



The countryside charity  
Hertfordshire

31a Church Street

Welwyn

HERTS AL6 9LW

[www.cpreherts.org.uk](http://www.cpreherts.org.uk)

[office@cpreherts.org.uk](mailto:office@cpreherts.org.uk)

01438 717587

Standing up for Hertfordshire's countryside

## **Church Lane Sarratt**

**Refs: APP(s)/P1940/W/22/3311477 and  
3311479**

## **JOINT PUBLIC INQUIRY**

### **Interested Party Statement**

**by Chris Berry BA(Hons), Dip TP, MRTPI**

**CPRE Hertfordshire – the countryside charity**

*September 2023*

## **INTRODUCTION**

1. My name is Chris Berry. I am a Member of the Royal Town Planning Institute, hold a Bachelor of Arts with Honours degree in Geography from the University of London and a post-graduate Diploma in Town and Country Planning from the University of Newcastle-upon-Tyne.
2. I have practised in both the public and private sectors for over 45 years and been employed by a wide range of organisations including local government, development corporations, planning consultancies and development agencies. Latterly I have acted as interim Chief Planning Officer and Assistant Director for a number of London and Hertfordshire Boroughs and am presently employed as Planning Manager for CPRE Hertfordshire – the countryside charity.
3. I am presenting this statement for the Inquiry on behalf of CPRE Hertfordshire. CPRE Hertfordshire acts to protect countryside in Hertfordshire and is active in supporting local organisations and communities to protect open spaces and rural activity from inappropriate development and environmental degradation.
4. In this statement I seek to identify the potential harm to the Green Belt caused by the proposed development and comment on the planning policy framework and the potential changes to government policy which may be material to the determination of these appeals.
5. CPRE Hertfordshire supports fully the decision of Three Rivers District Council with respect to the refusal of permission for the two planning applications which are the subjects of this Inquiry. We also support fully the analysis of landscape character undertaken for the Council, the concerns of Sarratt Parish Council and identify further concerns relating to the relevance of affordable housing, and natural environmental matters.

## **BACKGROUND TO THE APPEALS**

6. The proposals are for a total of 88 houses and associated infrastructure including a doctors' surgery in the village of Sarratt, on Green Belt, and in the case of APP/P1940/W/22/3311477 in the immediate setting of the Chilterns Area of Outstanding Natural Beauty (AONB). The original planning applications were submitted to Three Rivers District Council in April 2022 and refused unanimously by Planning Committee with the decision notice issued on 5<sup>th</sup> October 2023.
7. Both applications were linked by the Appellant at the planning applications stage, with regard to proposed Section 106 undertakings relating to the provision of the doctors' surgery and the new Scout building. We believe that this linkage was highly

inappropriate then and conflated issues which should have been considered separately. These concerns remain with this joint Inquiry.

8. The conditions for both sites are quite different in scale, location and impact, requiring separate consideration in planning terms, but the supporting documentation for both original applications was essentially the same and the justifications for the proposed developments are similar. Issues relating to the impact of the proposed developments are so serious that they should not be linked to the provision of modest community services which may be located in more appropriate locations, if they are needed at all.
9. The relevant development plan is the adopted Three Rivers Core Strategy Local Development Document, and the emerging Local Plan continues to be the subject of active consideration following the high level of negative public response to the Regulation 18 consultation public consultation. Accordingly, very little weight should be given to the policies in the emerging Local Plan although it is understood that the subject sites are not proposed to be allocated for housing.

#### **GREEN BELT**

10. Site A (the larger site; ref. APP.../3311477) is currently open farmland outside the Sarratt village boundary and not included in the current Three Rivers Site Allocation LDD. It lies entirely within the Green Belt and as such, under the provisions of the NPPF it is agreed by the Appellant that the proposed development is inappropriate development in the Green Belt, as stated in paragraph 147 of the National Planning Policy Framework (NPPF) which states that “inappropriate development should not be approved except in very special circumstances”.
11. Site B (the smaller site; ref. APP...3311479) is also in agricultural use and no attempt is made by the Applicant to consider the specific circumstances of this site and location with regard to planning considerations, as opposed to those relating to the above application. The factors affecting this smaller site are obviously different from the larger application but in any case constitute inappropriate development in the Green Belt by virtue of encroachment and impact on the openness of the countryside.
12. The presumption in favour of sustainable development is set out in paragraph 11 of the NPPF. For decision-makers, this means that:

*“where there are no relevant development plan policies, or where the policies for determining the application are out-of-date, granting permission, unless:*

- (i) the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or*

- (ii) *any adverse effects of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in this Framework, taken as a whole.*"

Footnote 7 of the NPPF identifies clearly that land designated as Green Belt is an area of particular importance which provides the "clear reason for refusing the development proposed" as noted in (i) above.

13. The Government's commitment to protecting Green Belt land is elaborated in Chapter 13 of the NPPF. The five purposes of the Green Belt are set out in paragraph 138, as follows:

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

CPRE Hertfordshire believes that the first, third and fifth of these purposes are directly relevant to the determination of these appeals.

14. Historically, Green Belt has been a key component of the planning system in Hertfordshire and in terms of the first Green Belt purpose, its primary function has been to control the outward sprawl of London. In the 1970s, the Green Belt was extended as part of the Hertfordshire County Structure Plan to cover approximately 40% of the land area of the County to continue to provide this protection.
15. The third purpose, to safeguard the countryside from encroachment, is the most significant concern in this case, particularly when set in the context of challenging the permanence of the Green Belt and the clear and obvious loss of openness which would result from the construction of 88 houses and associated development. The proposed development would encroach severely into an area of open countryside around Sarratt and be clearly obvious from the Chilterns AONB.
16. There is no doubt that development of the site would result in a considerable loss of Green Belt openness, contrary to the fundamental aim set out in the NPPF (paragraph 137). No amount of screening or planting could compensate for the introduction of 88 dwellings into this rural setting which would completely change the character of the area.
17. The case of *Samuel Smith Old Brewery (Tadcaster) v North Yorkshire County Council [2020]* has clarified the definition of openness by identifying it as a matter of planning

judgement. Openness was ruled not necessarily to be a statement about the visual qualities of the land but rather a counter-point to urban sprawl, defined as an absence of “urbanising development,” which definition applies clearly to this appeal site.

18. The Appellant also argues that “very special circumstances”(VSC) exist where the benefits of the scheme would outweigh the harm to the Green Belt. VSC should not be seen solely as a mechanistic weighting exercise, but as clear and powerful reasons related to the conditions and circumstances of the site that warrant a departure from consistent planning policy in favour of respecting and retaining the Green Belt. A series of provisions such as the Appellant proposes should not normally amount to VSC when much of what is being promoted would be expected of a significant development in any location.
19. With regard to the principle of development in the Green Belt, CPRE Hertfordshire has argued consistently in both Examinations in Public of Local Plans in Hertfordshire, and in representations to planning applications, that the intent of Paragraph 11 (and footnote 7) in the NPPF is clear with regard to the protection of protected land. Some recent planning appeal decisions in favour of residential development and the proposed allocation of Green Belt sites in emerging Local Plans have led to a weakening in these protections in the face of arguments relating to housing need.
20. The Appellant considers that the sites do not make a significant contribution to the Green Belt and are effectively poorly performing and not contributing to landscape quality. We profoundly disagree with this assertion, and so do extensive local community and public comments, and we further note that it is not the quality of Green Belt land which is protected but the function it fulfils as open countryside.
21. The arguments used by the Appellant are frequently applied by developers to urban edge sites in the Green Belt but if accepted they form a circular argument. The site is released from Green Belt and the next site becomes the urban edge and the same argument is then applied and the Green Belt is eroded constantly.

#### **CHILTERNS AREA OF OUTSTANDING NATURAL BEAUTY (AONB)**

22. As well as protection of the Green Belt, the NPPF notes the need to protect the setting of the AONB for the purpose of conserving and enhancing areas of landscape and scenic beauty. NPPF Paragraph 176 notes: “development within their setting should be sensitively located and designed to minimise adverse impacts on the designated areas.” The proposed sites lie within the immediate setting of the Chilterns Area of Outstanding Natural Beauty (AONB).

23. To put the locations of these sites in context, the Final Report of the Landscapes Review of National Parks and AONBs (the 'Glover Report') commissioned by the Government and published in September 2019, made the point that the Chilterns AONB is of such significance that the report recommends that it is re-designated as a National Park (pages 119-121). The setting of an AONB was specifically identified for inclusion in the consideration of AONB assessment by virtue of its inclusion in the NPPF July 2021 revisions.
24. In discussing the Chilterns AONB, the Glover Report notes that: *"in the south-east of England, in particular, the pressure of development is immense and may only get greater. Some national landscapes, the Chilterns for instance, risk changing very fast as a result and mostly not for the better. We shouldn't just accept this as sadly unavoidable"... "The 'exceptional circumstances' provision in the NPPF, which was intended to limit development in national landscapes, is being used to argue for major development instead, on the grounds that no other sites outside AONBs are available. We strongly believe that this is in contravention of the purposes of designation"* (pages 102 and 107).
25. Site B falls within the above description by virtue of the location of its access within the setting of the AONB. The continuing threats to the AONB posed by continuing inappropriate development and proposals in the intervening years make this recommendation even more valid.
26. We note and support the discussion of the AONB's special qualities, as expressly stated in the Chilterns Conservation Board AONB Management Plan 2019-2024 (pages 10-11), which include panoramic views, unspoilt countryside, secret corners and a surprise sense of remoteness. (pages 10-11). The proposed development would also have a detrimental impact both on views towards the AONB and relating to the introduction of additional traffic in the area and recreational pressures.

#### **LANDSCAPE CHARACTER**

27. A key characteristic to the designated open land affected by the proposal is the quality of the rural landscape and we support the evidence in this area provided by the Council. The harm arising from the proposed development to landscape and visual qualities is substantial including the contribution it makes to the countryside in the area affected, providing space for long established agriculture, wildlife and countryside recreation.

#### **THREE RIVERS LOCAL PLAN**

28. The status of the emerging Three Rivers Local Plan and the continuing Government consideration of the significance of designated protected land, including Green Belt and AONB, are also directly relevant to this Inquiry. The recent Regulation 18 public consultation on the Three Rivers Local Plan received a record-breaking number of responses, overwhelmingly rejecting the allocation of Green Belt sites for housing. Similar situations have arisen with regard to the emerging Local Plans for Hertsmere Borough and Dacorum Borough in Hertfordshire where local community responses and opposition relating to Green Belt allocations have led to the need to review the respective Local Plans
29. This has led Three Rivers District Council to delay the programme for publication of the Local Plan for further review. Significant progress has been made by The Council on amendments to the emerging Local Plan which reduce considerably the protected land proposed to be allocated for housing development.
30. Regular planning sub-committee meetings have agreed revised allocations to be included in the emerging Local Plan. These will be subject to further public consultation in the near future.
31. It is perverse in our view for the Appellant to suggest that this matter should be determined when the reasons for the 'pausing' of the Local Plan are directly relevant to the consideration of this proposal. As a responsible local planning authority, the Council rightly wishes its Local Plan to reflect local community concerns and aspirations, as required by the NPPF, and in any event decisions should be made based on the adopted Core Strategy and Site Allocations Development Plan Document.

## **GOVERNMENT POSITION**

32. The Government has restated its commitment to the Green Belt, most recently in the Statement by the Secretary of State for Levelling Up, Housing and Communities on 6<sup>th</sup> December 2022 which noted "It will be up to local authorities, working with their communities, to determine how many homes can actually be built, taking into account what should be protected in each area—be that our precious Green Belt or national parks" (Hansard: Planning System and Levelling Up Bill: Community Control. 6.12.22).
33. Following this written ministerial statement on 6<sup>th</sup> November 2022, the Secretary of State published on 22<sup>nd</sup> December an open consultation document *Levelling-up and Regeneration Bill: reforms to national planning policy*. This included a "prospectus" for possible changes to the NPPF, which was open for public consultation until 2<sup>nd</sup> March

2023, and it is clear that the context for local plans should become more flexible and take account of local circumstances and conditions.

34. This is indicated in the following Government Prospectus statement:

*“Through a change to the Framework’s chapter on protecting Green Belt land, we propose to make clear that local planning authorities are not required to review and alter Green belt boundaries if this would be the only way of meeting (housing) need in full (although authorities would still have the ability to review and alter Green belt boundaries if they wish, if they can demonstrate that exceptional circumstances exist). This change would remove any ambiguity about whether authorities are expected to review the Green Belt, which is something which has caused confusion and often protracted debate during the preparation of some plans.”*

35. Further proposed amendments to the NPPF include the requirement that housing needs forecasts would be based on the latest 2021 Census figures and that housing needs figures would be “advisory” not “mandatory”, and these changes would be made soon. It is therefore in our view appropriate to suggest that consideration should be given to the issue of prematurity, particularly in the light of paragraph 49 of the NPPF, which states as follows:

*“.....arguments that an application is premature are unlikely to justify a refusal of planning permission other than in the limited circumstances where both:*

*(a) the development proposed is so substantial, or its cumulative effect would be so significant, that to grant planning permission would undermine the planning process by predetermining decisions about the scale, location, or phasing of new development that are central to an emerging plan; and*

*(b) the emerging plan is at an advanced stage but is not yet formally part of the development plan for the area.”*

36. The magnitude of the proposed development and the present status of the emerging Three Rivers Local Plan would both suggest that these circumstances apply in this case. It is clear that the Government ‘s intention is to retain the Green Belt in its present form and the constant attempts to undermine Green Belt protections for residential developments are in danger of bringing the planning system into disrepute.

## **AFFORDABLE HOUSING**

37. The provision of affordable housing is cited as a contribution to the very special circumstances promoted by the Appellant. The House of Commons Library Research



Briefing (March 2022) on Affordable Housing notes that there is “no agreed definition of affordable housing” and the NPPF does not indicate a price level.

38. A recent illustrative analysis of average house prices and average household incomes in the County by a CPRE Hertfordshire member (Affordable Housing in Hertfordshire, April 2022) indicates the present inability of market housing to address in any meaningful way the demand for housing by average earning households in both Three Rivers District and Hertfordshire as a whole. Given that the definition of affordable housing has become effectively irrelevant with regard to house purchase by an average earning household in Hertfordshire, it is inappropriate to promote affordable housing as providing justification for use of the Green Belt for this purpose.
39. Whilst accepting that a proportion of households can find ways of affording the slightly reduced “affordable housing” prices offered, this is a general factor relating to housing provision. It is not appropriate to use proportions of “affordable housing” as supporting the case for very special circumstances which should be related to specific local conditions.

#### **WILDLIFE AND NATURAL ENVIRONMENT**

40. CPRE Hertfordshire wishes also to raise a number of concerns relating to the consideration of wildlife and natural environment matters by the Appellant. These concerns have been raised by a well-qualified and informed member of the organisation and we wish to bring them to the attention of the Inquiry.
41. The habitat survey was carried out by the Appellant’s consultants in June which is too late for any breeding bird surveys and this may be seen as significant. The habitats within the site were assessed as offering good nesting and foraging opportunities for a variety of bird species, later on described as ‘common’ bird species. While paragraph 7.14 of the Ecological Statement states: ‘The removal of any suitable nesting habitat should only be completed outside the nesting bird season’ meets the letter of the law regarding nesting birds, it admits that suitable habitat is likely to be destroyed.
42. Bat surveys were carried out in September and October 2021. This is late in the year if the weather is cold since there is little bat activity below 10 degrees Centigrade and it appears that only trees on site boundaries were assessed as suitable for bat roosts. It is now known that some bat species, including some of those recorded over the site, feed over open land and are not confined to hedge corridors so it is likely that some bats will be displaced by the proposals.

43. Lighting is a major disturbance for all bat species. They may avoid lit areas and light makes them more vulnerable to predators such as sparrowhawks and owls. While site lighting can be controlled by condition, householder lighting cannot, and post-development installations of security lighting can impact on bats.
44. The Appellant's Ecological Assessment concludes at paragraph 7.9: '*Most records were of Common Pipistrelle, but several other species were found to be using the site*' would appear to understate the significance of the bat population on the site. In our view six other species, several of restricted range, constitutes more than 'several.'
45. Paragraph 6.3.6 of the Ecological Assessment makes reference to Policy DM6 of the current Three Rivers Development Management Policies Local Development Document (adopted July 2013). This includes:
  - developments should result in no net loss (of) biodiversity value.
  - the retention and safeguarding of existing hedgerows, trees and woodlands.
46. It is noted that the calculations for 'biodiversity net gain' are combined for both sites and result in a negative result for habitat units (45.65 to 17.77 (-61.08%)) and small positive results for hedgerow units (15.03 to 16.43)(9.34%) which is not in accordance with Policy DM6 and will not comply with regulations to be introduced in November .
47. Herts Ecology points out that there is an opportunity to achieve offsite compensation, but this has not been considered. This means that trading rules are not satisfied which means that the net loss is higher. Losses of habitat should be compensated for on a 'like for like' or 'like for better' basis, not by a larger area of lower value habitat.
48. With reference to the Planning Statement, maintaining the Public Rights of Way is a requirement so cannot be a benefit. Two hectares of new open space is not significant in the context of Sarratt or indeed compensation for the loss of the field. In any event, much of this area comprises attenuation basins for Sustainable Urban Drainage provision.

## **SUMMARY AND CONCLUSION**

49. In summary, CPRE Hertfordshire supports fully the District Council in its rejection of the proposed development which is the subject of these appeals. The benefits of the scheme do not clearly outweigh the harm (particularly the Green Belt and the setting of the AONB where it applies) and therefore there are no very special circumstances.
50. The quantum of development proposed means that there would be very substantial harm caused to highly valued open countryside which is designated as Green Belt and

close to the AONB. These designations seek specifically to prevent the type and magnitude of development proposed.

51. The planning policy context for these appeals has changed considerably since the original planning applications were made. Publication of the Prospectus for proposed changes to the NPPF is a clear indication of the Government's commitment to the protection of the Green Belt and a more flexible approach to the preparation of Local Plans, specifically in the calculation of future housing requirements.
52. For the reasons set out in this statement, the Inspector is respectfully urged to dismiss this appeal.

Chris Berry

CPRE Hertfordshire

1<sup>st</sup> September 2023