

Project name:
Former Hook Estate and Kennels**From:**
AECOM**Date:**
6 February 2024**To:**
Northaw & Cuffley Parish Council
7 Maynard Place
Cuffley
Hertfordshire EN6 4JA**CC:**
Parish Clerk

Planning Report in response to applications at: The Former Hook Estate and Kennels, Coopers Lane Road/Firs Wood Close; and Colesdale Farm, Northaw Road West

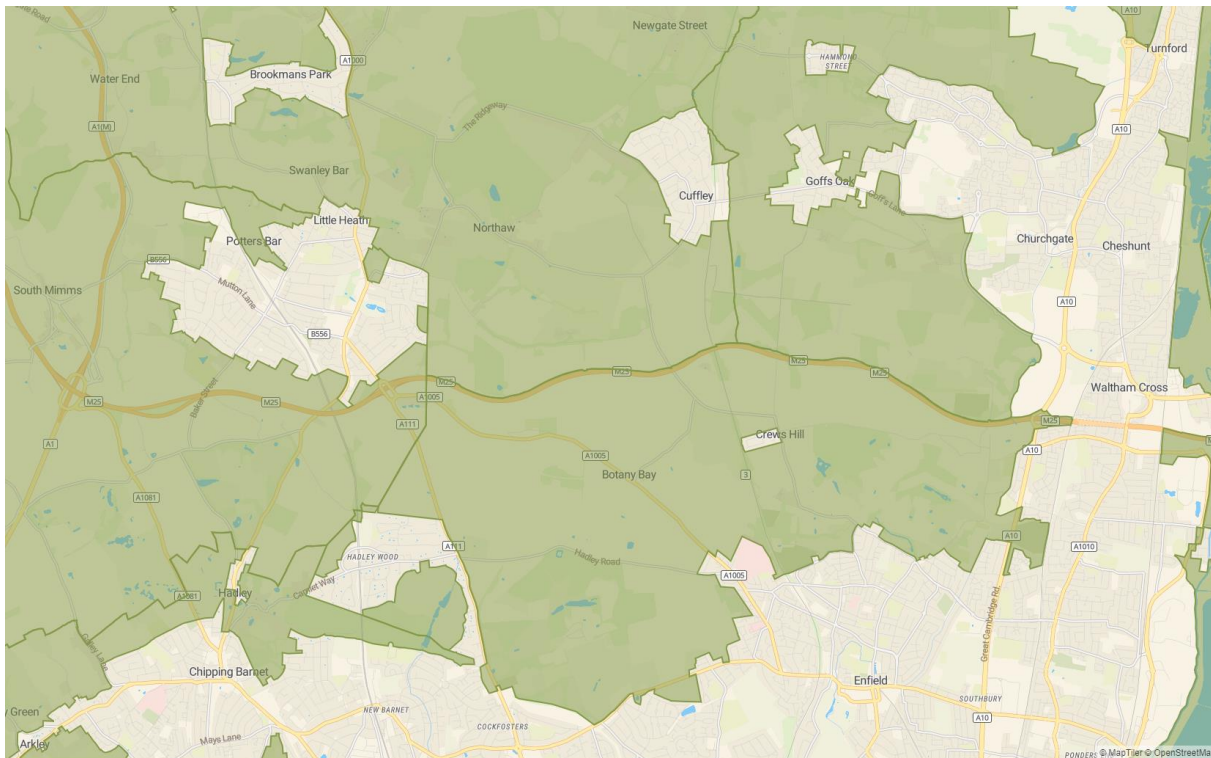
1. Introduction

- 1.1 This report updates and supersedes earlier advice provided to Northaw and Cuffley Parish Council (September, 2023) in respect of a greenfield planning application at the former Hook Estate and Kennels site (located to the south of Northaw and to the East of Potters Bar). That note has been updated and expanded to incorporate another greenfield application within the Parish at Colesdale Farm (located to the West of Cuffley). The note incorporates the most up to date policy framework and updates to national policy.
- 1.2 Since September 2023 there has been a significant shift in the national and local policy framework that affects land use planning in Northaw and Cuffley. This is a consequence of: (1) the Welwyn Hatfield Borough Council (WHBC) Local Plan being found sound and adopted (October 2023); and publication of a new National Planning Policy Framework (December, 2023). The Northaw and Cuffley Neighbourhood Plan was made on 10th May 2023.
- 1.3 Northaw and Cuffley Parish Council has retained AECOM to provide planning advice in respect of the development proposals at the former Northaw Kennels site and Colesdale Farm. This note includes advice on the policy position and guidance with respect to Green Belt and consideration of the general feasibility/viability aspects of the proposals at planning application and pre-application stage. The reports also covers issues related to Previously Developed Land, sustainability, affordable housing and general Local Plan requirements/compliance.

2. Context

2.1 Neither the Local Plan nor the Neighbourhood Plan allocate either the former Hook Estate and Kennels or Colesdale Farm sites as locations suitable for development. Both sites are washed over by the London Metropolitan Green Belt separating the inset settlements of Potters Bar and Cuffley (see Figure 1). As such it is important to summarise the national policy position relating to the sites.

Figure 1 London Metropolitan Green Belt



Source: available under the Open Government Licence v3.0

- 2.2 Cuffley is set within the Green Belt and bounded by open farmland. Within the settlement there are many green areas including a large park with a bowls club, tennis club and football club. Cuffley is relatively modern and has grown as a result of the railway station in the east of the village. The village has a mainly formal, regular street layout with predominantly large housing set within large gardens.
- 2.3 Cuffley is surrounded by Green Belt whereas Northaw is a formally designated Green Belt village, i.e. Green Belt washes over the whole settlement. This designation means that development has been severely restricted, and as a result large areas of open countryside, agricultural land, horse paddocks and woodland have been retained. At the same time, the built-up area of London has not expanded beyond the M25 to the north.
- 2.4 Northaw is an historic village centred on a village green with a pub, restaurant, and church. It is surrounded by farmland. Development follows the road layout and the settlement pattern is therefore linear rather than compact. Northaw Conservation Area covers its historic core and includes a number of Listed Buildings. .

3. National Planning Policy Framework, December 2023¹

3.1 The NPPF (December, 2023) includes the following key paragraphs relating to applications coming forward where they are within Green Belt:

142. The Government attaches great importance to Green Belts. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.

143. Green Belt serves five purposes:

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

152. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

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

154. A local planning authority should regard the construction of new buildings as inappropriate in the Green Belt. Exceptions to this are:

- a) buildings for agriculture and forestry;*
- b) the provision of appropriate facilities (in connection with the existing use of land or a change of use) for outdoor sport, outdoor recreation, cemeteries and burial grounds and allotments; as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it;*
- c) the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building;*
- d) the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces;*

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https://assets.publishing.service.gov.uk/media/65a11af7e8f5ec000f1f8c46/NPPF_December_2023.pdf

e) limited infilling in villages;

f) limited affordable housing for local community needs under policies set out in the development plan (including policies for rural exception sites); and

g) limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would:

– not have a greater impact on the openness of the Green Belt than the existing development; or

– not cause substantial harm to the openness of the Green Belt, where the development would re-use previously developed land and contribute to meeting an identified affordable housing need within the area of the local planning authority.

155. Certain other forms of development are also not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it. These are:

a) mineral extraction;

b) engineering operations;

c) local transport infrastructure which can demonstrate a requirement for a Green Belt location;

d) the re-use of buildings provided that the buildings are of permanent and substantial construction;

e) material changes in the use of land (such as changes of use for outdoor sport or recreation, or for cemeteries and burial grounds); and

f) development, including buildings, brought forward under a Community Right to Build Order or Neighbourhood Development Order.

AECOM Commentary

3.2 Both applications have made submissions claiming that they are development proposals in accordance with NPPF paragraph 154 (g) and/or paragraph 155 (d) i.e. the developments are appropriate and essentially only represent in-fill development and/or re-use of buildings of permanent and substantial construction.

3.3 However, both paragraph 154 and 155 of the NPPF state clearly that development can only be considered appropriate in this context where the proposals for new development will (our **emphasis**):

- “not have a **greater impact** on the openness of the Green Belt than the existing development (154);
- not cause **substantial** harm to the openness of the Green Belt, where the development would re-use previously developed land **and** contribute to meeting an identified affordable housing need within the area of the local planning authority (155); or

- ...**preserve** its openness and **do not conflict with the purposes** of including land within it (155).”

3.4 Our analysis of both sites (see Sections 7 and 8) evidences that neither proposal is able to satisfy the above three requirements.

Planning Practice Guidance: Green Belt²

3.5 Paragraph: 001 Reference ID: 64-001-20190722 (Revision date: 22 07 2019) of the Planning Practice Guidance, under ‘What factors can be taken into account when considering the potential impact of development on the openness of the Green Belt?’ states:

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

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

3.6 In support of the NPPF (December 2023), a new piece of guidance was published within the Green Belt section of the PPG (Paragraph: 004 Reference ID: 64-004-20231219 Revision date: 19 12 2023), entitled ‘When can development take place on brownfield land in the Green Belt?’. It states:

The National Planning Policy Framework sets out the policy on proposals affecting the Green Belt. Where previously developed land is located within the Green Belt, the National Planning Policy Framework sets out the circumstances in which development may not be inappropriate. This includes limited infilling or the partial or complete redevelopment of previously developed land, subject to conditions relating to the potential impact of development on the openness of the Green Belt.

The Framework indicates that certain other forms of development are also ‘not inappropriate’ in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it. This includes the re-use of buildings provided that the buildings are of permanent and substantial construction.

AECOM commentary

3.7 The PPG reinforces case law built up since the NPPF was introduced in 2012- i.e. that openness must be considered both spatially and visually (including consideration of volume/two dimensional impact e.g. hardstanding and roads/three dimensional impact i.e. new buildings/site layout and spread of development across the site etc.) The degree of activity is also relevant in both cases. Both applications would represent a

² <https://www.gov.uk/guidance/green-belt>

significant intensification of two countryside sites and replace irregular agricultural traffic movements with private vehicular traffic movements of hundreds of new residents.

Case law interpretation of NPPF Green Belt Policy and PPG

- 3.8 The Government attaches great importance to Green Belts. The National Planning Policy Framework states that the fundamental aim is to keep Green Belt land “open”. Inappropriate development is by definition harmful, and should only be approved in “very special circumstances” (VSC). VSC will only exist where the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed. Substantial weight should be given by Local Planning Authorities (LPA) to the harm to the Green Belt through their decision making and development management processes.
- 3.9 “Inappropriate development” is a closely defined list (see NPPF paragraph 149). Case law, notably *Timmins v Gedling Borough Council (CA)*³, confirmed that the list is exhaustive. Some forms of development (e.g. agricultural buildings) are appropriate by definition, but others can only be “appropriate” if they preserve openness and do not conflict with the purposes of Green Belt.
- 3.10 Case law (e.g. *West Lancashire v SSCLG*⁴) has determined that national policy affords “no latitude” to decide that the development affects openness, but that the extent of that effect is not sufficiently significant to raise planning concerns. This principle was established against in a case that followed in *R(Boot) v. Elmbridge*⁵.

AECOM commentary

- 3.11 “Openness” is generally understood to mean the absence of built development. It is capable of applying to two-dimensional development such as hardstanding, as well as three dimensional structures. However, it also covers uses on that land; even temporary uses such as parking can have an adverse effect on openness. There is some scope for subjective assessment here by both LPAs and developers. However, the two applications in question are both proposing significant residential-led developments which would have a clear and obvious impact on openness and would result in urban sprawl.
- 3.12 VSC is an extremely high policy hurdle to overcome. Inappropriate development is harmful by definition, and substantial weight must be given to any harm to the Green Belt (both harm ‘by definition’ and ‘other harm’, as established in *Redhill Aerodrome Ltd v Secretary of State for Communities and Local Government*⁶). The benefits of development must clearly outweigh the harm. The test is highly subjective and therefore it is harder to predict outcomes at appeal. However, Councils are much less at risk of an award of costs and so will generally resist and fight appeals on Green Belt grounds. In this instance, WHBC has the benefit of an up to date Development Plan and a new NPPF, which both make clear that the aims and purposes of Green Belt

³ <http://www.bailii.org/ew/cases/EWHC/Admin/2014/654.html>

⁴ <http://www.bailii.org/ew/cases/EWHC/Admin/2009/3631.html>

⁵ <http://www.bailii.org/ew/cases/EWHC/Admin/2017/12.html>

⁶ <https://www.bailii.org/ew/cases/EWHC/Admin/2014/2476.html>

must be retained unless the obvious harms in both of these cases is outweighed by the delivery of new homes. Our view is that the adopted Local Plan and latest housing trajectory evidence how Local Housing Needs can be met locally, and also that the two sites in question would result in unsustainable development poorly served by local facilities and in locations that cannot be adequately served by public transport.

VSC precedents

- 3.13 Some larger housing schemes that have been successful at appeal have included notable VSC arguments. All successful appeals were generally able to demonstrate a clear absence of a 5-year housing land supply (not the case for WHBC). Some successful appellants argued that their provision of Affordable Housing would help to meet a chronic local need. Still other successful cases promised enabling development, e.g. upgrades to existing education facilities; enhancement of existing heritage assets; enhancement to beneficial Green Belt uses and/or the local footpath network; visual enhancement of Green Belt; and remediation of an existing site and biodiversity improvements.
- 3.14 For LPAs, whether a development is appropriate or inappropriate is critical to their analysis. For developers, it is critical to the chances of obtaining permission if the development can be proved to fall within the definition of “appropriate” development. For example, the “limited infilling in villages” reference in the NPPF is typically deployed by attempting to argue that limited infilling or redevelopment of previously developed land will have either no impact on openness or result in no substantial harm to openness, while helping to meet affordable housing need.

Figure 2 Illustrative example of developer approach to Green Belt policy



Source: Paul Brown KC

3.15 If a development can be proven to be “appropriate” there is no need to demonstrate VSC, and its impact on “openness” is irrelevant (see *R [Lee Valley Regional Park Authority] v Epping Forest DC*)⁷. If appropriateness depends on impact on openness, some applicants will attempt to configure schemes with demonstrable benefits to openness. Openness, as noted previously, is a three dimensional concept: mass, spread and views through the land in question are all relevant. Therefore, the impact will depend on overall balance. Developers will attempt to trade off gains in one against reductions in another. For example, they may reduce the overall footprint of the previously developed land to demonstrate that openness is being enhanced. In theory the mass and spread of existing structures can be reduced.

AECOM commentary

3.16 In these cases the sites both fall outside of the villages of Northaw and Cuffley. Notwithstanding this fact, developers promoting schemes that re-use buildings of permanent and substantial construction will of course seek to argue that this will result in less harm and efficient use of existing structures/previously developed land. Applicants will typically seek to achieve a reduction in the footprint of Previously Developed Land, enhance visibility through the scheme to help maintain/increase the feeling of openness. At the same time it is likely they will seek to maximise the developable floorspace, including through reuse of existing structures.

3.17 As discussed later in this note, neither of the applications in question have deployed the approach shown illustratively in Figure 2. Instead, both applications are seeking to maximise the developable envelope, with the only apparent restraint on either scheme on account of open space and biodiversity net gain requirements and not any discernible effort to preserve or enhance openness (see Figure 3 in Section 7 and Figure 4 in Section 8 for comparison with Figure 2).

⁷ <http://www.bailii.org/ew/cases/EWCA/Civ/2016/404.html>

4. Welwyn Hatfield Borough Council Local Plan 2016-2036 (October, 2023)⁸

- 4.1 The WHBC Local Plan includes policy text that is engaged where officers believe the 'tilted balance' exercise is engaged in respect of WHBC's performance against the 2022 Housing Delivery Test. The policies of critical relevance (SP1, SP3 and SADM 1) align with the policies in the NPPF and seek to resist development in unsustainable locations such as the Green Belt (our **emphasis**):

Policy SP 1 Delivering Sustainable Development

...The Council will take a positive approach when considering development proposals that reflect the presumption in favour of sustainable development contained in the National Planning Policy Framework and the principles set out above.

Where there are no policies relevant to the application or relevant policies are out of date at the time of making the decision, then the Council will grant permission unless material considerations indicate otherwise – taking into account:

- *The principles set out above;*
- *Whether there are any adverse impacts of granting permission which would significantly and demonstrably outweigh the benefits, when assessed against the policies in the National Planning Policy Framework taken as a whole; or*
- *Specific policies in that Framework, such as Green Belt policy, indicate that development should be restricted.*

Policy SP 3 Settlement Strategy and Green Belt boundaries

In order to meet the need for housing and employment land this plan has identified land which has been released from the Green Belt. Green Belt boundaries have been defined as shown on the Policies Map. Planting and landscape buffers are proposed, as appropriate, to define newly established Green Belt boundaries, as indicated in the Local Plan and on the Policies Map. Green Belt boundaries will be maintained throughout the plan period and will only be reviewed through a review of this plan.

Consistent with the settlement hierarchy, the primary focus for new development will be in and around the two towns of Welwyn Garden City and Hatfield where accessibility to strategic transport networks and public transport is good and the greatest potential exists to maximise accessibility to job opportunities, shops, services and other facilities, and to create new neighbourhoods with supporting infrastructure.

*The secondary focus for development will be in and around the excluded villages at a **more limited scale**, compatible with the more limited range of job opportunities, shops, services and other facilities available in these locations.*

⁸ <https://www.welhat.gov.uk/downloads/file/876/welwyn-hatfield-local-plan-2016-2036>

*In villages and other rural areas of the borough that lie within the Green Belt, **development will be restricted so as to be consistent with the type of development envisaged in national planning policy and other policies of this plan.***

Development that would result in disproportionate growth to any of the settlements, conflict with the function and position of a settlement within the hierarchy, which cannot be supported by the necessary infrastructure or result in a loss of services and facilities which are considered to be key to supporting local communities will be resisted.

*Cuffley...Large excluded villages... Villages excluded from (not in) the Green Belt with large service centres, but a more limited range of employment opportunities and services than the two towns. Shops and facilities mainly serve the community needs of these villages and those living in surrounding rural areas. Accessibility to the main road network is good and they are served by rail and/or bus networks. A secondary focus for new development where this is compatible with the scale and character of the village, **and the maintenance of Green Belt boundaries.***

*Northaw...Green Belt villages...Villages set in open countryside and washed over by (within) the Green Belt. Typically residential with limited local facilities and services. Accessibility is mainly via the rural road network...and infrequent bus services. None are served by rail. **Limited scope for development and only where this would be compatible with Green Belt policy.***

Policy SADM 1 Windfall Development

Planning permission for residential development on unallocated sites will be granted provided:

- *The site is previously developed, or is a small infill site **within a town or excluded village.** In the Green Belt, Policy SADM 34 will apply;*
- *The **development will be accessible** to a range of services and facilities by transport modes other than the car;*
- *There will be sufficient infrastructure capacity, either existing or proposed, to support the proposed level of development;*
- *Proposals would not undermine the delivery of allocated sites or the overall strategy of the Plan; and*
- *Proposals **would not result in disproportionate growth** taking into account the position of a settlement within the settlement hierarchy.*

Windfall sites will also be supported where the proposed development would support communities through the provision of community facilities to meet the demand for new or enhanced community services.

Policy SADM 34 Development within the Green Belt

Within the Green Belt as defined on the Policies Map planning permission will be granted for development in accordance with national policy and other policies in this plan subject to the following criteria.

Openness and purposes of the Green Belt

*Proposals for the re-use of buildings, appropriate facilities for outdoor sport, outdoor recreation, cemeteries and development on **previously developed sites will need to demonstrate that they preserve the openness of the Green Belt and do not conflict with the purposes of including land within it.** In assessing the impact of the proposal the Council will take into account:*

- i. Whether the site lies within a parcel of land which makes a **significant or partial contribution to one or more purposes of the Green Belt;***
- ii. **Whether the scale of development or activity would compromise that purpose;***
- iii. **The level of impact on both the physical and visual openness of the Green Belt.***

...Change of Use

*Proposals for change of use will need to demonstrate that they are **consistent with both the settlement and rural areas strategies** as well as the principles of sustainable development set out in the Local Plan. Existing buildings must be of permanent and substantial construction and capable of conversion **without the need for substantial demolition and rebuilding.***

*Where a change of use of land is proposed applicants will need to **demonstrate that the proposal would preserve the openness of the Green Belt and minimise any impact on the landscape.***

Infill Development

Limited infill development will be permitted in villages within the Green Belt provided:

- i. It is within a continuous built up frontage;*
- ii. It **does not extend the existing 'built up' area of the village into the open countryside;***
- iii. It would not result in the loss of a view or vista which makes a significant contribution to the character of the settlement; and*
- iv. **It is small scale and would not result in the provision of more than four dwellings (net)***

AECOM commentary

4.2 From our experience, unless there is overwhelmingly strong evidence of a desperate and immediate housing need (including for C2 accommodation) which cannot be met on any non-Green Belt elsewhere within the Housing Market Area, the prospects of presenting a successful VSC case are extremely limited. The policy test for demonstrating that the proposal is either "appropriate" or VSC will be extremely challenging for the applicant in both cases.

4.3 The Development Plan (WHBC Local Plan and NCPC Neighbourhood Plan) is less than a year old and the Local Plan's adopted housing trajectory demonstrates a supply of sufficient housing sites. Both sites are in locations contrary to Development Plan

policies. A logical reading of Policy SADM 34 (Development within the Green Belt) clearly evidences that neither application can be considered as 'in-fill' or 'small-scale'. Even with elements of Previously Developed Land on each site, an analysis of the submitted plans and respective Design and Access Statements shows that no attempts have been made to reduce the development envelope. As such, both would result in significant impacts to openness.

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5. Northaw and Cuffley Neighbourhood Plan (May, 2023)⁹

5.1 The Neighbourhood Plan includes several elements pertinent to the two applications and their Green Belt locations, including the vision itself (our **emphasis**):

Vision

The special character of Northaw and Cuffley, as rural villages surrounded by open countryside and Green Belt, will be maintained and enhanced; while delivering the housing and associated infrastructure, facilities and services required in order to meet the current and future local needs of the community...

Objectives

Over the next fifteen years the Green Belt is maintained as open land free from development...

Neighbourhood Plan Key Diagram

The spatial strategy for Northaw and Cuffley recognises the surrounding Green Belt and nature and character of the area...

Policy D3: Green Infrastructure

- 1. As appropriate to their scale, nature and location development proposals should:*
 - achieve statutory Biodiversity Net Gain targets;*
 - include wildlife friendly planting, “in the ground” soft landscaping and planted boundary treatments wherever practicable;*
 - incorporate grass verges as a feature of their layouts wherever practicable; and*
 - retain existing trees on the site unless an arboricultural survey demonstrates that they are not worthy of retention. Where replacement trees are required, they should be replaced in accordance with site-wide biodiversity net gain requirements. Any tree species planted should be appropriate to the site and its context. Only suitable native or ornamental species should be used.*
- 2. The provision of new and/or enhanced green walking routes will be supported where they would improve access to the Parish’s green infrastructure network.*
- 3. New developments and future walking route improvement works adjacent to ordinary watercourses/water bodies should be designed to integrate and improve access to the blue infrastructure network.*

Appendix 2 Design Code and Guidance

Pattern and Layout of Buildings

⁹ <https://www.welhat.gov.uk/downloads/file/746/northaw-and-cuffley-neighbourhood-plan-referendum-neighbourhood-plan-2022-to-2036>

The existing rural character must be appreciated when contemplating new development, whatever its size or purpose.

Views and Landmarks/Settings

The spacing of development should reflect the rural character and allow for long distance views of the countryside from the public realm. Trees and landscaping should be incorporated in the design.

The existing quiet and peaceful atmosphere of Northaw and Cuffley should be preserved.

Retention of views is very important to residents and they should be protected in any new development in the future.

Character and Context Analysis

Northaw contains a Conservation Area and 28 Grade II and Grade II Listed Buildings in close proximity to the church, which itself is Grade II* listed. These features are all set within a rural Green Belt landscape.*

Cuffley is set within a rural Green Belt landscape with the predominant land use comprising agriculture. The settlement boundary of Cuffley is formed by a combination of the strongly undulating topography, ridgelines, railway line, and woodland which together create a deeply rural setting to the settlement.

AECOM Commentary

- 5.2 Consistent throughout the Neighbourhood Plan's vision, objectives, Policy D3 (Green Infrastructure) and the accompanying Design Code is the plan's aim to maintain the openness of the surrounding countryside in and around Northaw and Cuffley.
- 5.3 Policy D3 should be applied in the content of the Neighbourhood Plan's vision and objectives. It sets out the Plan's approach to green infrastructure. Mature trees, grass verges and thick vegetation cover are key characteristics common to both Northaw and Cuffley and these features are addressed in the Character Area Study. This green infrastructure helps the villages integrate into the landscape and their Green Belt setting, and allows residents and visitors to gain a clear sense of leaving an urban built-up area and entering the countryside.
- 5.4 Both application locations will introduce strong urban influence and significant new development in the countryside between Northaw and Cuffley (and Potters Bar). Development in these locations would be entirely contrary to the Neighbourhood Plan's vision, objectives and policy framework and design guidance.

6. Viability and Development Management

- 6.1 In order to persuade WHBC to engage early with feasibility and viability arguments, the sections below can be quoted in any future communications with the case officer and elected Borough Councillors.
- 6.2 The NPPF and PPG are clear that where a development proposal is non-policy compliant, the onus is on the applicant to demonstrate that any benefits outweigh the harms and that the development is actually 'deliverable' and feasible.

National Planning Policy Framework (NPPF)

- 6.3 As in previous iterations, viability remains an important part of the NPPF 2023 and the planning process it shapes. The changes made in the December 2023 version also address matters where viability will be a factor:

To ensure faster delivery of other public service infrastructure such as further education colleges, hospitals and criminal justice accommodation, local planning authorities should also work proactively and positively with promoters, delivery partners and statutory bodies to plan for required facilities and resolve key planning issues before applications are submitted.

December 2023 NPPF, Paragraph 100

- 6.4 The NPPF does not prescribe detail on the viability process; it rather stresses the importance of viability. The main change in newer iterations of the NPPF is a shift of viability testing from the development management stage to the plan-making stage (our **emphasis** added):

*Where up-to-date policies have set out the contributions expected from development, planning applications that comply with them should be assumed to be viable. **It is up to the applicant to demonstrate whether particular circumstances justify the need for a viability assessment at the application stage.** The weight to be given to a viability assessment is a matter for the decision maker, having regard to all the circumstances in the case, including whether the plan and the viability evidence underpinning it is up to date, and any change in site circumstances since the plan was brought into force. **All viability assessments, including any undertaken at the plan-making stage, should reflect the recommended approach in national planning guidance, including standardised inputs, and should be made publicly available.***

December 2023 NPPF, Paragraph 58

- 6.5 A greater emphasis is put on deliverability in the December 2023 NPPF's glossary. The following, updated, definition is provided:

Deliverable: *To be considered deliverable, sites for housing should be available now, offer a suitable location for development now, and be achievable with a realistic prospect that housing will be delivered on the site within five years. In particular:*

- a) *sites which do not involve major development and have planning permission, and all sites with detailed planning permission, should be considered deliverable until permission expires, unless there is clear evidence that homes will not be delivered within five years (for example because they are no longer viable, there*

is no longer a demand for the type of units or sites have long term phasing plans).

- b) where a site has outline planning permission for major development, has been allocated in a development plan, has a grant of permission in principle, or is identified on a brownfield register, it should only be considered deliverable where there is clear evidence that housing completions will begin on site within five years.*

December 2023 NPPF Glossary

- 6.6 Under the heading *Identifying land for homes*, the importance of viability is further highlighted in the NPPF:

Strategic policy-making authorities should have a clear understanding of the land available in their area through the preparation of a strategic housing land availability assessment. From this, planning policies should identify a sufficient supply and mix of sites, taking into account their availability, suitability and likely economic viability.

Planning policies should identify a supply of:

- a) specific, deliverable sites for five years following the intended date of adoption; and*
b) specific, developable sites or broad locations for growth, for years 6-10 and, where possible, for years 11-15 of the remaining plan period.

December 2023 NPPF Paragraph 69

- 6.7 The NPPF does not include technical guidance on undertaking viability work. This is included within the Planning Practice Guidance (PPG) – see below.

Planning Practice Guidance

- 6.8 The bulk of the viability sections of the PPG (Chapter 10)¹⁰ were rewritten in 2019. The changes provide clarity and confirm best practice, rather than prescribe a new approach or methodology. Having said this, the emphasis of viability testing has been changed significantly. The now superseded, requirements for viability testing were set out in paragraphs 173 and 174 of the 2012 NPPF which stated:

173 ... To ensure viability, the costs of any requirements likely to be applied to development, such as requirements for affordable housing, standards, infrastructure contributions or other requirements should, when taking account of the normal cost of development and mitigation, provide competitive returns to a willing land owner and willing developer to enable the development to be deliverable.

174 ... the cumulative impact of these standards and policies should not put implementation of the plan at serious risk, and should facilitate development throughout the economic cycle...

- 6.9 The test was whether or not the policy requirements were so high that development was threatened. Paragraphs 10-009-20190509 and 10-009-20190509 of the PPG change this, as follows:

¹⁰ <https://www.gov.uk/guidance/viability>

... ensure policy compliance and optimal public benefits through economic cycles...
PPG 10-009-20190509

and the aims of the planning system to secure maximum benefits in the public interest through the granting of planning permission.
PPG 10-0010-2018072

- 6.10 The purpose of viability testing is now to ensure that '*maximum benefits in the public interest*' has been secured. This is a notable change in emphasis, albeit in the wider context of striking a balance between the aspirations of developers and landowners, in terms of returns against risk. This test is particularly pertinent to the scheme in question, which is proposing to provide specialist housing needs alongside other enhancements. If a scheme is unviable, it will not be capable of meeting the definition of deliverable. The LPA should treat this proposal with a high degree of caution, given that any approval for extra care housing could establish the principle of residential development.
- 6.11 Accountability is a key new theme within the PPG. It sets out new requirements on reporting. Paragraph 10-020-20180724 of the PPG states that '*practitioners should ensure that the findings of a viability assessment are presented clearly. An executive summary should be used to set out key findings of a viability assessment in a clear way*' A key test for the applicant is therefore that they will need to evidence how they satisfy the PPG requirements (set out below) and communicate the key findings using a non-technical summary.
- 6.12 The updated PPG includes four main sections in relation to viability. Section 1 Viability and Plan Making is not relevant to this development proposal.

AECOM commentary

- 6.13 Both applications would represent windfall sites, as they do not benefit from an allocation and are detached from the village envelopes of Northaw and Cuffley. Therefore, the applicants must be able to evidence how they sought to deliver maximum benefits in the public interest.

Section 2 - Viability and decision taking

- 6.14 There are three parts to this important section: (1) Should viability be assessed in decision taking?; (2) How should a viability assessment be treated in decision making?; and (3) How should viability be reviewed during the lifetime of a project?
- 6.15 The PPG is clear that: "*It is up to the applicant to demonstrate whether particular circumstances justify the need for a viability assessment at the application stage. Policy compliant in decision making means that the development fully complies with up to date plan policies. A decision maker can give appropriate weight to emerging policies.*" As noted, the proposal is for land that is not an allocation in either the emerging Local Plan or Neighbourhood Plan. The PPG provides advice on situations where viability testing will be required at the development stage (**emphasis** added):

*...where development is proposed on **unallocated sites** of a wholly different type to those used in viability assessment that informed the plan; where further information on infrastructure or site costs is required; where particular types of development are proposed which may significantly vary from standard models of development for sale*

*(for example build to rent or **housing for older people**); or where a recession or similar significant economic changes have occurred since the plan was brought into force.*

Paragraph: 007 Reference ID: 10-007-20190509

- 6.16 Our contention is that the proposals would require viability testing in accordance with the PPG. Therefore, the next section in the PPG is engaged, which covers how a viability assessment should be treated in decision making:

Where a viability assessment is submitted to accompany a planning application this should be based upon and refer back to the viability assessment that informed the plan; and the applicant should provide evidence of what has changed since then.

The weight to be given to a viability assessment is a matter for the decision maker, having regard to all the circumstances in the case, including whether the plan and viability evidence underpinning the plan is up to date, and site circumstances including any changes since the plan was brought into force, and the transparency of assumptions behind evidence submitted as part of the viability assessment.

Any viability assessment should reflect the government's recommended approach to defining key inputs as set out in National Planning Guidance.

Paragraph: 008 Reference ID: 10-008-20190509

AECOM commentary

- 6.17 The critical part of the PPG extract above states that the onus is on the applicant to evidence what has changed since the Council's most recent whole plan viability study (BNP Paribas, 2016)¹¹ was published in support of the newly adopted Local Plan. The applicant's viability evidence must refer to this as well as the later CIL viability studies from 2020 (which would have been available at the time of the application). In addition, BNP Paribas's most recent viability study was published in October 2023¹², the Parish Council should request that the case officer ask the applicants for the retirement village to update their Financial Viability Appraisal based on the assumptions within that latest viability evidence report (commissioned for the purposes of CIL).

Section 3 - Standardised inputs to viability assessment

- 6.18 The final part of this section is related to how viability could be reviewed during the lifetime of a project. This section would only become relevant should WHBC indicate that they are minded to approve an application for development on the site and the Parish Council wish to install review mechanisms into any proposed planning obligations. Section 3 of the PPG's text on viability covers the inputs to any

¹¹ Welwyn Hatfield Combined Policy Viability Study Update (BNP, 2016). Accessed at: https://archive.welhat.gov.uk/media/11444/Welwyn-Hatfield-Local-Plan-Viability-Update-Report-August-2016/pdf/Welwyn_Hatfield_Local_Plan_Viability_Update_Report_FINAL_26August_2016.pdf?m=636081577497870000

¹² Welwyn Hatfield Community Infrastructure Levy Viability Study (BNP, October 2023) Accessed at: <https://www.welhat.gov.uk/downloads/file/903/welwyn-hatfield-cil-viability-report-october-2023>

assessment, and this is of particular relevance to specialist housing products such as extracare housing.

- 6.19 The general principles of viability testing are set out under paragraph PPG 10-010-20180724:

Viability assessment is a process of assessing whether a site is financially viable, by looking at whether the value generated by a development is more than the cost of developing it. This includes looking at the key elements of gross development value, costs, land value, landowner premium, and developer return.

This National Planning Guidance sets out the government's recommended approach to viability assessment for planning. The approach supports accountability for communities by enabling them to understand the key inputs to and outcomes of viability assessment.

Any viability assessment should be supported by appropriate available evidence informed by engagement with developers, landowners, and infrastructure and affordable housing providers. Any viability assessment should follow the government's recommended approach to assessing viability as set out in this National Planning Guidance and be proportionate, simple, transparent and publicly available. Improving transparency of data associated with viability assessment will, over time, improve the data available for future assessment as well as provide more accountability regarding how viability informs decision making.

In plan making and decision making viability helps to strike a balance between the aspirations of developers and landowners, in terms of returns against risk, and the aims of the planning system to secure maximum benefits in the public interest through the granting of planning permission.

PPG 10-010-20180724

- 6.20 Any viability assessment will therefore need to clearly and plainly set out the approach, methodology and assumptions used. Ideally, these inputs and assumptions should be subject to consultation with the WHBC LPA and estates teams, and be drawn from a range of credible data sources (including relevant comparable schemes in Hertfordshire). WHBC will be using viability assessments prepared by the promoters to critically assess the deliverability of the proposals. The values and costs associated with extra care housing will be the central assumptions.

Gross development value is an assessment of the value of development. For residential development, this may be total sales and/or capitalised net rental income from developments. Grant and other external sources of funding should be considered... average figures can be used, with adjustment to take into account land use, form, scale, location, rents and yields, disregarding outliers in the data. For housing, historic information about delivery rates can be informative.

PPG 10-011-20180724

- 6.21 The residential values should be established using data from the Land Registry and other sources. PPG paragraph 10-012-20180724 lists a range of costs that must be taken into account.

- *build costs based on appropriate data, for example that of the Building Cost Information Service;*
- *abnormal costs, including those associated with treatment for contaminated sites or listed buildings, or costs associated with brownfield, phased or complex sites. These costs should be taken into account when defining benchmark land value;*
- *site-specific infrastructure costs, which might include access roads, sustainable drainage systems, green infrastructure, connection to utilities and decentralised energy. These costs should be taken into account when defining benchmark land value;*
- *the total cost of all relevant policy requirements including contributions towards affordable housing and infrastructure, Community Infrastructure Levy charges, and any other relevant policies or standards. These costs should be taken into account when defining benchmark land value;*
- *general finance costs including those incurred through loans;*
- *professional, project management, sales, marketing and legal costs incorporating organisational overheads associated with the site. Any professional site fees should also be taken into account when defining benchmark land value;*
- *explicit reference to project contingency costs should be included in circumstances where scheme specific assessment is deemed necessary, with a justification for contingency relative to project risk and developers return.*

6.22 The PPG then sets out how land values should be considered, confirming the use of the Existing Use Value Plus (EUV+) approach.

To define land value for any viability assessment, a benchmark land value should be established on the basis of the existing use value (EUV) of the land, plus a premium for the landowner. The premium for the landowner should reflect the minimum return at which it is considered a reasonable landowner would be willing to sell their land. The premium should provide a reasonable incentive, in comparison with other options available, for the landowner to sell land for development while allowing a sufficient contribution to comply with policy requirements. Landowners and site purchasers should consider policy requirements when agreeing land transactions. This approach is often called 'existing use value plus' (EUV+).

PPG 10-013-20190509

6.23 The PPG goes on to set out that:

Benchmark land value should:

- *be based upon existing use value*
- *allow for a premium to landowners (including equity resulting from those building their own homes)*
- *reflect the implications of abnormal costs; site-specific infrastructure costs; and professional site fees*

Viability assessments should be undertaken using benchmark land values derived in accordance with this guidance. Existing use value should be informed by market evidence of current uses, costs and values. Market evidence can also be used as a cross-check of benchmark land value but should not be used in place of benchmark land value. There may be a divergence between benchmark land values and market evidence; and plan makers should be aware that this could be due to different assumptions and methodologies used by individual developers, site promoters and landowners.

This evidence should be based on developments which are fully compliant with emerging or up to date plan policies, including affordable housing requirements at the relevant levels set out in the plan. Where this evidence is not available plan makers and applicants should identify and evidence any adjustments to reflect the cost of policy compliance. This is so that historic benchmark land values of non-policy compliant developments are not used to inflate values over time.

In plan making, the landowner premium should be tested and balanced against emerging policies. In decision making, the cost implications of all relevant policy requirements, including planning obligations and, where relevant, any Community Infrastructure Levy (CIL) charge should be taken into account.
PPG 10-014-20190509

- 6.24 The approach adopted in a future appraisal must start with the EUV. The 'plus' element is informed by the price paid for policy compliant schemes to ensure an appropriate landowners' premium.

Existing use value (EUV) is the first component of calculating benchmark land value. EUV is the value of the land in its existing use. Existing use value is not the price paid and should disregard hope value. Existing use values will vary depending on the type of site and development types. EUV can be established in collaboration between plan makers, developers and landowners by assessing the value of the specific site or type of site using published sources of information such as agricultural or industrial land values, or if appropriate capitalised rental levels at an appropriate yield (excluding any hope value for development).

Sources of data can include (but are not limited to): land registry records of transactions; real estate licensed software packages; real estate market reports; real estate research; estate agent websites; property auction results; valuation office agency data; public sector estate/property teams' locally held evidence.
PPG 10-015-20190509

- 6.25 The PPG now sets out an approach to the developers' return to be adopted:

Potential risk is accounted for in the assumed return for developers at the plan making stage. It is the role of developers, not plan makers or decision makers, to mitigate these risks. The cost of complying with policy requirements should be accounted for in benchmark land value. Under no circumstances will the price paid for land be relevant justification for failing to accord with relevant policies in the plan.

For the purpose of plan making an assumption of 15-20% of gross development value (GDV) may be considered a suitable return to developers in order to establish the viability of plan policies. Plan makers may choose to apply alternative figures where

there is evidence to support this according to the type, scale and risk profile of planned development. A lower figure may be more appropriate in consideration of delivery of affordable housing in circumstances where this guarantees an end sale at a known value and reduces risk. Alternative figures may also be appropriate for different development types.

PPG 10-018-20190509

Extra care housing and viability testing

6.26 Housing for older people is generally a growing sector due to demographic changes and the ageing population in the UK. It comprises two main types of product that are defined in paragraph 63-010-20190626 of the PPG:

Retirement living or sheltered housing: *This usually consists of purpose-built flats or bungalows with limited communal facilities such as a lounge, laundry room and guest room. It does not generally provide care services, but provides some support to enable residents to live independently. This can include 24 hour on-site assistance (alarm) and a warden or house manager.*

Extra care housing or housing-with-care: *This usually consists of purpose-built or adapted flats or bungalows with a medium to high level of care available if required, through an onsite care agency registered through the Care Quality Commission (CQC). Residents are able to live independently with 24 hour access to support services and staff, and meals are also available. There are often extensive communal areas, such as space to socialise or a wellbeing centre. In some cases, these developments are known as retirement communities or villages - the intention is for residents to benefit from varying levels of care as time progresses.*

6.27 The PPG also includes specific viability guidance in respect of older peoples housing. Under the heading ‘*What factors should decision makers consider when assessing planning applications for specialist housing for older people?*’, the PPG states (our **emphasis** added):

*Decision makers should consider **the location and viability of a development** when assessing planning applications for specialist housing for older people. Local planning authorities can encourage the development of more affordable models and make use of products like shared ownership. Where there is an identified unmet need for specialist housing, local authorities should take a positive approach to schemes that propose to address this need.*

Paragraph: 016 Reference ID: 63-016-20190626

6.28 The proposal sites are in a rural location away from existing development. Therefore it will be difficult to connect new residents with local services available in Potters Bar and Cuffley without a dedicated mobility scheme and travel plan in place. The viability of such schemes is emphasised in this section of the PPG, again lending weight to the argument that WHBC and the applicant will need to engage with viability matters from the outset once formal pre-application processes are initiated.

6.29 The final part of this section includes the heading ‘*How should plan-making authorities count specialist housing for older people against their housing requirement?*’. The PPG states that:

Plan-making authorities will need to count housing provided for older people against their housing requirement. For residential institutions, to establish the amount of accommodation released in the housing market, authorities should base calculations on the average number of adults living in households, using the published Census data.

Paragraph: 016a Reference ID: 63-016a-20190626

AECOM commentary

- 6.30 There are limited new specialist older people's housing / retirement schemes being marketed in Welwyn Hatfield¹³. As such, we would recommend that WHBC look more widely across Hertfordshire to establish the feasibility and viability inputs required to test the deliverability of a scheme of this nature.
- 6.31 Values will need to be established for properties of varying sizes, in particular for one and two bed extra care properties. In addition, allowance will need to be made for costs such as ground rents. The typical value of the ground rents on these types of units could be in excess of £3,000/unit.
- 6.32 The applicants of the Kennels site have proposed a series of additional facilities that would accompany the scheme. It would be prudent to benchmark the construction costs of any facilities ancillary to the residential elements with reference to the Building Cost Information Service (BCIS), which provides cost and price data for the UK construction industry; and Spon's Price Books 2022 Editions¹⁴. At present, the submitted Financial Viability Appraisal is not in accordance with the PPG and as such it is unclear how this evidence has been translated into the proposed scheme. Similarly there is no section that sets out what has changed since the publication of the whole plan viability study in 2016 and why those assumptions and findings are no longer valid.

¹³ See <https://www.mccarthyandstone.co.uk> / <https://www.carehome.co.uk> / <https://housingcare.org/elderly-uk-assisted-living-extra-care-housing/area-2-welwyn-hatfield>

¹⁴ <https://www.routledge.com/Spons-Price-Books/book-series/SE0395>

7. Former Hook Estate and Kennels, Coopers Lane Road/Firs Wood Close

7.1 The applicant for the Former Hook Estate and Kennels, Coopers Lane Road/Firs Wood Close is seeking outline planning application with all matters reserved except for primary means of access for up to 150 C2 (extra care) dwellings, ancillary community facilities, landscaping, and access from Coopers Lane Road.

Figure 3 Design and Access Statement Extract



7.2 Figure 3 illustrates how much of the open site is proposed for development with a large extension to the existing built-up area adjacent to the site’s southern boundary. This is urban sprawl development into the open countryside.

Applicant’s principal Green Belt Arguments

7.3 The applicant’s principal Green Belt arguments are summarised as follows (our *emphasis*):

Effect on Openness

- *... it benefits from a high degree of visual containment evidenced by the fact that it is difficult to appreciate this area of land in terms of views from the surrounding countryside and as such, any associated perception of visual openness related to this land is very limited. The perception of openness is most readily appreciated from the site and its immediate environs, but even from these locations, the perception of openness is reduced and limited due to the presence of built form associated with the site and its surroundings as a backdrop and context to the site as it still feels very much part of the Northaw Park rather than the wider countryside.*
- *The introduction of the proposed residential neighbourhood would undoubtedly introduce built form where it is limited currently to derelict structures...*
- *With regard to the visual component, it is evident that the perception of openness as it relates to the site is only readily appreciated from the site and not from the wider countryside beyond the site due to the substantial physical and visual containment of the land from woodland and buildings.*
- *In terms of openness as it relates to the spatial aspect, whilst the site has an 'open' character, this is limited due to the physical enclosing elements that frame the site including existing built form, houses and tree cover. The site itself accommodates a number of structures and other artifacts such as fencing. In light of these aspects, I consider that in terms of the proposed residential scheme, the level of harm on the openness of the Green Belt would be moderate but when considered in the round from the wider countryside, I consider that the level of harm to openness would be reduced to the lower end of the scale and thus the range would be low to moderate in terms of harm which reflects the fact that the site is so well contained.*
- *The site is currently substantially framed by extensive woodland together with a residential neighbourhood, Northaw Park and adjacent Oshwal Temple complex. Whilst much of the site is open in terms of its character, this is somewhat tempered and curtailed by the presence of various built infrastructure including enclosures constructed of concrete posts and chain link fencing. Areas of hardstanding are also evident indicating the presence of former buildings. The surrounding existing built form and mature trees further physically and visually frame the site limiting its sense of openness. The site is surrounded by countryside where members of the public in various public locations can gain an appreciation of the visual aspect of openness of the local countryside. In this context in most locations and viewing context, there is limited opportunity to appreciate the sense of openness associated with the site due to the significant screening effect of built form and tree cover surrounding the site and in the wider environs. As a consequence of this with the proposed scheme in place, whilst clearly it would introduce a quantum of built form in the countryside, the perception of openness as appreciated in visual aspect terms would not materially change with the scheme in place. It is recognised that the proposed scheme would be permanent and not time limited which has also been factored into this analysis, whilst also recognising that there would be some degree of activity with a residential neighbourhood as proposed, principally around the comings and goings of people living their lives in this small residential*

community. In overall terms, the proposed scheme would have some effect upon the sense of openness of the Green Belt but this would be localised and limited and at the lower end of the scale and not cause material harm to the appreciation of openness in this part of the Green Belt.

Effect on Purposes

- *With regard to the purpose concerning unrestricted sprawl...development would be geographically restricted to the curtilage associated with the former dog training facility in terms of development footprint and associated enclosures. The development would also be tightly framed by extensive mature woodland and built form associated with the existing residential neighbourhood of Northaw Park and the religious Oshwal Centre and as such, would not conflict with this Green Belt purpose.*
- *With regard to the prevention of neighbouring towns merging, I would note the following. The only town in the immediate and indeed wider locality is Potters Bar. Even with regard to this town, the proposed development would be separate and distinct from this town. The site itself currently makes little contribution and has no significant role in maintaining separation between towns or in the prevention of towns merged in together and as such, the proposed scheme would not conflict with this purpose.*
- *With regard to safeguarding the countryside from encroachment, I would note the following. The proposal would introduce some development that technically lies within the countryside and as such, would result in a limited degree of encroachment. However, this would be mitigated to a significant degree by the surrounding mature woodlands and existing residential enclave of Northaw Park effectively screening the proposed scheme and as such, the perception of encroachment would be low and limited and not significant.*
- *With regard to preserving the setting and historic character of towns, I would note the following. The proposed development would be located some considerable distance from the nearest town Potters Bar and its historic core and Conservation Area. The scheme would also lie some distance from the Conservation Area associated with the village of Northaw to the north. Both the site and the proposed scheme would have no effect upon this purpose, indeed, arguably this particular purpose is not relevant given the proposal's location.*
- *With regard to regeneration and recycling of derelict land, I would note the following. It is self-evident upon examination of the site that this land has been previously developed given the presence of various forms of built infrastructure. This proposal would facilitate the opportunity to comprehensively reuse what is now currently derelict land and could be categorised as either recycling derelict land or regeneration. Either way, the proposal would comply with this particular purpose of Green Belt.*

Overall Conclusions

- *...it is considered that there would be no substantive reasons for refusing planning permission for the proposed residential scheme, as far as Green Belt matters are concerned.*

AECOM commentary

- 7.4 The Green Belt evidence (Pegasus, 2023) highlights numerous instances of how the site in its current form contributes to openness; is located within the countryside; is ‘open in character’; ‘moderate in terms of harm’; and will ‘introduce built form where it is limited currently to derelict structures’. But the overall conclusion then goes on to state that there are no substantive reasons for refusing the application on Green Belt grounds. This conclusion is erroneous in light of the preceding analysis which clearly describes the open nature of the site set against the proposal of a new retirement village.
- 7.5 Establishing whether there is any harm to the openness of Green Belt does not need to establish impacts on all aspects of openness (visual, spatial, use). It is not as simple as concluding that visual impacts are small and will not be seen by members of the public. Site-specific circumstances must be considered in each case by the Local Planning Authority.
- 7.6 Paragraph 142 of the NPPF is not limited in its scope to urban sprawl of large built-up areas (as referenced in paragraph 143), it is simply all urban sprawl.

AECOM Site-Specific Green Belt Assessment

7.7 Below is AECOM’s assessment of the proposals as measured against paragraphs 137 and 138 of the National Planning Policy Framework. A high-level Red, Amber, Green (RAG) assessment (**Red** – Fundamentally misaligned with the aims and purposes of Green Belt policy; **Amber** – Misaligned with policy, **Green** – Aligned with policy) is provided based upon AECOM’s professional judgement and experience preparing Green Belt reviews in support of plan making and planning applications elsewhere in England:

Table 1 Former Hook Estate and Kennels - AECOM Green Belt Assessment

NPPF Reference	AECOM assessment against fundamental aims and purposes of the Green Belt
Fundamental Aims (prevent urban sprawl by keeping land permanently open)	<p>The application site is located between Potters Bar in the West, Northaw in the North and Cuffley in the East. It is not attached to any of these settlements and is located in open countryside.</p> <p>The site is adjacent to the Oshwal Association of the UK, Northaw Park and properties located on Hook Lane and Firs Wood Close. Development of the site would result in an extension to these existing built up areas.</p> <p>Any development in this location that extends the built-up area would, by definition, represent urban sprawl. The proposed layout and form of development, alongside the increased traffic movements and uses proposed for the site, would fundamentally alter the openness of the site. There is a three-dimensional impact by introducing new buildings, the land take across the site and change</p>

	<p>in land use. In addition, there will be a negative impact on local views and intervisibility of the development from nearby settlements, roads and public rights of way.</p>
<p>138 (a) to check the unrestricted sprawl of large built-up areas</p>	<p>As above, the development proposed would result in significant sprawl to the existing built-up area in this location.</p>
<p>138 (b) to prevent neighbouring towns merging into one another</p>	<p>Development of the site would extend the existing built-up areas further east and north, in closer proximity to Northaw and Cuffley and reducing the physical open gaps between existing built-up areas and Northaw and Cuffley.</p>
<p>138 (c) to assist in safeguarding the countryside from encroachment</p>	<p>The development would harm the role of the Green Belt in this location by encroaching into open countryside. The proposals represent an intensively developed residential retirement village capable of generating significant additional traffic movements.</p>
<p>138 (d) to preserve the setting and special character of historic towns</p>	<p>This Green Belt purpose is principally concerned with preserving the setting of historic towns inset or washed over by Green Belt. However, the proximity of the site to the Northaw Conservation Area is also a factor and development in this location would be visible from local viewpoints within the Parish.</p>
<p>138 (e) to assist in urban regeneration, by encouraging the recycling of derelict and other urban land</p>	<p>The greenfield site is located in open countryside. Development of this site would be contrary to policy contained within the Welwyn Hatfield Borough Council Local Plan, which has already identified the locations of suitable settlements and brownfield allocations that can assist in urban regeneration in the Borough.</p>

8. Colesdale Farm, Northaw Road West

- 8.1 The proposal for Colesdale Farm, Northaw Road West (6/2023/2455/OUTLINE) seeks outline permission for residential development of up to 44 dwellings following demolition of existing buildings and structures with all matters reserved apart from access.
- 8.2 An appeal was allowed in February 2022 (6/2019/2760/OUT) for outline permission for residential development of site of up to 34 dwellings following demolition of the existing buildings and structures with all matters reserved apart from access. In February 2023, a lawful development certificate was granted, confirming many of the sheds on site to be Use Class B8 (storage and distribution)

Figure 4 Design and Access Statement Extract



Applicant's principal Green Belt Arguments

- 8.3 The applicant's principal Green Belt arguments are summarised as follows (please note: NPPF references made in their submission materials refer to the old NPPF):
- *The proposed development is entirely consistent with the exception in NPPF paragraph 147 (g)¹⁵ [now paragraph 154 in the new NPPF] and, therefore, the Green Belt test of "Very Special Circumstances" as normally required in NPPF paragraph 147 is not engaged.*

¹⁵ g) limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would:

- not have a greater impact on the openness of the Green Belt than the existing development; or
- not cause substantial harm to the openness of the Green Belt, where the development would re-use previously developed land and contribute to meeting an identified affordable housing need within the area of the local planning authority.

- *The present buildings on the site have a substantial impact both visually and spatially within the site and on the wider openness of the Green Belt. The existing buildings have mass and scale which is harmful to the openness of the Green Belt. The proposed development would be very substantially less in terms of both mass and scale and would permit views through the development. The existing paraphernalia caused by large sections of open commercial storage would also be removed and replaced by a significantly lower and less harmful paraphernalia associated with residential use.*
- *...paragraph 149 (g) [now paragraph 154 of the December 2023 NPPF] recognises the importance of meeting affordable housing need, which is an acute need within the Welwyn Hatfield borough. The provision of 50% affordable housing in the uplift from the consented 34 dwellings to the proposed 44 dwellings addresses this very issue.*

AECOM commentary

- 8.4 The application is not 'entirely consistent' with the previous NPPF paragraph 147 clause (g) test as is claimed [now paragraph 154 of the new NPPF, December 2023]. The earlier appeal was allowed on the basis of a now superseded policy framework. Paragraph 154 read alongside WHBC Local Plan Policy SADM 34 (Development within the Green Belt) limits in-fill development to no more than four dwellings.
- 8.5 Replacement of former agricultural sheds and storage sheds, within a farm and countryside setting, with 44 new two-storey residential dwellings will not result in improved openness across the site. The applicant appears to be conflating a design comparison between the proposed residential dwellings and the existing buildings on site with the Green Belt policy tests set out in the NPPF and tested extensively through case law. Similarly the application conflates landscape and Green Belt argument.
- 8.6 The former proposal allowed at appeal was approved in the context of the old Local Plan, prior to the Neighbourhood Plan coming into force and prior to the latest NPPF and adopted Local Plan. This application must be considered in this new policy context.

AECOM Site-Specific Green Belt Assessment

- 8.7 Below is AECOM's assessment of the proposals as measured against paragraphs 137 and 138 of the National Planning Policy Framework. A high-level Red, Amber, Green (RAG) assessment (**Red** – Fundamentally misaligned with the aims and purposes of Green Belt policy; **Amber** – Misaligned with policy, **Green** – Aligned with policy) is provided based upon AECOM's professional judgement and experience preparing Green Belt reviews in support of plan making and planning applications elsewhere in England:

Table 2 Colesdale Farm - AECOM Green Belt Assessment

NPPF Reference	AECOM assessment against fundamental aims and purposes of the Green Belt
Fundamental Aims (prevent urban sprawl by keeping land permanently open)	The application site is located between Potters Bar in the west and Cuffley in the east. It is not attached to either of these settlements and is located in open countryside.

	<p>The site is surrounded by open countryside with the B156 to the south. Development of the site would result in removal of farm buildings and structures and replacement with residential dwellings.</p> <p>Any residential development in this location resulting in an intensification of the site (spatially and visually, i.e. several agricultural buildings replaced by 44 two storey residential dwellings), by definition, represents the introduction of urbanising development and sprawl and a reduction in openness.</p> <p>The proposed layout and form of development, alongside the increased traffic movements and uses proposed for the site, would fundamentally alter the openness of the site. There is a three-dimensional impact by introducing new residential buildings, increased development footprint across the site (notably in the North East part of the site and a change in land use. In addition, there will be a negative impact on local views and intervisibility of the development from nearby settlements, roads and public rights of way.</p>
<p>138 (a) to check the unrestricted sprawl of large built-up areas</p>	<p>As above, the development proposed would result in significant urban sprawl along the B156 in this location, which is agricultural in nature and in keeping with the countryside location.</p>
<p>138 (b) to prevent neighbouring towns merging into one another</p>	<p>Development of the site would result in a residential cul-de-sac located in open countryside washed over by Green Belt. Introducing a large housing estate so close to the built up area of Cuffley will reduce the physical gaps between the existing built-up areas of Cuffley and Potters Bar.</p>
<p>138 (c) to assist in safeguarding the countryside from encroachment</p>	<p>The development of 44 new homes would harm the role of the Green Belt in this location by encroaching into countryside and through the replacement of agricultural buildings with an intensively developed residential cul-de-sac capable of generating significant additional traffic movements.</p>
<p>138 (d) to preserve the setting and special character of historic towns</p>	<p>This Green Belt purpose is principally concerned with preserving the setting of historic towns inset or washed over by Green Belt. The proximity of the site to Cuffley is a factor and development in this location would be visible from local viewpoints within the Parish.</p>
<p>138 (e) to assist in urban regeneration, by encouraging</p>	<p>The greenfield site is located in open countryside. Development of this greenfield site would be contrary</p>

the recycling of derelict and other urban land

to policy contained with the Welwyn Hatfield Borough Council Local Plan which has already identified the locations of suitable settlements and brownfield allocations that can assist in urban regeneration in the Borough.

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9. Summary

- 9.1 The two proposals reviewed would represent windfall sites located in the London Metropolitan Green Belt. The policy barriers for applications of this nature are noted in this report. AECOM's view is that neither development can be considered as appropriate in the Green Belt by virtue of their location outside of settlement envelopes and misalignment with national and local policies. The principle of development cannot be justified as infill in either case and so both applications engage the Very Special Circumstances test.
- 9.2 The onus is on the applicants to demonstrate that Very Special Circumstances exist **and** that any harm to the Green Belt is outweighed by the scheme's benefits.
- 9.3 Welwyn Hatfield's Local Plan was adopted less than six months ago and it allocates sufficient land to meet local housing needs. Neither site is required to deliver the market homes and affordable housing required locally based on the submitted housing trajectory. Both sites are contrary to the Development Plan (WHBC Local Plan and NCPC Neighbourhood Plan) and national policy, which recognises that the fundamental aim of Green Belt is to prevent urban sprawl and maintain openness.
- 9.4 There is nothing in either applicant's submission documents that evidence how either development would not fundamentally harm openness or prevent urban sprawl. Neither site performs well against AECOM's independent Green Belt assessment by virtue of the fact that neither development can be considered infill and neither site has sought to reduce its development footprint based on the extent of existing agricultural structures (Colesdale Farm) or historical structures and residual hardstanding (Hook Estate and Kennels).
- 9.5 Assessing whether Very Special Circumstances exist for the sites to be consented for development in spite of their obvious harm depends on the overall balance (the 'tilted balance'). Councils will typically start by assessing the harm, whereas applicants will seek to promote the benefits. All harm (e.g. to the Green Belt and other planning considerations) go into the planning balance but harm to the Green Belt will be given significant weight.
- 9.6 As such, developers will seek to bring forward development that reduces or mitigates any such harms e.g. improved landscaping, increased public access to the Green Belt. The question is not whether any one benefit is a VSC, but whether all the benefits taken together clearly outweigh the harm. The scale of any shortfall against the five year housing land supply will be important; affordable housing can significantly strengthen the case for developers but these arguments should be given less weight given the Local Plan has recently been adopted.
- 9.7 The WHBC Local Plan and NCPC Neighbourhood Plan have only been adopted/made within the past 12 months and remain up to date. Benefits relating to Green Belt purposes are likely to be given greater weight, e.g. public access to open space. However, standard benefits (e.g. general landscaping/meeting open space standards) which would be expected of any development are less likely to persuade LPAs or PINS of the case for VSC.

9.8 Both development proposals extend into open countryside and result in urbanising development in countryside locations. The Colesdale Farm site has no development in or around it to be justified as infill. The Hook Estate and Kennels site, whilst adjacent to Northaw Park and residential properties to the south, extends into open countryside with no other development in and around it available for infilling. Similarly, neither development proposal would result in the re-use of buildings or of previously developed land capable of:

- Having less impact on the openness of the Green Belt than the existing development (NPPF paragraph 154 g)
- Not cause substantial harm to the openness of the Green Belt (154 g)
- Preserving openness and not conflicting with the purposes of Green Belt (155)

9.9 For the retirement village, because the proposals are for older people's housing on unallocated sites, the onus to prepare a viability appraisal lies with the applicant. The applicant will need to comply with the requirements of the NPPF and PPG on this topic. Should WHBC enter into planning obligation discussions with the developers, it will be important to that the relevant viability guidance, summarised in this briefing note, is adhered to. The Financial Viability Appraisal does not currently set out what has changed since the viability evidence for the Local Plan was published, nor will it have had the benefit of reviewing the latest BNP Paribas evidence (October, 2023). The applicant's viability appraisal should be updated with this in mind.

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