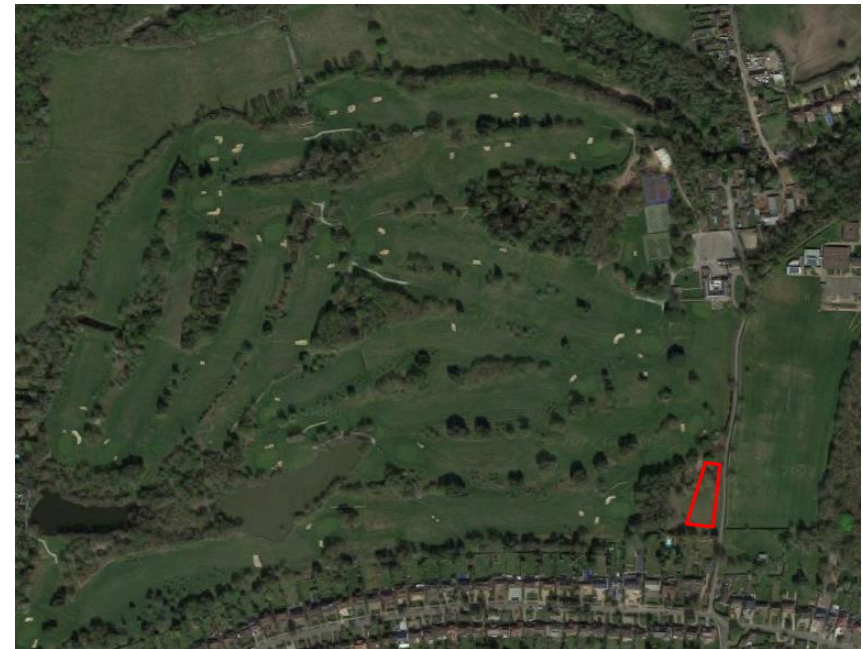


Figure 1: Site Location as shown in the wider context of the Golf Club

2.4.0 Proposals Map Notation

2.4.1 The LPA's extract from the adopted Policies Map (Figure 2 below) is annotated to identify the site in red. The site falls within the Metropolitan Green Belt and within a Landscape Character Area. The site has no other land designations, is not within flood zones 2 or 3, nor does it have any listed buildings on or adjacent to the site.

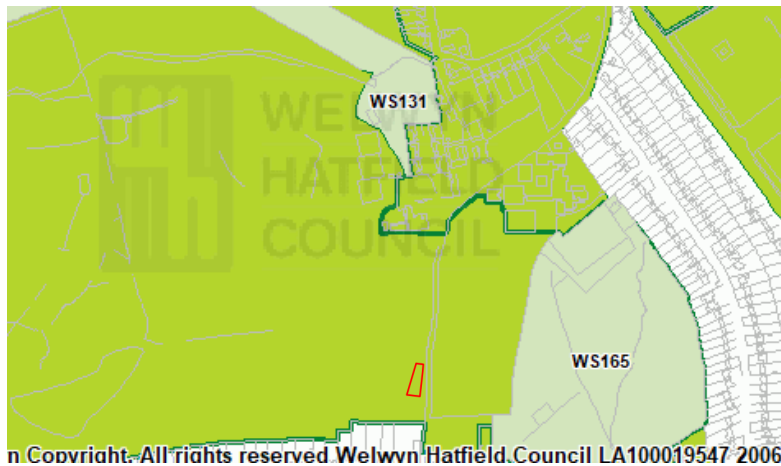


Figure 2: Annotated extract from the adopted Policies Map

2.4.2 Brookmans Park is identified in the Local Plan 2005 as a 'Specified Settlement', with such settlements limited to "development that is compatible with the maintenance and enhancement of their character and the maintenance of their Green Belt boundaries". Brookmans Park is also characterised as a large village, served well

by facilities and rail links. As such, although the application site is situated outside of the settlement boundary of Brookmans Park, it lays adjacent to the northern edge of the boundary, thus is still accessible to these essential facilities and transport links.

2.4.3 Reference is also made to the Welwyn Hatfield Draft Local Plan. The proposed submission version dated August 2016 identifies the application site as allocated for development (HS21) with a proposed yield of 14 units.

2.5.0 Local Services & Accessibility

2.5.1 The site abuts the urban area to the south, which is primarily residential at this point. The area is well served by public transport, shops and services. The table on the following page sets out the distances between the report site and these facilities. This shows that shops, public transport and schools are all within a 2km walking distance. Brookmans Park Train Station is on the East Coast Main Line and provides services to Moorgate. Sports facilities at Brookmans Park Golf and Tennis Club are also very close to the application site. The sites' proximity to major roads such as the A1000 Great North Road, A1(M) and the M25 gives good accessibility to and from the area.



Local Provisions Table 1

Type	Local Provision	Distance from site (km)	Approx. Journey time (mins)	
			walking	cycling
Retail	Co-op Food Brookmans Park	0.9	13	4
Education	Brookmans Park Primary School	1.7	17	5
	Chancellor's School	0.9	11	3
Medical	Welham Green Dental Surgery	2.2	34	10
	Potterells Medical Centre	1.4	20	4
	Jhoots Pharmacy	1.1	10	2
Leisure	Miller & Carter Brookmans Park	1.2	15	5
	Brookmans Park Tennis Club	0.6	7	2
	Brookmans Park Golf Club	0.4	6	1



3.0 RELEVANT PLANNING HISTORY

3.1.0 Application Site

3.1.1 There is no planning history directly relating to The Paddock itself. The relevant history of the wider Golf Club site is summarised in Figure 3.1.0 below.

LPA Ref	Proposal	Outcome
6/2021/0129/FULL	Erection of building comprising a technology-based driving range, pro-shop and trolley storage area; and an enclosed netted structure, following removal of existing timber building (trolley store), practice nets and pro-shop	Granted – December 2021
6/2018/1482/FULL	Erection of building comprising a swing studio, trolley store and practice nets, following demolition of existing trolley store building and practice nets	Granted – October 2018
S6/1986/0172/FP	Single storey extension to clubhouse	Granted – May 1986

S6/1986/0375/FP Single storey extensions to locker rooms and double garage June 1986

S6/1981/0704/ Twin bay golf clinic Granted – February 1982

3.2.0 Other Relevant Sites

3.2.1 The following permission relates to the adjoining property at No.101 Brookmans Avenue.

LPA Ref	Proposal	Outcome
6/2019/2313/FULL	Erection of six dwellings following demolition of existing buildings	Granted – December 2019



3.2.2 The application site at No.101 was not allocated in the Local Plan, thus coming forward as a windfall site, not contained within the green belt. However, what this decision highlights, is that the local area of Brookmans Park has the existing infrastructure to absorb development proposals of this scale and nature.



4.0 POLICY CONTEXT

4.1.0 National Policy / Guidance

4.1.1 The National Planning Policy Framework (NPPF) 2021, sets out the Government's planning policies for England. The following sections are considered directly relevant:

- Chapter 2 (Achieving Sustainable Development)
- Chapter 5 (Delivering a Sufficient Supply of Homes)
- Chapter 11 (Making Effective Use of Land)
- Chapter 12 (Achieving Well Designed Places)
- Chapter 13 (Protecting Green Belt Land)
- Chapter 15 (Conserving and Enhancing the Natural Environment)

4.1.2 The National Planning Policy Guidance contains detailed guidance on the application of the NPPF and is a material consideration in the decision-making process.

4.2.0 Development Plan

4.2.1 This comprises of the Welwyn Hatfield District Plan which was adopted in 2005. The following saved policies are considered directly relevant:

Policy No.	Title
SD1	Sustainable Development
GBSP1	Definition of Green Belt
GBSP2	Towns and Specified Settlements
R3	Energy Efficiency
D1	Quality of Design
D2	Character and Context
D8	Landscaping
M14	Parking Standards for New Development
R11	Protected Species
R17	Trees, Woodland and Hedgerows

4.3.0 Welwyn Hatfield Draft Local Plan 2016

4.3.1 The Draft Local Plan Proposed Submission 2016 was submitted for examination on 15th May 2017 and an Inspector was appointed by the Secretary of State to carry out an independent examination. The examination has undergone several stages - the most recent being Stage 9 Hearing Sessions held during February and March 2021. Given the ongoing delays and uncertainty still



surrounding the emerging Local Plan, it is considered that the emerging policies carry limited weight.

4.4.0 **Supplementary Planning Guidance / Documents**

- Interim Policy for Car Parking Standards and Garage Sizes 2014
- Supplementary Parking Guidance 2004
- Supplementary Design Guidance 2005



5.0 DESCRIPTION OF DEVELOPMENT

5.1.0 Use

5.1.1 Outline planning permission is sought for the erection of 9 detached dwellings with all matters reserved, except for access. The residential development is proposed to subsidise the improvements the Golf Club needs in order to secure its future. This is discussed in the following section.

5.2.0 Layout

5.2.1 Layout is a reserved matter; however, an indicative layout is provided in Figure 3 below. It is proposed that the dwelling mix would comprise of larger dwellings, with the development occupying most of the site, taking into account the semi mature woodland on the western and northern boundaries. The development area covers approximately 5,220sqm.

5.2.2 New accesses are proposed off Golf Club Road, with plots 1, 4, 7, 8, and 9 benefitting from direct access off Golf Club Road. Plots 2, 3, 5, 6 will also take access from Golf Club Road but this will route into the site, leading to the private drives/garages.



Figure 3: Indicative site layout



5.3.0 **Appearance & Scale**

5.3.1 Whilst these are reserved matters, it is envisaged that the properties would be detached and would not exceed 2-storeys in height. It is anticipated that the dwellings will be of a coherent, but varied design, to include variation in ridge and eaves lines and facing materials.

5.4.0 **Landscaping**

5.4.1 The existing trees on site will remain largely unaffected by the proposed development. New indicative planting is shown throughout the site, and the illustrative landscape strategy plan which accompanies this submission, places an emphasis on using native species along the site boundaries to ensure appropriate transition from the surrounding golf course.

5.5.0 **Access & Parking**

5.5.1 As detailed in the Transport Statement, vehicles will access the site from Golf Club Road, which will remain a shared surface as there are low levels of traffic. However, due to vehicle speeds exceeding a safe limit on Golf Club Road, speed calming measures in the form of speed humps are proposed to be installed at 60m intervals. This also includes a raised table feature adjacent to the site's access.

5.5.2 A 2m wide footway is proposed along the site's frontage to ensure safe movement of pedestrians around the proposed traffic calming measures.

5.5.3 Golf Club Road will be clearly marked as a shared surface road with signage showing speed restrictions of 20mph that will be put into place.

5.5.4 Policy M14 of the District Plan and the Parking Standards SPG use maximum standards that are not consistent with the Framework and are therefore afforded less weight. Considering this, the Council have produced an Interim Policy for Car Parking Standards that states that parking provision will be assessed on a case-by-case basis and the existing maximum parking standards within the SPG should be taken as guidance only.

5.5.5 The Council's car parking guidance for dwellings with four or more bedrooms in this location is three spaces per dwelling. It is anticipated that this standard will be applied to the layout in respect to the schedule of housing proposed.

5.5.6 It is anticipated that cycle parking will be provided within the curtilages of the individual properties in sheds or other secure stores.



6.0 **PLANNING CONSIDERATIONS**

Based on the analysis set out in Sections 2 to 5, I consider that the application proposal raises the following issues, which I will consider in turn below:

1. Principle
2. Dwelling Mix
3. Layout & Design
4. Landscaping
5. Highway Safety & Access
6. Ecology



6.1.0 **Issue No 1: Principle**

6.1.1 **Proposal Context**

6.1.2 Brookmans Park Golf Club, as stewards to the land within its control, acts to ensure that all associated land is well maintained, and stays respective of its land designations, including the purposes of the Green Belt. The last 5-10 years have seen fierce competition between neighbouring golf clubs, less time on the course by individuals and following the Covid-19 pandemic, financial losses have soared. Now more so than ever, adaptation is vital to ensure the Club can continue to operate successfully.

6.1.3 The Club currently benefits from an extant planning permission LPA ref: 6/2021/0129/FULL for a technology-based driving range, pro-shop and trolley storage area. This permission incorporates the latest golf tracking technology benefiting both pros and leisure golfers. This scheme is the first step to adaption and will provide a valuable source of income. However, this alone will not be enough to ensure the future of the Club, and other adaption methods are a necessity.

6.1.4 The golf club has been in existence on this site since the 1930's and has utilised the current clubhouse building for all of those years. Weddings, christenings and other private functions can be a good source of income; however, facilities need to be suitable.

The clubhouse building is large, but the internal spaces restrict its use for anything more than a basic clubhouse as it has a difficult layout with small spaces and corridors. The underinvestment in facilities, due to falling subs and the building being impractical for income generation, is beginning to come to a head. The cost of refurbishment and extension of the clubhouse to bring it up to modern standards is substantial. The residential proposals will subsidise the improvements the Golf Club needs in order to secure its future.

6.1.5 **Green Belt Harm**

6.1.6 The site is set within the Green Belt where national policy restricts development unless very special circumstances exist. The approach set out in the NPPF requires an assessment of the harm – Green Belt and other harm – and then an assessment of the benefits to establish whether other considerations clearly outweigh the harm (paragraph 148 of the NPPF).

6.1.7 The LPA's position, as set out in the Submission of the Draft Local Plan, is that this site is appropriate for residential development and necessarily required to meet the borough's housing needs over the plan period, hence its designation under ref: HS21, Policy SADM 31. It is considered that the inclusion of the site in the Draft Local Plan constitutes an acknowledgement of very special circumstances as to why an exception to normal Green



Belt policy is justified in this instance. Those special circumstances comprise of the following and are discussed in turn below:

- **The site is identified as suitable for residential development in the Council's assessment**

The Council's own assessment of the site in the SHLAA study and by inclusion as an allocated site in the SDLP (Submission Draft Local Plan) under designation HS21 (Policy SADM 31).

- **The need for housing in Brookmans Park**

The SDLP only identifies sufficient land to meet the objectively assessed need (OAN) for housing in Brookmans Park, based on the development of this site. Therefore, the Report Site is strategic and necessary for the Borough to meet its housing needs in the near future (0-5years).

- **The sustainability of the report site for residential development**

Brookmans Park is a sustainable location well served by public transport.

- **The impact on the five stated purposes of the Green Belt**

The application site is assessed, by the Council, as making a limited contribution to the purposes of the Green Belt. Therefore, its inclusion within the settlement boundary of Brookmans Park and its redevelopment for residential development would not harm the relevant purposes of

including land in the Green Belt. It is well linked to the existing development and distinct from the open countryside to the north due to the tree screening, such that the site is not required in order to keep the Green Belt permanently open. The site has a landscape sensitivity rating of medium, such that it can accommodate new development without any undue visual harm to the landscape and Green Belt.

The Council's assessment of and intentions for this site are clear. It is a site that contributes little to the Green Belt, it is a suitable and sustainable site for residential development, and its redevelopment forms an integral part of the Council's strategy to meet its future housing needs.

6.1.7 It is considered that the above constitutes exceptional circumstances that would overcome the Green Belt Policy objection to development on the report site, and the grant of permission would not undermine the aims and objectives of the Emerging Local Plan or the Council's future development strategy.

6.1.8 **Presumption in favour of sustainable development**

6.1.9 With regard to national policy, the presumption in favour of sustainable development remains at the heart of the updated NPPF 2021 (paragraph 10). In support of this, the Framework identifies 3 'overarching objectives': economic; social; and



environmental. Paragraph 9 states as follows in this respect: *“These objectives should be delivered through the preparation and implementation of plans and the application of the policies in this Framework; they are not criteria against which every decision can or should be judged. Planning policies and decisions should play an active role in guiding development towards sustainable solutions, but in doing so should take local circumstances into account, to reflect the character, needs and opportunities of each area.”*

6.1.10 The implications of the presumption in favour of sustainable development for decision making are set out at paragraph 11 of the Framework. This requires that proposals that accord with an up-to-date development plan should be approved without delay. Where there are no relevant development plan policies however - or the relevant policies are out-of-date - it requires that permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits.

6.1.11 In considering the implications for residential development, the footnote to paragraph 11 states that this includes situations where the LPA cannot demonstrate a five year supply of deliverable housing sites, with the appropriate buffer, as required by paragraph 74 of the Framework, which states in part as follows: *“Local planning authorities should 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”.

6.1.12 The recent Annual Monitoring Report (2020/21) indicates the current position of the five-year housing land supply in the Borough. A supply of 2.46 years was identified which therefore Council now accepts that for Development Management Purposes, that it cannot demonstrate a five-year supply of deliverable housing sites and indeed, with a supply of only 2.46 years, falls significantly below this requirement.

6.1.13 A recent appeal decision, reference APP/C1590/W/22/3294860, allowed an appeal within Welwyn Hatfield. This appeal is shown in Appendix 1. Upon allowing the appeal, the Inspector stated that *“The Council and the appellant agree that the housing land supply in the Borough is currently in the range of 1.75-2.46 years and the most recent Housing Delivery Test has been failed by a substantial margin. The Council is persistently failing to provide the number of homes needed in the area and there is currently no firm plan to rectify that situation.*

73. The emerging LP has progressed at an exceptionally slow pace and there remain significant uncertainties as to whether or when it will be adopted, with fundamental questions outstanding



surrounding how the housing requirement identified by the Examining Inspector will be met. Meanwhile, the housing requirement contained in the WHDP is hopelessly out of date and inadequate. In this context, the provision of market and affordable housing attracts substantial weight.”

6.1.14 Appendix 2 of this report also shows another appeal decision within the Borough, reference APP/B1930/W/20/3265925. This appeal decision also cited concerns regarding the Councils housing land supply, with the Inspector stating, *“Even taking the Councils supply positions of WHBC 2.58 years and SADC at 2.4 years, the position is a bleak one and the shortfall in both local authorities is considerable and significant....I afford very substantial weight to the provision of market housing which would make a positive contribution to the supply of market housing in both local authority areas.”*

6.1.15 There is therefore a clear District-wide need for additional housing sites to come forward and in the context of paragraph 11 of the NPPF, the planning balance shifts in favour of the grant of permission for residential development, with permission to be refused only if any adverse impacts of doing so would significantly and demonstrably outweigh the benefits. The benefits themselves are also cited as per the above appeal decisions as being given *“very substantial weight”* given the *“bleak”* position of the WHBC housing land supply. There would

be no such adverse impacts on this occasion as is demonstrated elsewhere in this statement.

6.1.16 The proposal comprises sustainable development and meets the sustainable development objectives as set out in Paragraph 8 of the NPPF. It will result in an economic boost through the addition of market housing and bring social benefit through reducing the housing need in the district and is in a sustainable location with easy access to public transport and services and facilities, as outlined in 2.5.0 above.



6.2.0 Issue No 2: Dwelling Mix

6.2.1 The Council's Authority Monitoring Report (AMR) describes housing completions in 2020/21 as "overwhelmingly" flats, with 76% of the 352 homes completed being apartments. There were around 50 4-bed plus houses completed in 2020/21. As such, there is an implied need for larger properties (3 and 4+ beds) standing at 62% as detailed in paragraph 5.12 of the AMR.

6.2.2 Given the character of this part of Brookmans Park with detached dwellings set on spacious plots, which vary in design, the proposed mix of dwellings is considered appropriate. Given the site's wooded character, the proposals maximise the available developable area, whilst ensuring the green setting of the site is maintained.

6.2.3 The proposals therefore contribute to the implied need for larger properties within the district whilst ensuring it harmonises with the context of the surrounding area and limiting the overall harm to the green belt.



6.3.0 **Issue No 3: Layout & Design**

6.3.1 **Character & Appearance**

Paragraph 126 of the NPPF advises that the creation of high-quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. Likewise, paragraph 130 of the NPPF seeks to ensure that developments function well and add to the overall quality of the area; are visually attractive and sympathetic to local character and history; and establish or maintain a strong sense of place.

6.3.2 Saved policy D1 requires high quality development and policy D2 requires development to respect and relate to the character and context of the area. The Welwyn Hatfield District Plan Supplementary Design Guidance (SDG) supplements the policies contained in the District Plan.

6.3.3 The proposal would provide an attractive design and layout appropriate to the locality and site circumstances as set out in detail below.

6.3.4 The site abuts the urban area, which at this point comprises a primarily residential area of a suburban character. It has a mixture of dwelling types and plot sizes with mostly large, detached houses in well landscaped plots predominating. Traditional designs and materials – brick and tile - characterise the area. By contrast Golf Club Road itself is semi-rural in character. It largely open but has a sense of formality about the open space and boundaries which are managed as part of the institutional and recreational uses the open space serves.

6.3.5 With the site abutting the residential area, and even more so now with the development of 101 Brookmans Avenue, which sees 3 detached units with access from Golf Club Road, it is considered that the proposals would conform to the immediate locality due to the establishment of a building line on this side of Golf Club Road.

6.3.6 **Materials**

The predominant materials used in the area are brick and tile finishes, with examples including Chancellor’s School and the Golf Club buildings. The proposed materials would be in keeping with those of surrounding buildings in terms of brick and tile finishes.



6.3.7 Amenity Space

The Council do not apply standard numerical requirements for garden sizes. The requirements are that *“the design and layout of the garden in relation to the built environment should ensure that the garden is functional and usable in terms of its orientation, width, depth and shape.”*

6.3.8 The proposals will provide sufficient amenity space comprising rear and front lawns. Further, the wooded copse to the rear of the dwellings provides an attractive outlook and backdrop for the development.

6.3.9 In light of the above, it is considered that the dwellings would be reflective of the general pattern of development within the wider setting of Brookmans Park. Each dwelling would be contained within a generously sized plot and acceptable spacing distances between shared boundaries would be achieved to ensure that the site would not be overdeveloped. The site will be well contained by retained mature landscaping and reinforced by new planting. This will assist in softening the visual impact of the development and ensuring that the setting of the dwellings is appropriate and pleasant.

6.3.10 It is therefore considered that the proposal would represent an acceptable standard of design which would maintain the

character and appearance of the area, and of which would be in accordance with local and national policies.



6.4.0 **Issue No 4: Landscaping**

- 6.4.1 Policy D8 and R17 of the District Plan outlines that the retention of existing key landscape features, including but not limited to trees, will be expected where feasible. Policy SADM16 of the Emerging Local Plan explains that proposals will be expected to help conserve and enhance the borough's natural historic landscape and sit comfortably within the wider landscape setting.
- 6.4.2 Proposals will also be assessed on their impact on landscape features to ensure that they conserve or improve the prevailing landscape quality, character and condition. This is reflected in Policy RA10 of the District Plan. These policies are broadly consistent with the heart of the NPPF which has a presumption in favour of sustainable development through net gains across economic, social and environmental objectives. The environmental objective includes protecting and enhancing the natural environment.
- 6.4.3 The NPPF also expresses that decisions should ensure that developments are sympathetic to local character, including its landscape setting.
- 6.4.4 This application is supported by an Arboricultural Impact Assessment. The AIA concludes that *"The development is therefore acceptable in arboricultural terms and should receive planning consent."*
- 6.4.5 As set out in the LVIA, the Site is well contained within the wider landscape and visual effects are localised. In landscape terms

there are no overriding landscape or visual effects that should prevent the development of the site as proposed.



6.5.0 **Issue No 5: Highway Safety & Access**

6.5.1 The Welwyn Hatfield District Plan Supplementary Planning Guidance (2004) provides details on the parking standards that should be applied for developments for both car and cycle parking. The Councils standards require 2.25 and 3 spaces for 3 bedroom and 4-bedroom dwellings respectively. Although the proposed site layout is indicative, it is envisaged that the size of the site would allow for these parking standards to comfortably be met.

6.5.2 To accompany this application a Transport Statement has been prepared. The conclusions of this report stated that *“In the context of the guidelines within paragraph 111 of the NPPF it is considered that there are no residual cumulative impacts in terms of highway safety or the operational capacity of the surrounding transport network and therefore planning permission should not be withheld on transport planning and highway grounds.”*



6.6.0 **Issue No 6: Ecology**

6.6.1 Following a Stage 1 Ecological Appraisal which was conducted in 2018, a full set of reptile surveys was recommended. As such, these surveys showed that no reptiles are present on the site.



7.0 CONCLUSIONS

7.1.0 Background

7.1.1 This report relates to a planning application for the erection of 9 dwellings at The Paddock, Brookmans Park Golf Club. The proposal is promoted in the following circumstances:

- The site is allocated by Welwyn Hatfield in their Emerging Local Plan as a housing site. The site is therefore considered suitable for residential development by the Council.
- There is a clear District-wide need for and in the context of paragraph 11 of the NPPF, the planning balance shifts in favour of the grant of permission for residential development, with permission to be refused only if any adverse impacts of doing so would significantly and demonstrably outweigh the benefits. The benefits noted in recent appeal decision within Welwyn Hatfield as being given "*very substantial weight*" given the "*bleak*" position of the WHBC housing land supply.
- The proposal would result in 9 dwellings of an attractive design that would be appropriate to the street scene. The dwellings would comply with local plan policies and supplementary design guidance and would create a good standard of accommodation.
- There will be no loss of amenity to surrounding residents. A spacious setting and gardens would be provided for the proposed dwellings.
- There would be no detrimental impact upon landscape features as a result of development on the site.
- The proposed access would meet County Council requirements and adequate parking provision would be made.



8.0 APPENDICES

8.1.0 Appendix 1 – Appeal reference APP/C1950/W/22/3294860





Appeal Decision

Inquiry held on 12-15 and 18-20 July 2022

Site visit made on 21 July 2022

by Michael Boniface MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 August 2022

Appeal Ref: APP/C1950/W/22/3294860

BioPark, Broadwater Road, Welwyn Garden City, Hertfordshire, AL7 3AX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by HG Group against the decision of Welwyn Hatfield Borough Council.
 - The application Ref. 6/2020/3420/MAJ, dated 18 December 2020, was refused by notice dated 16 September 2021.
 - The development proposed is demolition of existing buildings and construction of 289 residential units (Use Class C3) and community hub (Use Class E/F.2), with public realm and open space, landscaping, access, associated car and cycle parking, refuse and recycling storage and supporting infrastructure.
-

Decision

1. The appeal is allowed and planning permission is granted for demolition of existing buildings and construction of 289 residential units (Use Class C3) and community hub (Use Class E/F.2), with public realm and open space, landscaping, access, associated car and cycle parking, refuse and recycling storage and supporting infrastructure at BioPark, Broadwater Road, Welwyn Garden City, Hertfordshire, AL7 3AX in accordance with the terms of the application, Ref 6/2020/3420/MAJ, dated 18 December 2020, subject to the conditions contained in the attached Schedule.

Application for costs

2. At the Inquiry an application for costs was made by HG Group against Welwyn Hatfield Borough Council. This application is the subject of a separate Decision.

Preliminary Matters

3. Two groups were granted Rule 6 status in the appeal, the Welwyn Garden City Society (the Society) and, acting together, Keep the G in WGC and the Welwyn Garden City Heritage Trust (Keep the G/the Trust). Both parties actively participated in the inquiry throughout.
4. On 7 July 2022, shortly before the inquiry opened, the Council confirmed that it no longer intended to defend its second reason for refusal in light of evidence produced by the appellant. It was agreed that the level of on-site car parking proposed would be sufficient to meet anticipated demand and that occupation of the appeal site would not result in a detrimental impact on surrounding roads. The inquiry proceeded on this basis, albeit that Rule 6 parties continued to raise concerns on this topic.

Main Issues

5. Having regard to the above, the main issues in the appeal are whether the proposed design is acceptable and the effect on the character and appearance of the area; and whether the development would provide suitable housing in terms of tenure and mix.

Reasons

Design, character and appearance

6. The appeal site accommodates a large commercial/industrial building which has been vacant for some time, served by a long access drive leading to Broadwater Road. There is no dispute by any party that the site is now a suitable location for residential development given the lack of demand/unsuitability of the building for the current use. Indeed, the Council now actively encourages such development as part of efforts to regenerate this formerly industrial part of the city.
7. The site is a proposed allocation for 250 dwellings in the Council's emerging Local Plan¹ and sits in the context of large-scale redevelopment in the area, known as the Shredded Wheat Quarter. As early as 2008, the Council adopted the Broadwater Road West Supplementary Planning Document (the SPD) outlining the vision for Broadwater Road West and setting out a masterplan to guide and promote the comprehensive redevelopment of this key site, albeit that the appeal site was not expected to be developed at that stage.
8. Given the size of the site and the amount of development anticipated, there should be no illusion that the Council expects sizeable buildings to be accommodated on the appeal site. Importantly, the site now sits in the context of adjacent buildings that will extend to 8 and 9 stories high and were under construction at the time of my visit. This represents development far in excess of the guideline parameters for development contained in the, now dated, SPD in terms of height and density.
9. Understandably, the proposed scheme has been designed with this recent development in mind, as well as the height and scale of the existing building on the appeal site, which is tall and bulky. This seems to me, to be a perfectly legitimate reference point, notwithstanding that buildings of lower height and density are also part of the context, including the Mirage development and neighbouring Broadwater Crescent.
10. The appellant's evidence carefully and convincingly sets out the design process followed in arriving at the scheme subject of this appeal and assesses the effect on townscape. The height of the proposed buildings is comparable to those under construction in the Broadwater Road West area and they would transition across the site to much lower heights where they adjoin Broadwater Crescent to the south.
11. When viewed in the context of the wider Broadwater Road West development, the transition would be less successful given that the tallest buildings proposed would be nine stories, the maximum allowed in the northern parts of the redevelopment area, but they would still be close to sizeable eight storey buildings on more southerly parts of the SPD area such that they would not

¹ Draft Local Plan Proposed Submission August 2016

- appear unduly tall or out of context. The greater height in the northern part of the appeal site would, in my view, be mitigated by the very successful transition that would be achieved within the site itself.
12. The perception of height is also reduced through the detailed roof design of the tallest buildings, which would be in the style of a mansard roof, tapering inwards from their base. Although the roofs are not set back from the face of the buildings as might normally be expected from traditional mansards, the design would add visual interest and assist in diminishing the mass of the upper parts of the building.
 13. There was much debate about these features, which are undoubtedly very different to the style of mansard commonly found in the city, but the building is not seeking to replicate existing buildings, nor is there any reason why it should. Mansard roofs and other steeply pitched roof designs are a common feature in the city and the proposed roof structure would reflect this, with a contemporary and interesting interpretation.
 14. This approach is also seen in other elements of the design, including the sweeping curved edge of Block F and the fenestration design of the proposed community hub and Block E stair core, both of which reflect Art Deco precedents in the area, notably the Roche building. A varied palette of materials would ensure visual interest whilst seeking to reflect the local vernacular in terms of colour, whilst protruding balconies and dormer windows would punctuate the facades.
 15. The buildings would be arranged in blocks surrounded by communal gardens and open space of various types, including children's play space and areas for growing fruit with high quality landscaping, including trees. This would reflect the green and open character that is notable in the city and the garden city principles on which the city was founded, albeit that it is part of a relatively high-density residential development.
 16. The density of the appeal scheme, in numerical terms, would be high for the area. Higher than the majority of development in the locality and higher even than that of the development under construction in the SPD area. However, that is not in itself objectionable. What is important, is not the numerical figure, but any harm that would arise from that density. In this case, I have found none. The development would be high quality, it would reflect the scale and height of other development nearby, it would provide good quality living conditions both internally and externally, including amenity space beyond policy requirements. The fact that the scheme achieves this at a relatively high density, delivering a significant number of residential units in an area where they are desperately needed, is to be commended.
 17. Although tall, the buildings would not become an overly prominent feature in the city. During my extensive site visit it was clear that there are very few vantage points where the existing building has a notable presence and that would remain the case with the new buildings. The picturesque Parkway and Campus areas of the city that are so iconic as part of its identity are set apart from the former industrial zone. The Howard shopping centre and multi-storey car park is itself a tall building that turns its back on the railway line and largely screens views of the appeal site from the town centre. It is also another building that is relevant to any contextual analysis of the appeal site.

18. Those views that are available currently reveal the unsightly BioPark building which lacks architectural merit, being tall, wide and uncompromising its mass. Replacement of the building with a high quality and well-conceived scheme that would significantly break up the mass of built form on site into separate blocks with spaces between would be an improvement. This includes views from the residential gardens on the opposite side of the railway track and when approaching on the railway, removing the very sorry looking vacant building and raising the standard of architecture in this neglected part of the city.
19. The development cannot be said to fully accord with the SPD in that it would deliver development taller and denser than anticipated. That said, much has changed since its adoption in 2008, not least the urgent need for housing in this area and the Council's recognition that more development will be needed on this site and in the SPD area. It has itself granted planning permission for development that is significantly taller and denser than the SPD would suggest, albeit that so far as height is concerned, the SPD allows some flexibility.
20. Although the appeal site was not originally anticipated to be developed in the SPD, the principles it sets out are a guide and have been considered above so far as they are relevant. That said, given the changes that have occurred and bearing in mind that it includes design principles that fail to have regard to the contemporary contextual baseline, the usefulness of the SPD is significantly reduced and it attracts only limited weight.

Heritage

21. As the proposal is close to a conservation area and listed buildings, I have had special regard to sections 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.

Roche building and Shredded Wheat Factory

22. The development would be in the setting of the Roche building and Shredded Wheat Factory, which are both listed at Grade II. The former has been converted into residential use as part of a larger scheme whilst the latter is awaiting redevelopment for similar purposes. New residential buildings have been constructed between the appeal site and the listed buildings and so the setting is much changed, having previously been an industrial area. No party argues that the development would harm these heritage assets and I agree that they do not derive significance from the appeal site or BioPark building such that harm would result.

Hatfield House and Gardens

23. Hatfield House is located around 4km from the appeal site and is listed Grade I, as are its Registered Park and Gardens. The submitted Heritage and Townscape Visual Impact Assessment (HTVIA) and other evidence before the inquiry demonstrate that views of the proposed development would be available from the house and gardens, albeit at great distance. The surrounding landscape is part of their setting, as a large country estate that derives much significance from its prominence in the landscape and impressive views and vistas towards the buildings and beyond.
24. However, the heritage assets do not stand alone in splendid isolation. They now stand close to large urban centres and views of the buildings, street lighting and other urban paraphernalia associated with Welwyn Garden City are

part of its backdrop. In this context, the existing BioPark building is barely distinguishable in the long-distance views that are available from some vantage points and it is largely distinguished as a result of its bright white finish. This includes important views from the Hatfield House parkland looking north where the buildings would just be distinguishable between the central clock tower and the chimneys on the east wing.

25. The proposed development would be similar in height to the existing building, albeit very different in design and configuration. It would, however, utilise materials that are more similar in colour to the built form in the city and would become a more subtle part of the urban fabric when viewed over the significant distance involved, even having regard to the likely increase in the use of lighting, which would again, be seen in the context of the well-lit urban environment. Whilst the proposed development is unlikely to appreciably enhance the heritage assets or their setting, it would not harm them.
26. I have carefully considered the comments from Historic England which conclude that less than substantial harm (low is scale) would result and I attach this view great weight in my deliberations. The conclusions of Gascoyne Estates on behalf of Hatfield House are broadly in line with this assessment. Whilst I do not agree that any harm would result in this case for the reasons I have set out above, even less than substantial harm would be of considerable importance and weight in the decision making process. However, even considering any such harm, taking it at its highest identified in evidence to this appeal, I am satisfied that the delivery of a significant amount of much needed market and affordable housing would be a public benefit sufficient to easily outweigh the level of harm anticipated such that it would not be a reason to refuse planning permission in any case.

Welwyn Garden City Conservation Area

27. The Welwyn Garden City Conservation Area is located on the opposite side of the railway line but as I have described, there are few positions from which the appeal site features prominently. The designed Parkway and Campus within the town centre are largely unaffected by the scheme, as would be the majority of the residential areas surrounding. The old industrial area was purposely set apart from these areas in designing the city and remains so. Whilst the former industrial area was part of the original concept for Welwyn Garden City, providing employment for the residents, its character and that of Broadwater Road is very different and continues to evolve. Whilst views of the proposed development would be possible from some parts of the conservation area, the existing building is a detracting feature and its replacement with buildings of higher architectural quality would not harm its character or appearance.

Other heritage matters

28. No other designated or non-designated heritage assets would be harmed by the development.

Design, character and appearance conclusion

29. Overall, I conclude that the development would achieve the high-quality design expected by local and national planning policy and would not harm heritage assets. As such, I find no conflict with Policies D1, D2 or EMP2 of the Welwyn

Hatfield District Plan (2005) (WHDP), or emerging Policies SP 9 and SADM 15 of the Draft Local Plan (emerging LP).

Housing tenure and mix

30. Policy H7 of the WHDP and Policy SP 7 of the emerging LP require that 30% of residential developments should be delivered as affordable housing, with the latter recognising that this is subject to viability. In this case, the appellant has provided a detailed viability appraisal which demonstrates that the scheme cannot viably provide any affordable housing whilst remaining deliverable. This appraisal has been reviewed independently on behalf of the Council, whose consultants agree. No other party has produced professional evidence that calls the conclusions of the viability appraisal into question and I am satisfied that it is a robust assessment.
31. Despite the lack of technical viability, the appellant has undertaken to provide 10% affordable housing. The proposal accords with draft Policy SP 7 in this regard, bearing in mind viability. There is a conflict with Policy H7 in that the minimum 30% provision would not be achieved but the policy is now dated and the emerging LP recognises the need to take viability into account in line with national policy and guidance. As it has been demonstrated that the scheme cannot viably deliver 30% affordable housing, the policy conflict attracts only limited weight. Conversely, the benefit of delivering 10% affordable housing in an area where there it is demonstrated that there is an acute and unmet need, weighs in favour of the development.
32. The development plan does not stipulate the mix of housing required in the Borough, but emerging policy SP 7 seeks to deliver a choice of homes and to help create sustainable, inclusive and mixed communities. Proposals should, according to the latest wording in the main modifications to the emerging LP, demonstrate how the mix of tenure, type and size of housing proposed has had regard to the Council's latest evidence of housing need and market demand with the aim of meeting the various needs of different households.
33. The latest evidence is contained in the Strategic Housing Market Assessment Update (2017) and the Welwyn Hatfield Technical OAN Paper (2019). It can be readily seen from this evidence that the greatest need is for three bed properties but there is a need for all sizes, from one bed to 4+ beds.
34. The vast majority of recent housing completions have been smaller properties, largely one and two bed flats. That could be for many reasons, including the nature and location of the sites that have been delivered over the past few years, but there remains a need for housing of all sizes nonetheless.
35. The proposed development would provide mainly one and two bed flats but some three bed units and four bed houses are also proposed such that there is some variation in house types and sizes proposed. There would be a high proportion of smaller flats, but this allows for the efficient use of brownfield land at a very centrally located site, close to public transport links and the various shops, services and facilities available within easy walking distance.
36. The mix is also supported by the appellant's viability and market evidence, which shows increasing house prices with distance from the town centre and a good number of past transactions for smaller flats in the vicinity of the town centre, indicating demand within the market. The appellant's evidence also

shows that an alternative scheme incorporating a greater proportion of larger units would become less viable than the current proposal and so there is little prospect of such a scheme coming forward, even if it were desirable.

37. There are a large number of flats being developed in the Shredded Wheat Quarter in line with the Council's aspirations for redevelopment, but this again includes a mix of house types, including a proportion of extra-care properties suitable for elderly people. The proposed flats would add to the local mix and would also be suitable for a range of people, being accessible and adaptable dwellings able to meet a range of needs, including a proportion of wheelchair user dwellings.
38. With this in mind, the development would likely be attractive and/or available to a wide variety of prospective occupants, not confined to only a small section of the housing market. There is also a supply of houses and larger units nearby, within the Mirage development and at Broadwater Crescent such that there would not be an over proliferation of small flats in the wider area. There is no reason why residents of the scheme would not become part of that wider community, using the various services and facilities open to all local residents, including schools, shops, cafes and gyms.
39. The Council accepts that the implied housing mix requirement in the emerging LP should not be applied as an absolute requirement for individual schemes and this is clear from the SHMA itself. It is a Borough-wide requirement to be achieved over the plan period and there will inevitably be sites that lend themselves to higher density schemes with a high proportion of smaller units and other sites where the opposite is true.
40. The development would deliver housing in line with the identified need, albeit that there would remain a need for further housing, including a large proportion of three and four bed units. Such delivery would not be jeopardised by allowing this scheme or prevent the Council from achieving the overall implied housing mix during the plan period. Available Brownfield land close to the town centre is a scarce resource in the city and development should be optimised where there are opportunities to do so. There is no reason to think that the development, as part of the large mixed use redevelopment taking place in the Shredded Wheat Quarter, would not become part of a sustainable, inclusive and mixed community.
41. The proposed scheme has had regard to the latest evidence available in relation to housing need and market demand and would deliver housing that would contribute towards meeting that Borough-wide need. It would also provide a suitable proportion of affordable housing. As such, I find no conflict with Policy SP 7 of the emerging LP. So far as there is a conflict with Policy H7 of the WHDP, I attach this only limited weight.

Other matters

Parking and highways

42. The submitted Transport Assessment concludes that the development can be accommodated without unacceptable harm to highway safety or capacity. The scheme would provide 219 car parking spaces which is comfortably within the range (80-289) suggested by the Council's Parking Standards SPG (January

- 2004) and Interim Policy for Car Parking Standards (August 2014), albeit that these provide local guidance and not development plan policy.
43. The guidance places the onus on the developer to demonstrate the appropriate level of parking and a thorough assessment has been undertaken as part of the planning application and appeal process. Having regard to the latest census data available, the level of parking provision will exceed likely car ownership levels for the proposed development, bearing in mind typical car ownership levels associated with flats. This allows for some flexibility given that the 2011 census data is now dated, though there is no more reliable data before the inquiry that suggests car ownership levels have significantly changed.
 44. The Rule 6 parties suggest that insufficient parking provision has been made at other recent developments, but it is difficult to find other schemes that are directly comparable to the appeal proposal in terms of the housing mix, tenure, accessibility and sustainable transport measures. Parking demand can be influenced by many factors. Although I acknowledge the evidence provided in relation to other schemes, it does not persuade me that the level of parking proposed, based on empirical evidence and data specific to this scheme are unreliable.
 45. Even if the site could not accommodate future parking demand, parking management provisions are to be secured and the submitted parking survey demonstrates that there is ample on-street parking available locally. The Council has indicated that it intends to introduce parking restrictions in the area, and this would further discourage car ownership in favour of sustainable modes of travel if onsite parking provision proved insufficient.
 46. The site is located very close to the town centre and all of its services, shops, restaurants and facilities, as well as the train station and various bus stops, all of which are within a reasonable walking distance. Whilst the closest bus stops provide a limited service, additional bus stops are within walking distance and serve a greater variety of destinations with their attendant services and facilities, including employment opportunities.
 47. Local people have reservations about the potential for using public transport but it seems to me that the site is in a highly sustainable location where sustainable travel is a realistic prospect and should be encouraged. Very good public transport options exist and future residents would not need to be reliant on private cars, particularly if sustainable travel patterns are encouraged from first occupation. In this case, additional measures would be secured, such as a Travel Plan, car club and cycle storage facilities.
 48. As such, I find no conflict with Policy H2 or M14 of the WHDP, the Council's Parking Standards SPG, Interim Policy for Car Parking Standards; or Policies SP 4, SADM 2 and SADM 3 of the emerging LP.

Garden City Principles

49. The Garden City Principles upon which Welwyn Garden City was founded, specifically those set out by the Town and Country Planning Association were referenced during the appeal. These were important principles that have guided the inception and successful development of the city. As such, whilst not planning policy, they are a relevant material consideration, and the appeal documents explain how the design of the appeal scheme has sought to have

regard to them. That said, the principles are broad ranging, and it was accepted during the inquiry that it would not be appropriate, or indeed possible, to apply each and every one to individual developments or to the appeal proposal.

50. Local people spoke passionately about Welwyn Garden City and it was clear to me that there is a great desire to protect it and maintain the principles upon which it was built. That is understandable, as an acclaimed and pioneering Garden City. However, it remains necessary for the city to grow and meet modern needs. For the reasons that I have set out, I do not consider that the proposed development would detract from the city or be at odds with the Garden City Principles. Rather, it is the next phase in the cities evolution.

Sustainability

51. At a very late stage in the appeal, the Society raised concerns regarding the sustainability of demolishing the existing building and replacing it with new buildings. Matters relating to sustainability are considered in the appellant's Sustainability Statement, which explains the measures taken to ensure a sustainable development, including reducing carbon dioxide emissions through the installation of renewable technology.
52. It was also explained during the inquiry that the existing building is not suitable for conversion to residential use as it would not provide acceptable living conditions for future occupants. Furthermore, removal of the existing building is clearly desirable given my conclusion on the main issues. No evidence was provided to demonstrate that the scheme would be likely to compromise the Government's ability to achieve net-zero by 2050 and it is not credible to suggest that it would, given the small scale of the proposal in the context of a long-term national objective.

Air quality

53. The application is accompanied by an air quality assessment carried out in accordance with industry standard guidelines and practice. No significant adverse effects are anticipated.

Flooding and drainage

54. The Council and Lead Local Flood Authority are satisfied that the development can be suitably drained and will not lead to flooding on site or elsewhere. There is no evidence before me that leads me to a different conclusion and a suitable scheme for the drainage of the site can be secured by condition.

Living conditions

55. The proposed buildings are set away from neighbouring properties within open space and the height of buildings is significantly lower where it meets established residential areas, particularly those adjoining Broadwater Crescent. Having regard to the arrangement of the proposed buildings, and bearing in mind the existing building on the site, I see no reason why the scheme should unacceptably harm neighbours living conditions.
56. The height and scale of the tallest buildings would be similar to the BioPark buildings currently experienced by residents though the spaces between buildings, open green spaces surrounding and transition in heights are likely to

improve the current outlook for many residents and would not result in any harmful visual or overbearing impacts.

57. There would be increased activity within the site, with many residential windows facing towards established residential areas but again, the distances involved and the arrangement of the buildings is such that this would not harm living conditions. It must be remembered that the site is located in an urban context and a degree of mutual overlooking is to be expected. Good levels of privacy would be maintained by existing residents.
58. The submitted Daylight and Sunlight Report (December 2020) demonstrates that the development will not materially reduce the levels of light reaching the rooms of neighbouring properties, and in many cases will improve the situation when considering the existing building.
59. The development would deliver good sized units with access to both private and communal amenity spaces. A further Daylight & Sunlight Report² demonstrates that the proposed dwellings and associated amenity spaces would receive suitable levels of light. Conditions would ensure that measures are incorporated to protect future residents from noise.

Crime and disorder

60. There is no evidence of particular issues with crime and disorder in this location and having regard to the submitted information, the Hertfordshire Constabulary support the application from a crime prevention and safety perspective.

Other issues

61. Concerns are raised that the development would adversely affect house prices in the area. There is no evidence before me to support this assertion but in any case, maintaining private house prices is not an objective of the planning system or a matter that attracts any significant weight in the planning balance.

Planning Obligations

62. The appellant has entered into two S106 agreements to secure planning obligations, one with the Council and another with Hertfordshire County Council (HCC). The obligations have been identified by the respective authorities and are supported by CIL Compliance Statements which explain how each obligation accords with Regulation 122 of the Community Infrastructure Levy Regulations 2010.
63. There is no dispute between the appellant and the Council that the obligations contained in the agreement are necessary and would otherwise meet the tests contained at Regulation 122. Having regard to the Council's policies and the need to mitigate the impacts of the development, I have no reason to take a different view and have taken the obligations into account.
64. The appellant had agreed to provide the various obligations sought by HCC but the requested financial contributions were subsequently increased during the course of the appeal, following adoption of the *Hertfordshire County Council Guide to Developer Infrastructure Contributions (2021)* (the HCC Guide). Whilst the appellant does not dispute the methodology used by HCC in arriving

² Daylight and Sunlight Within the Proposed Dwellings & Sunlight to Proposed Amenity Spaces (December 2020)

- at the requested contributions, they are opposed on the basis that the scheme is not viable or deliverable if the additional amounts are required.
65. It is clear from the viability appraisal submitted that the scheme is already technically unviable and so additional contributions would worsen the situation and compromise deliverability of the scheme. The HCC Guide is not an SPD and has not been viability tested, meaning that the effect of the policy on development viability in the area is unknown.
66. HCC accepted during the inquiry that viability is a relevant consideration but has not sought to consider the viability evidence provided for the appeal proposal itself, instead choosing to defer to the Borough Council to decide whether the contributions can be reasonably made without compromising deliverability of the scheme. The Borough Council accepts the appellant's viability case and does not support the additional contributions.
67. As such, it would not be reasonable to require the Revised Requested County Contributions. This would worsen the viability position and likely make the scheme undeliverable, such that its wider benefits would be lost. Therefore, the additional contributions are not necessary to make the development acceptable in planning terms, they do not accord with the requirements of the CIL Regulations and I have not taken them into account. Option A in the S106 agreement is rejected.
68. Although the development will not fully mitigate its impacts based on the new HCC Guide, it would make a proportionate contribution, having regard to viability, in line with the amounts originally sought by HCC. These contributions were taken into account in the appellant's viability appraisal and accepted as necessary contributions that would not jeopardise deliverability of the scheme. I am satisfied that the Initially Requested County Contributions, referred to as Option B in the S106 agreement, meet the requirements of the CIL Regulations and have taken them into account in reaching my decision. If it transpires that the viability of the scheme improves by the time of development, the S106 agreement makes provision for additional contributions where there is a surplus profit.
69. The obligations secured are based on evidence provided by the various authorities and service providers. There is no detailed evidence before me to justify further obligations or to suggest that other services and infrastructure could not accommodate the development.

Planning Balance

70. The Council accepts that the development is broadly in line with the spatial strategy contained in the emerging LP, but until such time as it is adopted the proposal is to be considered as a windfall site in line with Policy H2 of the WHDP. Either way, there is strong policy support for redevelopment of the site for residential purposes in principle.
71. The proposal is not entirely in accordance with Policy H7 of the WHDP due to its absolute requirement for 30% affordable housing, but for the reasons set out above I attach this conflict little weight. In addition, the failure of the scheme to fully mitigate its impacts on local infrastructure weighs against the proposal.
72. However, the policies most important for determining the application are out of date due to the lack of a five-year housing land supply, as required by the

National Planning Policy Framework (the Framework). The Council and the appellant agree that the housing land supply in the Borough is currently in the range of 1.75-2.46 years and the most recent Housing Delivery Test has been failed by a substantial margin. The Council is persistently failing to provide the number of homes needed in the area and there is currently no firm plan to rectify that situation.

73. The emerging LP has progressed at an exceptionally slow pace and there remain significant uncertainties as to whether or when it will be adopted, with fundamental questions outstanding surrounding how the housing requirement identified by the Examining Inspector will be met. Meanwhile, the housing requirement contained in the WHDP is hopelessly out of date and inadequate. In this context, the provision of market and affordable housing attracts substantial weight.
74. In addition, the proposed development would deliver other benefits, including a substantial net biodiversity gain; the provision of jobs during the construction and operational phases; increased expenditure in the local area that will contribute to the local economy in a relatively deprived part of the city; and the provision of publicly accessible open space and play equipment.
75. The proposal is in accordance with the development plan, taken as a whole. The benefits arising from the proposed development would be substantial. I have identified no adverse impacts that would significantly and demonstrably outweigh the benefits, when assessed against the policies of the Framework taken as a whole. Having regard to the provisions of the development plan and all material considerations, planning permission should clearly be granted.

Conditions

76. The Council and the appellant have agreed conditions that are considered necessary in the event that planning permission is granted. I have largely attached the conditions as agreed, noting that the appellant has provided written agreement to all pre-commencement conditions. However, I have altered the wording of conditions as necessary to improve their precision or otherwise ensure accordance with the relevant tests contained within the Framework. The reason for each condition is set out alongside it in the attached Schedule.
77. I have not attached the suggested condition removing permitted development rights for the town houses as no exceptional circumstances have been identified that would justify such removal. The Government has granted consent by virtue of the Town and Country Planning (General Permitted Development) (England) Order 2015 for various forms of household development which are generally considered acceptable without the need for a planning application and I was not persuaded that such development would be unduly harmful in this case.

Conclusion

78. In light of the above, the appeal is allowed.

Michael Boniface

INSPECTOR

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY³:

Meyric Lewis & Mark O'Brien
O'Reilly of Counsel

They called:

Mette Mc Larney BSc, Director, Bluepencil Designs Ltd
BArch (Hons), RIBA

Mike Spurgeon BSc Associate Planning Consultant, Phase 2
(Hons), MSc, MRTPI Planning

FOR THE APPELLANT⁴:

Zack Simons & Isabella Buono
of Counsel

They called:

Simon Camp BA (Hons) Partner, Alan Camp Architects
Arch, Pg Dip, Arch. RIBA

Stephen Levrant RIBA, Principal, Heritage Architecture Ltd
AA Dip, FRSA, Dip Cons
(AA), IHBC, ACArch

Alex Roberts BSc (Joint Director, Lambert Smith Hampton
Hons), Assoc RTPI

Neil Marshall BSc Partner, I-Transport LLP
(Hons), CMILT, MIHT

Petrina Froud Senior Viability Surveyor, Kempton Carr Croft

Mark Westcott BSc Director, hgh Consulting
(Hons), DipTP, MRTPI

FOR THE WELWYN GARDEN CITY SOCIETY:

William Walton

He called:

Susan Parham MRTPI, Associate Professor, University of Hertfordshire
FRSA

³ Rob Walker (Solicitor) and David Elmore (Planner) took part in the conditions and obligations sessions

⁴ Victoria Du Croz (Solicitor) took part in the planning obligations session

Richmond Bauer AA Dipl.	Former Director of Planning & Design Consultants
Russ Platt	Local Councillor
Lynn Chesterman OBE	Local Councillor
Justin Gardner BSc MSc	Director, Justin Gardner Consulting
Clive Wilson MRICS	Former WGCS Chair and local resident

FOR KEEP THE G IN WGC AND THE WELWYN GARDEN CITY HERITAGE TRUST:

Rose Grewal

She called:

Tim Parton BA (Hons), MPLAN, MRTPI	Associate Director, DAC Planning
Tony Skottowe	WGC Heritage Trust Chair and local resident

INTERESTED PERSONS:

Martin Norman	Founder of Keep the G in WGC
Duncan Jones	Local Councillor
Russ Platt	Local Councillor
Malcolm Cowan	Former Councillor & local resident
Angela Eserin	Local Historian
Karen Winbow	Local resident
Antony Proietti	Team Leader, Hertfordshire County Council

DOCUMENTS SUBMITTED DURING THE INQUIRY

- 1 Appellant's Opening Statement
- 2 Council's Opening Statement
- 3 Keep the G/the Trust's Opening Statement
- 4 The Society's Opening Statement
- 5 Written copy of statement by Angela Eserin
- 6 Written copy of statement by Russ Platt
- 7 Written copy of statement by Malcolm Cowan
- 8 Written copy of statement by Duncan Jones
- 9 Written copy of statement by Tony Skottowe
- 10 Errata from Simon Camp
- 11 Letter from Carter Jonas on behalf of Gascoyne Estates dated 14 July 2022
- 12 Extract from SPRU document dated 14 July 2020
- 13 Rose Grewal – Background information
- 14 Rebuttal to Letter from Mr John Boyd on behalf of Gascoyne Estates
- 15 Cabinet Planning & Parking Panel Report – 21 July 2022
- 16 Written copy of statement by Karen Winbow
- 17 Draft S106 agreement between the appellant and the Council
- 18 Draft S106 agreement between the appellant and HCC
- 19 Draft planning conditions
- 20 Appellant's Inquiry Note on County S106 Contributions
- 21 Appellant's costs application
Planning Statement associated with Gascoyne Estates planning application
- 22 application
- 23 Closing Submissions for the Council (including costs response)
- 24 Closing Submissions for the Society
- 25 Closing Submissions for the Keep the G/the Trust
- 26 Closing Submissions for the appellant (including final comments on costs)

DOCUMENTS SUBMITTED AFTER THE INQUIRY

- 1 Final version of conditions, revised to reflect discussions during the conditions session
- 2 Completed S106 agreement between the appellant and the Council
- 3 Completed S106 agreement between the appellant and HCC
- 4 Draft minutes from Cabinet Planning and Parking Panel Committee (21 July 2022) and Public Reports Pack
- 5 Draft minutes from Cabinet (25th July) and Full Council Committee (26th July)
- 6 Comments from the Council on (4) and (5) above
- 7 Comments from the Society on (4) and (5) above
- 8 Comments from the appellant on (4) and (5) above

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.

REASON: In accordance with the Town and Country Planning Act 1990.

- 2) Development must not commence until a Construction Management Plan (CMP) has been submitted to and approved in writing by the local planning authority. The CMP shall include details of:
 - a) Hours of construction works;
 - b) Construction vehicle numbers, type, routing;
 - c) Traffic management requirements;
 - d) Construction and storage compounds (including areas designated for car parking, loading/unloading and turning areas);
 - e) Siting and details of wheel washing facilities;
 - f) Cleaning of site entrances, site tracks and the adjacent public highway;
 - g) Timing of construction activities (including delivery times and removal of waste) and to avoid school pick up/drop off times;
 - h) Provision of sufficient on-site parking prior to commencement of construction activities;
 - i) Post construction restoration/reinstatement of the working areas and temporary access to the public highway;
 - j) Where works cannot be contained wholly within the site a plan should be submitted showing the site layout on the highway including extent of hoarding, pedestrian routes and remaining road width for vehicle movements;
 - k) Provision of hoarding around the site;
 - l) Noise control measures to minimise noise and vibration; and
 - m) Dust control measures.

The construction of the development shall not be carried out otherwise than in accordance with the approved CMP.

REASON: In order to protect highway safety and the amenity of other users of the public highway and rights of way and the amenity and living conditions of the wider public in line with the mitigation measures set out in the Environmental Statement and in accordance with the National Planning Policy Framework.

- 3) No development above ground (other than works of demolition) and no drainage works shall take place until a detailed surface water drainage scheme for the site based on sustainable drainage principles has been submitted to and approved in writing by the local planning authority. The scheme shall include:
 - a) Full, detailed modelling for the surface water drainage network to demonstrate how the system operates during up to and including the

1 in 1 year, the 1 in 30 year and the 1 in 100 year rainfall event including a 40% allowance for climate change. Half drain down times for all storage features should be included;

- b) Full, detailed, engineering drawings of any SuDS, surface water storage or conveyance features including cross and long sections, location, size, volume, depth and any inlet and outlet features. This should be supported by a clearly labelled drainage layout plan showing any SuDS and pipe networks. The plan should show any pipe 'node numbers' that have been referred to in network calculations and it should also show invert and cover levels of manholes. Total storage volumes provided within each storage feature should be identified;
- c) Detailed engineered drawings of the proposed SuDS features including cross section drawings, their size, volume, depth and any inlet and outlet features including any connecting pipe runs;
- d) Demonstrate an appropriate SuDS management and treatment train;
- e) Details of final exceedance routes, including those for an event which exceeds the 1 in 100 year rainfall event including climate change event;
- f) Detailed management plan to include arrangements for adoption and any other arrangements to secure the operation of the scheme throughout its lifetime; and
- g) Details showing how surface water on the site is to be intercepted and disposed of separately so that it does not discharge onto the highway carriageway.

The approved scheme must be implemented and subsequently maintained, in accordance with the timing / phasing arrangements embodied within the scheme.

REASON: To prevent the increased risk of flooding, both on and off site, and, in respect of (g), to avoid the carriage of extraneous material or surface water onto the highway in the interest of highway safety, in accordance with Policies SADM 2 and SADM 14 of the Welwyn Hatfield Borough Council Draft Local Plan Proposed Submission August 2016, and the National Planning Policy Framework.

- 4) The development permitted shall be carried out in accordance with the sustainable urban drainage principles and the following mitigation measures:
 - a) Limiting the surface water runoff generated by the critical storm events so that it should not exceed the surface water runoff rate of 1.6 l/s (or a rate agreed with the LPA) during the 1 in 100 year event plus a 40% allowance for climate change. If an increased discharge rate is required to ensure effective drain down times, this must not be greater than 5.3 l/s for up to and including the 1 in 100 year event plus a 40% allowance for climate change;
 - b) Providing storage to ensure no increase in surface water runoff volumes for all rainfall events up to and including the 1 in 100 year plus climate change event plus a 40% allowance for climate change, providing a minimum of around 840 m³ (or such storage volume as agreed with the LPA) of storage volume in features including;

permeable paving with sub-base storage, an attenuation basin, green roofs, bioretention areas and an underground attenuation tank;

- c) Discharge of surface water from the private drainage network to be directed into the existing Thames Water surface water sewer network on Broadwater Road; and
- d) Surface water must not be disposed of via direct infiltration into the ground via a soakaway.

The mitigation measures shall be fully implemented prior to first occupation of the development and subsequently in accordance with the timing / phasing arrangements embodied within the scheme.

REASON: To prevent flooding by ensuring the satisfactory storage and disposal of surface water from the site; and to reduce the risk of flooding to the proposed development and future occupants: and to ensure that direct infiltration via soakaways will not be used due to the potential presence of contaminated land and the risk of groundwater pollution, in accordance with Policies R2 and R7 of the Welwyn Hatfield District Plan, Policies SADM 14 and SADM 18 of the Welwyn Hatfield Borough Council Draft Local Plan Proposed Submission August 2016, and the National Planning Policy Framework.

- 5) Development must not commence (other than works of demolition) until a surface water management plan for the construction phase of the development is submitted to and approved in writing by the Local Planning Authority.

The approved surface water management plan must be fully adhered to from commencement (other than works of demolition) to completion of the development.

REASON: To prevent the increased risk of surface water flooding, to improve and protect water quality, protect natural habitats and the amenity of residents during the construction phases of the development, in accordance with Policy R7 and R11 of the Welwyn Hatfield District Plan, Policy SADM 14 of the Welwyn Hatfield Borough Council Draft Local Plan Proposed Submission August 2016, and the National Planning Policy Framework.

- 6) The submitted Site Resource Management Plan (by HG Construction, 17 December 2020) must be adhered to from commencement to completion of the development.

REASON: To minimise waste and pollution from the development, in accordance with Policy R5 of the Welwyn Hatfield District Plan 2005, Policy SP 10 of the Welwyn Hatfield Borough Council Draft Local Plan Proposed Submission August 2016, and the National Planning Policy Framework.

- 7) The Arboricultural Method Statement contained within the submitted Arboricultural Report (by David Clarke Chartered Landscape Architect and Consultant Arboriculturist Limited, December 2020) and associated Tree Protection Plan (drawing no. TPP/BBRWGCH/010 A) must be adhered to in full.

REASON: To protect retained trees and in the interest of the visual amenity of the site and area, in accordance with Policies D2, D8 and R17

of the Welwyn Hatfield District Plan; Policy SADM 16 of the Welwyn Hatfield Borough Council Draft Local Plan Proposed Submission August 2016, and the National Planning Policy Framework.

- 8) Part A - Prior to the construction of the approved site access at the junction of BioPark Drive and Broadwater Road, as indicated on drawing number ITL16195-GA-005- Rev B, the results of a Stage 2 (Detail Design) Road Safety Audit must be submitted to and approved in writing by the local planning authority.

Part B - Notwithstanding the details indicated on the submitted drawings, no on-site works (excluding works of demolition) above slab level shall commence until the Road Safety Audit referred to in Part A of this condition has been approved and a detailed scheme for the offsite highway improvement works has been submitted to and approved in writing by the Local Planning Authority.

Part C – Prior to the first occupation of the development, the site access must be constructed as per the approved Stage 2 (Detail Design) Road Safety Audit and be retained permanently thereafter.

REASON: To ensure satisfactory and safe access into the site, and that the highway improvement works are designed to an appropriate standard in the interest of highway safety, in accordance with Policy SADM 2 of the Welwyn Hatfield Borough Council Draft Local Plan Proposed Submission August 2016 and the National Planning Policy Framework.

- 9) No development above ground level (excluding works of demolition) shall take place until a scheme for the provision of adequate water supplies and fire hydrants, necessary for firefighting purposes at the site, has been submitted to and approved in writing by the Local Planning Authority. No part of the development (including any dwelling) shall be occupied until the scheme has been implemented in accordance with the approved details.

REASON: To ensure adequate water infrastructure provision is made on site for the local fire service to discharge its statutory firefighting duties, in accordance with the National Planning Policy Framework.

- 10) No development above ground level (other than works of demolition) shall take place until samples of the materials to be used in the construction of the external surfaces of the buildings hereby granted have been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented using the approved materials and subsequently, the approved materials shall not be changed.

REASON: To ensure a satisfactory standard of development in the interests of visual amenity in accordance with Policies D1 and D2 of the Welwyn Hatfield District Plan 2005, Policy SP 9 of the Welwyn Hatfield Borough Council Draft Local Plan Proposed Submission August 2016, and the National Planning Policy Framework.

- 11) Notwithstanding drawing no. BMD.20.044.DR.P101 Revision C, no development above ground level of Block A or Block B shall take place until an amended front hard boundary treatment for Plot A008 and Plot B006 has been submitted to and approved in writing by the local planning

authority. The approved details must be implemented prior to first occupation of Plot A008 and Plot B006.

REASON: The current hard boundary treatments, by virtue of its design and height would fail to protect the living conditions of future occupiers. Amended details are required to ensure that the living conditions of the future occupier are protected, in accordance with Policy D1 of the Welwyn Hatfield District Plan 2005, Policy SADM 11 of the Welwyn Hatfield Borough Council Draft Local Plan Proposed Submission August 2016, and the National Planning Policy Framework.

- 12) No development above ground level of Block A, B, C, D, E and F shall take place until details of the photovoltaic (PV) cells on the roof of those blocks have been submitted to and approved in writing by the local planning authority. The details must be metrically scaled and include:
- Elevations of PV cells;
 - Elevations of each block inclusive of PV cells; and
 - Roof plan of each block showing final layout of PV cells.

Prior to the first occupation of each block, the PV cells for that block must be installed in accordance with the approved details and subsequently, must be permanently retained in operational use.

REASON: In the interest of environmental sustainability and high quality design, in accordance with Policies SD1 and R3 of the Welwyn Hatfield District Plan; Policies SP 1, SP 10 and SADM 13 of the Welwyn Hatfield Borough Council Draft Local Plan Proposed Submission August 2016; and the National Planning Policy Framework.

- 13) No development above the uppermost floor slab level of Block A, B, C, D, E and F shall take place until details of the green roof for those blocks have been submitted to and approved in writing by the local planning authority. The details must include:
- The type and specification of the green roof; and
 - Management and maintenance plan.

The approved green roofs must be carried out in the first planting and seeding seasons following first occupation of the development, and any plant which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

The approved management and maintenance plan must be fully adhered to in perpetuity with the development.

REASON: In the interest of environmental sustainability and high quality design, in accordance with Policies SD1 and R3 of the Welwyn Hatfield District Plan; Policies SP 1, SP 10 and SADM 13 of the Welwyn Hatfield Borough Council Draft Local Plan Proposed Submission August 2016; and the National Planning Policy Framework.

- 14) No development above ground level (other than works of demolition) shall take place until details of an external lighting scheme have been

submitted to and approved in writing by the Local Planning Authority. The details must include:

- Metrically scaled elevations of the types of external lighting;
- A site plan showing the location of the external lighting; and
- Vertical lux diagrams showing potential light trespass into windows of the approved residential units and neighbouring residential properties outside of the site.

The external lighting scheme must meet the requirements within the Institution of Lighting Professionals guidance notes for the reduction of obtrusive lighting.

The approved details must be implemented prior to first occupation of the development and retained permanently thereafter.

REASON: To protect the living conditions of future occupiers and neighbouring properties in terms of light spill, in accordance with Policy R20 of the Welwyn Hatfield District Plan 2005; Policy SADM 18 of the Welwyn Hatfield Borough Council Draft Local Plan Proposed Submission August 2016, and the National Planning Policy Framework.

- 15) No development above ground level (other than works of demolition) shall take place until a scheme to protect future occupiers from noise associated with the railway and neighbouring distribution depot has been submitted to and approved in writing by the Local Planning Authority, in accordance with the following requirements:
- a) Indoor ambient noise levels in living rooms and bedrooms from the railway should meet the standards within BS 8233:2014;
 - b) Internal L_{Amax} levels should not exceed 45dB more than ten times a night in bedrooms;
 - c) Details relating to a scheme to mitigate the noise from activities, deliveries, plant and equipment associated with the distribution depot to ensure that there will be no adverse impact to future residents. Assessment for noise from commercial operations must be in accordance with BS4142. Detailed façade noise levels should be provided for all areas of the development (This can be presented in the form of a noise model);
 - d) If opening windows raise the internal noise levels above those within BS8233, mechanical ventilation will need to be installed. Indoor ambient noise levels in living rooms and bedrooms must then meet the standards within BS 8233:2014 (with the mechanical ventilation system off, on and on maximum boost setting). Also, ventilation rates are required to meet those found within The Noise Insulation Regulations 1975; and
 - e) Outdoor amenity areas will need to meet the 55dB WHO Community Noise Guideline Level. If outdoor amenity areas cannot comply, then it must be shown through measurements that a suitable place is available within 5 minute walk from the development that complies with the amenity noise level.

In terms of requirements (d), alternative methods (such as passive systems) and rates can be considered, however, evidence that

overheating will not occur will need to be provided in the form of a SAP assessment conducted with windows closed, curtains/blinds not being used, showing the required ventilation rates to ensure that the medium risk category is not exceeded. Details must be provided of the ventilation system to be installed and to demonstrate that it will provide the ventilation rates shown in the SAP Assessment.

The approved scheme must be implemented prior to first occupation of the development and must be fully adhered to in perpetuity with the development.

REASON: To ensure that intended occupiers of the development are not subject to unacceptable levels of noise due to transport and commercial noise sources, in accordance with Policy R19 of the Welwyn Hatfield District Plan 2005, Policy SADM 18 of the Welwyn Hatfield Borough Council Draft Local Plan Proposed Submission August 2016, and the National Planning Policy Framework.

- 16) No development above ground level (other than works of demolition) shall take place until a scheme to protect future occupiers from noise due to new plant and equipment has been submitted to and approved in writing by the local planning authority, in accordance with the following requirements:
- a) The impact of new plant and equipment should be assessed in accordance with BS4142:2014;
 - b) If noise sources show signs of tonality, noise levels need to be 10dB below background noise level at the nearest receptor location; and
 - c) In instances where the noise source presents no tonality, the noise level need to be 5dB below the background noise level at the nearest receptor location.

The approved scheme must be implemented prior to first occupation of the development and must be fully adhered to in perpetuity with the development.

REASON: To ensure that intended occupiers of the development are not subject to unacceptable levels of noise due to plant and equipment, in accordance with Policy R19 of the Welwyn Hatfield District Plan 2005, Policy SADM 18 of the Welwyn Hatfield Borough Council Draft Local Plan Proposed Submission August 2016, and the National Planning Policy Framework.

- 17) No development above ground level (excluding demolition) shall take place until a scheme for the biodiversity enhancements in the submitted Ecological Impact Assessment & Biodiversity Net Gain report (by Green Environmental Consultants, report number: 1434/2, August 2020 – updated December 2020) including: bat roost boxes; swift nesting boxes; hedgehog hibernation/nesting boxes and commuting corridors; and insect boxes, has been submitted to and approved in writing by the local planning authority. The scheme must include:
- a) A site plan(s) and elevations identifying the location of the biodiversity enhancement features; and
 - b) Images of the type of biodiversity features to be installed.

Prior to first occupation of the development, the approved details must be implemented and retained in perpetuity.

REASON: To contribute positively to and provide net gains for biodiversity, in accordance with Policy R11 of the Welwyn Hatfield District Plan 2005, Policy SADM 16 of the Welwyn Hatfield Borough Council Draft Local Plan Proposed Submission August 2016, and the National Planning Policy Framework.

- 18) The development hereby permitted must be constructed in accordance with the water saving design measures of Section 3.3 of the Sustainability Statement (by Stroma Built Environment Ltd, ref. SUT10-20-84957, 18 Dec 2020) to achieve compliance with the target of 110/litres/person/day.

REASON: To improve the sustainability of dwellings, with particular regard to the efficient use of water, in accordance with Policy SADM 13 of the Welwyn Hatfield Borough Council Draft Local Plan Proposed Submission August 2016 and the National Planning Policy Framework.

- 19) The approved soft landscaping, as shown on approved drawing numbers: BMD.20.044.DR.P302 Revision A; BMD.20.044.DR.P303 Revision A; BMD.20.044.DR.P304 Revision A; BMD.20.044.DR.P101 Revision C; BMD.20.044.DR.P102 Revision B; BMD.20.044.DR.P103 Revision B; BMD.20.044.DR.P104 Revision B; and BMD.20.044.DR.P301 Revision A, must be carried out in the first planting and seeding seasons following first occupation of the development, and any plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species. All landscape works shall be carried out in accordance with the guidance contained in British Standards 8545: 2014.

REASON: To ensure proper implementation of the agreed landscape details in the interest of high quality design, in accordance with Policies D1, D2 and D8 of the Welwyn Hatfield District Plan 2005; Policy SADM 16 of the Welwyn Hatfield Borough Council Draft Local Plan Proposed Submission August 2016; and the National Planning Policy Framework.

- 20) The approved hard landscaping, structures and street furniture, and boundary treatments (excluding the frontage metal railing and gate enclosure of Plot A008 and Plot B006), as shown on approved drawing numbers: BMD.20.044.DR.P101 Revision C; BMD.20.044.DR.P102 Revision B; BMD.20.044.DR.P103 Revision B; and BMD.20.044.DR.P104 Revision B, must be implemented prior to first occupation of the development and be retained permanently thereafter.

REASON: To ensure proper implementation of the agreed landscape details in the interest of high quality design, in accordance with Policies D1, D2 and D4 of the Welwyn Hatfield District Plan 2005, Policy SP 9 of the Welwyn Hatfield Borough Council Draft Local Plan Proposed Submission August 2016; and the National Planning Policy Framework.

- 21) The communal roof gardens must be made available for use upon first occupation of each respective Block and be retained permanently thereafter for no other purpose.

REASON: To ensure that the communal amenity space is implemented for use by future occupiers in the interest of high quality design, in accordance with Policy D1 of the Welwyn Hatfield District Plan, Policy SP 9 of the Welwyn Hatfield Borough Council Draft Local Plan Proposed Submission August 2016, and the National Planning Policy Framework.

- 22) Prior to the first occupation the development, vehicular access to and egress from Broadwater Road shall be limited to the access position shown on approved drawing no. ITL16195-GA-005- Rev B only which is contained in a Technical Note (by i-Transport, ref: NM/MD/ITL16195-007, 19 February 2021).

The footway / highway verge shall be reinstated in accordance with a detailed scheme to be submitted to and approved in writing by the local planning authority, prior to bringing into use the new access.

REASON: In the interest of highway safety, in accordance with Policy SADM 2 of the Welwyn Hatfield Borough Council Draft Local Plan Proposed Submission August 2016, and the National Planning Policy Framework.

- 23) Prior to the first occupation of the development, full details of arrangements for future management and maintenance of the proposed streets must be submitted to and approved in writing by the Local Planning Authority. The streets shall thereafter be maintained in accordance with the approved details.

REASON: To ensure roads are managed and maintained thereafter to a suitable and safe standard, in accordance with Policy SADM 2 of the Welwyn Hatfield Borough Council Draft Local Plan Proposed Submission August 2016, and the National Planning Policy Framework.

- 24) The hereby approved application must safeguard an area to the north of the site to connect with the emerging Wheat Quarter development to provide a pedestrian and cycle route, in accordance with approved plan GA-SP-M rev. PL1.

Reason: To ensure construction of a satisfactory development and to promote sustainable transport in accordance with Policies 1 and 5 of Hertfordshire's Local Transport Plan (adopted 2018), Policies M5 and M6 of the Welwyn Hatfield District Plan 2005, Policies SP 4 and SADM 3 of the Welwyn Hatfield Borough Council Draft Local Plan Proposed Submission August 2016, and the National Planning Policy Framework.

- 25) Prior to first occupation of the development hereby permitted, the car parking spaces must be designated in accordance with the Parking Plans in Appendix C of the submitted Transport Assessment (by i-Transport, ref: NM/MD/AT/ITL16195-004C, 17 December 2020).

All car parking spaces must then be retained permanently for their specific purpose in the said Parking Plans.

REASON: To promote sustainable transport in accordance with Policy SADM 12 of the Welwyn Hatfield Borough Council Draft Local Plan Proposed Submission August 2016, and the National Planning Policy Framework.

- 26) Prior to first occupation of each block, all cycle stores serving that block must be implemented in accordance with drawing numbers: AB-GA-P-

B01-01 rev. PL 1, AB-GA-P-B01-02 rev. PL 1, CD-GA-P-L00 rev. PL 2; AB-GA-P-L00 rev. PL 2; E-GA-P-L00 rev. PL 2; F-GA-P-L00-L01 rev. PL 2. The type of cycle rack under drawing numbers CD-GA-P-L00 rev. PL 2 and F-GA-P-L00-L01 rev. PL 2 must be either Sheffield or Josta spaces. Thereafter, the cycle stores must be made available for use and retained permanently.

REASON: To ensure that the development is served by sufficient cycle provision and to encourage cycling as a sustainable mode of transport, in accordance with Policy M6 and M14 of the Welwyn Hatfield District Plan 2005, Policies SP 4 and SADM 3 of the Welwyn Hatfield Borough Council Draft Local Plan Proposed Submission August 2016, and the National Planning Policy Framework.

- 27) Prior to first occupation of the development, details of the secure cycle shelter for up to 10 bikes on drawing no. BMD.20.044.DR.P101 Revision C, must be submitted to and approved in writing by the local planning authority. The details must include:
- Metrically scaled elevations and roof plan of the cycle shelter; and
 - Confirmation of the type of cycle rack.

The approved cycle shelter must be implemented prior to first occupation of the development, be made available for use and retained permanently thereafter.

The cycle stands within the public realm on the aforementioned drawing number, must be Sheffield stands.

REASON: To ensure that sufficient visitor cycle provision is provided and to encourage cycling as a sustainable mode of transport, in accordance with Policy M6 and M14 of the Welwyn Hatfield District Plan 2005, Policies SP 4 and SADM 3 of the Welwyn Hatfield Borough Council Draft Local Plan Proposed Submission August 2016, and the National Planning Policy Framework.

- 28) Prior to first occupation of the development, a final Completion and Verification Report to a specification agreed and defined by the local planning authority, and signed off by an appropriately qualified person or body, which demonstrates that the sustainable urban drainage measures have been implemented as per the details approved; shall be submitted to and approved in writing by the Local Planning Authority. It shall include the following:
- a) Provision of a Completion and Verification Report appended with substantiating evidence demonstrating the approved construction details and specifications have been implemented in accordance with the surface water drainage scheme. The verification report shall include photographs of excavations and soil profiles/horizons, installation of any surface water structure, during construction and final make up, and the control mechanism.
 - b) Provision of a complete set of as built drawings for site drainage.
 - c) Post-construction surveys including a CCTV survey for any underground features and piped networks.

- d) A management, maintenance and adoption plan for the SuDS features and drainage network.

REASON: To prevent the increased risk of surface water flooding, to improve and protect water quality, protect natural habitats and the amenity of residents, and ensure the future maintenance of the Sustainable Urban Drainage System in perpetuity, in accordance with Policy R7 and R11 of the Welwyn Hatfield District Plan, Policy SADM 14 of the Welwyn Hatfield Borough Council Draft Local Plan Proposed Submission August 2016, and the National Planning Policy Framework.

- 29) The units marked 'WCH' in the 'type' column of the submitted Accommodation Schedule (drawing no: SC-AS rev. PL 1) must comply with Part M4(3) 'wheelchair user dwellings' of the Building Regulations 2010. All other units in this Accommodation Schedule must comply with Part M4(2) 'accessible and adaptable dwellings' of the Buildings Regulations 2010.

Written verification of compliance must be supplied to the local planning authority within 30 days of the practical completion [of the block it forms part of].

REASON: To comply with the level of accessible and adaptable housing which was applied for and to ensure that suitable housing is provided for households in need of accessible and wheelchair housing in accordance with Policies D1, and H10 of the Welwyn Hatfield District Plan 2005; Policy SP 7 of the Welwyn Hatfield Borough Council Draft Local Plan Proposed Submission August 2016, and the National Planning Policy Framework.

- 30) The undercroft parking areas for the eight townhouses (Block G) must be provided and retained for car parking as annotated on drawing number: G-GA-P-L00-L01 rev. PL 1.

REASON: To ensure that sufficient car and cycle provision is provided for the occupiers of each townhouse, in accordance with Policy M14 of the Welwyn Hatfield District Plan 2005, Policy SADM 12 of the Welwyn Hatfield Borough Council Draft Local Plan Proposed Submission August 2016, and the National Planning Policy Framework.

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

Investigation and risk assessment:

An investigation and risk assessment and, where remediation is necessary, a remediation scheme must then be submitted to and approved in writing by the Local Planning Authority and implemented as approved.

The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works.

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

- a) a survey of the extent, scale and nature of contamination;
- b) an assessment of the potential risks to:
 - human health;
 - property (existing or proposed) including buildings;
 - crops;
 - livestock;
 - pets;
 - woodland and service lines and pipes;
 - adjoining land;
 - groundwaters and surface waters;
 - ecological systems;
 - archaeological sites and ancient monuments.
- c) an appraisal of remedial options, and proposal of the preferred option(s).

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

Remediation Scheme:

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

REASON: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors, in accordance with Policy R2 of the Welwyn Hatfield District Plan 2005, Policy SADM 18 of the Welwyn Hatfield Borough Council Draft Local Plan Proposed Submission August 2016, and the National Planning Policy Framework.

- 32) The community hub hereby approved shall be used only in Use Classes E.b), E.d), E.e), E.f), F.2a) and/or F.2b) of the Town and Country Planning (Use Classes) Order, 1987 (as amended), unless otherwise agreed in writing by the Local Planning Authority.

REASON: To clarify the terms of the permission.

- 33) The development hereby permitted shall be carried out in accordance with the following approved plans: CD-GA-E-03 PL 1; CD-GA-P-L00 PL 2; CD-GA-P-L01-L04 PL 1; CD-GA-P-L05 PL 1; CD-GA-P-L06 PL 1; CD-GA-P-L07 PL 1; CD-GA-P-R08 PL 1; CD-GA-S-01 PL 1; CD-GA-S-02 PL 1; AB-GA-E-01 PL 1; AB-GA-E-02 PL 1; AB-GA-E-03 PL 1; AB-GA-P-B01-01 PL 1; AB-GA-P-B01-02 PL 1; AB-GA-P-B02 PL 1; AB-GA-P-L00 PL 2; AB-GA-P-L01-L05 PL 1; AB-GA-P-L06 PL 1; AB-GA-P-L07 PL 1; AB-GA-P-L08 PL 1; AB-GA-P-R09 PL 1; AB-GA-S-01 PL 1; AB-GA-S-02 PL 1; CD-

GA-E-01 PL 1; CD-GA-E-02 PL 1; S-GA-E-01 PL 1; S-GA-E-02 PL 1; S-GA-E-03 PL 1; S-GA-E-04 PL 1; E-GA-E-01 PL 1; E-GA-P-L00 PL 1; E-GA-P-L01 PL 1; E-GA-P-L02-L04 PL 1; E-GA-P-L05 PL 1; E-GA-P-L06 PL 1; E-GA-P-R07 P 1; E-GA-S-01 P 1; E-GA-S-02 P 1; F-GA-E-01 PL 1; F-GA-P-L00-L01 PL 2; F-GA-P-L02-L03 PL 1; F-GA-P-R04 PL 1; F-GA-S-01 PL 1; GA-EX-L00-OS PL 1; GA-LS-01 PL 1; GA-LS-02 PL 1; GA-SP-B01 PL 1; GA-SP-B02 PL 1; GA-SP-L00 PL 2; GA-SP-L01 PL 2; GA-SP-L02 PL 1; GA-SP-L03 PL 1; GA-SP-L04 PL 1; GA-SP-L05 PL 1; GA-SP-L06 PL 1; GA-SP-L07 PL 1; GA-SP-L08 PL 1; GA-SP-L09 PL 1; GA-SP-M PL 1; GA-SP-N PL 1; G-GA-E-01 PL 1; G-GA-P-L00-L01 PL 1; G-GA-P-L02-R03 PL 1; G-GA-S-01 PL 1; BMD.20.044.DR.P302 A; BMD.20.044.DR.P303 A; BMD.20.044.DR.P304 A; BMD.20.044.DR.P401 A; BMD.20.044.DR.P402 A; BMD.20.044.DR.P403 A; BMD.20.044.DR.P101 C; BMD.20.044.DR.P102 B; BMD.20.044.DR.P103 B; BMD.20.044.DR.P104 B; BMD.20.044.DR.P301 A; BMD.20.044.DR.P001 C; BMD.20.044.DR.P002.

REASON: To ensure that the development is carried out in accordance with the approved plans and details.

8.2.0 **Appendix 2 – Appeal reference APP/B1930/W/20/3265925**



Appeal Decisions

Inquiry held between 26 April – 6 May 2021

Site visits made on 1 April 2021 and 4 May 2021

by C Masters MA (Hons) MRTPI

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

Decision date: 14 June 2021

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

Roundhouse Farm, Land Off Bullens Green Lane, Colney Heath

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

Appeal B: APP/C1950/W/20/3265926

Roundhouse Farm, Land Off Bullens Green Lane, Colney Heath

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

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

Preliminary Matters

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

Main Issues

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

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

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

Reasons

Effect on Character and Appearance

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

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

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

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

Purposes of including land within the Green Belt

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

Openness of the Green Belt

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

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

Safeguarding the countryside from encroachment

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Whether very special circumstances exist

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

uncommon¹. I now turn to consider the factors which I have taken into account in making this assessment.

Provision of Market Housing

46. Paragraph 59 of the Framework seeks to support the Governments objective of significantly boosting the supply of homes. In order to achieve this, the Framework notes that it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay.
47. I am aware of the Written Ministerial Statement of December 2015 which indicates that unmet need is unlikely to clearly outweigh harm to Green Belt and any other harm so as to establish very special circumstances. However, in common with the appeal decision² referred to, I note that this provision has not been incorporated within the Framework which has subsequently been updated and similar guidance within the Planning Practice Guidance has been removed. I can therefore see no reason to give this anything other than little weight as a material consideration.
48. It is common ground that neither SADC or WHBC can demonstrate a five year supply of deliverable homes. Whilst there is disagreement between the parties regarding the extent of this shortfall, the parties also agreed that this is not a matter upon which the appeals would turn. I agree with this position. Even taking the Councils supply positions of WHBC 2.58 years and SADC at 2.4 years, the position is a bleak one and the shortfall in both local authorities is considerable and significant.
49. There is therefore no dispute that given the existing position in both local authority areas, the delivery of housing represents a benefit. Even if the site is not developed within the timeframe envisaged by the appellant, and I can see no compelling reason this would not be achieved, it would nevertheless, when delivered, positively boost the supply within both local authority areas. From the evidence presented in relation to the emerging planning policy position for both authorities, this is not a position on which I would envisage there would be any marked improvement on in the short to medium term. I afford very substantial weight to the provision of market housing which would make a positive contribution to the supply of market housing in both local authority areas.

Provision of Self Build

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

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

² APP/C2741/W/19/3227359

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

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

Provision of affordable housing

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

Other Matters

Other Appeal Decisions

55. I have been referred to no fewer than 21 other appeal decisions³ in addition to 9 Secretary of State decisions⁴ as part of the evidence before me in relation to these appeals. Both the appellant and the Councils have sought to draw comparisons and similarities between this extensive array of decisions before me for a variety of reasons. Two historical decisions at the appeal site, as acknowledged by the Councils, were determined under a different planning policy framework and accordingly I attach very limited weight to these. In relation to the appeal decision at the neighbouring site⁵, I do not have the full details of the evidence which was before that Inspector, the main issues were different to these appeals and the decision predates the current Framework.
56. Rarely will any other appeal decision provide an exact comparison to another situation. In some of the cases referred to, there are similarities in the size and scale of the proposal, in other cases there are entirely different planning policy positions, housing supply considerations, land use considerations, locational characteristics, main issues and other factors which have been weighed in the balance. Furthermore, it remained common ground that each appeal should be considered on its own merits as is the case here. It is for the decision maker in each case to undertake the planning balancing exercise and as a result, the weight I have attached to these other appeal cases is limited.

Other Matters

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

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

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

⁵ APP/B1930/W/15/3137409

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

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

Biodiversity

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

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

Planning Obligation

65. I have taken into account the various obligations identified within the executed Section 106 Agreement with regards to the statutory requirements in Regulation 122 of the Community Infrastructure Levy (CIL) as well as the tests identified at paragraph 56 of the Framework. The obligation would secure a number of provisions relating to HCC, SADC and WHBC. I deal with each of these individual matters in turn.
66. A number of clauses in relation to biodiversity measures are proposed. A biodiversity offsetting contribution is included within the obligation, which would contribute towards the creation of new habitats. This would be calculated by using the Biodiversity Net Gain Matrix which provides for a financial contribution based on the formula identified by the matrix which measures and takes into account biodiversity losses and gains resulting from the development. In support of this approach, the Councils have identified that adopting the use of this matrix approach allows for landscaping and open space proposals as well as on site mitigation to be taken into account at reserved matters stage. In addition, the parties have also referred me to an alternative appeal decision⁶ to endorse the use of the Biodiversity Net Gain Matrix approach. Once calculated, a scheme would be submitted for approval to both Councils referred to as the biodiversity offsetting scheme. In addition to this offsetting, biodiversity onsite compensation would also be provided through the identification of biodiversity measures to be implemented within the site as part of an identified onsite compensation scheme. In both instances, the Councils would be approving the onsite and offsetting schemes with reference to the biodiversity metric formula approach.
67. A green space contribution, to be calculated based on the precise number of dwellings and mix, will deliver the creation of a wildflower meadow at Angerland public open space off Bishops Rise, South Hatfield. Officers confirmed that this was the closest facility to the appeal site to which improvement requirements have been identified.
68. I note the Councils expressed concerns that the appellant could rely on the green space contribution as part of the biodiversity offsetting scheme and biodiversity offsetting contribution. However the biodiversity offsetting scheme, by definition, requires a scheme to be approved by both Councils to include but not limited the identification of an appropriate receptor site(s). As a result, I consider that this matter is adequately addressed by the obligation and the concerns are unfounded.
69. Taking into account the information and evidence presented, I am content that the obligations in relation to biodiversity, including the offsetting contribution, offsetting scheme and onsite compensation are necessary, directly related to the development and fairly and reasonably related in scale and kind. I draw the same conclusion in relation to the green space contribution. These obligations therefore comply with Regulation 122 of the CIL Regulations and can be taken into account in the grant of planning permission.

⁶ APP/Y0435/W/20/3251121

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

Conditions

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

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

Conclusions

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

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

C Masters

INSPECTOR

APPEARANCES

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He called:

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RULE SIX PARTY:

John Clemow – 4ColneyHeath

INTERESTED PERSONS:

Cllr Peter Cook Colney Heath Parish Council

DOCUMENTS SUBMITTED DURING INQUIRY

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

SCHEDULE OF CONDITIONS

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

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

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

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

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

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

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

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

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

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

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

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

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

Remediation Scheme

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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