



Appeal Decision

Inquiry held on 14 – 17 and 21 January 2025

Site visit made on 28 January 2025

by **Susan Heywood BSc (Hons) MCD MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 27th February 2025

Appeal Ref: APP/Q4625/W/24/3351230

Land At 722 Kenilworth Road and land adjacent to Harper Fields Care Home, Balsall Common, CV7 7SR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Generator (Balsall) Ltd and Minton Group against Solihull Metropolitan Borough Council.
 - The application Ref is PL/2021/01360/MAJFOT.
 - The development proposed is a hybrid application: full permission for 95 dwellings with associated access, parking and landscape; and outline application for 5 self-build plots, with access discharged.
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Decision

1. The appeal is allowed and planning permission is granted for the hybrid application: full permission for 95 dwellings with associated access, parking and landscape; and outline application for 5 self-build plots, with access discharged, on land at 722 Kenilworth Road and land adjacent to Harper Fields Care Home, Balsall Common, CV7 7SR in accordance with the terms of the application, Ref PL/2021/01360/MAJFOT, subject to the conditions in the attached schedule.

Procedural Matters and Main Issues

2. During the course of the appeal, the appellants increased the amount of on-site affordable housing proposed, with the effect that the original description of development (which referred to the lower number of affordable houses originally proposed) was incorrect. The parties agreed a new description for the development which I have used in the heading and decision above. The site plan and tenure plan were also updated accordingly.
3. I am satisfied that the change would not be fundamental or substantially different to the original description and that accepting the amended description and plans would not cause prejudice to any party. I have therefore determined the appeal having regard to these amendments.
4. The appeal is against the Council's non-determination of the application. Following the submission of the appeal the Council determined that it would have refused the application and it put forward evidence to justify the putative reasons for refusal.

5. During the course of the inquiry an agreement was reached between the parties regarding the mechanism to ensure that the appellants make an appropriate contribution to the Balsall Common Relief Road and Multi Modal Package (the Package). The Council is now satisfied that the submission of a planning obligation under Section 106 of the Town and Country Planning Act 1990 (S106) incorporating a contribution to the Package, and other infrastructure contributions, would overcome the highway objections and putative reason for refusal. I return to the S106 later in my decision.
6. Following this agreement, the Council confirmed its view that very special circumstances can be demonstrated for the development in the Green Belt. As such, it no longer wishes to defend the remaining putative reason for refusal.
7. Having regard to the above, there are now no main issues in dispute between the appellants and the Council. However, the appeal remains before me for consideration and interested parties have expressed concerns. My decision therefore addresses these matters.
8. Furthermore, the proposal involves development in the Green Belt, and I must consider it against local and national policy. Prior to the Government's publication of the revised National Planning Policy Framework (the Framework) in December 2024 the main parties agreed that the proposal would be inappropriate development in the Green Belt.
9. Following the publication of the revised Framework and the introduction of provisions relating to Grey Belt and 'Golden Rules', the appellants sought to argue that the development would not be inappropriate development as it would meet these requirements. In the alternative, if I were to find the development to be inappropriate, they argued that very special circumstances exist.
10. Following agreement between the Council and appellants the Joint Planning Position Statement¹ sets out the parties' views that very special circumstances exist to justify the development in the Green Belt. It is agreed between the parties that whether or not the site is Grey Belt does not need to be considered in this appeal. I see no reason to depart from this agreement.
11. It follows that the proposal would be inappropriate development in the Green Belt having regard to the Framework and I therefore address the following **main issues**:
 - The impact of the development on the openness and purposes of the Green Belt.
 - Its impact on the character and appearance of the area.
 - The transport implications of the development.
 - Whether any harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations so as to provide the necessary very special circumstances.

¹ CD14.11

Local Plan background

12. In October 2024 the Council withdrew the emerging Solihull Local Plan in response to the examining Inspectors' conclusion that there was a shortfall in housing land supply to meet the required need for homes in the Borough.
13. The emerging Local Plan had included a number of site allocations within Balsall Common (not including the appeal site) and planning applications have subsequently been submitted for a number of these sites. The Council set out in its Position Statement – October 2024 a framework for developing a new Local Plan and for assessing planning applications on these (and other previously allocated) sites in the meantime. The Local Development Scheme December 2024 puts the timeframe for the adoption of a new Local Plan at summer / autumn 2027.
14. The development plan therefore currently includes the Solihull Local Plan 2013 and the Balsall Parish Neighbourhood Development Plan (NDP) made on 17 June 2021.

Reasons

Green Belt openness and purposes

15. The appeal site lies to the south of the settlement of Balsall Common adjoining the A452 Kenilworth Road. It is bounded to the west and north west by the Harper Fields Care Home and the Albany Meadows Retirement Village. To the east and north east, on the opposite side of Kenilworth Road, there are dwellings on Meer Stones Road and Drovers Close. Open countryside lies to the south and along part of the northern boundary.
16. The majority of the site is currently open fields in use as paddocks for horses. To the north of Albany Lane, the site comprises a strip of land partly in open paddock use and partly encompassing the dwelling and curtilage of number 722 Kenilworth Road.
17. Following the development, the predominantly open land of the appeal site would largely be covered with buildings, hard surfacing, gardens and domestic curtilages. Vehicles, domestic paraphernalia and the general activity associated with a residential use would also be apparent on the site.
18. In considering the impact of the development on the openness of the Green Belt regard can be had to both visual and spatial elements. In this case, the predominant views of the site are localised and are gained from Albany Lane, which cuts across the site, Kenilworth Road and the footpath to the north of the site.
19. The open, green nature of the site is most readily apparent from Albany Lane and the loss of openness of the site would be most noticeable when travelling along this lane. When travelling north along Kenilworth Road towards Balsall Common, the site is visible across rising open land to the south of the site. The current view is of boundary hedges and trees and the open nature of the site allows views across the site to trees to the north. Existing vegetation and proposed landscaping along the southern boundary of the site would filter views of the proposed development, but it would nevertheless be visible on the approach to Balsall

- Common. The currently open nature of the site in views from the south would be lost.
20. From the footpath to the north of the site the green, open paddock to the north of Albany Lane sits in the foreground of the view. Due to the topography, views of the site to the south of Albany Lane are restricted from this location. The predominant view from this vantage point is of boundary trees and hedgerows with the development on Meer Stones Road also visible in the background. The open foreground views would be lost from this location and the development would enclose the currently open views across the site. Consequently, the development would result in a loss of openness of the Green Belt, in both visual and spatial terms.
 21. However, the site is a moderate size at around 4.2 hectares and is visually contained by the adjoining residential uses to the west, east and, to a lesser extent, the properties along Kenilworth Road to the north. I also note a further residential development site was allocated in the now withdrawn Local Plan for land to the east and south of Meer Stones Road.
 22. The proposed dwellings on the appeal site would be viewed in the context of this surrounding existing development when seen from the footpath to the north, the footpath to the south of Meer Stones Road and from the approach to Balsall Common from the south. These other developments would mitigate the impact of the development on the openness of the Green Belt and lead me to conclude that it would cause a limited degree of harm.
 23. In addition to the consideration of openness, the Framework sets out five Green Belt purposes. Those in dispute in this appeal are purpose (a) to check the unrestricted sprawl of large built-up areas, and (c) to assist in safeguarding the countryside from encroachment.
 24. The proposed development would not project further towards the south and into the open countryside than the existing surrounding development. Having regard to this existing site context, the appeal development would result in a natural 'rounding off' of the settlement. It would not therefore lead to the sprawl of a large built-up area, nor would it result in significant encroachment into the countryside.
 25. The Strategic Green Belt Assessment (SGBA) identifies the appeal site as Refined Parcel 58. The parcel scores highly (the maximum 3 points) for both purposes. However, the SGBA was produced prior to the construction of the Albany Meadows Retirement Village. This development to the west of the appeal site results in the site performing more moderately in terms of these two purposes, a fact recognised by the Council in their evidence to the examination into the now withdrawn Local Plan.²
 26. Having regard to the above I conclude that the development would cause limited harm to purposes (a) and (c).
 27. Bringing together the above, I conclude that the development would cause harm by reason of inappropriateness, it would cause limited harm to openness and limited harm to purposes (a) and (c) of including land in the Green Belt. In accordance with the Framework, I give substantial weight to that harm.

² Page 26 and 27 Proof of Evidence, Ms Allen for the Council.

Character and appearance

28. The Council and appellants agree that there would be minimal harm to the wider Landscape Character Areas identified in the National, Regional and District Landscape Character Assessments.
29. As set out above, the development would lead to the loss of the open nature of the site. This would lead to a change in its overall character and would alter the appearance of the site when viewed from Albany Lane, Kenilworth Road and the footpath to the north.
30. Nevertheless, the development would be in keeping with the character of the dwellings on the opposite side of Kenilworth Road. It would be seen in the context of the care home and retirement development to the east, much of which has a greater massing than the proposed dwellings, although I note that the care home is set at a significantly lower level than the appeal site.
31. Furthermore, the Council raises no concerns regarding the design of the development. The majority of the existing hedgerows and trees on the boundary and within the site are proposed to be retained and green space and additional planting is proposed both within and on the boundaries of the site. When seen from the south and east the dwellings would be set behind substantial hedgerows and the hedgerow trees would remain prominent. This would ensure that the development would assimilate into its surroundings on the edge of the open countryside to the south.
32. The appeal site is the subject of a Tree Preservation Order covering a number of trees along the boundaries of the site. None of these trees would be lost as a result of the development. A section of the boundary hedge to Kenilworth Road would be removed to facilitate access to the site and two fruit trees within the garden area of 722 Kenilworth Road would also be removed. These removals would be minor in the context of the tree and hedge cover on the site and would not harm the character of the surrounding area.
33. Overall, whilst the proposal would consolidate existing built development in this location, the change would not be harmful to the character or appearance of the area for the above reasons. The development would not therefore conflict with Policy P15 of the 2013 Local Plan or with Policy BE.2 of the NDP which relate to design quality and ensuring development proposals are in keeping with their surroundings.

Transport implications

Highway impact

34. The parties have assessed the impact of the additional traffic on the highway network. The Council's modelling results (summarised in the VISSIM Technical Note) concludes that the network performs similarly in terms of average delay both with and without the development. It predicts that there would be a minor worsening to junction delay and travel times in both morning and afternoon peak times due to the additional development traffic. There would be less traffic getting through the network due to the increased demand causing greater congestion and delay.

35. The VISSIM model demonstrates a maximum increased delay of 20 seconds at the Alder Lane / Kenilworth Road junction in the afternoon peak in 2026, and a maximum increased journey time of 118 seconds (just over 2 minutes) on Alder Lane in 2026 and on Kenilworth Road in 2036.
36. I accept that the network is already congested and that for a motorist sitting in these traffic queues, any additional delay is frustrating and undesirable. However, in real terms, the likely level of delay does not demonstrate that the appeal site in isolation would cause significant harm to the transport network.
37. Nonetheless, there is merit in the Council's concerns that each individual development within Balsall Common could demonstrate that in isolation the site would not cause significant harm, and I note that this has already happened for some other identified sites within the village.
38. The Council's Position Statement for the previously allocated Local Plan sites sets out that the Package is an essential infrastructure requirement to support the delivery of new homes within the village of Balsall Common. Furthermore, the parties now agree³ that in the absence of a contribution towards the Package, the cumulative effect of the planned development in Balsall Common together with the appeal scheme would cause significant effects on the road network within Balsall Common. I have no reason to disagree with this conclusion.
39. Policy P8(a)(i) of the 2013 Local Plan states that "Development will not be permitted which results in a significant increase in delay to vehicles, pedestrians or cyclists or a reduction in safety for any users of the highway or other transport network."
40. Paragraph 115(d) of the Framework provides that: "it should be ensured that...any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree through a vision-led approach."
41. A contribution towards the Package is necessary in order to ensure that the development complies with Policy P8 and the Framework. It is agreed between the parties that the Package would provide the necessary "vision-led approach" to resolving the transport difficulties likely to transpire in Balsall Common if the development were to go ahead together with the other planned development within the settlement.
42. The full details of the Package, including its delivery timescale, is currently being drawn up by the Council. It is expected to be funded in part through developer contributions from sites coming forward in Balsall Common. The funding to the scheme contained in the S106 will be based on a formula which incorporates the planned cost of the Package and the proportion of the package that the Council expects would need to be met by residential development in Balsall Common. The formula takes account of the number of dwellings proposed in this appeal and therefore the contribution made by the development to the cumulative traffic flows which would otherwise cause significant adverse transport impacts. The overall cost of the contribution is also capped at an agreed level.

³ CD14.15

43. On this basis, the highways contribution in the S106 is necessary, directly related to the development and fairly and reasonably related in scale and kind to the development. It would therefore meet the tests of Regulation 122 of the Community Infrastructure Levy Regulations (the CIL Regulations).
44. In addition to the above, there would be some increased vehicular use of Albany Lane from the 10 dwellings proposed to gain access from this lane. The lane currently serves the care home and the properties within the retirement village. I noted use of the lane by ambulances to the care home but, otherwise, traffic on the lane was light at the time of my visit. It would be unlikely to significantly increase due to the relatively small number of dwellings proposed to be accessed from this lane as part of the appeal.
45. Between the Kenilworth Road junction and the proposed site access the lane is straight and vehicles exiting the housing site would be able to see any vehicles driving along Albany Lane in either direction. This would mean that they would be unlikely to enter the lane from the appeal site until the oncoming vehicle has passed.
46. Although the lane is narrow, there would be sufficient room for two vehicles to pass carefully where they do meet. This would be the case even if one of the vehicles was an ambulance. Indeed, the development would provide greater opportunities for vehicles to pass each other by allowing one vehicle to pull into the site access or the access to the sub-station at the entrance to Albany Lane.
47. Vehicles turning into Albany Lane from Kenilworth Road would need to slow down or stop on the main carriageway to wait for any vehicle exiting Albany Lane. However, given the limited increase in traffic likely to be generated by 10 additional dwellings, this is unlikely to cause significant harm or delay to motorists on Kenilworth Road.
48. The development would therefore be unlikely to cause significant harm to either the safety or free flow of traffic due to the increased use of Albany Lane. I note the Council's highway engineers did not raise any concerns in this respect.

Accessibility

49. Local Plan Policy P7, requires that development meets specified accessibility criteria unless justified by local circumstances. In particular, development should be within specified distances of services including a primary school, doctors' surgery, shops, a bus stop and rail station both of which should have high frequency services.
50. The submitted Transport Assessment sets out that the required distances to schools and a bus stop are met, although Councillor Burrow on behalf of local residents sets out greater distances to these facilities. It is clear however that the distance from the site to a number of the local facilities is greater than specified in the policy. In addition, bus and rail services do not meet the specifications for a high frequency service set out in the policy.
51. Nonetheless, the proposed development would be no further from the facilities in the village than existing dwellings both on Albany Lane and to the east of Kenilworth Road. There are footpaths and pedestrian crossing facilities from the site access northwards into the village which would allow access to facilities on

foot, albeit at some distance. Furthermore, the development proposes improvements to local walking measures in the form of a pedestrian crossing on Kenilworth Road to the north of the site.

52. Bus services are available from the village to Solihull and Coventry with two services per hour. The nearest bus stop is on Kelsey Lane which is within walking distance of the site. The nearest railway station is around 2.2Km to the north with train services to Birmingham, London and Northampton.
53. A Travel Plan is also proposed which aims to reduce vehicular trips and encourage the use of more sustainable modes of transport. In the longer term the Package, to which the development will contribute, is also to include active travel measures including improved cycling and walking infrastructure on Kenilworth Road.
54. Having regard to the above factors, and to the housing land supply situation addressed in greater detail below, I am satisfied that in this case, local circumstances would justify allowing development in a location which is further away than recommended from the facilities in the village. In this context, I agree with the Council that there would be no conflict with Policy P7.

Parking

55. Turning to the matter of parking within the development, the Council's Supplementary Planning Document (SPD) *Vehicle Parking Standards and Green Travel Plans* requires a maximum provision of an average of two car parking spaces per dwelling, excluding integral garages. The proposed development would provide 184 parking spaces for 95 dwellings, plus 29 garages which would be in accordance with the maximum standards in the SPD.
56. Policy BE.6 of the NDP states that development proposals must have appropriate regard for the higher levels of car ownership evident within the Balsall Parish Neighbourhood Area. It requires justification for the number of off-street parking spaces having regard to matters including the accessibility of the development, the availability of and opportunities for public transport and local car ownership levels. The policy justification states that there is a need for at least one off-road parking space for a one-bedroom dwelling, two for two and three-bedroomed dwellings and at least three for four or more-bedroom dwellings, although these figures do not form part of the policy itself.
57. As set out above, I am satisfied that the accessibility of the site's location and availability of public transport should not be barriers to development of the site.
58. In terms of local car ownership levels, the appellants provided an assessment of car parking demand based on 2021 Census Data for the area including Balsall Common. This demonstrates a predicted car parking demand of 154 spaces for the number and size of houses proposed on the site. I am satisfied therefore that, whilst the development would not meet the figures set out in the policy justification, the 184 parking spaces proposed would ensure that sufficient parking spaces would be provided. The development would comply with NDP Policy BE.6.
59. I note that concerns have been expressed about parking difficulties in the village, but I have no evidence about specific parking issues which would be exacerbated by vehicles from the proposed development.

Conclusion on the transport issue

60. Having regard to the above, I conclude on this issue that, subject to the provisions in the S106, the development would not cause significant adverse impact on the transport network. It would comply with Local Plan Policy P8 and the Framework. Furthermore, there would be no conflict with Local Plan Policy P7 relating to accessibility, or NDP BE.6 and the Council's SPD relating to parking. The transport matters in this case do not therefore weigh against the proposal.

Other Matters

61. Local Plan Policy P20 requires provision and maintenance of open space, sports and recreational facilities as an integral part of new development. I understand⁴ that the requirement for the appeal development would be for around 0.73 ha to be provided on site. According to the Update Note on Public Open Space provided by the Council, the proposed development would provide 0.85 ha of public open space on the development site together with a financial contribution towards maintenance of a Locally Equipped Area for Play (LEAP) at Lavender Hall Farm Park within the village. The amount of open space would therefore be in accordance with policy P20.
62. The on-site open space would include an area of land to the west of the site, between the dwellings and the Care Home, a strip of land between the dwellings and land to the south, space incorporating an existing hedgerow running north to south through the site and an area of land between Albany Lane and the proposed houses to the north. The design of the spaces would include play space areas with active play equipment and a trim trail with informal 'play-along-the-way' features along its route.
63. The Landscape Masterplan would incorporate a pond sited within the open space as part of the Sustainable Urban Drainage System (SuDS) for the scheme. The pond would include pontoons which would allow access for activities such as pond-dipping. Concern was expressed that this would be a safety issue for people living in the houses, particularly those with small children.
64. However, it is not unusual for open spaces and public parks to have bodies of water within them. Whilst I do not downgrade the personal impact of any potential accidents involving children and water, it would be unrealistic and undesirable to seek to design water out of such spaces due to the potential risk involved. It would be incumbent upon future residents to ensure that children were aware of the risk and were adequately supervised whilst near the water.
65. Having regard to the above factors, I am satisfied that the amount and design of the open space is acceptable and there would be no conflict with Policy P20.
66. Bats were found to be foraging along the Kenilworth Road boundary of the appeal site, but no bat roosts were identified on the site. The proposal would retain existing boundary features and foraging would therefore be able to continue. Conditions are imposed to ensure that lighting is designed to retain dark corridors for bats. The property at 722 Kenilworth Road is also to be resurveyed to ensure that it does not contain bat roosts prior to demolition. New planting is proposed and the creation of the new area of open space and pond all of which would be

⁴ Cllr Burrow's Statement of Fact (CD 14.1)

likely to be of benefit to wildlife. I note that the Council's Ecologist raises no objections to the development subject to the imposition of recommended conditions and I agree that such conditions would ensure adequate protection and mitigation.

67. In terms of impact upon existing services and infrastructure, the development proposes a financial contribution, through the S106, towards education facilities which would include funding for additional capacity in early years, primary, secondary and Special Educational Needs provision. It has been raised that access to existing GP services is difficult. Unfortunately, this appears to be a nation-wide problem at present and I have not been made aware that the existing doctors' surgery would not be able to accommodate the increase in residents from this development. It is likely that additional residents from the appeal site would be of benefit to local shops in the form of additional customers. No adverse weight attaches to the development due to its impact on existing services and infrastructure.
68. A Flood Risk Assessment and Drainage Strategy was submitted with the application. This demonstrates that adequate drainage can be designed for the site, which includes a SuDS as referred to above and replacement of a damaged culvert running within the Care Home site. A condition can be imposed to ensure that a drainage scheme which has regard to this strategy is implemented and maintained.
69. The Harper Fields Care Home is at a significantly lower level than the appeal site and as such the first floor windows in the care home look towards the site at ground floor level. However, the existing car park for the care home and the proposed open space to the west of the appeal site would lie between the nearest windows and the new homes. There would be sufficient distance between these to ensure that there would be no loss of privacy to the care home residents. Furthermore, the houses would not appear overly dominant or obtrusive from the care home or Albany Meadows given the distances involved. The introduction of family housing would not be incompatible with a care home and retirement village, and the properties would be a sufficient distance apart that the proposal would not cause harm to the amenities of nearby occupiers.
70. I acknowledge that there would be some disruption caused by the construction of the homes. However, this can be minimised by the imposition of a suitable condition requiring adherence to a Construction Management Plan which would control such matters as hours of construction, parking of construction vehicles and wheel washing facilities. Furthermore, these impacts would be short term during the construction period only. This would not therefore weigh against the development.

Other considerations

Availability of land for homes

71. The Framework states that planning authorities should identify a supply of specific, deliverable sites sufficient to provide a minimum of five years' worth of housing when measured (in the case of this appeal) against their local housing need. The Council currently has at best a 2.13 years' supply of deliverable sites, with the appellants calculating the figure to be as low as a 1.11 year supply. Even at the

Council's figure, this is a significant shortfall in the amount of housing land required to meet the need for homes in the Borough.

72. As set out above, the shortfall in housing land supply was the reason for the Council withdrawing its emerging Local Plan from examination. The examining Inspectors pointed out in their letter dated 4 September 2024 that *"It is highly likely that additional site allocations on land currently in the Green Belt would be required. The Council has already demonstrated that there are exceptional circumstances which justify altering the Green Belt to accommodate housing growth"*. Since then, the Council's local housing need has increased.
73. The latest timescale for the preparation and adoption of a new Local Plan is summer / autumn 2027. Thus, clearly, the current shortfall in housing land supply will not be resolved through a plan-led approach for some years.
74. Having regard to the severity of the shortfall and the local plan situation, the provision of housing to meet the identified need attracts substantial weight in favour of the appeal.

Affordable housing

75. Policy P4 of the 2013 Local Plan seeks to ensure that housing developments provide 40% affordable housing. The Council's evidence to the withdrawn Local Plan identifies a high level of affordable housing need in the Borough. The (then) emerging Plan set out that affordable housing need is exceptionally high as Solihull has the most severe affordability problems in the West Midlands Region.
76. The development, as amended, would provide 50% affordable housing. This would be an important benefit of the development in an area with severe affordability problems. I give significant weight to this benefit.

Housing for other groups in the community

77. The proposal includes the provision of 5 dwellings designed to Part M4(3) of the Building Regulations. This type of dwelling is fully wheelchair adaptable or accessible. The 2013 Local Plan states that there is a borough wide shortage of homes which are suitable for older people and specially designed homes for people with learning and physical disabilities. The proposal would go a small way to meeting that need. Provision of these dwellings can be secured by a condition requiring compliance with submitted plans. The revised site plan sets out the number and location of such houses to be provided.
78. The appeal site includes 5 plots for self-build or custom-build properties, although I have no evidence which sets out how many people are on the register of those seeking a self-build plot. Nevertheless, together with the provision of housing for older or disabled people, the provision of the self-build / custom-build plots attracts a limited amount of weight in favour of the appeal.

Other benefits

79. Local Plan Policy P10 requires development to provide biodiversity net gain. This is in line with the Framework's aim to ensure that development minimises impacts on and provides net gains for biodiversity. The development would not be subject to the government's mandatory biodiversity net gain requirements. Nevertheless, the proposal would provide a comprehensive landscaping scheme which would

result in a net gain in terms of both habitat units and hedgerow units (10.22% increase in habitat units and 59.7% increase in hedgerow units). This would be a benefit of the scheme which attracts moderate weight.

80. The proposal would result in economic benefits from construction jobs and subsequent Council tax receipts once occupied which attracts limited positive weight.
81. Finally, the development would provide a footpath link, alongside the hedgerow running through the site, linking the existing public rights of way to the north of the site and that to the south of Meer Stones Road. This would be a benefit of the scheme which attracts very limited weight in its favour.

Overall balance

82. In accordance with the Framework inappropriate development should not be approved except in very special circumstances. 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.
83. I have concluded above that the development would cause limited harm to the openness of the Green Belt and to two of the purposes of including land in the Green Belt. Together with the harm by reason of inappropriateness, I give substantial weight to this Green Belt harm. None of the other matters assessed above weighs against the proposal. On the other hand, there are a number of benefits which weigh in favour of the scheme as set out above.
84. This is an area where there is a very great need for additional housing, including affordable housing due to the severe affordability problems in the Borough. It is likely to be a number of years before sites would be allocated in a Local Plan to meet the current and pressing need. The development of housing in these circumstances attracts substantial weight in favour of the appeal. The amount of affordable housing to be provided also attracts significant weight in favour. Together with the other benefits set out above, I conclude that the other considerations in this case are of sufficient weight to clearly outweigh the identified harm to the Green Belt. Very special circumstances therefore exist to justify this inappropriate development.
85. Paragraph 156 of the Framework sets out that major housing development in the Green Belt should make certain contributions, referred to as the Golden Rules. Paragraph 156(a) relates to affordable housing provision, (b) relates to contributions to necessary infrastructure, part (c) relates to access to good quality green spaces.
86. As set out earlier in this decision, the development would provide the necessary affordable housing, it would contribute to necessary local infrastructure and good quality open space would be provided on site, within a short walk of the new houses. The development would therefore comply with the Golden Rules set out in the Framework.
87. Paragraph 158 of the Framework states that significant weight in favour should be given to such development. However, I have already given substantial weight to the provision of housing having regard to the particular circumstances of this case

and significant weight to the affordable housing provision. I have concluded that very special circumstances do exist in this case. Accordingly, it is not necessary for me to give additional weight as a result of compliance with the Golden Rules as it would not lead to a different conclusion and may result in double-counting of some of the benefits.

88. Looking at the case as a whole, very special circumstances to justify the development do exist in this case and the proposed development would not conflict with the Framework. The development would therefore also comply with Policy P17 of the 2013 Local Plan, which sets out that inappropriate development in the Green Belt will only be permitted in very special circumstances.

S106

89. I have set out above the need for a contribution to the Package in order to mitigate harm to the transport network. This is included in the S106.
90. The S106 also includes a contribution towards the LEAP at Lavender Hall Park within Balsall Common. This is necessary in order to ensure the provision of children's play facilities in addition to those to be provided on-site and it ensures compliance with Policy P20. The obligation is directly related to the development and fairly and reasonably related in scale and kind to the development.
91. The need for education contributions to mitigate the impact of the development on education facilities is also set out above. Contributions are proposed towards early years, primary, secondary and post-16 education and specialist provision at primary and secondary level. The education contributions are based on the cost of provision of the additional facilities pro-rated to the number of dwellings to be provided on the site. The obligation is necessary, directly related to the development and fairly and reasonably related in scale and kind to the development.
92. The S106 secures the delivery of the affordable housing units or a financial contribution to affordable housing if an affordable housing provider cannot be found. This is necessary as the provision of 50% affordable housing has contributed to my conclusion regarding the existence of very special circumstances in this case.
93. The S106 also includes a mechanism to secure the provision of the self-build or custom-build plots unless there is evidence of a lack of demand following marketing of the plots. This information has been included in the application and attracts limited weight in favour of the scheme. It is therefore necessary to include the mechanism for securing such housing within the S106.
94. I consider that the statutory tests in Regulation 122 of the CIL Regulations are met in respect of all the obligations included in the S106 and, accordingly, its provisions are material considerations in this appeal.

Conditions

95. The main parties discussed the conditions during the inquiry. The final draft wording of the conditions (including those with pre-commencement requirements) was agreed between the Council and appellants after the close of the inquiry.

96. For certainty as to the development allowed, the following conditions are required: standard conditions relating to time limits for both the full and outline elements of the development, approval of reserved matters for the outline part of the proposal, a condition setting out the approved plans and the submission of a phasing plan.
97. To ensure a satisfactory appearance, details of the external materials are to be approved by the Planning Authority. To ensure satisfactory drainage, conditions require the submission of a detailed surface water drainage scheme and a scheme to repair or replace the culvert.
98. In the interests of the character of the area, biodiversity and local amenity the following conditions are imposed: a condition securing an arboricultural method statement, submission and implementation of landscaping proposals, the submission of a Landscape and Ecological Management Plan, details of the design of the on-site open space and footpath link through the site.
99. A Construction Environmental Management Plan (CEMP) is required to ensure pre-commencement checks and implementation of safeguards for wildlife during construction. Details of lighting, including the restriction of lighting along boundary features, are required in order to protect emerging and foraging bats. A condition is also imposed requiring a further bat survey of No. 722 Kenilworth Road. These conditions are required in the interests of biodiversity.
100. A condition is required to ensure the satisfactory treatment of any archaeological deposits. In the interests of highway and pedestrian safety the following conditions are required: vehicle and pedestrian accesses to be constructed in accordance with submitted plans, the submission and implementation of details of the proposed pedestrian crossing and footpath links, construction of estate roads. Also in the interests of highway safety and local amenity a Construction Management Plan to include construction vehicle parking, hours of operation, storage of materials and wheel washing facilities is required. Finally, in order to encourage the use of sustainable transport, a condition requiring the submission and implementation of a Travel Plan is necessary.

Conclusion

101. Having regard to the factors outlined above, I have concluded that very special circumstances exist to justify the development in the Green Belt. The proposal would comply with the development plan overall.
102. For the reasons given above the appeal should be allowed.

Susan Heywood

INSPECTOR

Conditions Schedule

- 1) The development of full planning permission for 95 plots hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted be carried out in complete accordance with the details shown on the submitted plans, numbers:
 - 30993 00 Site Location Plan
 - 30993 01 Rev F Proposed Site Plan
 - 30993 04 Rev B - Storey Heights Plan
 - 30993 05 Rev D - Proposed Tenure Plan
 - 30993 06 Rev B - Car Parking Plan
 - 30993 07 Rev B - Refuse & Cycle Storage Plan
 - 30993 ALD 01 Alder House Type A
 - 30993 ALD 02 Alder House Type B
 - 30993 ASH 01 Ash House Type
 - 30993 ASP 01 Aspen House Type
 - 30993 BLA 01 Blackthorn House Type
 - 30993 ELD 01 Elder House Type
 - 30993 FIR 01 Fir House Type
 - 30993 GAR 01 Garages
 - 30993 HAW 01 Hawthorn House Type
 - 30993 IVY 01 Ivy House Type
 - 30993 JUN 01 Juniper House Type
 - 30993 LAR 01 Larch House Type
 - 30993 MAI 01 Maisonette House Type
 - 30993 PIN 01 Pine House Type
 - 30993 PLU 01 Plum Maple House Type
 - 6386 203 Rev A Pedestrian Crossing Arrangements
 - 6386 204 01 – Refuse SPA Sheet 1 of 3
 - 6386 204 02 – Refuse SPA Sheet 2 of 3
 - 6386 204 03 – Refuse SPA Sheet 3 of 3
 - 2245 A3 I - Landscape Master Plan- Liz Lake Associates
 - 0201-PO3D Sheet 1 of 6 Detailed Landscape Plan - Liz Lake Associates
 - 0202-PO4D Sheet 2 of 6 Detailed Landscape Plan - Liz Lake Associates
 - 0203-PO3D Sheet 3 of 6 Detailed Landscape Plan - Liz Lake Associates
 - 0204-PO4D Sheet 4 of 6 Detailed Landscape Plan - Liz Lake Associates

0205-PO3D Sheet 5 of 6 Detailed Landscape Plan - Liz Lake Associates

0206-PO4D Sheet 6 of 6 Detailed Landscape Plan - Liz Lake Associates

1465-EXT-100 Rev P4- EX-100 - External Lighting Plan – Harniss

1465-EXT-101 Rev P5- EX-100 - External Lighting Plan – Harniss

- 3) Application for approval of the reserved matters for each of the custom build houses shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.
- 4) The development of the custom build houses shall be begun before the expiration of two years from the date of approval of the last of the reserved matters for each custom build house to be approved.
- 5) Approval of the details of: (a) Appearance; (b) Landscaping; (c) Layout and (d) Scale (hereinafter called 'the reserved matters') shall be obtained from the Local Planning Authority in writing before any development is commenced in respect of each custom build house as applicable and the development shall be carried out as approved.
- 6) Prior to the commencement of any development subject to full planning permission or submission of the first Reserved Matters for the development subject to outline planning permission, a phasing plan shall be submitted to and approved in writing by the Local Planning Authority. The development of the site shall thereafter be carried out in accordance with the approved phasing plan.
- 7) No 'above-ground' building works in respect of each phase or sub-phase shall proceed above damp-proof course level or equivalent on any buildings or structures hereby approved until a schedule and samples of all bricks, tiles and other materials to be used in the external elevations have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.
- 8) Prior to the commencement of the development, a detailed surface water drainage scheme, based on sustainable drainage principles in accordance with the submitted Flood Risk Assessment and Drainage Strategy must be submitted to and approved in writing by the local planning authority. The scheme must be implemented as approved prior to the occupation of the first dwelling.
- 9) No above-ground work shall commence until such a time as a scheme to repair or replace the culvert to full working order has been submitted to and approved in writing by the Lead Local Flood Authority in conjunction with the Local Planning Authority, with no occupation until the scheme is operational. The submitted details shall include, as a minimum:
 - a) Drawings showing location and connectivity of the culvert
 - b) Confirmation of discharge rates and volumes (both pre and post development)
 - c) Confirmation of proposed inlet and outlet headwall locations.
 - d) Engineering details for all headwall and pipe features
 - e) Culvert adoption and maintenance strategy

- f) Plans for removal of broken segments and installation of new culvert segments

The scheme shall be implemented, maintained and managed in accordance with the approved details.

- 10) Prior to commencement of each phase or sub phase of development, an Arboricultural Method Statement shall be submitted to ensure that all site operations will be carried out with minimal risk of adverse impact upon trees that are to be retained. The Arboricultural Method Statement should also include a list of contact details for the relevant parties. This scheme will be appropriate to the scale and duration of the works and shall include details of:
 - a) removal of existing structures and hard surfacing
 - b) installation of temporary ground protection and tree protection measures, including a scaled and fully dimensioned Tree Protection Plan to BS5837
 - c) no dig footpaths in the root protection areas of trees and path surfacing within the Public Open Space
 - d) excavations and the requirement for specialized trenchless techniques
 - e) installation of new hard surfacing – materials, design constraints and implications for levels
 - f) specialist foundations – installation techniques and effect on finished floor levels and overall height
 - g) retaining structures to facilitate changes in ground levels
 - h) preparatory works for new planting
 - i) auditable/audited system of arboricultural site monitoring, including a schedule of specific site events requiring input or supervision.

The Arboricultural Method Statement, shall be implemented as agreed.

- 11) The development hereby approved shall not be occupied until full details of both hard and soft landscape works have been submitted to and approved in writing by the Local Planning Authority and these works shall be carried out as approved. These details shall include proposed finished levels or contours; means of enclosure (boundary treatments); car parking layouts; other vehicle and pedestrian access and circulation areas; waymarking signage to identify the footpath link across the site from PROW M162 linking to PROW 181; hard surfacing materials; minor artefacts and structures (e.g. furniture, play equipment, refuse or other storage units, lighting etc, open space and design of sustainable drainage basin to provide landscape and visual amenity, with the potential for natural play and biodiversity enhancements. Soft landscape works shall include planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate; implementation programme.
- 12) All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development or in accordance with a program agreed in

writing with the Local Planning Authority. If within a period of 5 years from the date of planting of any tree, that tree or any tree planted in replacement for it, is removed, uprooted, destroyed, dies or becomes seriously damaged or defective, another tree of the same species and size as that originally planted shall be planted at the same place within the next planting season (October-March), unless the Local Planning Authority gives its written consent to any variation.

- 13) No development shall commence until design details of the open space, amenity space, play equipment (Doorstep Play) and Trim Trail, including a maintenance scheme, have been submitted to and approved in writing by the Local Planning Authority. Thereafter works shall be completed and carried out in accordance with the approved details. These works shall be completed within 6 months from the occupation of the 50th dwelling. Thereafter the open space, play equipment (Doorstep Play) and Trim Trail shall be maintained in accordance with the approved scheme in perpetuity.
- 14) Prior to the commencement of development a scheme shall be submitted to and approved in writing by the Local Planning Authority to secure a pedestrian footpath link, alongside the hedgerow running north – south across the site, connecting PROW M162 and M181. The scheme shall include a timescale for provision of the pedestrian link. The link shall be provided in accordance with the approved scheme and pedestrian access along the link shall be maintained in perpetuity.
- 15) The development hereby permitted, including site clearance work, shall not commence until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. The CEMP shall include details concerning pre-commencement checks for badger, bats, breeding birds and otter and appropriate working practices and safeguards for wildlife that are to be employed whilst works are taking place on site. The agreed Construction Environmental Management Plan shall thereafter be implemented in full.
- 16) The development hereby permitted shall not commence until a detailed Landscape and Ecological Management Plan for a minimum period of 30 years has been submitted to and approved in writing by the Local Planning Authority. The plan shall include details of habitat enhancement/creation measures and management, such as native species planting, wildflower grassland creation, woodland and hedgerow creation/enhancement, and provision of habitat for protected and notable species (including location, number and type of integrated bat and bird boxes, location of log piles). Such approved measures shall thereafter be implemented in full.
- 17) The development hereby permitted shall not commence until details of all external light fittings and external light columns have been submitted to and approved by the Local Planning Authority. Such details shall include measures to restrict lighting along boundary features and to minimise lighting impact on emerging and foraging bats. The development shall be carried out in full accordance with such approved details.
- 18) Prior to commencement of each phase or sub phase of development (including demolition) shall not commence until a further bat survey of 722 Kenilworth Road, to include appropriate activity surveys in accordance with BCT Bat Surveys for Professional Ecologists – Good Practice Guidelines,

has been carried out and a detailed mitigation plan including a schedule of works and timings has been submitted to and approved in writing by the Local Planning Authority. Such approved mitigation plan shall thereafter be implemented in full.

- 19) No development shall take place until:
- a) a Written Scheme of Investigation (WSI) for a programme of archaeological evaluative work has been submitted to and approved in writing by the Local Planning Authority.
 - b) the programme of archaeological evaluative fieldwork and associated post-excavation analysis and report production detailed within the approved WSI has been undertaken. A report detailing the results of this fieldwork, and confirmation of the arrangements for the deposition of the archaeological archive, has been submitted to the planning authority.
 - c) an Archaeological Mitigation Strategy document (including a Written Scheme of Investigation for any archaeological fieldwork proposed) has been submitted to and approved in writing by the Local Planning Authority. This should detail a strategy to mitigate the archaeological impact of the proposed development and should be informed by the results of the archaeological evaluation.

The development, and any archaeological fieldwork, post-excavation analysis, publication of results and archive deposition detailed in the approved documents, shall be undertaken in accordance with those documents.

- 20) The development parcel accessed off Kenilworth Road shall not be occupied until the vehicular access junction has been provided in general accordance with Drawing Number 30993 01 Rev F (Proposed Site Plan) and constructed to the standard specification of the Local Highway Authority.
- 21) The development parcel accessed off Albany Lane shall not be occupied until the vehicular access junction has been provided in general accordance with Drawing Number 30993 01 Rev F (Proposed Site Plan) and constructed to the standard specification of the Local Highway Authority.
- 22) The development shall not be occupied until the details of the pedestrian access points on Kenilworth Road and Albany Lane shown in the Proposed Site Plan (Drawing Number 30993 01 Rev F) have been approved in writing by the Local Planning Authority and thereafter constructed to the standard specification of the Local Highway Authority.
- 23) The development shall not be occupied until the details of the new controlled crossing point and footway connections shown in the Proposed Footway Improvements and Puffin Crossing on Kenilworth Road Plan (Drawing 6386/203 Rev A) have been approved in writing by the Local Planning Authority and constructed to the standard specification of the Local Highway Authority.
- 24) No dwelling shall be occupied until the estate roads (including footways) serving it have been laid out and substantially constructed to the satisfaction of the Local Highway Authority in accordance with details approved in writing by the Local Planning Authority.

- 25) No phase or sub phase of the development shall take place until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority and Local Highway Authority. The Construction Management Plan shall be strictly adhered to and shall provide for: the anticipated movements of vehicles; the parking and loading/unloading of staff, visitor, and construction vehicles; the loading and unloading of plant and materials; hours of operation and deliveries; the storage of plant and materials used in constructing the development; a turning area within the site for construction vehicles; vehicle routing; and, wheel washing facilities and other measures to prevent mud/debris being passed onto the public highway.
- 26) No phase or sub phase of the development shall be occupied until a Travel Plan has been submitted to and approved in writing by the Local Planning Authority in consultation with the Highway Authority. The Travel Plan once approved shall thereafter be implemented as specified within the approved document and in accordance with the latest guidance and good practice documentation as published by the Department for Transport and/or as advised by the Council. The appointed Travel Plan Coordinator shall provide monitoring reports to the Local Planning Authority after 1, 3 and 5 years to be audited by the Council.

INQUIRY DOCUMENTS

- 15.1 Appellant Opening Statement
- 15.2 LPA Opening Statement
- 14.1 Cllr Andrew Burrow Statement of Fact
- 14.2 Cllr Andrew Burrow PowerPoint
- 14.3 Green Belt Boundary Plan, submitted by Council
- 14.4 Agreed Description of development
- 14.5 Highways Note on The Package, submitted by Council
- 14.6 Plan in relation to Blythe Sites, submitted by Council
- 14.7 Mr Hickman's Linsig Note, submitted by Appellants
- 14.8 CIL Compliance Note – Multimodal package, submitted by Council
- 14.9 Draft Joint Highways Position Statement
- 14.10 Car Parking Provision Note, submitted by Appellants
- 14.11 Joint Planning Position Statement – FINAL
- 14.12 Public Open Space Note, submitted by Council
- 14.13 CIL Compliance Statement and associated documents, submitted by Council
- 14.14 Draft Joint Planning Position Statement
- 14.15 Joint Highways Position Statement - FINAL
- 14.16 Draft S106
- 14.17 Updated draft S106 (21.01.2025)
- 14.18 Draft Conditions (17.1.2025)
- 14.19 Draft Conditions (22.1.2025)
- 14.20 S106 Contributions Guidance Notes, submitted by Council
- 14.21 Signed and Certified S106 Agreement
- 14.22 Updated Agreed Conditions (20.2.25)