



## Appeal Decision

Inquiry held on 10, 11, 12, 13 & (virtually) 18 September 2024

Site visits made on 10 & 12 September 2024 and 6 November 2024

by H Nicholls FdA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7<sup>th</sup> November 2024

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Appeal Ref: APP/B1930/W/24/3343986

Land Between Caravan Site and Watling Street, Park Street, St Albans

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
  - The appeal is made by Mr R Martin of M Scott Properties Ltd against the decision of St Albans City & District Council.
  - The application Ref is 5/2022/0267.
  - The development proposed is erection of up to 95 dwellings, including 40% affordable dwellings and 5% self-build and custom build dwellings, public open space, landscaping and associated infrastructure.
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### Decision

1. The appeal is allowed and planning permission is granted for erection of up to 95 dwellings, including 40% affordable dwellings and 5% self-build and custom build dwellings, public open space, landscaping and associated infrastructure at Land Between Caravan Site and Watling Street, Park Street, St Albans, in accordance with the terms of the application, Ref 5/2022/0267, subject to the conditions in the attached schedule.

### Application for costs

2. An application for full costs was made by the appellant against the Council. This application is the subject of a separate decision.

### Preliminary Matters

3. Case management conferences (CMCs) were held on 16 and 18 July 2024 to discuss procedural matters in connection with the Inquiry. The main parties took part in the CMCs and no discussions were held about the merits of the case.
4. **'Greenbelt' was granted Rule 6 status on 5 June 2024 and are referred to as the R6P throughout the decision.**
5. **The Council's Statement of Case, received on 25 June 2024, indicated that the Council had opted not to defend the appeal. The main issues in this case are those drawn from the R6P's case.**
6. A consultation on a revised version of the National Planning Policy Framework (the Framework) commenced on the 30 July 2024. The parties were invited to comment on any relevant proposed changes during the inquiry.

7. On the basis of the stage of production of the emerging Local Plan (eLP), the Council is currently only required to demonstrate a minimum four year supply of housing against the five year requirement under paragraph 226 of the Framework. However, the signed Statement of Common/Uncommon Ground<sup>1</sup>, indicates the agreement between the main parties that the current supply is **1.7 years' worth against the five year requirement.**
8. A draft unilateral undertaking (UU) was submitted prior to, and discussed during the inquiry, and the final completed version (dated 26 September 2024) was received on 27 September 2024.
9. **The Council's Planning Policy and Climate Committee voted to proceed to Regulation 19 Consultation<sup>2</sup> on its eLP which includes the appeal site as a draft allocation for up to around 104 dwellings.** The parties were invited to comment on the relevance of the eLP and its status to the appeal. The parties largely agreed that the eLP is only capable of attracting limited weight at this stage.
10. Following the exchange of correspondence on the eLP and related background material, the inquiry was closed in writing on 21 October 2024.

#### Main Issues

11. The main issues in this appeal are:
  - whether the location of the scheme accords with the development plan;
  - the effects of the proposal on the purposes of the Green Belt, in terms of effects on openness, coalescence and encroachment;
  - whether the site is sustainably located in respect of its access to services and ability to minimise dependency on private vehicles;
  - the effects of the proposal on the safety and efficiency of the local highway network;
  - the effects of the proposal on the landscape character and visual amenities of the area;
  - whether the proposal would make an adequate provision of social housing;
  - the effects of the proposal on protected species;
  - the effects of the proposal on agricultural land, including Best and Most Versatile (BMV) agricultural land; and
  - whether any harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations, so as to amount to the very special circumstances required to justify the proposal.

#### Reasons

##### *Location of site*

12. The site, extending to around 4.3 hectares in area, is a greenfield site adjoining Watling Road in Park Street. The site is within the Metropolitan Green Belt which surrounds St Albans.
13. The development plan for the area includes the *St Albans Local Plan Review* (1994) (SALPR) and the St Stephen Parish Neighbourhood Plan 2019-2036

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<sup>1</sup> Statement of Common/Uncommon Ground CD ref

<sup>2</sup> Consultation to run between 26 September and 8 November 2024

(adopted 2022) (SSPNP). The Framework also sets out policy tests relating to the Green Belt and is therefore an important material consideration.

14. The development of up to 95 houses on the appeal site would be inappropriate development under Policy 1 of the SALPR, Policy S1 of the SSPNP and the Framework. Neither the SALPR or SSPNP make any provision for the site to be developed, and the SSPNP shows it as outside of the built up area boundary of the settlement of Park Street.
15. However, both SALPR Policy 1 and Policy S1 of the SSPNP provide for the **application of the 'very special circumstances' test for development within the Green Belt**, consistent with the Framework. SSPNP Policy S1 (3) also sets out that where residential development demonstrates very special circumstances under the Framework, it will be supported. The sentence and bullet list that follows limb (3) do not appear to be linked to (3) so as to limit the support to development of only certain types of residential development. Therefore, whether the proposal conflicts with the development plan is dependent on whether or not very special circumstances are found to exist. I return to this in the planning balance below.

#### *Effects on Green Belt*

16. It is acknowledged in the evidence<sup>3</sup> that around 81% of the St Albans area is within the Green Belt and the areas outside of the Green Belt are all urban areas. Therefore, some loss of Green Belt land is likely if the issue of the undersupply of housing is to be addressed.
17. The main parties agree that the development is inappropriate development in the Green Belt under the terms of the Framework. This constitutes definitional harm to the Green Belt. It is also agreed that the proposals would not cause harm to three of the Green Belt purposes listed under paragraph 143 of the Framework: (a) to check the unrestricted sprawl of built up areas; (d) to preserve the setting and special character of historic towns; and, (e) to assist in urban regeneration. The dispute lies in the extent of harm to the other Green Belt purposes, which are: (b) to prevent neighbouring towns from merging into one another, and (c), and to assist in safeguarding the countryside from encroachment.
18. There are a number of Green Belt reviews undertaken on behalf of the Council to inform either the production of past failed development plans or the current eLP. These include the *Green Belt Review*<sup>4</sup> and the *St Albans Stage 2 Green Belt Review*<sup>5</sup> undertaken in 2023.
19. In the SKM report, the site forms part of a wider 83 hectare area of predominantly arable farmland assessed under reference *GB28 – Land north of How Wood*. The overall findings for the parcel in the SKM report was that GB28 contributed towards maintaining the gaps between St Albans and Park Street, Frogmore and How Wood, albeit that any losses in this parcel would have only a limited impact on maintaining the gap between St Alban and Watford. The SKM report also found that the parcel contributed only partially to safeguarding the countryside with an explanation that its character was affected by the urban fringe characteristics from the presence of the

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<sup>3</sup> CD6.4

<sup>4</sup> CD14.1 – Green Belt Review Purposes Assessment, SKM 2013

<sup>5</sup> CD6.4

settlements and the A414 and A405 which run through it. The SKM report found that the parcel scored most significantly in respect of maintaining the existing settlement pattern with the gap between Park Street as being 0.4km **and considered 'narrow'**. This is not a strictly defined purpose of the Green Belt under the Framework. The SKM report only went on to recommend a very small area north of How Wood (SA-SS6) for further assessment.

20. The ARUP report looked at sites surrounding settlements on a more granular basis and considered the site individually under reference SA108, with reference to the remainder of the wider parcel under reference SA107. The ARUP report found that the appeal site was broadly considered to form a less essential part of the gap between all of the settlements than SA107 and that it was considered to be of sufficient scale that its removal would not result in physical or perceptual merging between neighbouring built-up areas. However, it was identified that it had a relatively strongly unspoilt rural character and that if released, the new boundary with the Green Belt would require strengthening.
21. Whilst I have considered the numerous reviews of the Green Belt, my role is not to consider whether their respective review methodologies employed were suitable, nor to adopt their respective conclusions as my own. My own view is that the site itself contributes modestly to the purpose of preventing towns from merging into one another. St Albans is undisputedly a town, and Park Street together with Frogmore constitute at least a large village settlement. Therefore, irrespective of their strict definitions, to consolidate them together and erode the sense of openness around St Albans would raise conflict with this Green Belt purpose.
22. However, Watling Street does not serve well as a strong defensible boundary as there are already houses on the western side of it that back onto the appeal site and dwellings along the extent of the eastern side. The effects of introducing development on this site between St Albans and Park Street would be tempered by the relatively well contained nature of the site on its western and northern edges, the site's form and relationship with Park Street and given the existence of other dwellings and the petrol filling station that already extend as close or closer to St Albans in any event. The rest of the countryside to the west would remain beyond the tree belt which could be strengthened where gaps are apparent below the canopies. There would be a more modest rural gap between St Albans and Park Street, more meaningful than just a vegetated verge extending from Park Street roundabout, but it would be less than the present open gap that currently exists with the appeal site in its current form. I regard that the harm to Green Belt in respect of purpose (b) would be modest.
23. In respect of safeguarding the countryside from encroachment, there are urban influences from the existing dwellings, activity and the petrol filling station on Watling Street. However, the site is a part of the countryside that edges up to these features and is more definable by its land cover, relationship with adjoining farmland, openness and greenness than by the surrounding urban features. Therefore, in my view, the introduction of dwellings on the site would result in substantial harm to the Green Belt purpose of safeguarding the countryside from encroachment. The strengthening of the western boundary of the appeal site would at least help to contain the presence of the development

to preserve the integrity of the larger unaffected area of countryside to the west.

24. I have compared the site under SA-113 of the ARUP report in terms of its contributions to Green Belt purposes as requested by the R6P. In my view, the site contributes more to purposes (b) and (c) than site SA-113, and thus, the scheme is likely to be more harmful to the Green Belt than development would on that site. However, given the extensive mature tree coverage of that particular site and its smaller size, it is less likely to deliver a similar quantum of dwellings as the appeal site which is another factor that sets them apart. That the scheme would be more harmful in Green Belt terms than the potential development of SA-113 or any other scheme to the north of Tippendale Lane is not decisive in any event as I am required to determine the appeal before me specifically on its own merits.
25. For the reasons above, the proposal would result in definitional harm to the Green Belt and would conflict with two purposes of the Green Belt; both through a modest effect on purpose (b) which seeks to prevent the merging of towns and substantial harm to purpose (c) which seeks to safeguard the countryside from encroachment. Under the terms of the Framework, this definitional harm and harm to the openness of the Green Belt attracts substantial weight. I return to this in the planning balance below.

#### *Sustainability of site*

26. The appeal site adjoins the village of Park Street which has a range of day-to-day facilities, including a petrol filling station with shop, convenience store, hairdressers, primary school, recreation ground, and public house. There is a **doctors' surgery** within a around 2.3 km walking or driving distance. There is also a train station around 450 metres to the south of the site that provides around hourly services to St Albans Abbey Station (just outside of the City) and in the other direction, to Watford Junction and beyond to London. There are also bus stops which provide services to St Albans and other similar outlying settlements.
27. The distance between Park Street from St Albans City Centre is around 3km. The walking or cycling routes involve going through a subway beneath the Park Street Roundabout and negotiating a couple of hills.
28. Whilst the site would be located at one end of Park Street, more distant from many services and facilities within Park Street centre, the distance over which residents would need to walk or cycle to reach them would not be prohibitive in my view. I have **also seen the location of the closest doctor's surgery** that future residents would be expected to use and also consider this to be accessible by a range of travel modes. Supermarkets are similarly within an acceptable travel distance.
29. I have walked the subway connecting Park Street with St Albans and travelled between the two settlements on foot. Whilst I understand that there are some aspects of this route which could be better lit, more aesthetically pleasing and be made to feel safer for all, it seems an acceptable option for people wishing to travel between the settlements. The journey is not excessive in length or prohibitive in terms of topography such that it is considered inaccessible on foot or cycle.

30. The regularity of bus and train services has been highlighted to me, as has the unreliability of the train services. Whilst I accept that a more regular and dependable service provision of either mode would be preferable, they do offer genuine choice, and I saw that both services were used by numerous residents at the times of my various visits. I also saw that there is one crossing point to the train station which is safer and no doubt preferable to use than the other, and that using such would necessitate an additional short detour for some. However, I do not regard this as an unduly prohibitive factor.
31. A range of sustainable travel improvements are proposed to take place in the wider area both unrelated to and also in direct consequence of the proposal. The improvements falling within the latter category include a dedicated pedestrian crossing over Watling Street, provision of improved footways on the western side of Watling Street along the site frontage, and enhanced bus stops. The combination of these improvements would benefit both future residents and those living in the surrounding area. The appeal site itself would be connected by a single vehicular access point but two further pedestrian connections would be made to Watling Street to maximise permeability and shorten the distances over which residents would need to walk to nearby facilities.
32. My view is that the site is in a sustainable location and that future residents would have good access to a range of everyday facilities and services and a range of travel modes could be used to access destinations in the surrounding area. The improvements of the sustainable travel options in the vicinity of the site would also facilitate greater uptake of non-car modes. Therefore, considered overall, the proposal complies with the objectives of the Framework, in particular paragraphs 96, 108 and 109.

#### *Highway matters*

33. The appeal application was submitted with a Transport Assessment<sup>6</sup> which was subject to an addendum in May 2022<sup>7</sup> and a second addendum<sup>8</sup> in Oct 2022. Together these documents looked at the modelling of the proposed site access, dealt with the first response from Hertfordshire County Council as Local Highway Authority (LHA), accident data and modelling of Park Street Roundabout in the context of the trips that would be generated by the scheme of up to 95 dwellings. There is an access arrangement plan and given that access is a detailed matter, this has been the subject of a Swept Path Analysis<sup>9</sup>. In addition, a Traffic Impact Technical Note<sup>10</sup> was issued in September 2023 and a Road Safety Audit<sup>11</sup> and Designers Response<sup>12</sup> and Framework Travel Plan<sup>13</sup> were also prepared. Proofs of Evidence and Rebuttals on highways matters have also been submitted by the Appellant and R6P.
34. The trip generation models prepared using the TRICS modelling system details that around 51 total two-way movements would be generated in the AM peak period between 08:00 and 09:00 and 49 two-way movements in the PM peak between 17:00 and 18:00 with a total of 438 two-way movements across the

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<sup>6</sup> CD1.26

<sup>7</sup> CD2.13

<sup>8</sup> CD2.26

<sup>9</sup> CD2.4

<sup>10</sup> CD2.23

<sup>11</sup> CD2.24

<sup>12</sup> CD2.25

<sup>13</sup> CD1.20

day between 07:00 – 19:00. I have no reason to doubt the accuracy of the predicted trip numbers and nor do I find them unacceptable in relation to a development of up to 95 dwellings.

35. From the evidence of the R6P, there can be long queues of cars waiting to exit onto the Park Street Roundabout and pictures of such were submitted. It is asserted that the modelling data supporting the satisfactory performance of the Park Street Roundabout with the development in situ is incorrect on the **basis that it doesn't reflect the typical experience of the road users, including those waiting to exit driveways onto Watling Street.**
36. The baseline data for the movements on the road network and roundabout was initially collected in November 2021, after the **COVID-19 Pandemic 'stay at home' period had ended.** This baseline has been scrutinised and subsequently adjusted upwards and alternatively compared with data from more recent Automatic Traffic Counts (ATC) to demonstrate its robustness. Taken together, I am satisfied that the evidence provides a relevant baseline from which to assess the impacts of the development.
37. Using the baseline data, a five-year post development scenario has been modelled, including the use of growth factors derived from TEMPRO. The overall performance of the Park Street roundabout is considered to be close to capacity in the evening peak period in the 2021 base year for the A414 East and A5183 arms, with a Ratio Flow Capacity (RFC) at 0.9 and 0.88 respectively. The future year scenario for 2026 using TEMPRO modelling to factor in growth shows the A414 East and A5183 arms operating closer still to capacity in the evening peak than the baseline year, with RFCs at 0.94 and 0.96 respectively. However, this is a relatively modest impact on those junction arms which factor in the development.
38. The junction modelling has not been validated through further geometric adjustments to ensure replication of the longer queue lengths which can be experienced at the Park Street roundabout. However, the LHA are of the view that the material changes to the area of Park Street and combination of proposed active travel arrangements would not affect the findings about the junction still operating satisfactorily. My view is also that there is sufficient information on which to be satisfied that whilst there would be a modest impact from the development, that it would not be the tipping point to the junction operating above its capacity or resulting in any materially harmful effect on highway safety.

#### *Other Committed developments*

39. The R6P has indicated that the approved Strategic Freight Rail Interchange (SFRI) will have a significant effect on road and junction capacity in the local area. However, the SFRI will also deliver its own additional significant transport infrastructure to direct traffic to the strategic road network and related changes on the existing local road network. The scale of the SFRI and its related highway changes materially differ from the proposal, however, my view is that, insofar as it is relevant, the interaction of the two developments would not lead to a severe residual cumulative impact on the surrounding road network.

### *Junction arrangement*

40. I have considered the various iterations of the proposed junction arrangement, its position and the relevant road width and topography on Watling Road. A simple T-junction arrangement with visibility splays of 4.5m x 90m in both directions is proposed. I have considered the submitted Swept Path Analysis Plan which, by requirement of planning condition, would need to be updated to ensure that the detailed junction arrangement can cater for a refuse vehicle for approximately 1 metre longer than the approximate 9.93m-10m vehicle than has been provided for. I am of the view that the junction arrangement, and any minor refinement of the same, can be accommodated so as to provide a safe access and egress from the site from Watling Street for all vehicles and without harm to other road users.

### *Overall conclusion*

41. The LHA did not object to the development. Whilst the R6P opines that the LHA rarely object to developments on highway grounds and that its assessments of like schemes can be inconsistent, as a statutory consultee on the matter, I attribute its response great weight. On a subsequent visit I experienced two way traffic through Park Street, typical wait times at Park Street Roundabout and related queue lengths and this did not alter my view that the development would not compromise the safety or efficiency of the local highway network, based on either its existing arrangement and capacity or when future changes and committed developments alter the highway context.
42. The Park Street roundabout is not identified as a local junction or pinch point of significance in Policy S11 of the SSPNP. As such, and given my views above, there would be no conflict with Policy S11 of the SSPNP. Furthermore, I do not consider that the proposal would have an unacceptable impact on highway safety or result in severe residual cumulative impacts on the road network such as to conflict with paragraph 115 of the Framework.

### *Landscape and visual effects*

43. The appeal application was submitted with a Landscape and Visual Impact Assessment<sup>14</sup> and a Landscape and Visual and Green Belt Proof of Evidence was submitted with the appeal.
44. The site is within the Northern Thames Basin National Character Area<sup>15</sup> and, more locally specific, St Stephens Plateau Landscape Character Area<sup>16</sup>. In terms of effects on landscape features and character, the greatest effect will be on the current land use of the site as an arable field. It is an arable field of which there are many in the wider character areas, but I do not wholly agree that it is unremarkable, and the Framework gives recognition to the intrinsic character and beauty of the countryside. In my view, the effects would be of a substantially adverse nature. Other characteristics of the site would not be affected to such a great degree but taken together, the landscape character effects, including on the tranquillity experienced within the site would be of a moderate to substantially adverse nature.

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<sup>14</sup> CD1.22

<sup>15</sup> CD9.19

<sup>16</sup> CD9.20



45. **In terms of the visual effects, I found that, owing to the site's position and topography, the visual envelope of the site from public vantage points was relatively limited to views from Watling Street. Some viewpoints along Watling Street, including from a public bench on the eastern side, are relatively elevated, allowing fairly extensive views over the site and the countryside to which it adjoins.**
46. In views from Watling Street, I consider that the impact would be of a moderate to substantially adverse consequence for pedestrian users, and moderate for road users. I have reached this conclusion based on the value I attribute to the site, the topography, its containment and the context of the wider surroundings.
47. There are obviously private views from residences along Watling Street, Mount Drive and also from the limited number of dwellings in Old Orchard that are orientated to look over the site. To a lesser extent, the views from some residences in Tippendale Lane and Hawfield Gardens would also be affected. Some of these views would change as a result of the development. However, these are private views which the planning system does not exist to protect. The siting and intended scale of the development would not give rise to any overbearing effects on the living conditions of residents within the properties that would have an altered outlook.
48. The visual effects of the proposal could be partly mitigated through appropriate treatment along the Watling Street edge, and through strengthening the boundary planting around the site, and in particular to the west. The future scale, massing and appearance of the scheme, including any open space provision, will also play a role in the visual integration of the scheme with its surroundings. The approach to some of these aspects has been detailed in the indicative Parameters Plan<sup>17</sup> that has been submitted with the appeal.
49. Drawing all of these aspects together, the landscape character and visual effects would be moderate to substantial in terms of significance and would be of an adverse, rather than positive nature. By virtue of the scale of the site and limited visual envelope, the effects would be of a localised nature. Nonetheless, this localised landscape character and visual harm would bring the scheme into conflict with Policies S1, S3 and S6 of the SSPNP and the Framework and are factored into the other harms in the planning balance below.

### *Social housing*

50. The evidence of the level of affordable housing need presented by the appellant was undisputed and shows 641 households on the housing register and 776 households wishing to purchase an affordable home as at March 2023. The data presented also shows relatively high levels of homeless and households in temporary accommodation, a worsening picture of affordability and recent trends highlighting that only around 56 affordable homes have been built per year on average since between 2013/14 and 2022/23. The consequence of poor delivery is that, since the 2016 Strategic Housing Market Assessment, a deficit of over 5,000 affordable homes has accrued.

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<sup>17</sup> CD2.5 (Rev F)

51. The proposal seeks to provide 40% affordable housing (up to 36 dwellings) in the form of 30% social rented units, 30% affordable rent units, 25% First Homes and 15% other affordable routes to home ownership. The precise mix of unit sizes and locations of the various tenures would be secured by way of an affordable housing scheme required by the planning obligation to ensure best fit with the prevailing affordable housing needs at the relevant time.
52. The initial concern of the R6P was that the scheme would not secure sufficient social rent houses as part of the affordable housing mix. The 30% proportion of social rent housing included within the unilateral undertaking largely resolved these concerns. The residual concern about the appeal site not being an appropriate location for affordable housing, as distinct from market housing, is not supported by any cogent evidence.
53. In view of the above, the proposal would deliver affordable housing to meet an identified need, including an adequate provision of social housing. Accordingly, the proposal is generally consistent with Policy 1 of the SALPR which seeks to negotiate a proportion of affordable housing on schemes of at least 0.4 hectares or 15 dwellings and Policy S1 of the SSPNP also offers support to affordable housing and smaller units for younger people. The proposal to deliver affordable housing is also consistent with the Framework and the 40% overall provision and tenure mix also aligns with the expectations of draft Policy HOUS2 of the eLP. Whilst the proposal does not precisely comply with Policy 8 of the SALPR, that Policy is clearly out of date and does not attract more than limited weight.

#### *Protected species*

54. The appeal application was submitted with a Preliminary Ecological Appraisal and subsequent report (2021), a Badger Walkover Survey (2022) and Biodiversity Net Gain Assessment (BNG) (which was subsequently varied).
55. The Badger Walkover Surveys concluded that there was evidence of badger activity within both the appeal site and the land to the south. The land to the south which sits between the residential estate, Old Orchard, and the appeal site, exists as an overgrown area of scrubland and is referred to as a **'wildlife reserve'** by the R6P but has no formal status or protection. Its future role as such is entirely dependent on its owners' wishes in this regard. The dense scrub on the **'wildlife reserve'** meant that not all areas could be fully searched to entirely exclude the presence of badger setts, though none were **anticipated. Through the professional ecologist's experience, the badger** activity identified through various means is considered to be linked with the known active badger sett located approximately 50m to the west of the site.
56. In any event, the land to the south would not be directly affected by the proposal: a walkover survey would be undertaken prior to commencement of works, protection measures would be in place throughout the construction phase and precautionary measures would be incorporated into the design of the scheme by way of conditions and reserved matters applications to create additional foraging habitat and provide protection from light, human activities and dogs.
57. My view is that the evidence points to probable indirect effects on land used as badger foraging. In the absence of conclusive proof that a badger sett exists on the adjacent land, the precautionary approach of designing in a buffer strip

of foraging land and hedgerow, is acceptable. The additional requirements of conditions to ensure a walkover survey is undertaken and installation of protection measures prior to commencement of development will avoid direct impacts.

58. Absent of any conclusive evidence that a sett or setts exist and given that the wildlife reserve has no formal status or future protections as such, I do not consider that enhanced precautionary measures as suggested by the R6P would be reasonable or necessary.
59. For the above reasons, I do not consider that the proposal would harm protected species and would not conflict with Policy S7 of the SSPNP or the objectives of the Framework.

#### *Agricultural land*

60. The site extends to around 4.3 hectares and around 0.67 hectares of that is considered to be Grade 3a BMV agricultural land, i.e. around 15%, with the remainder falling into Grade 3b. It has been predominantly used for the production of crops in conjunction with neighbouring land parcels which together are alleged to exceed over 18 hectares in area. The loss of the appeal site would not affect access to or use of the remainder of the agricultural land.
61. I have considered the evidence on the differences between the quality of Grade 3a and 3b land and in the costs of producing crops from either variety. I walked around the site and noted the relatively high stone content across its entirety but accept that is a relatively limited analysis of the agronomic conditions. Nonetheless, the site has evidently been put to productive arable use and the loss of 0.67 hectares of BMV and the remaining agricultural land would amount to a degree of harm. However, considered in the round with the inevitable need to release agricultural land to development in certain locations to meet the current and future housing needs, I do not consider that the effects of the proposal on agricultural land are inconsistent with the Framework which requires that recognition be given to the economic and other benefits of the best and most versatile agricultural land and nor do I envisage any food security issues would result from the loss of the site.

#### *Self-build and Custom-build homes*

62. The proposal includes a provision of 5% of plots for self-build and custom-build housing. The Local Plan does not have a policy that explicitly deal with self-build housing though the eLP includes a draft policy to secure self and custom build housing plots with which the proposal would align.
63. **The Council's Annual Monitoring Report of 2023**<sup>18</sup> indicates that the total number of applicants on the register between 2016 to 2023 was 802, with the number of permissions granted for self build plots in the same period totalling only 197. This indicates that, whilst a modest number of plots overall, there is sufficient demand for self-build in the district which the proposal would assist in meeting.
64. Though the R6P suggest that said applicants would be unlikely to still require plots now and that the process of registration has changed to require a fee,

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<sup>18</sup> CD9.8

this does not indicate to me that there would be insufficient demand for the modest number of self or custom build plots proposed.

#### Other Matters

65. Many objections were raised by local residents, many of which are addressed in the decision above.
66. The R6P, and others, highlighted concerns about air quality. However, the site is not within an Air Quality Management Area (AQMA) and the nearest declared AQMA is in excess of 1.6km to the south of the site, adjacent to the M25. No concerns were raised in respect **of air quality by the Council's** Environmental Health Officer in relation to either the absence of an air quality assessment or the anticipated effect from the development. I find no cogent evidence to reach an alternative conclusion in this regard and do not consider that the proposal would materially harm public health due to an increase in air pollution.
67. A concern has been raised that the proposal is contrary to the **Council's and** wider national climate crisis aspirations, although no cogent evidence has been submitted to explain how or why this would be so. My view is that the development would not undermine any efforts in this regard given that the site is sustainably located.
68. My attention has been drawn to the dismissed appeal<sup>19</sup> on neighbouring land dating back to 2015. There are evident differences between the scales of the proposals and policy contexts such that this scheme should be treated on its own merits and any grant of planning permission would not automatically set a precedent for further development on other greenfield sites.
69. Whilst a number of concerns have been raised in respect of design, overshadowing, loss of light and overlooking, these matters fall to be considered in detail at the reserved matters stage. The potential effects from light pollution can be controlled by a planning condition and there would be no issues of noise pollution as the proposal is for a residential development, similar in nature to existing development surrounding the site and elsewhere in Park Street. For these reasons, I do not envisage that there would be harmful effects on the living conditions of residents at the neighbouring Gypsy and Traveller site.
70. The potential for security issues to arise as a result of the development appear unfounded. Whilst the disruption from the construction phase has been raised as a concern, these effects would be temporary in nature and such effects can be minimised by way of planning condition.
71. It has been suggested that the development would lead to a devaluation of local houses, though this is not a material consideration for me as part of this planning appeal. The loss of an area on which people walk their dogs is also not a matter for me given that the site is not publicly accessible open space.
72. A number of comments were also raised in connection with the prematurity of **the proposal in relation to the eLP process and that a new 'new town' will be** needed to address the housing shortfall. Given the scale and nature of the proposal, I do not consider that it would be premature in relation to the eLP or

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<sup>19</sup> CD8.9

that it would undermine any plans for a new settlement should that be a desired outcome of the plan-making process. Similarly, having regard to the role of the examination process<sup>20</sup>, I have not considered the range of alternative growth scenarios or potential combinations of sites most suited to receive allocations. Whilst I am aware that there is the potential for objections on the inclusion of the site to be made under the Regulation 19 consultation process, the remit of this appeal is to consider the proposal on its own merits and not to determine the outcome of the plan-making process.

73. **It has been suggested that the site's biodiversity value has been underplayed** and that a greater diversity of species has been seen using the site. I have no cogent evidence to indicate that either the BNG baseline or post-development BNG calculations are incorrect, and these aspects could be addressed by way of conditions and the planning obligation in any event.
74. It has been suggested that future residents would be closer to the disruption from harvesting activities and the shooting of pests which occurs frequently on adjoining farmland. The harvesting activities are infrequent and typically short in duration and shooting practices will still need to be undertaken with due regard to the proximity of neighbouring occupiers and the potential for noise nuisance. I do not envisage material harm to the living conditions of future occupiers that is not otherwise capable of remedy through other legislation.

#### Planning Obligation

75. The Framework, in paragraph 55, directs that consideration should be given as to whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning obligations must only be sought where they meet the tests set out in the Framework, also contained in Regulation 122 of the Community Infrastructure Levy Regulations **2010, as amended (the 'CIL Regulations')**. **A CIL Compliance Statement** has been submitted by the Council, also covering contributions requested by Hertfordshire County Council.
76. The UU provides for 40% affordable housing and 5% self / custom build plots with related eligibility and occupation clauses. The provisions in relation to such are necessary to make the development acceptable in planning terms.
77. Whilst the delivery of BNG is not mandatory for the scheme given the date of its submission, the benefit of delivering BNG is capable of attracting weight in favour of the development and the provisions relating to such in the UU are therefore necessary.
78. The UU also makes provision in respect of the following contributions to be paid to Hertfordshire County Council:
- Library contribution;
  - Secondary education contribution;
  - Sustainable transport contribution;
  - Travel plan provisions and a related Travel Plan Evaluation and Support Contribution;
  - Waste contribution; and

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<sup>20</sup> Including with reference to the *Sustainability Appraisal (SA) of the St Albans Local Plan* (September 2024)

- Youth contribution.
79. The method of calculation of all of the above contributions is detailed in the CIL Compliance Schedule and there are multipliers for all of the contributions in Schedule 7, Table 1 of the UU which either based on the final number of dwellings and/or their respective tenures and size by bedroom numbers. The CIL Compliance Statement also sets out the justification for each of the contributions and the UU satisfactorily defines the specific purpose/s to which they shall be put in relation to such. I am satisfied that each of the contributions is necessary to make the development acceptable in planning terms.
80. The UU also makes provision for a contribution of £25,009 towards additional health services provided by the East of England Ambulance Service Trust and a separate NHS contribution of £122,740 towards extending and/or increasing the capacity of Midway Surgery, Chiswell Green to accommodate patient population increase. Whilst I have sufficient evidence of the need and purpose of these contributions, and numerous local residents cite issues with the limited capacity of the Surgery, they are for fixed amounts in the UU rather than based on a multiplier per dwelling. Therefore, my view is that the contribution is related in scale to the development on the basis that the final scheme will comprise the maximum number of dwellings proposed, i.e. 95 units.
81. The UU also contains obligations in relation to the provision and future maintenance of the on site public open space which is necessary to make the development acceptable in planning terms.
82. Lastly, the UU makes provision for a modest monitoring fee which is reasonable in scale in relation to the development and will resource the monitoring of the obligations.
83. Accordingly, all of the obligations contained within the UU are necessary to make the development acceptable in accordance with the provisions of Framework paragraph 55 and CIL Regulation 122.

#### Planning Balance

84. Whilst the site is outside of any identified areas for development in the current adopted development plan, the compliance or otherwise therewith depends on whether very special circumstances are considered to exist to justify development in the Green Belt.
85. There would be definitional harm to the Green Belt and harm to openness in conflict with two of the five Green Belt purposes. As required by the Framework, I attribute substantial weight to the totality of Green Belt harm.
86. The additional harm that would be caused by the development in addition to the Green Belt harms is the moderate to substantially adverse landscape character and visual harms and loss of agricultural land, as described above.
87. The other considerations in this case include the agreed position between the **main parties that a 1.7 year's supply of housing exists against the requirement of at least 4 years' worth**. This is a significant shortfall. The scheme would deliver up to 95 dwellings to help reduce the deficit and would not undermine the ability of the Council to adopt a plan-led approach to addressing the

remainder of the shortfall or other Plan requirement. The contribution of the scheme to helping resolve the undersupply is a benefit of substantial weight in favour of the scheme. The weight to be attributed to this benefit is not diminished by the outline nature of the scheme as there are no obvious impediments to its delivery even if reserved matters applications and conditions discharge processes would be necessary.

88. The scheme would deliver 40% of the units as affordable housing of an acceptable tenure mix in an area where there is also an identified shortage of such. This aspect also attracts substantial weight in favour of the scheme. I also attribute modest weight to the delivery of self and custom build housing plots which would help to deliver against the identified need and meet the **Council's statutory duties in this regard.**
89. The avoidance of other harms or conflicts with relevant policies is neither a factor weighing for or against the scheme. Similarly, where conditions or planning obligations are capable of offsetting any other impacts of the development, these are not capturing any particular benefits that weigh in the **scheme's favour.**
90. However, modest weight can also be attributed towards the delivery of biodiversity net gain and realisation of economic benefits from the construction phase, despite the alleged adequate levels of employment in the area. The sustainability of the site also weighs in its favour, as are some of the aspects which would improve access for existing residents to use public transport and walk and cycle around the area.
91. Taking all of these factors together, it is my planning judgement that the Green Belt harms and other harm resulting from the proposal would be clearly outweighed by the other identified considerations such as to justify a grant of permission. As I have found that very special circumstances exist in this case, the development accords with the development plan, when considered as a whole. Even if a conflict existed, this would be outweighed in any event such as to indicate that planning permission should be granted.

#### Conditions

92. I have reviewed the suggested conditions in light of the tests in the Framework and advice in the Planning Practice Guidance (PPG). The standard outline conditions are necessary to clarify the reserved matters and the timescales for submission of applications related thereto. Conditions are also necessary to clarify the timescale for commencement of the development and the approved plans in the interests of certainty.
93. Conditions are needed to secure details of the housing mix and of site and slab levels as part of the reserved matters applications in the interests of certainty.
94. To ensure the preservation of any archaeological artefacts, a condition is necessary to secure the necessary investigative work as part of the construction phase.
95. In the interests of the character and appearance of the area, a condition is necessary to require detailed planting plans for the western site boundary. For similar reasons, a condition is necessary to protect trees adjoining the site throughout the construction phase.

96. In the interests of environmental protection, conditions are required to seek the approval of a site waste management plan and a construction environmental management plan.
97. For reasons of both the appearance of the scheme and its ecological value, conditions are required for the landscaping scheme and the landscape and ecological management plan.
98. Conditions are also necessary to secure appropriate highways infrastructure, including internal estate roads, a suitable access with Watling Street, off-site highway improvements, including pedestrian connections, cycle parking and swept path analyses. For highway impact related reasons, the construction phase traffic shall be detailed in a management plan required by condition.
99. As there a number of water mains owned by a statutory undertaker beneath the site, conditions are required to ensure that excavation works are undertaken whilst protecting these assets.
100. In the interests of human health, any unidentified contamination discovered during construction works shall be addressed by way of planning condition. For similar reasons, investigations and remediation, if necessary, are required to address any land and ground gas contamination.
101. To ensure the management of flood risks and the effects of surface water flooding, a condition is necessary to secure details of and the implementation of a sustainable urban drainage scheme.
102. A condition is required to ensure the installation of fire hydrants unless details are provided in any future reserved matters application that such are not needed. This condition is necessary in the interests of the safety of future occupiers.
103. To protect the living conditions of future occupiers, noise assessments are required to ensure adherence to minimum standards of noise insulation within relevant rooms of dwellings.
104. Lastly, to ensure that future occupiers are provided with appropriate communication infrastructure, a condition is necessary to ensure that superfast broadband is secured for the scheme or that appropriate ducting is provided for it for a future connection. This is a requirement of Policy S24 of the SSPNP.

#### Conclusion

105. For the reasons given above, the appeal should be allowed.

*H Nicholls*

INSPECTOR



## APPEARANCES

For the Appellant:	
Zack Simons, Counsel	Instructed by Matthew Hill, Maddox and Associates Ltd
Assisted by Joel Semakula, Counsel	
He called	
Claudia Currie BSc MSc PGDip CTPP CEng FCIHT FICE FCILT	Associate Director of Transport, AtkinsRealis
Mr Matthew Hill MPLAN MRTPI	Planning Director, Maddox and Associates Limited
Mr Ian Dudley BSc (Hons) MICFor CEnv CMLI	Principal of Landscape Architecture, Nicholson
Mr Martin Aust BSc (Hons) DMS MRICS CMCIH	Pathfinder Development Consultants
For the Rule 6 Party:	
Mr Paul King	<b>Of 'Green Belt'</b>
He called	
Mr Paul King	Housing witness
Mr David Yates	Green Belt / landscape witness
Nuala Webb	Highways/transport witness
Terrie Smith	Sustainability witness
For the Council:	
Luke Wilcox, Counsel	Instructed by St Albans City and District Council
Mr Lee Stannard MPlan MRTPI	Deputy Planning Team Leader, St Albans City and District Council
Mr Alex Gillot DipLGPC DipLP LLB	Senior Associate, VWV Law
Interested parties:	
Miss Kit Heath	Local resident
Mr Henry Parkinson	Local resident
Mrs Joy Mendelsohn	Chair of Park Street Residents Association
Mr Howard Gray	Local resident
Mrs Linda Payne	Local resident
Dr Nicola Winch	Local resident
Mrs Amanda King	Local resident
Dr David Johnson	Local resident
Mr Rory Dakin	Local resident
Mr Benedict King	Solicitor on behalf of Hertfordshire County Council
Ms Rosemary Chatindo	Highways Development Management Officer, Hertfordshire County Council

DOCUMENTS:

ID1	<b>Appellant's opening statement and appearance list</b>
ID2	<b>Council's opening statement</b>
ID3	R6P opening statement
ID4	RP6 appearances
ID5	Agreed site visit route
ID6	Cost application from appellant
ID7	Updated draft UU clean
ID8	<b>Council's costs response</b>
ID9	<b>Appellant's final costs response</b>
ID10	Letter from Mr Hill in connection with ID12 and ID13
ID11	Committee Report in connection with ID12
ID12	Draft Reg19 Local Plan
ID13	R6P closings
ID14	Council closings
ID15	Appellant closings
ID16	R6P Summary Note
ID17	Completed unilateral undertaking
ID18	Email from R6P referring to eLP Sustainability Appraisal
ID19	Response from appellant re ID18

## 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 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.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plans: 82-01 C, PP-01 F, 5153233-ATK-GEN-PRKST-DR-C-000001 Rev P1.6.
- 5) Details shall be submitted as part of an application seeking approval of scale at reserved matters stage showing existing land levels and proposed slab levels for each proposed dwelling/building.
- 6) Full details of the proposed housing mix, including a breakdown of unit sizes and tenure, should be submitted as part of application(s) for reserved matters approval as required by Condition 1.
- 7) No development-related works shall take place within the site until a written scheme of archaeological work (WSI) has been submitted to and approved in writing by the Local Planning Authority. This scheme shall include a programme of initial trial trenching followed if required by open area excavation, followed by off-site work such as the analysis, publication, and archiving of the results, together with a timetable for completion of each element. All works shall be carried out and completed in accordance with the approved scheme, unless otherwise agreed in writing by the Local Planning Authority. This must be carried out by a professional archaeological consultant or organisation in accordance with the agreed written scheme of investigation.
- 8) Following the completion of the fieldwork and if needed the post-excavation assessment in Condition 7, appropriate resources will be agreed with the Local Planning Authority for the post-excavation project generated by the archaeological WSI in Condition 7. This will include all necessary works up to and including an appropriate publication and archiving and will include an agreed timetable and location for that publication.
- 9) As part of applications seeking approval of landscaping and layout at reserved matters stage, detailed planting plans shall be submitted in relation to additional tree planting along the western site boundary.
- 10) This permission does not extend to destroy, fell, lop or top the existing trees which are inside or outside the application site and which have been shown to be retained. These trees shall be protected during the implementation of the development in accordance with the recommendations set out in BS 5837 and any supplementary protection requested by the Local Planning Authority. Before excavation can

commence, drawings shall be submitted to the Local Planning Authority giving details of the method of excavation, type of foundation proposed for the buildings and indicating how the roots of these trees shall be protected. No construction works shall commence until such drawings have been approved in writing by the Local Planning Authority.

- 11) No development shall take place until a Site Waste Management Plan (SWMP) for the site has been submitted to and approved in writing by the Local Planning Authority. The SWMP should aim to reduce the amount of waste being produced on site and should contain information including estimated and actual types and amounts of waste removed from the site and where that waste is being taken to. The development shall be carried out in accordance with the approved SWMP.
- 12) A Construction and Environment Management Plan (CEMP) shall be submitted as part of application(s) for reserved matters approval, as required by Condition 1. The CEMP will need to formalise the proposals set out within the Preliminary Ecological Appraisal in respect of the practicalities of undertaking any works in the context of safeguarding biodiversity. A site walkover survey should also be provided as part of the CEMP.
- 13) A Landscape and Ecological Management Plan (LEMP) shall 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) Details of habitats retained and created;
  - c) Maintenance of habitat/feature creation measures in the long term (30 years) and those responsible for implementation, delivery and management;
  - d) Lighting strategy (detailing how the ecological impact of light pollution will be minimised);
  - e) Details of monitoring and potential mechanism for remedial measures to ensure habitat expectations are met.
  - f) Details (type and location) of integrated bat boxes and bird (swift) boxes to be included in the proposal;
  - g) Details of hedgehog highways between gardens;
  - h) Details of reptile hibernacula or other ecological features proposed within the site;
  - i) Details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured;

The LEMP should cover all landscape areas within the site, other than small privately owned domestic gardens, unless specifically required in any of the criteria listed above.
- 14) No development shall commence until full details (in the form of scaled plans and / or written specifications) have been submitted to and approved in writing by the Local Planning Authority to illustrate the following on-site arrangements: i) roads, foot/cycleways; ii) foul and surface water drainage; iii) visibility splays; iv) access arrangements; v)

- parking provision in accordance with adopted standard; vi) loading areas; vii) turning areas.
- 15) Prior to the first occupation of the development hereby permitted the vehicular access shall be provided and thereafter retained at the position shown on the approved plan drawing number Drawing No.5153233-ATK-GEN-PRKST-DR-C-000001\_P1.6. Prior to the first use of the development hereby permitted arrangement shall be made for surface water to be intercepted and disposed of separately so that it does not discharge onto the highway carriageway.
- 16) (Part A) Notwithstanding the details indicated on the submitted drawings no on-site works above slab level shall commence until a detailed scheme for the offsite highway improvement works has been submitted to and approved in writing by the Local Planning Authority. This should include the provision of a Road Safety Audit. For the avoidance of doubt the obligations to provide all offsite works are to be contained within highways land only and include, but are not limited to: -
- o A toucan or tiger parallel crossing to the north of the proposed site access junction;
  - o Upgrading of footway on the eastern side of Watling Street from the proposed toucan or tiger parallel crossing to connect with the existing segregated footway / cycleway at Park Street Roundabout leading to St Albans;
  - o Upgrading of the footway along the frontage of the site to a segregated footway / cycleway on the western side of Watling Street between the proposed toucan or tiger parallel crossing and using reasonable endeavours to upgrade the surface of the footway that links with Park Street Station; and
  - o Upgrading of the bus stops located on both sides of Watling Street to the north of the site to provide shelter, seating, real time passenger information and kassel kerbs.
- (Part B) No dwellings within the scheme hereby permitted shall be occupied until the offsite highway improvement works referred to in Part A of this condition have been completed in accordance with the approved details; unless an alternative timeframe has been otherwise agreed in writing with the Local Planning Authority.
- 17) No works shall commence until detailed design drawings and a scheme outlining timescales for delivery are submitted and approved in writing by the Local Planning Authority that show the provision of the two active travel accesses, being:
- a) North of the Site to Watling Street: -  
This access point will provide a direct link from the site to the proposed toucan or tiger parallel crossing on Watling Street;
  - b) Centre of the site to Watling Street:  
This access point will provide a direct link from the site to the cycleway beside Watling Street towards Park Street Station

The accesses stated above must be completed and available for use in accordance with the approved design details and the scheme outlining timescales for delivery.

- 18) Prior to the first occupation of the development hereby permitted a scheme for the parking of cycles including details of the design, level and siting of the proposed parking shall be submitted to and approved in writing by the Local Planning Authority. The scheme must be designed in line with the cycle parking standards contained in the DfT's Cycle Infrastructure Design LTN1/20. The scheme shall also outline a timescale for delivery of the aforementioned requirements. Development shall thereafter proceed in accordance with the approved scheme, and the cycle parking provision shall be retained in perpetuity for this purpose.
- 19) No development shall commence until vehicle swept path movements plans are provided for the following:
  - a. a large car accessing all car parking spaces allotted to both housing and visitor parking bays;
  - b. a fire tender vehicle accessing the site in a forward gear to all properties within the boundary of the internal road layout (once detailed under Condition 14); and
  - c. a refuse vehicle accessing all properties and being able to safely and within a legal distance of residents bin collection points for a vehicle of dimensions L:10.875m x W:2.5m.
- 20) No development shall 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 shall only be carried out in accordance with the approved Plan. The Construction Management Plan / Statement shall include details of:
  - a. Construction vehicle numbers, type, routing;
  - b. Access arrangements to the site;
  - 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.

- 21) 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 in conjunction with Affinity Water:
- i) 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.
  - ii) A Risk Assessment identifying both the aquifer and the abstraction point(s) as potential receptor(s) of contamination.
  - iii) A Method Statement detailing the depth and type of excavations (e.g. piling) to be undertaken including mitigation measures (e.g. appropriate piling design, off site monitoring boreholes etc.) to prevent and/or minimise any potential migration of pollutants to public water supply. Any excavations must be undertaken in accordance with the terms of the approved method statement.
- 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.
- 22) If, during development, contamination not previously identified is found to be present at the site, then no further development shall be carried out until a Remediation Strategy detailing how this contamination will be dealt with has been submitted to and approved in writing by the Local Planning Authority in conjunction with Affinity Water. The remediation strategy shall be implemented as approved with a robust pre and post monitoring plan to determine its effectiveness.
- 23) A site investigation shall be carried out by a competent person to fully and effectively characterise the nature and extent of any land and ground gas contamination and provide information for a detailed assessment of the risk to all receptors that may be affected. The site investigation shall comply with BS10175:2011+A2:2017 Investigation of potentially contaminated sites - Code of practice. Copies of the interpretative report shall be submitted to the LPA without delay upon completion.
- 24) The results of the site investigation and the detailed risk assessment referred to in Condition 23, shall be used to prepare an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken. The options appraisal and remediation strategy shall be agreed in writing with the LPA prior to commencement and all requirements shall be implemented and completed to the satisfaction of the LPA by a competent person.
- 25) A verification report demonstrating completion of the works set out in the remediation strategy in Condition 24 and the effectiveness of the remediation shall be submitted in writing and approved by the LPA. The report shall include results of validation sampling and monitoring carried out in accordance with an approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include any plan for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan.

The long-term monitoring and maintenance plan shall be implemented as approved.

- 26) No development shall be commenced until details of the surface water drainage scheme, based on sustainable drainage principles together with a programme of implementation and maintenance for the lifetime of the development, have been submitted to and approved in writing by the Local Planning Authority, which must include the following:
- a. A fully detailed surface water drainage scheme has been submitted. The scheme shall include the utilisation of contemporary and appropriate sustainable drainage (SuDS) techniques, with reference to the 'Watling Street, Park Street Drainage Strategy' by Hydrock and dated 13th October 2022.
  - b. Accompanying hydraulic modelling calculations for the entire surface water drainage scheme should be submitted and approved. These detailed calculations should demonstrate that both the site and surrounding area will not flood from surface water as a result of the development for a full range of return periods and durations for summer and winter storm events, up to the 1 in 100 year return period event including the correct allowance for climate change.
  - c. The maximum permissible flow controlled discharge rate shall no more than 2l/s for all events up to and including the 1 in 100 year return period event plus the correct allowance for climate change, as currently agreed in principle with Thames Water. This 'in principle' discharge agreement must be formally confirmed in writing with Thames Water and submitted in support of this condition, which shall also include full details of the point of connection, including cover and invert level(s).
  - d. Submission of final detailed drainage layout plan(s) including the location and provided volumes of all storage and sustainable drainage (SuDS) features, pipe runs, invert levels and discharge points. If there are areas to be designated for informal flooding these should also be shown on a detailed site plan. The volume, size, inlet and outlet features, long-sections and cross sections of the proposed storage and SuDS features should also be provided.
  - e. The surface water drainage plan(s) should include hydraulic modelling pipe label numbers that correspond with the hydraulic modelling calculations submitted, to allow for accurate cross-checking and review.
  - f. If any infiltration drainage is proposed on the final drainage layout, this should be supported with appropriate infiltration testing carried out to the BRE Digest 365 Soakaway Design standard. This would also require confirmation of groundwater levels to demonstrate that the invert level of any soakaways or unlined attenuation features can be located a minimum of 1m above maximum groundwater levels.
  - g. A detailed assessment of the proposed SuDS treatment train and water quality management stages, for all surface water runoff from the entire development site. The inclusion of suitable proprietary surface water treatment devices on the proposed drainage infrastructure as part of the treatment train is acceptable.



h. The provision of a detailed plan showing the management of exceedance flow paths for surface water for events greater than the 1 in 100 year return period plus climate change event.

i. A construction management plan to address all surface water runoff and any flooding issues during the construction stage is submitted and approved.

j. If access or works to third party land is required, confirmation that an agreement has been made with the necessary landowners/consenting authorities to cross third party land and/or make a connection to a proposed sewer chamber location.

k. A detailed management and maintenance plan for the lifetime of the development has been submitted and approved, which shall include the arrangements for adoption by an appropriate public body or water company, management company or maintenance by a Residents' Management Company and/or any other arrangements to secure the operation and maintenance to an approved standard and working condition throughout the lifetime of the development.

27) Unless it can be demonstrated to the satisfaction of the Local Planning Authority that there is no requirement for fire hydrants to serve the development hereby permitted, no above ground works shall take place until a scheme for the provision of fire hydrants has been submitted to and approved in writing by the Local Planning Authority. None of the dwellings hereby permitted shall be occupied until the approved scheme has been fully provided at the site.

28) Before the use commences a noise assessment should be carried out in accordance with BS8233: 2014 Guidance on sound insulation and noise reduction for buildings to establish the potential impact of noise from road traffic, aircraft, railways, industry, construction etc. on the proposed development. The noise assessment shall be submitted to and approved in writing prior to the first occupation of the dwellings hereby permitted.

Sound insulation measures shall be incorporated into the design of the proposed development so that the indoor ambient noise criteria described in BS8233:2014 are achieved within all habitable rooms.

In general, for steady external noise sources, it is desirable that the internal ambient noise level does not exceed the guideline values in the table below:

Internal ambient noise levels for dwellings:

Activity	Location	0700 to 2300	2300 to 0700
Resting	Living Room	35 dB Laeq, 16 hour	
Dining	Dining room/area	40 dB Laeq, 16 hour	
Sleeping	Sleeping (daytime resting)	35 dB Laeq, 16 hour	30 dB Laeq, 8 hour

The levels shown in the above table are based on the existing guidelines issued by the World Health Organisation.

The LA<sub>max,f</sub> for nighttime noise in bedrooms should be below 45dBA; this is not included in the 2014 standard but note 4 allows an LA<sub>max,f</sub> to be set. 45dBA and over is recognised by the World Health Organisation to be noise that is likely to cause disturbance to sleep.

- 29) The units hereby approved shall not be occupied unless details of the levels of noise and vibration in each of the dwellings' living rooms and bedrooms and within the external amenity space (post completion of the building works) have been submitted to and approved in writing by the Local Planning Authority in the form of an acoustic report demonstrating that "reasonable" resting levels of noise attenuation have been achieved in accordance with standards set out within BS8233: 2014 Guidance on sound insulation and noise reduction for buildings.

If "reasonable" noise levels have not been achieved, the report will detail what additional measures will be undertaken to ensure that they are achieved. These additional measures shall be implemented prior to the occupation of the building in accordance with details so approved.

- 30) No development shall take place, other than works relating to access, until a submission has been made to the Local Planning Authority and is approved in writing, which demonstrates that either:
- a) the development hereby permitted can be served by a superfast broadband (fibre-optic) connection alongside confirmation that such a connection will be provided; or,
  - b) such a connection would not be either possible, practical or economically viable.

In the event of b) being demonstrated, sufficient and suitable ducting should be provided within the site and to the properties hereby permitted to facilitate ease of installation at a future date on an open access basis. Confirmation that such ducting will be provided within the scheme should be given when discharging this condition.

-----END OF SCHEDULE -----



## Costs Decision

Inquiry held on 10, 11, 12, 13 & (virtually) 18 September 2024

Site visits made on 10 & 12 September 2024 and 6 November 2024

by H Nicholls FdA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7<sup>th</sup> November 2024

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Costs application in relation to Appeal Ref: APP/B1930/W/24/3343986  
Land Between Caravan Site and Watling Street, Park Street, St Albans

- The application is made under the Town and Country Planning Act 1990, sections 78, 320 and Schedule 6, and the Local Government Act 1972, section 250(5).
  - The application is made by Mr R Martin of M Scott Properties Ltd for a full award of costs against St Albans City and District Council.
  - The inquiry was in connection with an appeal against the refusal of planning permission for erection of up to 95 dwellings, including 40% affordable dwellings and 5% self-build and custom build dwellings, public open space, landscaping and associated infrastructure.
- 

### Decision

1. The application for an award of costs is allowed in the terms set out below.

The submissions for M Scott Properties Ltd

2. The costs application was submitted in writing.

The response by the Council

3. The response was made in writing.

### Reasons

4. Parties in planning appeals normally meet their own expenses. However, the Planning Practice Guidance (PPG) advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
5. The Council's **officer's** professional recommendation was for the appeal application to be approved, based in part on the inclusion of the site as a proposed allocation in its emerging plan in 2023.
6. The Planning Committee deferred to make a decision until it took advice about reasons for refusal. The further advice received was that a refusal should not be pursued, and that the recommendation remained one of approval. Despite the strength of advice, the Planning Committee voted to refuse the appeal application and the decision was issued on the 19<sup>th</sup> January 2024.
7. An appeal was lodged against the refusal of permission and was validated in May 2024. **The Council's Statement of Case, issued one month later, simply set out that it had resolved not to defend the appeal. A further elaboration of the process as to how and why that occurred was detailed in the Council's opening statement.**

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8. The Council does not contend the costs application to the extent that it relates to the evidence directly concerned with points in the reason for refusal, such as the principle of development in the Green Belt; coalescence; affordable housing provision; highway capacity and the planning balance. However, the Council resists the costs incurred by the appellant in relation to wider issues. The reason that the inquiry has considered wider issues is due to them being pursued by the Rule 6 Party, *Green Belt*.
  9. The matter that remains in dispute is therefore whether the costs award should cover the other issues raised by the Rule 6 Party. The additional matters that were covered through the exchange of oral evidence include the locational sustainability of the site and the landscape and visual impacts, but the issues of impacts on protected species, air quality and effects on agricultural land were also the subject of additional written evidence prior to the opening of the inquiry.
  10. I accept that had the Council not refused permission then the Rule 6 Party would not have had an opportunity to raise issues that had already been resolved to the satisfaction of the relevant officers and statutory consultees. However, the Council reviewed its position at the earliest opportunity in an attempt to minimise the wasted expense. Its position was sufficiently clear in advance of the case management conference of the 16 July. Had there been no grant of Rule 6 Status, then a more cost-efficient appeal process may have ensued. There was not an inevitability that the Rule 6 Party would involve itself in the process or that it would pursue the range of issues that it did.
  11. I therefore find that the additional costs incurred in addressing the substantive matters in this appeal have not been incurred **as a direct result of the Council's** unreasonable behaviour. As the PPG explains, the wasted or unnecessary expense must have been directly **caused by the other party's** conduct.
  12. For the reasons given above, unreasonable behaviour resulting in unnecessary or wasted expense has occurred and a partial award of costs is therefore warranted.

#### Costs Order

13. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that St Albans City and District Council shall pay to M Scott Properties Ltd, the costs of the appeal proceedings limited to those costs as described in paragraph 8; such costs to be assessed in the Senior Courts Costs Office if not agreed.
14. The applicant is now invited to submit to St Albans City and District Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

*H Nicholls*

INSPECTOR