



Department for Levelling Up,  
Housing & Communities

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Our ref: APP/A1910/W/22/3309923  
Your ref: 22/01187/MOA

By email only

15 March 2024

Dear Sir/Madam

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78  
APPEAL MADE BY REDROW HOMES LTD & JAMES, JOHN AND JACQUELINE  
WESTROPE  
LAND BOUND BY BULBOURNE ROAD AND STATION ROAD, BISECTED BY  
MARSHCROFT LANE, TRING, HERTFORDSHIRE, HP23 5QY  
APPLICATION REF: 22/01187/MOA**

*This decision was made by Felicity Buchan MP, Minister for Housing and Homelessness,  
on behalf of the Secretary of State*

1. I am directed by the Secretary of State to say that consideration has been given to the report of Martin Whitehead LLB BSc(Hons) CEng MICE, who held a public local inquiry between 7 March and 5 May 2023 into your clients' appeal against the decision of Dacorum Borough Council (the Council) to refuse your clients' application for planning permission for the following development: Hybrid application (with access details of two main access points from Bulbourne Road and Station Road in Full and the main development on the rest of the site in Outline with all matters reserved) for the demolition of all existing buildings on the site and the development of up to 1,400 dwellings (including up to 140 Use Class C2 dwellings); a new local centre and sports/community hub; primary school; secondary school; and public open spaces including creation of a Sustainable Alternative Natural Green Space (SANG), in accordance with application Ref. 22/01187/MOA, dated 31 March 2022.
2. On 21 December 2022, this appeal was recovered for the Secretary of State's determination, in pursuance of section 79 of, and paragraph 3 of Schedule 6 to, the Town and Country Planning Act (TCPA) 1990.

**Inspector's recommendation and summary of the decision**

3. The Inspector recommended that the appeal be allowed, and planning permission granted subject to conditions. For the reasons given below, the Secretary of State agrees with the Inspector's conclusions, except where stated, but disagrees with his recommendation. He has decided to dismiss the appeal and refuse planning permission. The Inspector's Report (IR), and the Inspector's Addendum Report (AR) are attached. All references to paragraph numbers, unless otherwise stated, are to those reports.

## **Environmental Statement**

4. In reaching this position, the Secretary of State has taken into account the Environmental Statement (ES) which was submitted under the Town and Country Planning (Environmental Impact Assessment) Regulations 2017. Having taken account of the Inspector's comments at IR2, the Secretary of State is satisfied that the EIA complies with the above named Regulations and that sufficient information has been provided for him to assess the environmental impact of the proposal.

## **Matters arising since the close of the inquiry**

5. On 22 November 2023, Areas of Outstanding Natural Beauty (AONBs) were renamed as National Landscapes. For convenience, in this decision letter the Secretary of State retains the terminology used by the Inspector. As there is no change to the statutory or policy framework covering these areas, he does not consider it is necessary to refer back to parties on this matter.
6. A revised version of the National Planning Policy Framework (the Framework) was published on 19 December and amended on 20 December 2023 and the 2022 measurement Housing Delivery Test figures were published on 19 December 2023. The Secretary of State referred back to parties on 12 January 2024 to afford them the opportunity to comment on both these matters.
7. A list of representations received in response to the 12 January letter is at Annex A. These representations, and responses to them, were circulated to the main parties. The material above and responses covered a range of issues, including, among other matters, the application of the 20% buffer in five-year housing land supply and the weight attaching to the benefits and harms of the proposal. The Secretary of State has taken these representations into account when reaching his decision. Conclusions on specific matters are set out below.
8. In September 2023, an updated Local Development Scheme (LDS) was published, setting out the timescale for the production and adoption of the Dacorum emerging local plan. On 30 October 2023, the Council launched a consultation on a new document titled 'Dacorum Local Plan (2024 - 2040) Revised Strategy for Growth Consultation' (the 2023 Emerging Plan). This consultation concluded on 11 December 2023. The 2023 Emerging Plan removes the appeal site as an emerging allocation for development. The Secretary of State has found at paragraph 17 below that the 2023 Emerging Plan carries little weight. He is satisfied that this issue does not affect his decision or necessitate a referral back to parties. Parties, however, made representations concerning the 2023 Emerging Plan via the referral back to parties by the Secretary of State concerning the revised Framework. However, his decision to afford the 2023 Emerging Plan little weight is unchanged as a result of these representations.
9. The IR contains paragraph references to the previous version of the Framework; this decision letter refers to both the old and the new paragraph numbers, where these are different.
10. A list of other representations which have been received since the inquiry is also specified at Annex B with a number of them drawing the updates regarding the production of the emerging plan to his attention. The Secretary of State is satisfied that the issues raised do not affect his decision, and no other new issues were raised in this

correspondence to warrant further investigation or necessitate additional referrals back to parties. Copies of the letters listed in Annexes A and B may be obtained on request to the email address at the foot of the first page of this letter.

11. The requirement for mandatory biodiversity net gain has been commenced for planning permissions granted in respect to an application made on or after 12 February 2024. Permissions granted for applications made before this date, such as the appeal subject to this decision, are not subject to mandatory biodiversity net gain.

### **Policy and statutory considerations**

12. In reaching his decision, the Secretary of State has had regard to section 38(6) of the Planning and Compulsory Purchase Act (PCPA) 2004 which requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise.
13. In this case the development plan consists of the Dacorum Core Strategy adopted September 2013 (CS), the Dacorum Site Allocations Development Plan Document (2017) and Saved Policies of the Dacorum Local Plan 2004 (DLP). The Secretary of State considers that relevant development plan policies include those set out at IR474, IR488, IR490, IR494, IR498, IR499 and IR504. He agrees with the Inspector's assessment of the weight attached to development plan policies CS5 (IR474); CS1, CS24, CS25 and DLP Policy 97 (IR488); DLP Policy 108 (IR490); and CS18 and CS19 (IR504).
14. Other material considerations which the Secretary of State has taken into account include the Framework and associated planning guidance (the Guidance).
15. In accordance with section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, the Secretary of State has paid special regard to the desirability of preserving those listed buildings potentially affected by the proposals, or their settings or any features of special architectural or historic interest which they may possess.

### ***Emerging plan***

16. At the time of the inquiry the emerging plan comprised the Dacorum Local Plan Emerging Strategy for Growth (2020-2038). The Secretary of State notes that at that time the emerging plan identified the appeal site for allocation as site Tr03 with the same number of houses and a similar level of other development as proposed in this appeal (IR520).
17. As set out at paragraph 8 of this decision above, this has been superseded by the 2023 Emerging Plan. The Secretary of State notes that the updated LDS published in September 2023 indicates that the 2023 Emerging Plan will be submitted for Examination in February-March 2025, and adopted in February 2026. Among many other changes, the 2023 Emerging Plan removes the appeal site as a proposed allocation for development. The Secretary of State considers that as the 2023 Emerging Plan is at an early stage and is still subject to change, it carries little weight.

### **Main issues**

18. The Secretary of State agrees that the main issues are those set out by the Inspector at IR452.

### ***Five Year Housing Land Supply***

19. The Secretary of State notes that based on the approach set out at IR454-455, the appellant calculates that there is a housing land supply (HLS) of 1.77 years, while the Council considers there is 2.19 years HLS (IR456). The Secretary of State agrees that as per paragraph 8.6 of the Statement of Common Ground dated 20 December 2022 the housing requirement for the Council should be calculated in accordance with the Standard Method and that at the agreed base date of 1 April 2022 this is 1,018 dwellings per annum. However, he does not agree that a shortfall of 1,060 dwellings should be included in the five-year HLS calculation as set out at IR454. The Secretary of State notes that the PPG ID: 2a-011-20190220 states that “The affordability adjustment is applied to take account of past under-delivery. The standard method identifies the minimum uplift that will be required and therefore it is not a requirement to specifically address under-delivery separately. Where an alternative approach to the standard method is used, past under delivery should be taken into account.” On this basis, the Secretary of State finds that no shortfall should be included in the five-year HLS calculation for Dacorum.
20. The Secretary of State accepts the evidence put forward by Revd Professor Bob May in his representation dated 25 January 2024 that the Council delivered only 77% of its housing needs over the past three years, which is as published by DLUHC on 19 December 2023. The Secretary of State further notes this is agreed by Martin Stickley on behalf of the Council in his response dated 26 January 2024. He further notes that the outcome of the Housing Delivery Test result for the Council now, as set out in both aforementioned representations, is the application of a 20% buffer as per Framework paragraph 74 (now 77) to the five-year HLS calculation. He therefore finds that by applying a 20% buffer to the standard method figure of 1,018, the annual requirement for the five-year HLS calculation is 1,221.6 dwellings per annum. Over a five-year period this amounts to 6,108 dwellings.
21. For the reasons given at IR457-462 the Secretary of State agrees with the Inspector that the Council has only demonstrated a deliverable supply of 2,516 dwellings. Based on the Secretary of State’s conclusions reached on the annual requirement in paragraph 19 above, he finds that the Council is able to demonstrate a 2.06 year HLS. While this is at marginal variance with the Inspector’s findings, he still considers this HLS deficit is significant.
22. The presumption in favour of sustainable development is triggered, in accordance with footnote 8 to paragraph 11(d) of the Framework.

#### *Green Belt*

23. The Secretary of State agrees with the Inspector and parties that the whole proposal represents inappropriate development in the Green Belt (IR468). He has noted the Inspector’s comments at IR469-470 and has set out his conclusions on these matters at paragraphs 56-64 below.
24. For the reasons given at IR471-472 and IR530 the Secretary of State agrees that the appeal site is both spatially and visually open, and that notwithstanding the appellants’ arguments concerning the reduced degree of harm to openness resulting from undeveloped parts of the site (IR472), the loss of openness would be significant, due to the large scale of the development (IR530), and the proposal would result in significant harm to its openness.

25. The Secretary of State has considered whether the proposal would harm the purposes of the Green Belt as set out in paragraph 138 (now 143) of the Framework. For the reasons set out in IR473, he agrees with the Inspector that the proposal would result in significant harm to Green Belt purpose (a) to check the unrestricted sprawl of large built-up areas, and Green Belt purpose (c), to assist in safeguarding the countryside from encroachment. He further agrees at IR474 that the proposal would have a significant adverse effect on the openness of the Green Belt and the purposes of including land within the Green Belt.
26. Overall, as set out at IR530, the Secretary of State agrees the harm to the Green Belt, which includes harm due to inappropriateness, loss of openness and harm to the purposes of checking the sprawl of built-up areas and safeguarding the countryside from encroachment, carries substantial weight, in accordance with paragraph 148 (now 153) of the Framework.
27. The Secretary of State has assessed whether the proposal is in accordance with CS Policy CS5. He has agreed with the Inspector at IR474 (paragraph 13 above) that this policy carries moderate weight. He notes that it refers to the application of national Green Belt policy, but refers only to the restrictive elements, and that the policy makes no provision for very special circumstances (VSCs). Taking into account the requirements of Paragraph 11(d) of the Framework, he considers the proposal would be in conflict with CS Policy CS5.
28. The Secretary of State has gone on to apply national Green Belt policy. Paragraphs 147-148 (now 152-153) of the Framework state that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in VSCs. VSCs will not exist unless the potential harm to the Green Belt and any other harm resulting from the proposal, is clearly outweighed by other considerations. The Secretary of State has gone on to consider these matters. His conclusion on whether VSCs exist is set out at paragraph 61.

*Character and appearance of the surrounding area and setting of the Chilterns Area of Outstanding Natural Beauty (the AONB)*

29. For the reasons given at IR475-485 and IR530, the Secretary of State agrees that the appeal site does not form part of a valued landscape for the purposes of paragraph 174(a) (now 180(a)) of the Framework, but does form part of the AONB's setting (IR477). He further agrees that the overall residual effect of the proposal on the landscape would be minor adverse, once the mitigation has been established in the SANG, hedgerows and along the proposed and existing streets (IR481). With regard to the visual effects, he agrees that although the site would be clearly visible from a number of sensitive locations, the extent of planting that would be accommodated within the SANG and streets, combined with that which would be retained, would ensure that the residual visual effect of the proposal would be moderate adverse (IR485). Overall, taking into account the sensitive design of the development and proposed mitigation, he agrees that the harm to the character and appearance of the surrounding area should be given moderate weight (IR530).
30. For the reasons given at IR486-487 and IR530, the Secretary of State agrees that although built development within Tring is visible in the distance from many of the views, the appeal proposal would extend this built development, much of which would be closer to these sensitive receptors (IR487). He further agrees receptors in the AONB would

experience adverse effects, and there would also be harm due to a loss of panoramic views of the AONB from Public Rights of Way (PRoWs) 057 and 058 resulting from tree planting and building. He agrees that even with the existing and proposed planting there would be residual adverse effects on the setting of the AONB, to which great weight should be given, and further agrees that in line with paragraph 176 (now 182) of the Framework, great weight should be given to this harm (IR487, IR530).

31. Overall, the Secretary of State agrees with the Inspector at IR488 that the proposal would have an adverse effect on the character and appearance of the surrounding area and setting of the AONB. He further agrees it would fail to accord with CS Policy CS1 as the proposal would result in harm to the existing character of Tring's adjoining countryside, and CS Policy CS25 as it would fail to conserve or improve the prevailing landscape quality, character and condition. He further agrees it would fail to accord with saved DLP Policy 97, and CS Policy CS24, as the proposal would fail to conserve the special qualities of the Chilterns AONB.

#### *Loss of agricultural land*

32. The Secretary of State notes at IR489 that the Appellants have stated the proposal would use 116.7ha of agricultural land, of which about 59ha (49%) is Best and Most Versatile (BMV) agricultural land, and that the ES finds that, taking account of the proposed mitigation, the residual impact of the proposed development on agricultural land remains major adverse. For the reasons given at IR489-490, the Secretary of State agrees that given the extent of agricultural land that would be lost, including a relatively high percentage of BMV agricultural land, and the findings of the ES, the harm carries significant weight (IR490 and IR530). The Secretary of State acknowledges that footnote 62 of the Framework has been expanded and now states that the availability of agricultural land used for food production should be considered, alongside the other policies in the Framework, when deciding what sites are most appropriate for development. The Secretary of State does not find this changes his position on the weight applied to the harm to the loss of agricultural land. The Secretary of State agrees at IR490 that the proposal does not accord with saved DLP Policy 108, as the Appellants have not demonstrated that there is no alternative land of lower quality which could reasonably be used.

#### *Heritage*

33. For the reasons set out at IR492-493 the Secretary of State agrees with the Inspector's assessment of the impact of the proposal on both designated and non-designated heritage assets. The Secretary of State agrees that the proposal would cause minimal harm to the contribution setting makes to the high significance of the two designated heritage assets, and that the harm would be less than substantial (IR493). For the reasons given at IR494, the Secretary of State agrees that this harm carries great weight in accordance with the Framework.
34. In line with the heritage balance set out at paragraph 202 (now 208) of the Framework, the Secretary of State has considered whether the identified 'less than substantial' harm to the significance of the designated heritage assets is outweighed by the public benefits of the proposal. Taking into the account the public benefits of the proposal as identified in this decision letter, overall the Secretary of State agrees with the Inspector at IR494 that the benefits of the appeal scheme are collectively sufficient to outbalance the identified 'less than substantial' harm to the significance of the designated heritage assets. He

considers that the balancing exercise under paragraph 202 (now 208) of the Framework is therefore favourable to the proposal.

35. The Secretary of State agrees that the proposal would cause minimal harm to the contribution setting makes to the lower significance of the three non-designated heritage assets (IR493). The Secretary of State considers that this harm carries limited weight.
36. Overall, the Secretary of State agrees the proposal would accord with CS Policy CS27 as it would protect the integrity, setting and distinctiveness of designated and undesignated heritage assets (IR494).

### *Highways*

37. The Secretary of State agrees with the Inspector's conclusion on the matter of the speed limit on Station Road at IR495. For the reasons given at IR496-498 he agrees that the measures agreed with the Local Highway Authority would be sufficient mitigation, in combination with improvements to the bus services and cycling and walking facilities, to reduce the reliance on the car (IR496). He further agrees with the Inspector that the proposal would not have an unacceptable impact on highway safety and its residual cumulative highway impacts on the road network would not be severe, and it would therefore accord with paragraph 111 (now 115) of the Framework (IR498). For the reasons given at IR498 he further agrees the proposal accords with CS Policy CS8 and DLP Policy 106.

### *Flooding and drainage*

38. For the reasons given at IR499 the Secretary of State agrees that the proposal would not have an adverse effect on the risk from flooding or drainage and would accord with CS Policy CS31.

### *Habitats*

39. The Secretary of State is the Competent Authority for the purposes of the Conservation of Habitats and Species Regulations 2017 and for the reasons set out at AR2 he agrees with the Inspector that he is required to make an Appropriate Assessment of the implications of that plan or project on the integrity of any affected European site in view of each site's conservation objectives. The site is within the Zone of Influence of Chilterns Beechwoods Special Area of Conservation (SAC) (IR464). The Secretary of State agrees with the assessment and findings in IR464-467 and AR1-17, and agrees that the proposed development would not adversely affect the integrity of the designated habitats sites alone or in combination with other plans or projects and would be acceptable under the tests of the Habitats Regulations (AR16). He therefore adopts the attached AR as the necessary Appropriate Assessment in his role as the Competent Authority on this matter.

## **Benefits**

### *Housing*

40. For the reasons given in paragraphs 18-21 above, the Secretary of State finds that the Council has only been able to demonstrate a 2.06 year HLS. He further finds that there is an acute shortage of new homes in the Council area (IR502). He agrees that the proposal would result in a significant boost to new housing in the Council area and, like the Inspector, he is satisfied that it would be capable of contributing to the five-year HLS

that the Council has been unable to demonstrate (IR503). The Secretary of State agrees at IR503 that the provision of up to 560 new market homes carries substantial weight.

41. For the reasons given at IR504-505 the Secretary of State is satisfied, like the Inspector, that the proposal would deliver the proposed number of affordable homes, and that these would help to address the identified significant deficiency in affordable homes in the Council area and in Tring. He agrees that the provision of 45% of the dwellings as affordable housing carries substantial weight (IR505).
42. The Secretary of State agrees for the reasons given at IR506 that the provision of 70 self and custom build plots carries substantial weight.
43. The Secretary of State agrees for the reasons given at IR507 that the provision of 140 extra care units carries substantial weight.

#### *Socio-economic Benefits*

44. The Secretary of State agrees for the reasons given at IR508 that the socio-economic benefits of the proposal, including employment benefits and the contribution of the future residents to the local labour force and the local economy, should carry substantial weight.

#### *Schools and Educational Facilities*

45. The Secretary of State agrees with the position of the Council at IR322 that both the primary school and provision for a secondary school are required to mitigate the harmful effect of the development. He further agrees that while additional capacity may enable other developments to come forward in Tring, the extent to which that additional capacity will be taken up depends on whether any sites for development are allocated in Tring, which is in turn dependent on the eventual outcome of the Local Plan process. He considers that the provision of schools and educational facilities carries limited weight.

#### *Recreational and Sporting Facilities*

46. For the reasons given at IR510 the Secretary of State agrees that the provision of recreational and sporting facilities would provide a wider benefit to local residents beyond those residing within the new development and there would be improved access to the countryside and pedestrian routes within the SANG. He agrees at IR510 that there does not appear to be any deficit of orchards and allotments, and that open space on the site would be within walking distance of a limited number of existing residents on the eastern side of Tring. He agrees with the position of the Council at IR324 that to ensure their commercial viability, the sports facilities available to existing and future residents will be more limited if there is no secondary school on the site. However, he disagrees with the moderate weight applied by the Inspector at IR324 and considers that this benefit carries limited weight.

#### *Community Facilities*

47. For the reasons given at IR511 the Secretary of State agrees that the provision of community facilities, including a serviced site to accommodate a new doctor's surgery, would provide benefits to the wider community. The Inspector applies low moderate weight to this benefit at IR511, but the Secretary of State prefers the term limited weight.



### *Sustainable Transport*

48. For the reasons given at IR512-513 the Secretary of State agrees that the appeal site is in a sustainable location and that there would be benefits to the wider community from an increase in frequency of bus services between the town centre and station, and improvements to pedestrian and cycling facilities. He further agrees at IR513 that the sustainable transport benefits carry moderate weight.

### *Ecology*

49. For the reasons given at IR514-515, the Secretary of State agrees that the proposal would deliver significant ecological benefits for people and wildlife (IR515). He further agrees that whilst the provision of SANG and the other measures would be secured as necessary mitigation, they would also provide ecological enhancement of the site which carries moderate weight (IR515).

### *Design*

50. For the reasons given at IR516, the Secretary of State agrees with the Inspector that design matters do not carry separate weight in the case.

### *Energy Sustainability*

51. For the reasons given at IR517 the Secretary of State agrees that the sustainable energy measures which would be secured by a planning condition carry low moderate weight, but as set out above at paragraph 47 he prefers the term limited weight.

### *Development Plan*

52. The Secretary of State notes the Inspector's analysis at IR518-522 and IR531. He notes that the Council has accepted that it does not have an up-to-date development plan, and agrees that the Council has failed to adequately plan for the Borough's future housing needs (IR518). He has taken this into account in his consideration of this case, including via the application of the presumption in favour of the sustainable development, and the weights attaching to the provision of housing. He also notes that matters relating to the emerging plan have moved on since the inquiry, as set out at paragraphs 8 and 16-17 above. Overall, he agrees with the Inspector that the Council's repeated failure to progress an up-to-date development plan that would meet its future housing need and ensure the provision of sufficient sites is an important matter (IR522), but does not consider that the matters set out in IR522 and the last sentence of IR531 carry separate weight in this case.

### *Other matters*

53. The Secretary of State agrees with the Inspector's conclusions on the matters set out at IR523-529.

### **Planning conditions**

54. The Secretary of State has had regard to the Inspector's analysis at IR441-451, the recommended conditions set out at the end of the IR and the reasons for them, and to national policy in paragraph 56 of the Framework and the relevant Guidance. He is satisfied that the conditions recommended by the Inspector comply with the policy test

set out at paragraph 56 of the Framework . However, he does not consider that the imposition of these conditions would overcome his reasons for dismissing this appeal and refusing planning permission.

### **Planning obligations**

55. The Secretary of State has had regard to the Inspector's analysis at IR418-440, the section 106 Agreement dated 5 June 2023, the Unilateral Undertaking dated 31 May 2023, paragraph 57 of the Framework, the Guidance and the Community Infrastructure Levy (CIL) Regulations 2010, as amended. For the reasons given at IR418-440, he agrees with the Inspector's conclusion at IR440 that all the planning obligations in the section 106 Agreement and the Unilateral Undertaking meet the tests in Regulation 122 of the CIL Regulations 2010 and paragraph 57 of the Framework. However, the Secretary of State does not consider that the obligations overcome his reasons for dismissing this appeal and refusing planning permission.

### **Planning balance and overall conclusion**

56. For the reasons given above, the Secretary of State considers that the appeal scheme is not in accordance with Policy CS1, CS5, CS18, CS19, CS24, CS25, DLP Policy 97 and DLP Policy 108 of the development plan, and is in conflict with the development plan overall. He has gone on to consider whether there are material considerations which indicate that the proposal should be determined other than in line with the development plan.

57. As there is no five year HLS, paragraph 11(d) of the Framework indicates that planning permission should be granted unless: (i) the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or (ii) any adverse impacts of doing so significantly and demonstrably outweigh the benefits, when assessed against policies in the Framework taken as a whole.

58. Weighing in favour of the proposal is the delivery of market, affordable, custom and self-build, and extra care housing, each of which carry substantial weight. Socio-economic benefits also carry substantial weight. Ecological enhancement of the site and sustainable transport benefits each carry moderate weight. The provision of schools and educational facilities, community facilities, recreational and sporting facilities and the higher standards of energy sustainability each carry limited weight.

59. Weighing against the proposal is the harm to the Green Belt from inappropriate development, harm to openness and harm to the purposes of the Green Belt which collectively carry substantial weight. Harm to the setting of the AONB carries great weight, 'less than substantial' harm to the significance of designated heritage assets carries great weight, the loss of agricultural land carries significant weight, harm to character and appearance of the surrounding area carries moderate weight and harm to the significance of non-designated heritage assets carries limited weight.

60. The Secretary of State has concluded at paragraph 34 above that the balancing exercise under paragraph 202 (now 208) of the Framework is favourable to the proposal.

61. In line with paragraph 148 (now 153) of the Framework, the Secretary of State has considered whether the harm to the Green Belt by reason of inappropriateness, and any

other harms resulting from the development is clearly outweighed by other considerations. Overall, he considers that the other considerations in this case do not clearly outweigh the harm to the Green Belt and the other identified harms relating to impact on character and appearance, setting of the AONB, harm to designated and non-designated heritage assets and loss of agricultural land. He therefore considers that VSCs do not exist to justify this development in the Green Belt.

62. In the light of his conclusions on the Green Belt test, the Secretary of State considers there are protective policies which provide a clear reason for refusing the development proposed. He further considers that the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits when assessed against policies in the Framework taken as a whole. The presumption in favour of sustainable development therefore does not apply.
63. Overall, in applying s.38(6) of the PCPA 2004, the Secretary of State considers that the conflict with the development plan and the material considerations in this case indicate that permission should be refused.
64. The Secretary of State therefore concludes that the appeal should be dismissed and planning permission refused.

### **Formal decision**

65. Accordingly, for the reasons given above, the Secretary of State disagrees with the Inspector's recommendation. He hereby dismisses your clients' appeal and refuses planning permission for the following development: Hybrid application (with access details of two main access points from Bulbourne Road and Station Road in Full and the main development on the rest of the site in Outline with all matters reserved) for the demolition of all existing buildings on the site and the development of up to 1,400 dwellings (including up to 140 Use Class C2 dwellings); a new local centre and sports/community hub; primary school; secondary school; and public open spaces including creation of a SANG, in accordance with application Ref. 22/01187/MOA, dated 31 March 2022.

### **Right to challenge the decision**

66. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged. This must be done by making an application to the High Court within 6 weeks from the day after the date of this letter for leave to bring a statutory review under section 288 of the TCPA 1990.
67. A copy of this letter has been sent to the Council and the Combined Objectors' Group, and notification has been sent to others who asked to be informed of the decision.

Yours faithfully



Decision officer

*This decision was made by Felicity Buchan MP, Minister for Housing and Homelessness, on behalf of the Secretary of State*

**Annex A – Schedule of representations received in response to the Secretary of State’s letter of 12 January 2024**

<b>Party</b>	<b>Date</b>
B May (Ryan and May)	25 January 2024
M Stubbs (Chiltern Conservation Board)	25 January 2024
L Housden (Tring Town Council)	26 January 2024
D Gardiner (Chiltern Society)	26 January 2024
M Stickley (Dacorum Borough Council)	26 January 2024
C Berry (CPRE)	26 January 2024
B May	8 February 2024

**Annex B Schedule of representations received since the closure of the inquiry**

<b>Party</b>	<b>Date</b>
T Gillen	27 February 2023
A Barker	25 March 2023
F Acott-Smith	26 March 2023
G Brown	26 March 2023
J Godfrey	26 March 2023
M Lea	30 March 2023
N & D Hulse	31 March 2023
M Lea	31 March 2023
M Tourle	31 March 2023
G Wilson	3 April 2023
M Lea	4 April 2023
D Gardiner	26 April 2023
A Pike	7 May 2023
M Lea	4 June 2023
F Cole	24 July 2023
R Shafer	28 July 2023
B May	20 September
J Robertson	4 October
D Gardiner	6 October 2023
H Milner	12 October 2023
G Bright (Grove Fields Residents Association)	16 October 2023
L Housden (Tring Town Council)	24 October 2023
M Stickley (Dacorum Borough Council)	7 November 2023
S Ryan (Ryan and May)	9 November 2023
D Gardiner (Chiltern Society)	14 November 2023
C Berry (CPRE Hertfordshire)	15 November 2023
Gagan Mohindra MP	29 November 2023
D Gardiner	7 December 2023
S Ryan (Ryan and May)	9 January 2024



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# **Report to the Secretary of State for Levelling Up, Housing and Communities**

**by Martin Whitehead LLB BSc(Hons) CEng MICE**

**an Inspector appointed by the Secretary of State**

**Date 16 August 2023**

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## **Town and Country Planning Act 1990**

**Dacorum Borough Council**

**Appeal by**

**Redrow Homes Ltd & James, John and Jacqueline Westrope**

Inquiry opened on 7 March 2023

Land bound by Bulbourne Road and Station Road, bisected by Marshcroft Lane, Hertfordshire,  
HP23 5QY

File Ref: APP/A1910/W/22/3309923

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**File Ref: APP/A1910/W/22/3309923**

**Land bound by Bulbourne Road and Station Road, bisected by Marshcroft Lane, Tring, Hertfordshire, HP23 5QY**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Redrow Homes Ltd & James, John and Jacqueline Westrope against the decision of Dacorum Borough Council.
- The application Ref 22/01187/MOA, dated 31 March 2022, was refused by notice dated 10 October 2022.
- The development proposed is described as '*Hybrid application (with access details of two main access points from Bulbourne Road and Station Road in Full and the main development on the rest of the site in Outline with all matters reserved) for the demolition of all existing buildings on the site and the development of up to 1,400 dwellings (including up to 140 Use Class C2 dwellings); a new local centre and sports/community hub; primary school; secondary school; and public open spaces including creation of a SANG.*'

**Summary of Recommendation: That the appeal is allowed, and planning permission be granted.**

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**1 Procedural Matters**

1. A Case Management Conference (CMC) Meeting was held virtually on Friday 13 January 2023 to discuss procedural matters relating to the Inquiry in order to make best and most effective use of inquiry time. There was no discussion of the merits of the proposal or of the cases for any parties. Notes of the meeting were circulated to all known prospective inquiry participants<sup>1</sup>.
2. At the application stage, following a scoping opinion by the Council, the Appellants submitted an Environmental Impact Assessment (EIA), which I find to be adequate. There is no evidence to indicate that the EIA is inadequate. The appeal was recovered for the Secretary of State's (SofS's) own determination by letter dated 21 December 2022. The reason given is that the appeal involves proposals for residential development of over 150 units or on sites of over 5 ha, which would significantly impact on the Government's objective to secure a better balance between housing demand and supply and create high quality, sustainable, mixed and inclusive communities.
3. I opened the Inquiry on Tuesday 7 March 2023. It sat for 15 days at Dacorum Borough Council Offices, The Forum, Hemel Hempstead, Hertfordshire, HP1 1DN, except for Thursday 23 March, Wednesday 26 April and Thursday 27 April at the Langley Suite, Holiday Inn, Hemel Hempstead, Wednesday 5 April at the Southhill Centre, Cemetery Road, Hemel Hempstead, and Tuesday 25 April at the Holiday Inn Aylesbury. I closed the Inquiry in writing on Friday 5 May following receipt of the final submissions in writing.
4. I undertook an unaccompanied site visit of the area surrounding the site between about 1530 hours and 1800 hours on 6 March prior to opening the Inquiry, and an accompanied site visit of the site and surrounding area, including part of the Chiltern Hills AONB, between about 1030 hours and 1645 hours on Thursday 9 March during an adjournment of the Inquiry. I also undertook an unaccompanied

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<sup>1</sup> Document CD12.7

site visit on Friday 28 April, which included the Ridgeway National Trail between Pitstone Hill and Tring Park, Marshcroft Lane, Tring Station and Station Road. Although I also revisited 17 Hollyfield Close as requested, the rear garden of which backs onto the appeal site, I was unable to gain access. However, I had viewed the site from the rear garden of this property on 9 March and I am satisfied that at my 3 site visits I have gained a sufficient overall view of the site to enable me to make well informed conclusions and a recommendation.

5. This Report sets out brief descriptions of the site and its surroundings, the planning history, and the proposed development, together with an outline of the main national and Development Plan (DP) policy and guidance. It gives the material points made in the cases for the Appellants, the Council, the Rule 6 Party, other interested parties who appeared at the Inquiry, and those who made written representations at the appeal and application stages, together with my conclusions and recommendation. Lists of those appearing at the Inquiry and of inquiry documents are appended, as are recommended conditions in the event of the SofS granting planning permission and a list of abbreviations and a glossary of terms used in this Report

## **2 The Site and Surroundings<sup>2</sup>**

6. The appeal site consists of about 121 ha of mainly open rural land to the east of Tring, with a small number of farm buildings at the northern end. It is predominantly in agricultural use with mature hedgerows and some tree planting, particularly near to the north-east and southern boundaries. It is relatively flat with a localised mound in the north-west, sloping down to the south-east. There is a slight ridge where the current buildings of Grove Farm are located.
7. The site is bounded by Bulbourne Road on the north-west and the Grand Union Canal on the north-east. The Canal is set down within a deep cutting and there is relatively dense vegetation along the top of the embankment on the eastern edge of the site. To the south of the site is Station Road, along the southern side of which are a number of buildings associated with Pendley Manor. To the south-west of the site lies the settlement of Tring, which is separated from the northern part of the site by two fields. Marshcroft Lane runs through the centre of the site but is not included within the site boundaries. Also excluded are the residential properties on Marshcroft Lane, Tring Garden Centre to the north-west of the site and Ivy Cottage in the south-east corner.
8. There are no nationally designated buildings or Conservation Areas (CAs) within the site boundary. Public Rights of Way (PRoWs) 057 and 058 run along the site's eastern boundary adjacent to the Grand Union Canal. The site lies within the Metropolitan Green Belt and the Chilterns Area of Outstanding Natural Beauty (AONB) borders its northern, eastern and southern boundaries. It is situated close to the Chilterns Beechwoods Special Area of Conservation (SAC), which includes the Ashridge Estate managed by the National Trust. It also lies adjacent to two Local Wildlife Sites. Tring railway station is located on Station Road, around 450m from the eastern boundary of the site.

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<sup>2</sup> Document CD 12.12 Landscape SoCG section 2 and observations on site



### 3 Planning Policy

*I have summarised below the main national and local plan policy documents. I have given a more detailed description of the main policies that have been referred to in this appeal under the cases for the Appellants and the Council.*

9. Relevant National planning policy is set out in the National Planning Policy Framework, July 2021 (the Framework), and guidance contained in the Planning Practice Guidance (PPG).
10. The DP for Dacorum includes the Dacorum Core Strategy adopted September 2013 (CS), Dacorum Site Allocations Development Plan Document (2017), and Saved Policies of the Dacorum Local Plan, 2004 (DLP). The CS sets out the overall spatial strategy for Dacorum. The main parties have agreed that it is broadly consistent with the Framework in that it generally promotes sustainable patterns of development having regard to economic, social and environmental factors. They also agree that the saved general development management policies of the DLP are broadly consistent with the Framework and can be afforded due weight in the determination of the appeal<sup>3</sup>.
11. The main parties agree that the Dacorum Local Plan Emerging Strategy for Growth (2020-2038) (Emerging DLP) has not been withdrawn and the weight to be given to the plan is to be in accordance with paragraph 48 of the Framework. They further agree that the evidence base published by the Council with regard to the Emerging DLP has not been withdrawn and has not been superseded. The latest Local Development Scheme (LDS) is dated February 2022 and there is no confirmed date published for the resumption of public consultation on the Emerging DLP<sup>4</sup>.

### 4 Planning History<sup>5</sup>

12. Harrow Estates purchased the land lying between Station Road and Marshcroft Lane in 2013 (the 'southern parcel'). The company subsequently promoted the land as an allocation for housing development through the local plan process. In early 2017, they entered into a joint promotion agreement for the remainder of the land within the appeal site.
13. The site was identified in the Council's Emerging DLP (Regulation 18 stage) as a preferred location for a housing-led mixed-use development (Tr03). The selection of sites for allocation in the emerging Plan was underpinned by a number of evidence studies which informed officers' recommendations on draft site allocations.
14. In July 2021, the Council's Cabinet raised objections to a number of core proposals in the draft Emerging DLP, including the overall Spatial Strategy, the proposed Delivery Strategy for Tring, and the proposed allocation Tr03: East of Tring. The Cabinet deferred further progress of the Plan to allow additional time for evidence to be gathered. A LDS was approved in February 2022 which highlighted that the adoption of the Plan is now scheduled for October 2025.

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<sup>3</sup> Document CD12.8 Main SoCG paragraphs 5.5 and 5.6

<sup>4</sup> Document CD12.8 Main SoCG paragraphs 5.8 to 5.10

<sup>5</sup> Document CD2.4

## 5 The Proposal

15. The proposal would comprise up to 1,400 dwellings including affordable, elderly persons' accommodation, First Homes and self/custom-build. It would also include new vehicular and pedestrian/cycle routes, a local centre with health, community and workspaces, a sports/community hub, allotments and orchards, a primary school and land for a potential secondary school and areas of open space and Suitable Alternative Natural Green Space (SANG). The proposal was submitted as a 'hybrid' application, with full planning permission being sought for the accesses and outline planning permission being sought for the development on the remainder of the site with all matters of detail reserved for subsequent determination.
16. Vehicular access points are proposed to both Bulbourne Road and Station Road, connected by a link road running north-south through the site. The western section of Marshcroft Lane would become a vehicle free route for pedestrians and cyclists. Improvements to three junctions locally would be made at London Road/ Station Road, Grove Road/ Station Road/ Cow Lane and the A4251/ Cow Lane.

## 6 The Case for Redrow Homes Ltd & James, John and Jacqueline Westrope

*I have reported the case on the basis of the closing submissions<sup>6</sup> with additional references to the evidence submitted prior to and during the Inquiry. The following is the gist of the material points made.*

### **Appeal Proposal**

17. The Government and the SofS are firmly committed to delivering 300,000 new homes a year; addressing the housing crisis<sup>7</sup>; addressing the problem of affordability; providing more social rented housing; delivering new schools; and delivering new social infrastructure.
18. The appeal proposal is exemplar<sup>8</sup> and mirrors exactly the draft allocation in the Emerging DLP<sup>9</sup> in terms of the boundary of the site; the precise number of houses; the provision of accommodation for the elderly; the provision of land for schools; the extent of the open space; the extent of the sports pitches; the extent of the SANG; the landscape mitigation; the public transport requirements; and all the facilities the Council identified as being necessary.
19. The location of the site is truly exceptional in that it is on the edge of one of the most sustainable settlements in the Borough; it is a perfect location for an urban extension to a town because it is located between the edge of the town and Tring railway station, which is a busy mainline station with a high frequency of direct trains into London Euston, with an average journey time of just 40 minutes; it fills a gap of about 1 km between the town and the station with around 50

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<sup>6</sup> Document ID82

<sup>7</sup> Document APP2a Appendix JS5: Planning Minister in 2013 and Chapter 3 and 4

<sup>8</sup> Accepted by Chris Berry in cross examination

<sup>9</sup> Document CD7.1.2: Emerging Strategy for Growth 2020-2038, page 232 Key Developments in Tring (Plan) and page 236-7, Policy SP23: Delivering Growth in Tring, page 238 Policy SP4: Delivering Growth in East Tring; and Document CD7.1.5 Draft Proposals Map

houses directly overlooking the route and all the activity that generated by a new community of over 3,000 people; the site has been very specifically excluded from the AONB; its outward edge is marked by the dense vegetation sitting either side of the Grand Union Canal, which is an obvious choice for creating a very well defined, significant and permanent long term boundary; it is adjacent to a 1970s housing estate and the existing secondary school; it has no impact on a CA or any historic part of the town centre; and it has a degree of built development around and in all directions, including a theatre complex and car park (south), hotel (south), houses (south, west, east and north), retail garden centre and pet store (north), railway station and about 50 houses around it (east) and houses and commercial activities at Bulbourne (north-east edge).

20. The Council has recognised that the exceptional circumstances needed to remove the site from the Green Belt have been made out. The release of the site is entirely consistent with national policy on Green Belt release in the Framework, in that paragraph 142 advocates the release of sites which are *"well-served by public transport"*, which the site is. The proposal matches national policy that recognises that Local Planning Authorities (LPAs) should *"also set out ways in which the impact of removing land from the Green Belt can be offset through compensatory improvements to the environmental quality and accessibility of remaining Green Belt land"*. This is because it takes intensively farmed agricultural land where there is no public access, save for one footpath on the eastern edge of the site, and provides full public access, and enhances the ecology through the provision of SANG and other nature and biodiversity enhancements across large parts of the site.
21. The Borough consists of 60% Green Belt outside of the urban areas, with much of what remains being AONB. The need to release Green Belt sites is inevitable. Even with the appeal site and all the others in the draft Emerging DLP being developed, the Borough will remain 60% Green Belt because the proposal would not even reduce the extent of Green Belt openness in Dacorum by 1%.
22. There has been a complete collapse in the delivery of housing in Dacorum Borough. The Council promised the Local Plan Inspector that it would do a Review of the Core Strategy and adopt that review by 2017/2018. Then it promised a High Court Judge that it would do the same in the legal proceedings that followed. The Council made no real attempt to carry out the Review. It did not happen in 2017/2018 and it has not happened since. The Local Plan which was to replace it has been stopped.
23. There is no up-to-date DP for this area. There is no certainty about whether any form of local plan will be produced. The Appellants have worked collaboratively for over 10 years with Council officers to progress the draft allocation. New infrastructure like schools, bus services through a development, and large scale green infrastructure such as a sports hub and a meaningful SANG can only be delivered on a development at the scale proposed.
24. The appeal proposal will deliver the following:
  - 24.1 1,400 homes that Tring and the wider Borough desperately need; including 630 affordable dwellings of which 158 (25%) will be social rented affordable homes, 158 (25%) will be First Homes, 252 (40%) will be affordable rented homes, and 62 (10%) will be intermediate affordable

- homes; 140 Extra Care units; about 70 self-build and custom build units; and 560 market houses of a mix to meet the identified local need.
- 24.2 A new primary school and nursery class, with an enlarged core to accommodate expansion to meet future growth needs within the town.
- 24.3 Land for a secondary school, if and when that need arises, or for expansion of the existing Tring School if preferred by the Education Authority.
- 24.4 Extensive sports pitches, consisting of up to 9 new high-quality pitches able to be used concurrently for football and for other sports such as rugby, hockey and lacrosse; a floodlit Multi-Use Games Area (MUGA) with four courts for netball, outdoor tennis, basketball, wheelchair or roller sports; a full-size floodlit 3G pitch that can be used for senior football or concurrently for 4 x mini-soccer/5-a-side pitches; a high-quality nine pitch fine turn cricket facility with artificial wicket, 2 x practice nets and scorers base; a clubhouse for the cricket facility, integrated within the Community Building with a kitchen, café/social space and separate changing; an indoor multi-use hall within the community building for one badminton court, indoor bowls and fitness classes; a Sports Hub Building with 4 x changing rooms, kitchen, café/social space, storage, reception and treatment room(s) designed to extend to encompass a four-court sports hall, activity studio and fitness facility if the secondary school land is developed; and a dual-use agreement so the secondary school can have exclusive use of enhanced sports facilities, which is substantially in excess of the standard of sports facilities available to other new schools.
- 24.5 A SANG, designed in consultation with Natural England and meeting its criteria, which it agrees will serve as an 'intercept site' for the SAC.
- 24.6 A circular walking route of 2.5km within the SANG, with multiple possibilities for different routes and links to existing PRoWs, including the Grand Union Canal.
- 24.7 A SANG café, welcomed by Natural England.
- 24.8 Over 10 ha of 'supplementary SANG' to facilitate further housing development in the Borough.
- 24.9 The retention and enhancement of existing hedgerows and treelines as part of a site-wide green infrastructure network.
- 24.10. Circa 35% Biodiversity Net Gain (BNG).
- 24.11. A minimum 30% increase in habitat units and 10% increase in hedgerow units
- 24.12. Extensive new habitats for wildlife afforded by the SANG and green infrastructure network.
- 24.13. Specific measures for wildlife to include bat and bird boxes and hedgehog highways.
- 24.14. A significant boost to the local economy, including local jobs, consisting of 180 gross direct Full Time Equivalent (FTE) jobs on site once fully

operational, with a total of 90 direct, indirect and induced net additional jobs created for Dacorum residents; an average of about 175 gross direct FTE jobs generated annually throughout the circa 10-year construction period; and 90 direct, indirect and induced net additional FTE jobs created for residents of Dacorum through the circa 10-year construction period.

- 24.15. Accommodating 1,715 additional workers to address challenges facing businesses in recruiting and retaining labour.
- 24.16. Enabling a more vital age profile in Tring, addressing challenges the town will face with an ageing population.
- 24.17. New social and community facilities accessible to the whole town, consisting of a serviced site to accommodate a new doctor's surgery, and financial contribution of about £1.8m (index linked) towards healthcare infrastructure provided by the Hertfordshire and West Essex Integrated Care Board within the vicinity of the development, including but not limited to the construction of a new medical centre on the 'Medical Centre Site'; a building to accommodate a private day nursery; and a new multi-function community hall built to a high standard that also incorporates one badminton court.
- 24.18. A comprehensive package of transport improvements including a new segregated pedestrian/cycle connection to Tring railway station.
- 24.19. A 'Bus Service Contribution' of £735,024 to support a two-bus service operating between Tring town centre, the development, Tring railway station and Aldbury.
- 24.20. The direct delivery of transport improvements by the Appellants as part of the development.
- 24.21. Financial contributions of £160,000 towards transport infrastructure to support sustainable modes of transport consisting of £10,000 'Covered Cycle Parking Contribution'; £100,000 'Footway and Cycle Improvements Tring to Northchurch Contribution'; £15,000 'Improved Cycle Signage Contribution'; and £35,000 'Town Centre Cycle Parking Contribution'.
- 24.22. A travel plan and school travel plan will be provided to promote active healthy safe and sustainable travel (including but not be limited to walking and cycling) to and from the development.
- 24.23. More than £600,000 investment (index linked) in improvements to Tring railway station to deliver additional cycle parking and improved access for pedestrians and cyclists, as well as improved facilities for all passengers.
- 24.24. A proposal which will achieve a high quality design to include a range of play spaces integrated across the open space network; retention and celebration of archaeological features in a new heritage garden; an extensive network of Sustainable Drainage System (SuDS) features sensitively integrated into the open spaces; extensive areas of new publicly accessible open space; provision of high quality walking and cycling infrastructure promoting active modes of travel; retention of existing hedgerows and trees; successional tree planting along Station Road to

safeguard its long-term quality and character as a tree-lined route; creation of new high quality, passively-surveilled and segregated walking and cycling routes along Station Road; design proposals inspired by the character of Tring's historic built environment; and a rich range of habitats across the open spaces.

- 24.25. A minimum of 2,800 trees planted across the development (2 per dwelling).
- 24.26. Significant additional tree and shrub planting in the SANG.
- 24.27. A new community orchard.
- 24.28. New allotments.
- 24.29. Sustainable energy measures throughout, including a 'fabric-first' approach to construction; use of Air Source Heat Pumps on all dwellings'; and use of PV panels for sustainable energy production; and a commitment to a reduction of 90% allowable emissions against 2021 Building Regulation Part L.
- 24.30. Zero-carbon ready.
- 24.31. Index linked financial contributions of more than £1 million, for improvements to off-site sports facilities consisting of Tring Sports Centre for new or improved pitches and changing rooms to improve the capacity at the Club (£73,532); Tring RUFC for new or improved pitches and changing rooms to improve the capacity at the Club (£205,166); and Tring Sports Centre for further improvements to swimming facilities (£801,364).
- 24.32. Where Hertfordshire County Council (HCC) decide not to bring forward the new secondary school, or new sixth form college on the appeal site, additional financial contributions consisting of an off-site 'Activity Studio Contribution' of £133,308 (Index Linked) towards the expansion or enhancement of the existing activity studio provision at Tring Leisure Centre, or another existing facility in the vicinity of the development, or the provision of a new activity studio at a new facility to be constructed in the vicinity of the development; and an off-site 'Fitness Suite Contribution' of £490,400 (Index Linked) towards the expansion or enhancement of the existing fitness suite provision at Tring Leisure Centre, or another existing facility or the provision of a new fitness suite at a new facility to be constructed in the vicinity of the development.
- 24.33. 'Canal Towpath Improvements' of £396,270 (Index-Linked) towards upgrading of the Canal towpath between Marshcroft Lane and Station Road.
- 24.34. A 'Public Footpath Contribution' of £52,371 (Index-Linked) towards improvements to the public footpath number TT62 located between Marshcroft Lane and Northfield Road.
- 24.35. A Strategic Access Management and Monitoring (SAMM) contribution of £1.28m (£913.88 per dwelling Index Linked) towards the maintenance, improvement, management, access management and monitoring works to



mitigate the recreational impact of the development in accordance with the Chilterns Beechwoods Recreational Pressure Mitigation Strategy.

### ***The Development Plan***

25. The relevant parts of the DP for the purpose of this appeal are the Saved Policies of the DLP and the CS. The DLP relies on policies which have had to be saved, with the Saving Direction for those policies being issued in 2007. The Council is still having to rely on this Plan in its decision making because the CS is not a full plan. Much of the evidence which lies behind the CS was prepared before the Framework was issued in 2012. The methodology for calculating objectively assessed need (OAN) was not issued until 2014, so the plan cannot be said to be based on a Framework compliant figure. The CS, therefore, does not properly reflect the Framework and has never addressed the housing needs prescribed by the Framework.
26. The CS Inspector did not believe the CS in terms of its content as it did not adequately address the housing needs of the area and was not based on the latest data, did not address the full OAN of the Borough and the Council had failed to conduct a Green Belt Review. The only way the Inspector was prepared to find it sound was if the Council *"committed to a partial review of the CS, to be adopted by 2017/2018"*<sup>10</sup>. Main Modification to the plan MM28<sup>11</sup> committed the Council to the partial review whereby it agreed to assess, amongst other things *"the role and function of the Green Belt affecting Dacorum including long term boundaries and the potential to identify safeguarded land beyond 2031"*.
27. The adoption of the CS was challenged in the High Court because of the plan's failure to address the housing needs of the area or carry out a Green Belt Review. In the High Court, the Council through its barrister Martin Kingston QC, submitted that the Council would progress the review. He emphasised that there was a strong incentive for the Council to get on with its review of the CS, stating that *"If it does not do so it will find it more and more difficult to rely on its adopted policies for meeting housing need when making decisions on applications for planning permission."*<sup>12</sup>
28. The Council never did conduct the Review it promised both the Inspector and the High Court it would adopt. It did not adopt it in 2017/2018 as promised. By 2017, the Council undertook to adopt it by 2019, before the Site Allocations Development Plan Document (DPD) Inspector<sup>13</sup>. The Council has never adopted the Review.
29. Pursuant to the Framework, all DPs are required to be up-to-date. National policy treats housing targets as being out-of-date after 5 years.<sup>14</sup> Both the DLP (adopted over two decades ago) and the CS (adopted a decade ago) contain housing targets which are out-of-date. Also, the CS housing requirement is far too low and not based on OAN, so the CS is not a Framework compliant plan, and

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<sup>10</sup> Document CD4.7 page 8 paragraph 27

<sup>11</sup> Document CD4.7: Appendix page 29

<sup>12</sup> Document CD 4.6 paragraph 54 of the Judgment of Mr Justice Lindblom (as he then was)

<sup>13</sup> Document CD4.9 Site Allocations Plan Inspector Report (April 2017), page 5, [11]

<sup>14</sup> Document CD6.1 paragraph 74 and footnote 39

- the Council has never had a Framework compliant plan. The DP for the area of the appeal site is therefore fundamentally out-of-date.
30. The critical Green Belt review that the Council promised to carry out has also never taken place. This was essential, given that outside of the existing built-up areas around 60% of the Borough is Green Belt and much of the remainder is in the AONB where major development should not take place if there are alternative locations for it to be accommodated (i.e. non AONB)<sup>15</sup>.
  31. If the housing requirement is out-of-date, then the settlement boundaries and the corresponding Green Belt boundaries will also be out-of-date. If the plan is not meeting present day needs and the Green Belt encompasses main towns like Tring, the Green Belt boundaries around the main settlements will be out-of-date. This is because the plan from which those Green Belt boundaries are drawn will not reflect allocations which properly address the need<sup>16</sup>.
  32. Green Belt is a restrictive policy but, if the Very Special Circumstances (VSC) are made out, the Framework would support the grant of planning permission. It would not be a situation where the tilted balance should be disapplied<sup>17</sup>. Satisfying the VSC test would mean that the test in Framework paragraphs 147 and 148 would provide a clear reason for allowing development. So, the presumption would apply, and planning permission must be granted.
  33. The Appellants' case is that VSC apply in the appeal case. Even if that were not the case, it does not mean that the weight to be given to Green Belt boundaries cannot be reduced if they are based on a shortfall in the five year Housing Land Supply (HLS)<sup>18</sup>. Less weight ought to be given to the Green Belt boundaries around the main settlements in Dacorum. This is because those boundaries are based on both an out-of-date DP which is not properly planning for the area and should have been reviewed before 2017 and which are inevitably contributing to the chronic shortfall in the five year HLS.
  34. The policies of the plan are also inconsistent with the Framework in various ways<sup>19</sup>. CS Policy CS5 Green Belt is the only DP policy said to be breached. It is wholly inconsistent with the Framework. It does not mention the crucial VSC test at all. It only says that it will apply national Green Belt policy *"to protect the openness and character of the Green Belt, local distinctiveness and physical*

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<sup>15</sup> Document CD6.1 paragraph 177(b)

<sup>16</sup> Lord Carnwath in the Supreme Court *Suffolk Coastal v Hopkins Homes: Richborough Estates v Cheshire East* [2017] UKSC 17 at paragraph 63 held in respect of the Richborough Estates appeal that the Inspector was entitled to reduce the weight he gave to a restrictive policy (in that case a countryside protection policy) when the boundary of the countryside is based on housing requirement was out of date: *"He was clearly entitled to conclude that the weight to be given to the restrictive policies was reduced to the extent that they derived from settlement boundaries that in turn reflect out-of-date housing requirements"*.

<sup>17</sup> Document CD6.1 paragraph 11((d)(i)

<sup>18</sup> Lord Gill in the above Supreme Court case at paragraph 79: *"Among the obvious constraints on housing development are development plan policies for the preservation of the greenbelt, and environmental and amenity policies and designations such as those referred to in footnote 9 of paragraph 14. The rigid enforcement of such policies may prevent a planning authority from meeting its requirement to provide a five-years supply."*

<sup>19</sup> Document CD6.1 paragraph 218



*separation of settlements*". Moreover, it identifies exceptions in the third paragraph thereby making clear that the policy itself identifies what exceptions to Green Belt protection are permitted by the policy. It suggests that further guidance will be provided that might have identified the VSC test but no such guidance was ever produced. It also rules out a Green Belt boundary review, which is itself inconsistent with the Framework. As such the policy is completely at odds with the Framework over the crucial test in this case<sup>20</sup> and the policy should be given very little weight for that very reason alone. Therefore, conformity or otherwise with the DP has little relevance at the appeal. Even if the Policy does incorporate the VSC test, the proposal would be in conformity with the DP because VSC exist due to all the benefit arising from the proposal.

35. No weight should be given to CS Policy CS5 given that it is inconsistent with the Framework on the pivotal issue of VSC. Furthermore, the weight to all key policies can also be reduced because the DP itself is out-of-date as it is based on out-of-date housing requirements and there is a lack of a five year supply.
36. The weight to give the policies is important because, in the absence of the tilted balance, the normal statutory test under section 38(6) of the Planning and Compulsory Purchase Act 2004 (PCPA 2004) is to be applied. Under this test, planning permission can be granted if the material considerations in favour of the proposal outweigh conflict with the DP. In the appeal, the conflict with the DP is minimal (one policy is identified in the sole Reason for Refusal) and it is out-of-date and inconsistent with the Framework.
37. The protection of the Green Belt comes from the Framework. The decision maker should not reduce the weight to be given to CS Policy CS5 or the boundary of the Green Belt in Dacorum but should focus on the material considerations weighing in favour of the proposal<sup>21</sup>.
38. The list of 'most important policies' for determining the appeal is agreed<sup>22</sup>. The Council does not allege a breach of any of them other than CS Policy CS5. There is no alleged breach of DLP Policy 97 or CS Policy CS24 concerning protection of the AONB. Nor any allegations of unacceptable impact on landscape character under CS Policy CS25. There is no identified breach of DLP Policy 108 concerning agricultural quality. Nor a breach of DLP Policy 106 concerning protection of the canalside environment.
39. No weight should be given to DLP Policy 97 (Chilterns AONB), Policy CS17 New Housing, Policy CS18 Affordable Housing and Policy CS23 Social Infrastructure, because each is inconsistent with the Framework<sup>23</sup>. Moderate weight should be given to DLP Policy 108 AONB, CS Policies CS10-CS13 Quality of Development and Policy CS25 Landscape Character, because they are partially compliant with

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<sup>20</sup> Document APP15 paragraph 4.54 page 23

<sup>21</sup> Lord Gill in the Supreme Court *Suffolk Coastal v Hopkins Homes: Richborough Estates v Cheshire East* [2017] UKSC 17 at paragraph 84: *"If the policies for the supply of housing are not to be considered as being up-to-date, they retain their statutory force, but the focus shifts to other material considerations. That is the point at which the wider view of the development plan policies has to be taken."*

<sup>22</sup> Documents CD12.8 and APP15 pages 17 and 18 and Table 4.1

<sup>23</sup> Document APP15 pages 15 and 17

the Framework. Full weight should be given to DLP Policy 106 and CS Policy CS24, because they are fully compliant with the Framework. Those policies that are inconsistent with the Framework outnumber those which are not<sup>24</sup>. In any event, because the Council accepts it cannot demonstrate a five year HLS, the most important policies are automatically out-of-date<sup>25</sup>. Overall, the proposal conforms with the DP as a whole, in that only one policy is said to be breached.

40. The Government wants to see up-to-date development plans that address the housing and other development needs of the area. These plans should be underpinned by relevant and up-to-date evidence<sup>26</sup>. They should also be positively planned providing a strategy which as a minimum seeks to meet the area's objectively assessed housing needs<sup>27</sup>. It should support the Government's objective to boost significantly the supply of new homes<sup>28</sup>.

### ***The Emerging Local Plan***

41. Work on the Emerging DLP started 10 years ago. There is a vast evidence base underpinning its contents<sup>29</sup>. It involves over 50 individual reports covering everything from an urban capacity study to a report on the impact on the Chiltern Beechwoods SAC. There was detailed work on housing need and the economy, through to a landscape sensitivity study. The Green Belt and how best to accommodate new development within the Green Belt was also examined as part of that process. The consequence of this work is that the Council recognised that it can only meet its housing need through the release of Green Belt land. That was an inevitable consequence, with so much of the Borough being Green Belt, especially all the land around the main towns, and large parts of the Borough being AONB, which the Council avoided<sup>30</sup>.
42. The Emerging DLP allocated the appeal site for 1,400 homes at Tring and a further 800 homes around the town. That Tring should be a focus for growth is a reflection of the detailed Settlement Hierarchy Study. As stated in the Emerging DLP: *"The Settlement Hierarchy Study identifies Tring as one of the most sustainable towns in the Borough as it provides a hub for a whole range of services and facilities for its residents and surrounding rural hinterland. Given its size, level of facilities and transport links, the settlement should be an important focus for meeting the Borough's development needs."*<sup>31</sup>
43. All the sites allocated for development in the Green Belt inevitably have a negative impact on openness and, to a greater or lesser extent, harm one or more purposes of the Green Belt. The appeal site is very well contained and wholly outside the AONB, and the Council considers the proposal to harm only

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<sup>24</sup> Mr Justice Dove *Wavendon Properties Ltd v Secretary of State of Housing Communities and Local Government & Anor* [2019] EWHC 1524 (Admin)

<sup>25</sup> Document CD6.1 footnote 8

<sup>26</sup> Document CD6.1 paragraph 31

<sup>27</sup> Document CD6.1 paragraph 35(a)

<sup>28</sup> Document CD6.1 paragraph 60

<sup>29</sup> Document APP15 pages 41-45

<sup>30</sup> Document CD6.1 paragraph 179(c)

<sup>31</sup> Document CD7.1.2, page 232, paragraph 23.138

- one of the five purposes of including land in the Green Belt<sup>32</sup>: safeguarding the countryside from encroachment.
44. The Arup work demonstrates that Green Belt harm was taken into account in the identification of suitable housing sites in the Borough, but adverse comments were outweighed by all the other relevant considerations such as meet housing needs, the lack of urban capacity, the settlement hierarchy, transport sustainability, landscape sensitivity, avoiding placing major development in an AONB and the need for release of Green Belt land.
45. In 2020, the Council progressed a preferred option version of the Dacorum Local Plan Emerging Strategy for Growth (2020–2038)<sup>33</sup>, which identified the appeal site for allocation, and Green Belt release, as the 'East of Tring Growth' area (draft allocation Tr03)<sup>34</sup>. The allocation would have accommodated exactly the same quantum of homes (1,400) with associated infrastructure, including secondary and primary schools, health and community facilities, sports hub and open space, as the appeal proposal.
46. The Emerging Strategy has not been withdrawn<sup>35</sup>. The evidence documents that supported the allocation remain in the public domain and have not been superseded. The 'evidence base' prepared by the local authority is a significant range of documents and is the 'best and only' evidence available<sup>36</sup>. In agreeing this, the Council witness responsible for managing the progress of the DLP confirmed that it is the best and only evidence that is available for decision making on how to meet the chronic need for housing. He also confirmed that it is the only evidence available regarding how to address the need for affordable housing and how to meet the infrastructure requirements of the Borough, including decisions upon allocating sites and releasing land from the Green Belt.
47. The Council's refusal to progress the Emerging DLP is wholly out of step with national policy. The Cabinet decision of July 2021 recorded the Council's 'scepticism' as to the housing target under the standard method and a general unwillingness to release any Green Belt. There is no record of any meaningful progress with the DLP for almost 2 years<sup>37</sup>. The Council knows that it must release the site.
48. LPAs have a responsibility to always have an up-to-date local plan<sup>38</sup>. The failure to have an up-to-date plan is the greatest failing of any LPA and strikes at the heart of what the planning system is there to do. The Council witness<sup>39</sup> accepted that the Council were 'failing spectacularly' in the context of housing land supply

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<sup>32</sup> Document DBC5

<sup>33</sup> Documents CD7.1.1-7.1.6

<sup>34</sup> Documents CD7.1.2 page 232 Key Developments in Tring (Plan) and page 236-7, Policy SP23: Delivering Growth in Tring, page 238 Policy SP4: Delivering Growth in East Tring; and CD7.1.5 Draft Proposals Map

<sup>35</sup> Document CD12.8 page 10, paragraph 5.8

<sup>36</sup> Ronan Leydon in cross examination

<sup>37</sup> Document APP15 Section 6 paragraph 6.2 confirms that the Council had not been able to confirm what further studies had been commissioned which might change the evidence base of the emerging local plan; and the Council continues to be in the same position

<sup>38</sup> Document CD6.1 paragraphs 11, 12 and 15

<sup>39</sup> Ronan Leydon in cross examination

- and failing as an authority in respect of having an up-to-date local plan that could address it.
49. The Emerging DLP has not been submitted to the SofS and so the examination process has not even started. It is for that reason that Professor May gives it no weight. The plan has not been subject to any independent examination or scrutiny and the Inspector's report is a long way off. There is no obvious date in sight for submission or examination, let alone adoption. Even if a draft local plan is produced before the decision is issued, any new local plan will similarly be incapable of being given any weight until it is examined. In these circumstances, the huge body of evidence that is the evidence base behind the Emerging DLP becomes so crucial.
50. Many Inspectors have focussed on the evidence base of an emerging local plan in the situation of local plans not being progressed<sup>40</sup>. The appeal development is proposed in the Emerging DLP, following years of hard work and extensive evidence gathering and assessment. Whilst no real weight can be given to the Emerging DLP given the procedural steps it must follow, the fact the site has been identified in an emerging local plan means it is not speculative as far as the Council is concerned.
51. Tring is a community in which new families moved in in significant numbers in the 1960s and 1970s. There would have been no affordable housing, no large scale public open space, let alone things such as SANG. There has been a dearth of new housing development since that era. As a consequence, it needs a lot more housing and a lot more affordable housing. The appeal proposal is more beneficial to the local community than the housing built on greenfield land which are the homes of many of the objectors.
52. The adopted DP does not meet the need for accommodation for all sections of community, as required in the Framework and PPG. There is no policy on self-build housing or specialist housing for the elderly such as Extra Care.
53. The evidence base for the Emerging DLP should be given significant weight<sup>41</sup>. Professor May disagrees with the conclusion of the Arup Report but gives the evidence base as a whole significant weight. This is because, collectively, it is an evidence base which addresses the housing needs of the Borough by selecting sufficient sites to meet that need, having looked in detail at matters like urban capacity and landscape sensitivity. The Arup work is not all of the evidence base. The evidence base took account of mitigation and the desire for housing to be matched by the delivery of social and physical infrastructure, open space and ecological mitigation, and included detailed analysis of transport, local facilities, open space, playing pitches, rail and bus strategies, landscape sensitivity and the Infrastructure Delivery Plan. That is why the Council decided it ought to allocate such a large area of land that is infrastructure-led, transport focussed, carefully landscaped, and rich in green infrastructure.

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<sup>40</sup> Documents CD11.22 paragraph 54: Significant weight has been given to the evidence base of emerging local plan; and CD11.21: Significant weight has been given to the evidence base of plans which have been abandoned

<sup>41</sup> As accepted by Martin Stickley in cross examination

54. The Appellants' expert team have invested over 5,000 hours during a decade just on the local plan and £1.8 million has been spent on the plan to date. All culminated in the identification of the appeal site as an allocation suitable for 1,400 new homes, schools, a sports hub etc. The appeal proposal is therefore good planning<sup>42</sup>.
55. The only alternative to the allocation in the Emerging DLP would be to allocate land in the AONB or away from settlements, and there is no evidence that is ever going to happen. So, this is the best and only identified solution to meet housing need. If the plan does not meet housing need, it is unlikely to be found sound.
56. Even if the proposed changes to the Framework come into force, they do not obviate the need for local authorities to meet their housing need. Housing need must be met, save for in exceptional circumstances. The Borough would be left with about the same amount of Green Belt, still covering around 60% of the Borough, even when all the allocations in the Emerging DLP are built out.

### **Green Belt Harm**

57. The appeal proposal includes built development over circa 40% of the appeal site and will be concentrated against the existing built edge of the settlement. Circa 60% of the appeal site will remain as open green space and will become publicly accessible. This is a significant benefit to both the local community of Tring and its surroundings and incoming residents: either as SANG, playing pitches, allotments or other open space<sup>43</sup>.
58. The Framework seeks to ensure that if land is taken out of the Green Belt for housing then it should be "*offset through compensatory improvements to the environmental quality and accessibility of the remaining Green Belt*"<sup>44</sup>. The land is currently in intensive agricultural production. Save for a footpath along the eastern edge of the site, there is no public access to the land. When the appeal proposal is complete, it will deliver vast areas of public open space, with a wide range of ecological and other environmental enhancements, including the SANG, 30% BNG and 2,800 trees.
59. Every factor expressly referred to in the PPG 64-002 in respect of compensatory improvements will be present in the retained open space: new and enhanced green infrastructure; woodland planting; landscape and visual enhancements (beyond those needed to mitigate the immediate impacts of the proposal); improvements to biodiversity, habitat connectivity and natural capital; new and enhanced walking and cycle routes; and improved access to new recreational and playing field provision.
60. There will be definitional harm because the built form within the proposed development is inappropriate development<sup>45</sup>. The Appellants recognise that most engineering works, the SANG café and car park and the floodlighting of some of the sports pitches makes the task of deciding what is and is not inappropriate development on the site complicated. Therefore, they accept the proposal as a

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<sup>42</sup> Professor May in cross examination

<sup>43</sup> Document APP2 page 35, paragraph 9.14 and page 36, paragraph 9.18

<sup>44</sup> Documents CD6.1 paragraph 142 and APP15 pages 68-69, paragraphs 11.5-11.11

<sup>45</sup> Document CD6.1 paragraphs 147 and 149

whole is inappropriate development, but over half of the development will not actually harm openness.

61. The Appellants accept that this adverse effect should be accorded very substantial weight in accordance with national policy and established practice<sup>46</sup>. They recognise that the built part of the development will self-evidently erode the openness, especially in relation to spatial openness. The spatial openness of the Green Belt in the eastern half and some of the central part of the site will largely be retained as it will be free from development. The impact in terms of visual harm<sup>47</sup> will be significantly reduced as over half the site will be free from development, and vegetation around and within the site is very extensive. There is also some built development on all sides, with it most concentrated to the west of the site. The huge and continuous line of trees either side of the Grand Union Canal almost completely shields the site from the wider countryside to the east and offers a robust boundary<sup>48</sup>.
62. There will be a negative impact on visual openness from the high ground of the Chilterns edge and along the Ridgeway, but the distance from the elevated land at Pitstone Hill and the footpaths upon it to the red line boundary of the site is around 1.52 km (Site Context Photograph 4). Also, the part of the site that is most visible from that point, the central part of the northern half of the site, is an area proposed for sports pitches. The existing vegetation across much of the remainder of the site, the extensive planting, and the commitment to extensive planting within the built-up areas of the proposal will all assist to mitigate the spatial impact on openness.
63. The Appellants accept that there will be harm in respect of the purposes of restricting sprawl (limited harm) and encroachment into the countryside (moderate harm)<sup>49</sup>. This harm to purposes should be accorded moderate weight overall<sup>50</sup>. The site is separated from the wider countryside, including all the AONB, and the extent to which a proposal does not impact on the wider countryside has to be seen as relevant<sup>51</sup>. There are no coalescence issues and no harm to the setting of the town from a heritage perspective.
64. Development of the appeal site would appear as an entirely coherent addition to the existing settlement pattern and would be completely in keeping with the character of the edge of Tring immediately to the west, especially when subject to the landscape principles set out<sup>52</sup>. The site is next to a mainline railway station, a new bus service will operate down the spine road taking passengers, who do not wish to walk, to the station and to the town centre. It is the sort of Green Belt site which should be developed in the manner proposed with

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<sup>46</sup> Document APP15 page 75, paragraph 11.48 and Table 11.1; and DBC5c page 9 Table 3

<sup>47</sup> Turner v SSCLG [2016] EWCA Civ 466

<sup>48</sup> Document CD6.1: in line with paragraph 140

<sup>49</sup> Documents APP15 pages 69-70, paragraphs 11.13-11.19; APP2 pages 32-34 Table 9.1 and paragraphs 9.12-9.17; and CD1.7, Planning Statement pages 54-55, paragraph 17.9

<sup>50</sup> Document APP15 page 75, paragraph 11.48 and Table 11.1

<sup>51</sup> Documents CD11.1: Colney Heath Appeal Decision and CD11.13: York Appeal Decision; and Martin Stickley accepted it must be relevant

<sup>52</sup> Documents APP2 pages 21-22, paragraphs 7.10-7.12; and CD1.29 Landscape and Biodiversity Management Strategy



extensive public access and ecological enhancement. A new much more robust permanent boundary will be created from the double thickness vegetation along the Grand Union Canal. The site is therefore being developed in line with the guidance in paragraph 142 of the Framework.

### **Other Harms**

65. The Appellants accept that there is an element of landscape harm that would arise from any development in the countryside and a limited harm to the setting of the AONB. However, there is either no harm under all other areas or very little harm<sup>53</sup>.

### **Landscape and AONB**

66. Landscape is solely raised by the Council as an 'other harm' component of the planning balance<sup>54</sup>. As a consequence of the Council's acceptance of a condition in respect of structural landscaping, the areas of disagreement have been narrowed. The site is allocated in the Emerging DLP, Tr03 for the same quantum and types of development<sup>55</sup>, confirming that it is acceptable in landscape terms.
67. The appeal site features are summarised in the Landscape Statement of Common Ground (SoCG)<sup>56</sup>. It does not have any statutory or local landscape designations<sup>57</sup>. It is located adjacent to, but not within, the AONB<sup>58</sup>. It does not form part of a valued landscape for the purposes of the Framework paragraph 174a. There are no protected views covering the appeal site or the wider borough<sup>59</sup>.
68. The Landscape SoCG<sup>60</sup> records the agreed extent of the views into the site: *"Views into the Appeal Site from the roads to the north, south and centre (Marshcroft Lane) are heavily filtered by existing hedgerows and trees in summer, and partially filtered in winter. There are open views into the eastern fields of the Appeal Site from Public Rights of Way 057 and 058 (part of the Grand Union Canal Walk) at the eastern site boundary. There are also partial views across the central and southern fields of the northern parcel from Public Right of Way 058. There are views into the Appeal Site from adjacent properties. Middle distance views are relatively limited, however there are several public rights of way (including the Ridgeway National Trail) located on the high ground of the Chilterns escarpment to the north-east, east and south, which afford distant partial to open views of the Appeal Site"*. It describes the site as *"open agricultural...land"*<sup>61</sup>, not 'open countryside'.
69. Anything that has any value on the site, namely the substantial hedgerows on the southern part of the site and the hedgerows and tree belts on the boundaries

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<sup>53</sup> Document CD12.8

<sup>54</sup> Documents CD12.12 and ID77 paragraph 66

<sup>55</sup> Documents CD7.1.5 and CD1.9 DAS: page 8 paragraph 1.1

<sup>56</sup> Document CD12.2 page 2 paragraphs 2.2-2.4

<sup>57</sup> Document CD12.2 page 2 paragraph 2.5

<sup>58</sup> Document CD12.2 page 2 paragraph 2.6

<sup>59</sup> Document CD12.2 page 2 paragraph 2.9

<sup>60</sup> Document CD12.2 paragraph 2.13

<sup>61</sup> Document CD12.2 page 2 paragraph 2.3

of the site, will be retained and enhanced as part of the landscape-led approach to designing and master-planning the scheme<sup>62</sup>.

70. The western extents have an urban fringe character due to the influence of the settlement edge and Tring Garden Centre. The eastern extents are rural as the relationship with the settlement edge is limited. The visual relationship with surrounding countryside is not strong and, as set out in LCA 114, 'Strength of Character' has a visual unity that is 'incoherent'. There is no intervisibility with the countryside in the immediate vicinity. There are glimpsed views of the Chilterns escarpment from some parts of the site and partial views of the Chilterns escarpment only from some parts of the site. LCA 114 character area includes "*The presence of Tring town within the centre of the area and the associated urban fringe uses serves to disrupt the coherence of the area.*"<sup>63</sup>
71. The urban edge, the railway station and its car park and development along Station Road are part of the surroundings and influence the character and how one feels about a place. It is this character that provides a sense of place, and which forms the sensory experience in terms of what you see, smell, hear, feel about a place. The Landscape and Visual Impact Assessment (LVIA) describes the lack of intervisibility between the site and the heritage assets south of Station Road resulting in them having no effect on the character of the site itself but having an effect on the character of the site's immediate surroundings.
72. The site is not designated for either landscape or scenic value. There is no reference to any important views in any evidence base, save for the panoramic views. These views are elevated from the site by some 100m in the AONB Management Plan (Policy DP4, page 86)<sup>64</sup>, where such views will inevitably comprise the site, but only as a limited element of the view and minimal in terms of the vertical field of view.
73. Matthew Chard's assessment of 'Value' as 'Medium' overall is as a result of it being not designated, comprising relatively common components and characteristics and with a character that is affected by its relationship to the settlement edge of Tring which overlooks part of the site. There are only some positive perceptual aspects, particularly with respect to partial views towards the AONB to the north-east, south and south-west. Moreover, only the eastern boundary of the site is publicly accessible. As such it makes a limited contribution to recreation. Perceptions of remoteness and tranquillity experienced within the site are also limited due to its urban fringe location. It lacks most of the elements that give LCA 114 its high value, including the AONB, two Sites of Special Scientific Interest (SSSIs), heritage features such as listed buildings and scheduled monuments, and long distance recreation routes, as set out in the commentary included in the Landscape Effects Table appended to the LVIA.
74. The site's 'Susceptibility', which relates to the type rather than the quantum of development, is also 'Medium', given that both it and its immediate context sit within an urban fringe landscape with an existing relationship to the settlement

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<sup>62</sup> Document APP2 page 23 paragraphs 7.14-7.16

<sup>63</sup> Document CD4.3 Landscape Character Assessment page 83

<sup>64</sup> Document CD6.6 page 76



edge. The site's interior is well vegetated along field boundaries, as is the eastern boundary. There is enclosure in many places, and the landscape structure has a good capacity to accommodate the type of development proposed. There are moderate consequences upon the overall integrity of the site and its surroundings. There are more key characteristics/ indicators of landscape value that can be affected by development for NCA 110 than there are for the local LCA. Bringing these elements together, 'Sensitivity' is assessed as 'Medium', being a combination of value of the receptor and susceptibility of the landscape receptor to the change proposed.

75. The site was not considered of high scenic value or representing/ demonstrating the key characteristics of the AONB by Natural England, and does not demonstrate any of the special qualities of the AONB<sup>65</sup>. It demonstrates only some of the key characteristics of LCA 114 Tring Gap Foothills, including negative ones, e.g. arterial transport corridor (the Canal) and urban fringe influences (the Tring Garden Centre). The Dacorum Landscape Character Assessment (page 83) states that "*the presence of Tring town within the centre of the area and the associated urban fringe uses serves to disrupt the coherence of the area and visual unity is incoherent.*" It also judges both the condition and strength of character of the Tring Gap Foothills LCA as 'moderate'. Therefore, the 'Landscape Effects Table' judging the LCA as having a medium sensitivity is reasonable.
76. The appeal site has a limited and localised visual envelope due to the level topography of the site itself, the restricted footprint of the proposed built development and the robust boundary planting, including substantial hedgerows and tree belts flanking the boundaries of the site<sup>66</sup>. The only open views of the appeal site are from stretches of the escarpment within the AONB to the north-east, where the site is seen as a small proportion of a wider panoramic view, which is already affected by urbanising influences<sup>67</sup>. The tree belts along the eastern boundary and the wooded areas to the south reduce the relationship of the appeal site with the adjacent countryside, and therefore limit the effects of the proposed development on the adjacent landscape<sup>68</sup>.

### **Design**

77. A landscape strategy has been prepared for the site, comprising parks and gardens, allotments, orchard fields, SuDS, formal recreation, inner parcels of open space, sports provision, woodlands, tree planting and wildflower meadow. Trees and hedgerows are to be retained wherever possible. A long term management strategy via the Landscape and Biodiversity Management Strategy (LBMS) will provide enhancement to both existing and proposed open space and landscape features and biodiversity enhancement. Moreover, due to the

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<sup>65</sup> Document CD6.6 pages 10-11

<sup>66</sup> Document APP2 pages 17-18 paragraphs 6.3-6.10

<sup>67</sup> Document APP2 pages 44-45 paragraphs 10.37-10.42

<sup>68</sup> Documents APP2 page 5 paragraph 2.5, page 17 paragraph 6.3; DBC3a Appendix 2; and ID39: from within the AONB there is almost no view of the site within 87% of the ZTV and only glimpsed views within 9% of the ZTV. Only 2% of the ZTV has open views of the site, from the escarpment to the north-east only (1.1 to 1.6km away)

relatively level topography there will be no need for development platforms and there will be minimal cut and fill.

78. Over 27 ha of SANG will be provided along the eastern edge of the appeal site adjacent to the Canal, with an additional 10.56 ha of linked semi-natural open space that could come forward in future, linked to delivery of other developments<sup>69</sup>. The SANG will provide a sensitive transition between the proposed development and the wider landscape. The changes will not be uncharacteristic in relation to its existing qualities and would respond positively to the 'Improve and Conserve' guidelines and strategy as set out for the LCA 114 Tring Gap Foothills<sup>70</sup>.
79. The key elements of the design and embedded mitigation include:
- 79.1 Setting back of development from the eastern site boundary to create a substantial area of open space along the canal corridor. The creation of this buffer zone between the settlement edge and the wider agricultural landscape will deliver links between semi-natural habitats and features.
  - 79.2 Reinforcement of the eastern boundary of the appeal site through the provision of a comprehensive landscape strategy within the SANG along the eastern boundary. In tandem it will strengthen the setting to the scarp slopes by enhancing the landscape structure through the introduction and positive management of the existing and proposed vegetation and publicly accessible open space.
  - 79.3 Enhancement of green infrastructure connection through the retention of the existing pattern of hedges and tree belts to create new features to further enhance landscape and ecological links between, and to, the woodlands and canal corridor to the east, north and south.
  - 79.4 Planting of a minimum of 2,800 new trees across the appeal site in accordance with the proposed conditions.
  - 79.5 Creation of strategic open space that promotes recreation and public access to the area across the appeal site, including for enhancing links between the Grand Union Canal, the Ridgeway and other recreational routes, as well as promoting awareness and consideration of the setting of the AONB through educational interpretation boards.
  - 79.6 Retention of existing vegetation along site boundaries providing physical and visual enclosure.
  - 79.7 Retention of vegetation and the enhancement of a green infrastructure network along the southern boundary of the appeal site to minimise the impact upon the heritage setting of Pendley Manor.
  - 79.8 Consideration of height and scale of development to ensure sensitivity to the surrounding landscape, limited to 11m above existing ground levels across most of the appeal site and to 15m for some elements of the

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<sup>69</sup> Document APP2 page 21 paragraph 7.6

<sup>70</sup> Document APP2 page 42 paragraph 10.27

secondary school (if this is required). This is demonstrated in the building heights Parameter Plan, with the strategy to integrate the proposed built development using native tree and shrub species.

- 79.9 Promotion of an appropriate long term positive management strategy of existing and proposed vegetation and open spaces, including a holistic approach to drainage, arboriculture, landscape and ecology.
80. The Council does not object in respect of design matters<sup>71</sup>. Development will be controlled at the site through a series of Parameter Plans, Regulatory Plan and the Design Code which will guide the reserved matters submissions. The Masterplan, Design Code, Design & Access Statement (DAS), and landscape principles identified provide a firm foundation upon which to develop more detailed design ideas to create a beautiful place<sup>72</sup>.
81. Development fronting Station Road has been proposed to provide natural surveillance and security along the route between the town and the station. The decision to place development in this location followed engagement with members of the public which revealed that safety and security along Station Road were and still are a key concern, particularly for women and at times outside of daylight hours. Development alongside Station Road and the new walking and cycling routes will transform the environment, significantly enhancing the route's appeal for all people walking and cycling. This will play an important role in increasing uptake and usage of sustainable modes of transport and reducing reliance on motor vehicles.
82. The Parameter Plan does not indicate that the development along Station Road would be of a higher density than any other part of the development, and other parts would be higher<sup>73</sup>. This finger of development does not meet the eastern boundary of the site, and there remains a minimum gap of about 80m between it and the AONB boundary along the east of the site. Development parallel with Station Road is to be set back some 20m behind 2 layers of tree planting consisting of the existing mature trees and a supplementary second line proposed as successional planting to protect its long-term treed character. The development is proposed to be broken up through the creation of green corridors for the retention of existing hedgerows or creation of green routes with access and views to the SANG. Passive surveillance is provided directly on to the walking and cycling paths as the most effective way to increase perceived safety

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<sup>71</sup> Documents CD3.45a HDA 1 Landscape Comments page 4 paragraph 3.2: *"The consideration of landscape with regards to placemaking within the new development is positive"*; CD3.45a HDA 1 Landscape Comments page 4 paragraph 3.5: *"the proposed landscape design has taken the right initial approach"*; CD3.45a HDA 1 page 6 paragraph 4.3 bullet 5: *"The Character of the Appeal Site ...there would be benefits in terms of features and habitat"*; CD3.45a HDA 1 page 4 paragraph 3.2: *"The general principle of the landscape design is well thought through."* CD3.45a HDA 1 page 4 paragraph 3.2: *"The location of the SANG is appropriate"*; CD12.8 paragraph 9.19 records no objection with regard to the quality of design, including the overall design/building heights/street types and design/landscaping and paragraph 9.20 records how there are no substantive design matters that cannot be addressed and mitigated by suitably worded conditions; and DBC3 page 13 paragraph 4.2.6: *"there would be beneficial effects on features within the site."*

<sup>72</sup> Document CD12.8 paragraph 9.17

<sup>73</sup> Document CD1.4a/Part 5 Rev A

for as much of the route as possible. This will reduce the unsurveilled stretch from 1,300m to 2 short sections of 170m and 350m. Only about 100m of Station Road adjacent to the site will remain without passive surveillance as a result of the finger of development not extending all the way along the southern site boundary.

83. The development at the southern end of the SANG will be likely to be more visible, particularly from the nearby PRow 057. However, tree planting will help to reduce visual prominence, particularly over time as vegetation matures. The high quality SANG as proposed, including SuDS wetlands scrub planting, trees and meadow, will also provide substantial visual amenity, working to draw the eye away from built development. Built development does already exist on Station Road with the existing Ivy Cottage being located immediately east of the site, the presence of which impacts directly on the quality of PRow 057 as it passes around the rear fence.
84. There will be no vehicular access to Marshcroft Lane and this will instead become a pedestrian and cycle link greenway into town. A primary street or central spine road will run through the eastern part of the site from Bulbourne Road to Station Road. At several intervals the pedestrian routes and cycleways will connect to the primary street to improve accessibility and connectivity and encourage sustainable and active transport. A recreational route will also be provided in the east traversing the SANG.
85. The Council has accepted that the wording of Condition 13 will in large part resolve its concerns regarding the lack of structural mitigation proposed<sup>74</sup>. The extent of tree planting is already substantial and more than sufficient to successfully soften the proposed built form, with the planting volumes allowed for in the Parameter Plans being designed to be able to accommodate large species<sup>75</sup>. Crown lifting will encourage growth to a greater overall height, which will have a beneficial effect on softening/screening buildings, and the 2.5m linear trench as part of the main spine road design will allow for tree roots to spread along it. Additional trench width can be created beneath the cycle/ footway using a crate system, substantially increasing the volume of soil available.
86. The SANG would be implemented early, with delivery in 2 phases prior to first occupation for north and south of Marshcroft Lane, being completed at year 2 of the 10 year construction period. Therefore, the SANG trees will have 8 years growth (3.5m-7m high) at year 1 of operation and 23 years growth (8.5m-12m high) at year 15. The intention is not to completely screen the development, only to soften it. Moreover, there will be layering of tree planting within the development, including existing retained hedgerows and woodland belts and the extensive tree planting.

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<sup>74</sup> Document ID77 paragraph 88

<sup>75</sup> Document CD1.10 Design Code Part 1 page 79: Structural spaces shown in cross sections in Figures 57, 58 and 59 which illustrate the relationship of the proposed spine road where there is built form on only one side and open space on the other. This is the situation where the school playing fields are in the most sensitive part of the appeal site. Having built form on only one side of the spine road allows for the trees that are planted on the open space side of the spine road to reach full maturity unencumbered.

87. The comprehensive landscape strategy will be covered by a holistic long term management plan, the LBMS, which will ensure biodiversity and landscape and amenity enhancement will derive from the scheme<sup>76</sup>. It will provide a strategy for management and maintenance of landscaping, including existing features, hard and soft landscape proposals, newly created habitats, ornamental planting, native tree, scrub, grassland and wetland planting, and natural colonisation. The LBMS will be monitored and regularly renewed and amended.
88. The proposed layout was landscape-led from the start<sup>77</sup>. The built form will be located away from the most visually sensitive central fields of the northern parcel. The 'Landscape Framework' has the most open fields, which are those most exposed to the AONB escarpment, as playing fields and key views towards the AONB will be retained<sup>78</sup>. The Regulatory Plan within the Design Code<sup>79</sup> will reinforce the Parameter Plans and show the retained landscape structure with mandatory principles set out for landscape and open space<sup>80</sup>.
89. The site makes a limited contribution to the setting of the AONB, as it is only visible at a long distance from a few elevated locations on the escarpment<sup>81</sup> and is not visible in medium distance views from the site's more immediate context. Moreover, the contribution to the setting of the AONB made by the open fields within the site is limited by the varied levels of enclosure and the topography of the site and its context. The eastern and central fields, which contribute more to the setting of the AONB, are proposed primarily for open green space in the form of the SANG and the playing fields.
90. The appeal proposal has had regard, where applicable, to the objectives of the Chilterns AONB Management Plan<sup>82</sup>. It will provide a significant BNG, a substantial improvement to pedestrian and cycle permeability, new areas for recreation, a substantial increase to the level of vegetation, and softening and integration of the built form within the landscape.
91. The appeal proposal has also taken into account and reflected the Chilterns Conservation Board Position Statement on Setting, to the extent applicable, which notes: *"Many issues in relation to new development within the setting of the Chilterns AONB can be resolved through careful design, appropriate materials, location and layout and mitigation measures from landscaping"*. The SANG will provide a sensitive and gradual transition between the new settlement edge and countryside beyond, facilitate and enhance recreational journeys

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<sup>76</sup> Document CD1.29

<sup>77</sup> Over 60 ha of the site (out of the total 121 ha) will be green space; Matthew Chard identifies built development over 40% of the site and Professor May identifies 47.15% to include highways

<sup>78</sup> Document CD1.9 page 44

<sup>79</sup> Document CD1.10 pages 24 and 94

<sup>80</sup> Document CD1.10 page 30 onwards

<sup>81</sup> Viewpoints SCPs 4 to 7, 9 and 10, Tanya Kirk 1 to 11 and Nicola Brown 1 to 7 and 19 to 23

<sup>82</sup> Document CD6.6 page 37 Objective NO3: *"Minimise development impacts on the AONB and its setting; where they are unavoidable, ensure they provide net environmental gains"*; page 80 Policy DP10: *"Make sure that all development that is permitted in the AONB or affecting its setting delivers a net gain for the Chilterns by: on-site improvements for biodiversity, landscape, the rights of way network, AONB visitor facilities."*



between Tring and the AONB, and ensure a continued landscape buffer between the settlement edge and the Canal<sup>83</sup>. The scheme will read as a logical extension of Tring, softened and integrated into the landscape by a comprehensive landscape strategy<sup>84</sup>. As such, comprehensive mitigation measures are proposed<sup>85</sup>.

92. The settlement of Tring is already visible from the Ridgeway<sup>86</sup>, identified by Tanya Kirk as a relatively dominant feature in the landscape<sup>87</sup>, with its core visible in the distance<sup>88</sup>. The layout of the open spaces and specifically the green wedges, which extend from the SANG south-westerly towards the primary street, creates view corridors out from the development to the surrounding landscape and high ground to the east. This allows views back from within the SANG and from PRowS 057 and 058 to the higher ground to the south-west, across and over the SANG landscape<sup>89</sup>.

93. The appeal scheme responds to the landscape guidance and principles for development set out for LCA 114 Tring Gap Foothills in the Dacorum Landscape Character Assessment<sup>90</sup> in the following ways.

93.1 Bullet 2 "*Strengthen setting of scarp slopes*": The proposed landscape strategy will enhance the landscape structure of the foothills by managing and reintroducing vegetated boundary features to reduce the scale and openness of the landscape, which is particularly apparent within the northern parcel.

93.2 Bullet 4 "*Appropriate management of woodland*": As set out in the LBMS.

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<sup>83</sup> Chilterns Conservation Board Position Statement page 6 paragraph 18: "*Consideration not just of the site but also the landscape and land-uses around and beyond it*"

<sup>84</sup> Chilterns Conservation Board Position Statement paragraph 19: "*The grouping of new structures and buildings close to existing structures and buildings to avoid new expanses of development that are visible and out of context*"

<sup>85</sup> Chilterns Conservation Board Position Statement: "*Comprehensive mitigation measures, for example including landscaping and open space that incorporates only native species (where possible contributing to BAP targets and the provision of Green Infrastructure), and noise reduction*"

<sup>86</sup> Document CD3.3a page 3 paragraph 3.3: "*The Ridgeway offers many wider views towards the site and the settlement edge.*"

<sup>87</sup> Document DBC3 page 6 paragraph 4.3.7: "*from [the south], the appeal site is seen behind the existing settlement of Tring, which is a relatively dominant feature within the landscape.*"

<sup>88</sup> Document CD2.4 Committee Report paragraph 9.52: "*It is noted that when the existing settlement of Tring is viewed from the AONB, the later suburban developments comprising Grove Rd/Grove Park area have successfully integrated into the landscape due to a large no of structural trees/ high level of structural planting. There is also a strong treelined corridor along the linear park at Brook St /Wingrave Rd. As such, when viewing Tring from the Chilterns escarpment, the core settlement is visible in the distance, whereas the later heavily planted developments moving towards the AONB are considerable softened/screened. It is considered that the proposed development would need to follow suit to enable a satisfactory residual impact.*"

<sup>89</sup> The illustrative layouts included within the DAS and Design Code indicate substantial scrub and tree planting within the SANG

<sup>90</sup> Document CD4.3 page 84

- 93.3 Bullet 5 "*Creation of buffer zones*": The SANG provides a buffer to the Canal and the proposed landscape strategy creates links between semi-natural habitats.
- 93.4 Bullet 7 "*Strategy for recreation and public access*": The proposal represents the enhancement of links between the Grand Union Canal, the Ridgeway and other recreational routes, as the proposed SANG will offer a greater provision of recreation along the western side of the Canal and allow users to connect between the various routes in new ways.
- 93.5 Bullet 8 "*Limit impact of built development*": The proposed landscape strategy includes a minimum of 2,800 new trees to soften and integrate the development. The landscape strategy will use native tree and shrub species and increase the volume and quality of hedging and planting to the perimeter, as well as an enhanced management strategy.
- 93.6 Bullet 11 "*Promote high standards of new building*": The Design Code (sections 8 and 9) prescribes locally traditional materials and a design that will reflect the traditional character of the area<sup>91</sup>.
- 93.7 Bullet 12 "*Retention of existing pattern of hedges and create new features to further enhance landscape and ecological links between and to woodlands, canal corridors and parklands*": The development parcels sit within the existing field pattern and existing hedgerows will be reinforced. The historic field boundaries will be utilised throughout the proposed development, and the existing pattern of hedges will be conserved and reinforced to enhance its legibility and biodiversity and amenity value. A SANG will be created, with a further 10.56 ha made available as and when required.
- 93.8 Bullet 14 "*Consideration of setting of AONB*": Views towards the AONB to the east within the appeal site have been respected and will be framed by the proposal<sup>92</sup>. Views from the AONB will be altered by the introduction of built form, of a high quality, and the comprehensive landscape strategy will soften and integrate it into its landscape context, such that it will read as a logical extension of the existing settlement.
94. The appeal site does not cover all of the Tring Gap Foothills LCA. Whilst parts of the LCA are widely visible from the AONB, this is often in views where the appeal site itself is not visible. Changes within the appeal site would have a very limited effect on the wider LCA, as there is little to no intervisibility. Moreover, there are already urbanising elements within the wider character area cited by the Landscape Character Assessment. These include Pitstone Hill Chalk Pits, the leisure centre and sports facilities to the south-east of Tring, Tring Bypass and railway, new residential development and commercial warehouses at Pitstone

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<sup>91</sup> Document CD1.10 Sections 8 and 9

<sup>92</sup> Document CD1.9 page 44

Village and Church End<sup>93</sup>, other industrial built form, settlements and isolated residences and Tring Garden Centre<sup>94</sup>.

95. The SANG would provide a sensitive transition between the proposed development and the wider landscape. The changes will not be uncharacteristic in relation to its existing qualities and would respond positively to the 'Improve and Conserve' guidelines and strategy as set out for the Tring Gap Foothills LCA. The magnitude of change given in the Landscape Effects Table is 'very small'. This is defined in the methodology as 'a very slight change to the existing landscape receptor that may affect a limited area'. The change within the area of the appeal site would affect no more than a 'limited' area of the LCA as it represents about 10% of the LCA.
96. The change is limited to an area which is closely connected to the existing settlement edge and is strongly influenced by the settlement edge character. It would amount to a 'very slight' change, since it is a type of development that is not uncharacteristic of the LCA overall, and that is highly characteristic of the part of the LCA in which it is located i.e. adjacent to an existing town. The magnitude of change to which LCA 114 is subjected increases by year 15 because of the growth of planting which will have become established. LCA 114 is slightly less susceptible (medium) to development than the NCA (medium high) because it has a greater proportion (relative to its own size) of built elements influencing it e.g. settlements and arterial routes<sup>95</sup>.
97. The large areas of open space delivered as part of the comprehensive landscape strategy for the proposal would contribute to maintaining a permanent area of undeveloped land between the eastern edge of the appeal site and the wider countryside. This would minimise the influence of the proposed built form in the wider landscape and integrate it into its setting.
98. The proposed development will result in a substantial increase in built form on the site at year 1, although this will be experienced from limited locations in the local landscape<sup>96</sup>. At the end of construction i.e. at completion (year 1) the adverse effect will be 'moderate to major' and 'negligible adverse' for Chilterns NCA and 'neutral' for Tring Gap Foothills. By year 15 the proposed comprehensive mitigation strategy, with its positive characteristic features introduced throughout the site, will have become established. The adverse effect of the loss of agricultural land and openness to housing would be partly mitigated by the reinforcement and improvement of the landscape features that contribute to the site's character, improving the ecological and landscape functionality of the site and its immediate surroundings.
99. The proposed development has a limited and localised visual envelope due to the level topography of the site and its immediate context, the restricted footprint of

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<sup>93</sup> Chilterns Conservation Board Appeal Submission paragraph 3.4.4

<sup>94</sup> Document CD4.3 Page 80: Tring Garden Centre is noted as one of the key urban fringe influences on LCA 114 Tring Gap Foothills

<sup>95</sup> Document CD1.6a Appendix D.7: Effects Table

<sup>96</sup> Document APP2 paragraph 8.8: whilst the magnitude of effect is the same at Construction and Year 1, the significance of effect is 'X' at Construction and 'Y' at Year 1 i.e. in this case the significance has reduced even though the magnitude has stayed the same.



the proposed built development and the robust boundary planting, including substantial hedgerows and tree belts flanking the boundaries of the appeal site. The significance of effect reduces to negligible at year 15 because of the softening effect of the tree planting which will have become established and will serve to integrate the development within its landscape context. The magnitude remains the same because the change in the views is the same relative to the baseline condition at both construction and year 15. This is noticeable, whereas the planting reduces the overall significance of the adverse effect to barely perceptible (negligible).

100. The Appellants have accorded great weight to the impact on the setting of the AONB<sup>97</sup>. However, it is nonetheless important to reflect the limited extent of that impact. The appeal site forms a very small part of the setting of the AONB (121 ha compared to the total area of the Chilterns AONB of 83,800 ha, which equates to just 0.0014%)<sup>98</sup>. The proposed residential built form will appear as a natural extension to the urban edge of Tring, softened by a robust 'Green Infrastructure Strategy' and the provision of SANG with its extensive planting, which will remain as a green buffer between the new settlement edge and the AONB<sup>99</sup>. There will be limited intervisibility, which will only be long distance. Only about 500m of the 29,000m of mapped highways/footpaths within the AONB will have open views<sup>100</sup>.
101. The site exhibits very few of the key characteristics of the AONB. The finger of development along the eastern extents of Station Road would not be very evident in views from the elevated escarpments. The appeal proposal will therefore comply with PPG 042: "*Development within the settings of these areas will therefore need sensitive handling that takes these potential impacts into account*". AONB policy does not preclude development in the setting of protected landscapes. It seeks to ensure that a sympathetic design response is delivered that is relative to the degree of protection afforded by the AONB's valued landscape designated status.
102. In terms of the experiential qualities of the AONB, there will be adverse landscape effects during construction and at year 1 of operation, but these would not be significant and would not be uncharacteristic of what is already experienced in the wider setting. At year 15 the proposal would not adversely affect the experiential qualities of the AONB, given the distance from the proposed built forms and the buffer provided in the form of the SANG and other open space.

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<sup>97</sup> Document CD6.1 paragraph 176: "*Great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty which have the highest status of protection in relation to these issues. The conservation and enhancement of wildlife and cultural heritage are also important considerations in these areas, and should be given great weight in National Parks and the Broads. The scale and extent of development within all these designated areas should be limited, while development within their setting should be sensitively located and designed to avoid or minimise adverse impacts on the designated areas.*"

<sup>98</sup> Document APP2 page 48 paragraph 11.13

<sup>99</sup> Document APP2 page 44 paragraph 10.39 and page 47 paragraph 11.6

<sup>100</sup> Document DBC3a Appendix 2

103. The only open views of the appeal site are from stretches of the escarpment within the AONB to the north-east (SCP 4)<sup>101</sup>, where the site is seen as a small proportion of a wider panoramic view, and which is already affected by urbanising influences. Residential development is not uncharacteristic in views from the AONB, and the residual effects are judged on the basis of an attractive and well-designed settlement extension that is integrated within its landscape context through a comprehensive landscape strategy. In most views from the AONB<sup>102</sup> the appeal site is seen as a very narrow band within the view, often with the fields to the east of the site forming a much more prominent feature. The site is seen in the context of existing built form and often to one side of the central focus of the view<sup>103</sup>.
104. Views of the appeal site from PRoW 057 and 058 along the eastern boundary are partial, since only part of the site is visible from this boundary<sup>104</sup>. There are open views of only the eastern fields of the appeal site from PRoW 057 and 058, from where views of other fields within the site are glimpsed at best<sup>105</sup>. Views of the proposed development from PRoW 057 and 058 will be partial views, since it will not extend into the eastern fields of the appeal site, other than the south-eastern field, and will be filtered and partially screened by the intervening existing and proposed vegetation<sup>106</sup>. Also, only the built form on the eastern edge of the development parcels will be visible, and from PRoW 058 built form is unlikely to encroach as far east in the northern parcel, since the eastern extents of the developable area will be occupied by the playing fields.
105. Views of the escarpment to the south of Tring from PRoW 057 and 058 will not be completely obstructed by the proposal<sup>107</sup>. The judgements arrived at in assessing the likely residual effects are made on the basis that the full surface area of the development parcels will not be occupied entirely by built form, and even where built form is present, it will not always be to the maximum height shown on the Parameter Plans. Also, the planting is similarly indicative, and is intended to show that the proposed built form can be effectively softened and integrated into its landscape context<sup>108</sup>.

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<sup>101</sup> Document DBC3a Appendix 3: limited to about 500 linear metres according to the linework; which would represent about 2% of the 29km of highways and PRoW mapped as having theoretical visibility of the site

<sup>102</sup> Viewpoints: Tanya Kirk 1, 2, 7, 8, 9, 10 and 11 and Nicola Brown 19, 20, 21, and 22

<sup>103</sup> Viewpoints: Tanya Kirk 6, 7, 10 and 11; and Nicola Brown 19, 21 and 22

<sup>104</sup> Viewpoints: SCP 1, SAPs A, B and F

<sup>105</sup> Viewpoints: SCP 1, SAPs A, B and F

<sup>106</sup> Documents COG1 Appendix-1 page 5 paragraph 2.9 *"There are open views from the footpath looking across the southern half of the site, but generally curtailed by the hedgerow pattern."*; DBC3 page 15 paragraph 4.3.3 *"The residual view [from the southern extents of PRoW 57 on the eastern boundary of the southern parcel] would not be unpleasant"*; CD3.45a page 6 paragraph 4.4 *"Footpaths to the east of the Appeal Site (057 and 058) – I agree that the mitigation proposed would reduce the adverse effects"*

<sup>107</sup> Document CD1.6a Appendix D.6: The wireframes were generated by extruding the development parcels to the heights shown on the parameter plans, and as such they represent a worst case scenario for the visibility of the development

<sup>108</sup> Document CD1.6a Appendix D.6: The wireframes

106. There are only three key receptors in disagreement between the Appellants' Environmental Statement (ES) Chapter and the Council's expert regarding significant adverse residual effects, which are agricultural fields<sup>109</sup>; LCA 114 Tring Gap Foothills<sup>110</sup>; and 'Pedestrians on the Ridgeway at Pitstone Hill' in the AONB<sup>111</sup>. The ES Chapter takes into account the secondary mitigation shown in the illustrative Masterplan<sup>112</sup> and the Council's expert does not<sup>113</sup>. Only one residual adverse visual effect was originally considered to be firmly above the significant threshold (Pedestrians on the Ridgeway at Pitstone Hill). If this is reduced by the structural planting condition, it will either be on the threshold or below it.
107. Spatial and visual harm will arise, but the proposed development will not result in unacceptable harm to the landscape features, character and visual amenity of the local area. The proposed development is not uncharacteristic. There will be limited adverse effects on the visual amenity of receptors in the vicinity of the site. The proposed development will lead to tangible long-term benefits on the landscape features of the site and character and general amenity of the local area<sup>114</sup>.

### **Highways**

108. Following legal agreements to deliver the new bus route, off site highways, footpath and cycleway improvements and station forecourt improvements being secured, reasons for refusal 6 and 7 regarding highways have been addressed. There remains a residual dispute about which access layout should be preferred. It is between the layout with a 40mph speed limit<sup>115</sup> (Appellants) or a 50mph speed limit (HCC). However, this is not in itself a basis for refusal, or for a finding of 'other harm' for the purposes of paragraph 148 of the Framework. There is no objection from any qualified statutory consultee and there is support from West Midlands Trains (WMT)<sup>116</sup>. Improvements to the station forecourt are part of a package of wider transport improvements that would deliver significant benefits to the existing and new communities<sup>117</sup>.

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<sup>109</sup> Document DBC3a Appendix 2 Table: ES Chapter: negligible adverse; Tanya Kirk: moderate adverse

<sup>110</sup> Document DBC3a Appendix 2 Table: ES Chapter: negligible beneficial; Tanya Kirk: moderate adverse

<sup>111</sup> Document DBC3a Appendix 2 Table: ES Chapter: negligible adverse; Tanya Kirk: moderate adverse

<sup>112</sup> As per GLVIA3 paragraphs 4.21 to 4.23

<sup>113</sup> Document DBC3 page 18 paragraph 5.5: "...placing reliance on a mitigation strategy that has not been committed to."; and GLVIA3 4.21 to 4.23 provides: "As they are not incorporated [i.e. guaranteed] in the scheme being assessed there will need to be careful consideration of how they can be secured."

<sup>114</sup> Document APP2 page 48 paragraph 11.14

<sup>115</sup> Document ID38 and Councillor Symington in cross examination supported a 40mph speed limit

<sup>116</sup> Documents ID29 and ID62

<sup>117</sup> Scott Witchalls in cross examination and examination in chief; and Document APP10 paragraph 4.7.3: "Whilst the need for a comprehensive upgrade to the station facilities is not triggered by the development, it is recognised that some improvements are required and they would deliver benefits to both new residents and existing communities."

109. With regard to the speed limits, Station Road currently operates to the national speed limit along the site frontage and to the east and west of the site, it operates to a 30mph limit. Both the 40mph and 50mph schemes have been subject to Stage 1 Safety Audit. The primary difference relates to the loss of trees, through the greater land take required for the 50mph layout. HCC's preference for 50mph, required through its Speed Management Group, is not supported by any minutes of a meeting or rights to appear at the meeting. It is based on current average speeds of 42mph eastbound and 43mph westbound and relies on the 85th percentile speed recorded as at 49mph in both directions<sup>118</sup>. National Guidance and HCC's Speed Management Strategy state that average speeds should be used in considering appropriate speed limit changes<sup>119</sup>. The new junction, of itself, will deliver a significant change in character to Station Road, thereby leading to a reduction in vehicle speeds<sup>120</sup>. It is likely that a better decision would be made when the Speed Management Group revisit the speed limit once the houses are put in place<sup>121</sup>.
110. The planning application was supported by a comprehensive assessment of the impact of the proposed development on the highway network<sup>122</sup>. It has been agreed with HCC that with the improvements proposed, particularly those promoting modal shift, the residual impact on the road network is not severe<sup>123</sup>. HCC has also agreed that any potentially negative traffic impacts have been mitigated<sup>124</sup>. The development is in an already sustainable location which will be further enhanced by the comprehensive package of transport measures and improvements proposed on and off site, as well as new on site facilities and services to benefit existing and new communities<sup>125</sup>.
111. With regard to Peter Davidson's evidence, he has not produced a Transport Assessment (TA) of his own, even though he is still practising in transport work. He cites only the impact on the road network and gives no consideration to the policy-compliant substantial package of pedestrian and cycle improvement measures which, in conjunction with public transport improvements, will negate the need for sweeping road capacity improvements. The Appellants' consultant, Stantec UK Limited (Stantec) agreed all methodologies and data used in the TA with HCC, as well as a comprehensive set of surveys and use of all available data. The results and conclusions of the TA, the Addendum TA and subsequent technical notes were all presented to HCC and they have been checked/audited by its transport specialists, concluding that the proposed mitigation package is appropriate and that there are no highways objections to the proposal.
112. Stantec applied a factor to the observed traffic data to account for a lower number of trips being made during the pandemic period, as agreed with HCC. The traffic surveys were undertaken in November when travel patterns for

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<sup>118</sup> James Dale cross examination and Scott Witchalls examination in chief

<sup>119</sup> Scott Witchalls cross examination and Document CD6.63 Section 5.3

<sup>120</sup> Document CD6.63 paragraphs 10.1 and 10.2: a reduction of 2mph would be expected with signage and further reduction achievable once the junction is added in

<sup>121</sup> James Dale in cross examination accepted that this is likely to happen

<sup>122</sup> Document CD1.11 Transport Assessment

<sup>123</sup> Document CD12.9 Transport SoCG page 7 paragraph 3.3(9)

<sup>124</sup> Document CD12.9 Transport SoCG paragraph 1.3 and Section 3.3

<sup>125</sup> Document CD12.9 Transport SoCG Section 3: HCC agrees

employment and education are typical, and therefore there is no reason why the data would not be appropriate<sup>126</sup>. Most of the sites selected in the Trip Rate Information Computer System (TRICS) database were standalone housing sites with no other land uses included and so all trips for retail and education purposes would be 'external' to those sites and not included. The internalisation process has been agreed with HCC and the resulting trip rate used by Stantec is higher than that for the TRICS site, which did include some internalisation of trips.

113. Journey time surveys were not requested by HCC/WSP<sup>127</sup> and would have been disproportionate for the task requested. They would also have been of little use in determining trip assignment without an extended network being surveyed, and journey times being recorded on a regular basis for greater reliability and then 'back-cast' to the 2014 base year<sup>128</sup>. With regard to car parking, the proposal focuses on providing high quality sustainable transport infrastructure to ensure that a car trip is not the default choice. These measures include contributions towards the provision of additional cycle parking at the town centre and the station. Where the spine road bisects Marshcroft Lane, crossing facilities will be provided to ensure the safety of non-motorised users and the speed limit will be 20mph<sup>129</sup>.
114. The COMET modelling was considered extensively in the TA Addendum<sup>130</sup> and reasoning offered around the model's behaviour as part of the overall assessment approach agreed with HCC. The base data (majority dataset) for the COMET model is from 2014 and its reliability and robustness can reduce, especially when there have been changes since its validation. Moreover, 'strategic' models, even up-to-date ones, should only be used as a tool/guide for testing a wide area. Developing a transport strategy only on the results of a strategic traffic model, is a short-sighted strategy which leads to prioritisation of vehicle traffic, rather than the opportunities to enhance movement for pedestrians and cyclists, and would exacerbate the inherent weaknesses in the model used<sup>131</sup>.
115. The impacts of the development on major junctions have been shown to be insignificant<sup>132</sup>. The increase in flow leads to some small increases in delay, and some degradation in 'Volume to Capacity Ratios' as would be expected when

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<sup>126</sup> Scott Witchalls in examination in chief and affirmed by HCC in its acceptance of the data

<sup>127</sup> WSP are consultants who had been commissioned by HCC to test the transport impact of the development proposal in its Transport Model Report Document CD1.11a Part 2

<sup>128</sup> Recognised by WSP in Document CD1.11a Part 2 page 13: *"It was deemed with the timescales provided the checks and work conducted on the network and improvements in the model resulted in a proportionate improvement. Throughout the recalibration process the impact on wider model performance was monitored and showed that generally the model was fairly stable outside of the wider Tring area"*

<sup>129</sup> Scott Witchalls in examination in chief

<sup>130</sup> Document CD1.11a Parts 1 to 3

<sup>131</sup> Document CD1.11a Part 2 page 12: *"This is a limitation of the transport model and the change in flow between base and future should be used in junction performance assessments and applied to observed turning flows around this locality rather than turning movements from the transport model"*; page 34: *"SATURN is a strategic model and to understand the impacts at a local junction level it is advised detailed junction modelling is undertaken, using the SATURN modelled flows and observed counts, to assess the impacts in detail"*

<sup>132</sup> Document CD1.11a Part 2 WSP report page 53



adopting a 'predict and provide' car traffic growth approach. Just because a junction is theoretically at capacity in the future (before development is added), this does not mean that the development must increase its capacity, especially where the impact is minor as is the case in the appeal. The strategic model has been used to identify areas on the network where further detailed analysis may be beneficial. This is a process that Stantec followed, resulting in ten junctions being assessed in detail and mitigation being developed at three locations.

116. With regard to the new proposed bus service, it is accepted that the journey time for some passengers will increase, but the population served will increase and the frequency of the service will also increase from one bus every two hours to two buses per hour. This will deliver a significant improvement in the bus service overall.
117. In terms of car parking, the development proposal focuses on providing high quality sustainable transport infrastructure to ensure that a car trip is not the default choice. These measures include contributions towards the provision of additional cycle parking at the town centre, a new pedestrian/cycle crossing adjacent to Tesco, and a new bus service to Tesco. Other options, including on-line ordering/home delivery and visiting Tesco by car at less busy times of day would be practical alternatives.

### ***Agricultural Land***

118. The site has been surveyed twice in 2013 and 2017 in accordance with Agricultural Land Classification (ALC) guidelines, and the report of a survey, dated March 2022, formed an appendix to the ES<sup>133</sup>. The proposal would use 116.7 ha of agricultural land (as well as some non-agricultural land), of which only 59 ha is Best and Most Versatile (BMV) land<sup>134</sup>. Most of the land is Grade 3a (41.2 ha – 34%) or Grade 3b (57.7ha – 48%), with the remainder Grade 1 land (2.3 ha – 2%), Grade 2 land (15.5 ha – 13%) and Non-Agricultural Land (4.3 ha – 3%)<sup>135</sup>. The agricultural land quality is mostly limited by soil wetness and/or workability. It has a high clay content that delays drainage into the chalk below<sup>136</sup>. This means that it takes longer to start growing crops and makes the site not very flexible for cropping<sup>137</sup>. The farmer has described both the Station Road land to the south and the Grove Farm land to the north as some of the poorest performing land farmed within the overall holding<sup>138</sup>.
119. The proposal's agricultural land, which represents about 0.7% of agricultural land in the Borough<sup>139</sup>, is also estimated to represent 0.7% of the BMV land in the Borough<sup>140</sup>. The appeal site produces below-average yields of crops of wheat

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<sup>133</sup> Document CD1.6a

<sup>134</sup> Document APP13 page 5 paragraphs 3.2 and 3.3, Figure 1 Distribution of ALC at the Appeal Site and Figure 2 Provisional ALC in Dacorum Borough

<sup>135</sup> Document APP13 page 4

<sup>136</sup> Alastair Field examination in chief

<sup>137</sup> Alastair Field examination in chief

<sup>138</sup> Document APP13 page 6 paragraph 4.5

<sup>139</sup> Document APP13 page 5 paragraph 3.2

<sup>140</sup> Document APP13 page 5 paragraph 3.3: based on estimating the total area of BMV land in the Borough at approximately 8,500 hectares on the assumption that the Provisional Grade 3 land is divided evenly between Subgrade 3a (BMV) and Subgrade 3b (non-BMV)

and barley in which the country is largely self-sufficient<sup>141</sup>. The economic benefits of retaining the site for food production are minimal and pale into insignificance against the economic benefits that will arise from the construction and occupation of the site by the proposed development<sup>142</sup>.

120. The harm will be at the very lowest level (negligible), and thus there will be no 'other harm' for the purposes of paragraph 148 of the Framework<sup>143</sup>, even though the ES's grading of the impact on loss of agricultural land was 'major adverse'. The ultimate decision on weight must be situated within the context of the policy<sup>144</sup>, and the available evidence (agricultural land quality, proportion of land within the Borough and economic value, e.g. taking into account yield).

### **Ecology**

121. The Council and the Appellants are in full agreement that there will be no 'other harm' for the purposes of paragraph 148 of the Framework in respect of ecology<sup>145</sup>, and that the proposal complies with all relevant policies in the DP in respect of ecology. There is no objection to the proposal from any of the relevant consultees: Natural England, Hertfordshire Ecology, and both of the local Wildlife Trusts (Herts & Middlesex and Berks, Bucks & Oxon – BBOWT).
122. There are no statutory designations on the site, only two non-statutory Local Wildlife Sites on adjacent land: Grand Union Canal and Station Road/ Grove Road Fields. The site's habitats comprise mainly arable fields and improved grassland of low intrinsic ecological value. There is a network of woodland, trees and hedgerows but this has been considered in detail in formulating the proposal. The main species identified on site are bats (nine species including Barbastelle) and breeding birds, plus a Barn Owl in the north of the site. However, there was no identification of Badgers, Otters, Water Voles, Dormice, Reptiles and Great Crested Newts.
123. With regard to the management arrangements for the proposed SANG and financial sums for SAMM to mitigate recreational pressure on the Chilterns Beechwoods SAC<sup>146</sup>, both Natural England and Hertfordshire Ecology are satisfied that sufficient information and clarity has been provided by the Appellants, hence the absence of any objection. The Appellants are committed to providing a fully

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<sup>141</sup> Document APP13 pages 6-7 paragraphs 4.6-4.7

<sup>142</sup> Document CD2.4 Committee Report, page 44 paragraph 9.444: "Overall, the loss of agricultural land is regrettable and would have some negative impacts, as previously identified. However, when viewed against the requirement for new housing and the other economic and social benefits that would arise from this development (e.g. employment, housing and education – see Section 6 of the Environmental Statement for full list of socioeconomic benefits) it is not considered significant enough to warrant a reason for refusal."

<sup>143</sup> Document APP15 page 71 paragraphs 11.21-11.23 and page 75 Table 11.1

<sup>144</sup> Document 6.1 paragraph 174

<sup>145</sup> Documents CD12.8 paragraph 7.2; APP15 page 71 paragraph 11.25; and DBC5 page 26 paragraphs 6.1-6.3

<sup>146</sup> Document APP11 pages 22-25 paragraphs 6.2-6.17: describes the SANG and SAMM proposals in full, notably explaining the SANG's structure and scale, the careful preparation of the proposals and the extent of consultation with Natural England (a matter further addressed at his Chapters 8 and 9)

functioning SANG prior to occupation of the first units. The SANG has been designed to Natural England's criteria, in full consultation with it. Natural England is satisfied that the SANG would act as an intercept site for the SAC<sup>147</sup>. Both Natural England and Hertfordshire Ecology are satisfied with the SANG proposal to the extent that they have withdrawn their objections. There is also no evidence as to adverse effects on other sites (Tring Reservoirs, the Grand Union Canal and College Lake) and Natural England, Hertfordshire Ecology and the Wildlife Trusts did not object on these grounds.

124. The SuDS have been designed to be fit for purpose<sup>148</sup>. The SANG Statement<sup>149</sup> makes clear that the attenuation basins will not prevent access to the main paths or loops, and that the footpath treatments will be such that routes will not become waterlogged. Equally the Draft SANG Management Plan provides further clarity as to the route and monitoring<sup>150</sup>. Natural England and Hertfordshire Ecology have no concerns on drainage.
125. The SANG Guidelines stipulate a car park standard of one parking space per ha and therefore the SANG will have a minimum of 27 spaces<sup>151</sup>. In practice, use of the car park would be monitored as part of SANG management, and its location allows for an extension over time if needed.
126. The mitigation measures do not rely on bird and bat boxes and Hedgehog Gateways. These are additional features over and above the significant habitat enhancements and management to be delivered through the scheme, including the SANG, the additional semi-natural open space and the green infrastructure. Wildlife will be able to make use of all these features. All trees with potential roost features are to be retained and incorporated into the 'Green Infrastructure Strategy'<sup>152</sup>. The lighting design will ensure that such trees are not illuminated. The inclusion of a lighting strategy can be secured by condition<sup>153</sup>.
127. The hedgerows and treelines on which the Barbastelle bats were recorded are to be retained and not subject to adverse lighting conditions. Moreover, additional habitats will be provided in about 27 ha of what is currently intensively managed arable fields that will be converted into new species-rich grassland, trees, scrub and waterbodies as part of the SANG, and a further 10.56 ha of semi-natural open space that may come forward as SANG in due course, as well as an orchard. These will significantly increase foraging resources for bats, since they will encourage far greater numbers of invertebrates than currently use the intensively managed arable land. The SANG and semi-natural open space will not be lit. They are immediately adjacent to the wooded corridor of the Grand Union Canal and are easily accessible to bats using the wider countryside.

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<sup>147</sup> Document APP11 paragraph 8.5 referring to Natural England's letter at Appendix 6 (Appendices page 292)

<sup>148</sup> Document APP14

<sup>149</sup> Document CD 1.28

<sup>150</sup> Draft SANG Management Plan paragraphs 4.15 and 4.16

<sup>151</sup> Document CD1.28 SANG Statement paragraph 3.2.2

<sup>152</sup> Document APP11a Appendix 1 paragraph 5.3.14 and Appendix 2 paragraph 5.3.13 (replicating similar statements in the earlier documents)

<sup>153</sup> Document ID75



128. While small losses to existing hedgerows for access are inevitable, these areas will be integrated into the green infrastructure for the site. Some bat species may be discouraged from using parts of the new residential areas, but the new high-quality habitats to be established in open arable fields that are currently poor for foraging will compensate for this. The design of the scheme is such that these new high quality foraging areas will be contiguous with existing high-quality areas off-site, and there will be no fragmentation of habitat in that sense.
129. The approach to construction would ensure that active nests are not disturbed. The Ecological Assessment explains that, notwithstanding the presence of the noted bird species within the site, the habitat itself is not remarkable and extensive similar habitats remain available in the immediate vicinity. The new SANG and semi-natural open space will offer new and replacement habitats to declining bird species.
130. Checks of the habitats were undertaken across the survey period<sup>154</sup>. A background data search was completed, and there was nothing to suggest that rare or notable species would be present. While the site supports a good hedgerow network, it is overwhelmingly an intensively managed arable landscape and subject to regular and sustained pesticide input. Any invertebrate interest would be focused on the hedgerow and tree network, and these features are being retained. New and enhanced habitats, including ponds, are to be provided in the SANG and wider semi-natural open space. These will provide greater opportunities for invertebrates.
131. The intrinsic value of most of the habitats present is low. It is generally recognised amongst professional ecologists that intensively managed arable and improved grassland fields are of limited intrinsic interest. The assessment of generally low ecological interest is not 'counterclaimed' within the assessment. The hedgerow network is to be retained and enhanced as part of the green infrastructure of the appeal scheme. The Appellants are committed to providing a 10% net gain in hedgerows, even though they accept that the gaps established for access would represent a degree of harm. The SANG and semi-natural open space will offer significant new habitats for a range of invertebrates and other species, with a planting list comprised of native species and seed mixes. A BNG of circa 35% is projected for habitat units. No trees with potential roost features for bats are to be removed, and bat boxes to be provided will offer new roosting opportunities immediately.
132. The Grand Union Canal and the Ashridge Estate will not be adversely affected by the appeal scheme, and neither will the habitat connectivity to these areas. The new habitats of the SANG and other semi-natural open space will be contiguous with this wider environment. Natural England, who has the statutory duty in respect of the Tring Reservoirs SSSI, did not object and nor did any of the other statutory consultees. The position is very similar for College Lake, managed by BBOWT<sup>155</sup>, which has not submitted an objection before the Inquiry. The SANG will provide a significant new resource for easily accessible recreation, immediately available for new residents.

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<sup>154</sup> Documents CD1.26b paragraph 2.3.1 and CD1.26a

<sup>155</sup> BBOWT's response to the Scoping Opinion was noted and effects on College Lake were considered in the ES

133. The LBMS is a long-term strategy, which will be reviewed on a five year basis. There is not a requirement for a more detailed specification as to management measures. Further details will be set out in the management plan required by the condition.
134. Neither Elizabeth Hamilton, nor the Rule 6 Party, nor any other member of the public has provided any robust evidence of 'other harm' in respect of ecology matters, for the purposes of paragraph 148 of the Framework.

### ***Built Heritage***

135. The parties agreed that the appeal scheme is consistent with the policy requirements of the Framework and the relevant DP policies<sup>156</sup>, which is a position that is supported by all relevant qualified consultees, including Historic England, the National Trust, the Canal and Rivers Trust and the Hertfordshire Gardens Trust<sup>157</sup>. Whilst the minor level of less than substantial harm must be considered in accordance with section 66(1) of the Planning (Listed Buildings etc) Act 1990 and weighed accordingly, the level of harm is not at a level that directs towards anything other than the grant of permission.
136. The appeal scheme will only cause harm to the significance of the following five identified built heritage assets: (1) Pendley Manor Lodge (Grade II)<sup>158</sup>; (2) Pendley Manor Stables (Grade II)<sup>159</sup>; (3) Ivy Cottage (non-designated heritage asset)<sup>160</sup>; (4) the adjacent section of the Grand Union Canal (non-designated heritage asset)<sup>161</sup>; and (5) Pendley Manor Park and Gardens (non-designated heritage asset)<sup>162</sup>. There will be no impact on Pendley Manor itself<sup>163</sup>, nor on any other identified heritage asset. The Tring CA is 1.5km away from the appeal site, with the later 20th century developed areas intervening and there will equally be no impact upon it<sup>164</sup>.
137. It is agreed that that the level of harm to the five identified built heritage assets would be no greater than low within the spectrum of less than substantial harm<sup>165</sup>. The proposed development, as set out in the Parameter Plans, will be set back from each asset, whether by Station Road to the south: Pendley Manor

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<sup>156</sup> Documents CD12.8 page 25 paragraph 12.6 and CD2.4 Committee Report page 73 paragraph 9.726

<sup>157</sup> Documents CD3.14 Historic England Representation; CD3.31 National Trust Representation; CD3.7 Canals and Rivers Trust Representation; CD3.23 Hertfordshire Gardens Trust Representation; APP12 pages 2-3 paragraphs 1.19-1.29 for the Committee Report references; CPRE Hertfordshire pages 159-162; CD3.5 The Chiltern Society pages 153-159; Tring Town Council pages 275-276; and Grove Field Residents Association pages 471-472

<sup>158</sup> Document APP12 pages 6-7 paragraphs 3.16-3.22

<sup>159</sup> Document APP12 pages 7-8 paragraphs 3.23-3.29

<sup>160</sup> Document APP12 pages 8-9 paragraphs 3.30-3.35

<sup>161</sup> Document APP12 pages 9-10 paragraphs 3.36-3.43

<sup>162</sup> Document APP12 pages 10-11 paragraphs 3.44-3.50

<sup>163</sup> Document CD1.19 page 11 paragraph 3.3.29: Setting & Significance, and paragraphs 4.2.11-4.2.12: No impact on significance

<sup>164</sup> Jonathan Smith examination in chief

<sup>165</sup> Documents CD12.8 page 25 paragraph 12.2 and CD2.4 Committee Report page 73 paragraph 9.723

assets and Ivy Cottage; or by the SANG/open space: Ivy Cottage and Grand Union Canal, ensuring in all cases a negligible impact on legibility. There will be no more than a minor impact on the significance of each asset, within the scale of less than substantial harm, with a negligible impact on the Grand Union Canal, which is in a cutting.

138. The Council has agreed that the less than substantial harm noted would be outweighed by the appeal scheme's public benefits<sup>166</sup>. Compliance with the duty under section 66(1) of the Planning (Listed Buildings etc) Act 1990 to have 'special regard' to harm to significance, requiring great weight to be accorded to any level of harm, will ordinarily be ensured by the application of the national policy tests, now comprised in paragraph 202 of the Framework for designated heritage assets<sup>167</sup>.
139. Regarding the extension to the area of Ashridge's National Park and Garden, the main parties are in agreement that it does not materially affect the views previously set out with regard to the planning application, ES and consideration by Members, or the evidence provided to the Inquiry on heritage matters<sup>168</sup>.

### **Flooding & Drainage**

140. It is agreed that matters regarding flood risk, drainage and ground conditions are not a basis for refusal of the scheme<sup>169</sup>. There is no objection from any qualified statutory consultee.
141. Following the 'Flood Risk Assessment' and 'Sustainable Drainage Strategy'<sup>170</sup>, it was identified that the appeal site is not at significant flood risk from any source. It is located entirely within Flood Zone 1 (low risk) and there are no recorded historic incidents of flooding at the site. The only potential residual flood risk is from surface water (pluvial) sources, with a relatively low risk. The ground conditions were also identified as suitable for the use of infiltration measures<sup>171</sup>.

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<sup>166</sup> Documents CD2.4 Committee Report page 73 paragraph 9.725; and CD6.1 paragraphs 202 (designated assets) and 203 (non- designated assets)

<sup>167</sup> Court of Appeal in *Jones v Mordue* [2015] EWCA Civ 1243, paragraph 28 (referring to the 2012 Framework paragraph 134, as the predecessor to the current Framework paragraph 202): "*Paragraph 134 of the NPPF appears as part of a fasciculus of paragraphs, set out above, which lay down an approach which corresponds with the duty in section 66(1). Generally, a decision-maker who works through those paragraphs in accordance with their terms will have complied with the section 66(1) duty. When an expert planning inspector refers to a paragraph within that grouping of provisions (as the Inspector referred to paragraph 134 of the NPPF in the Decision Letter in this case) then – absent some positive contrary indication in other parts of the text of his reasons – the appropriate inference is that he has taken properly into account all those provisions, not that he has forgotten about all the other paragraphs apart from the specific one he has mentioned. Working through these paragraphs, a decision-maker who had properly directed himself by reference to them would indeed have arrived at the conclusion that the case fell within paragraph 134, as the Inspector did.*"

<sup>168</sup> Document ID59 Third Supplemental Main SoCG

<sup>169</sup> Document CD12.8 page 24 paragraph 11.4 and Appendix 2

<sup>170</sup> Documents APP14 page 4 paragraph 3.1 and pages 4-7 paragraphs 3.4-3.12; and CD1.22 Flood Risk Assessment

<sup>171</sup> Document APP14 page 7 paragraph 3.12

142. Whilst members of the public may describe the site as 'waterlogged' at times, this does not constitute a flood risk in planning policy terms and is instead a design consideration not uncommon to greenfield sites on clay rich soils. It also has little bearing on what can be achieved on site<sup>172</sup>. It is proposed to utilise SuDS within the development to direct development drainage to new landscaped infiltration basins within the proposed SANG. No development drainage flows will leave the wider site by overland flow, and instead all flows will be directed to the ground, after suitable vegetated treatment, thereby matching the existing drainage regime<sup>173</sup>.
143. Reasons for refusal on drainage and flooding have been resolved. In discussion with JBA, the Appellants undertook additional soakaway (infiltration) testing in the proposed location of sustainable drainage basins<sup>174</sup>; and hydraulic modelling of the surface water flood route, to better define existing flood routing and extents and to demonstrate how these can be safely managed within the proposed development. Direct rainfall modelling was also undertaken, at the request of JBA, to consider both off site flows and flows within the site, to ensure surface water routes are sufficiently accounted for within the development. Alongside making suitable allowances for climate change, this work included additional sensitivity testing undertaken with a 20% increase in off-site flows to account for potential follow-on storm events. Results identified that there is sufficient storage within the SANG such that flows could be managed whilst not impacting existing and/or proposed properties in these extreme flood event scenarios<sup>175</sup>.
144. With regard to the impact on the Grand Union Canal, the proposed infiltration basins are located a minimum of 30m from the canal embankment<sup>176</sup>. Comparing levels at the basin and the canal embankment confirms that this standoff is sufficient to ensure that there will be no impact on the stability of the canal embankment. In extreme storm conditions there are no above ground flood flows leaving the SANG area in existing or proposed conditions. Surface water drainage in the area drains to the ground in both existing and proposed scenarios and as such there will also be no impact on the downstream feeder reservoirs, as the development does not significantly alter the drainage regime. The flows to the Canal will remain unchanged<sup>177</sup>.
145. In terms of surface water flooding, the SANG is an entirely appropriate area for drainage to be located<sup>178</sup>. The area proposed for the SANG is already shown to be at potential risk from surface water flooding in extreme rainfall events<sup>179</sup>. The site naturally drains towards the SANG. There will therefore be no significant impact in hydrological terms. Outside of the dedicated drainage basins, the wider SANG's use would only be impacted in very extreme rain occurrences, and this has been factored into the design of the SANG and the footways. The basins

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<sup>172</sup> Stuart Nelmes examination in chief

<sup>173</sup> Stuart Nelmes examination in chief

<sup>174</sup> Document APP14 pages 6-7 paragraphs 3.9-3.12 and pages 8-9 paragraphs 4.3-4.4

<sup>175</sup> Document APP14 pages 8-9 paragraphs 4.1-4.9

<sup>176</sup> Document APP14 paragraph 6.2

<sup>177</sup> Document APP14 page 10 paragraph 5.4

<sup>178</sup> Stuart Nelmes examination in chief

<sup>179</sup> Document APP14 page 14 paragraph 6.4

have been sized based on best practice<sup>180</sup>. The public walkways would be set back from the basins and a range of signage and barrier planting measures would ensure safe demarcation<sup>181</sup>. The development proposal will drain the land more efficiently than at present.

146. With reference to the Groundsure report that is appended to the Phase 1 (not the Phase 2) Geo-Environmental Assessment<sup>182</sup>, the mapping is based on an extreme 1 in 100-year event. The area is shown to be subject to 'Moderate-High' risk of groundwater flooding, with the High risk being only shown in small, isolated patches. Other mapping, including that within Hertfordshire's own Local Flood Risk Management Strategy 2019–2029<sup>183</sup>, indicates a lower risk from groundwater for the same location. Both data sources are based on generalised widescale mapping and are superseded by the site-specific Geo-Environmental Assessment and site investigation undertaken by the Appellants. The development will deal with residual risk from groundwater through a standard increase in levels, using the construction depth and raised finished floor levels, and formal drainage of the development area.

### ***Benefits***

147. The benefits are properly understood as 12 individual components: Market Housing (560 dwellings)<sup>184</sup>; Affordable Housing (630 dwellings)<sup>185</sup>; Self-Build Housing (Up to 70 plots)<sup>186</sup>; Extra Care Housing (140 units)<sup>187</sup>; Socio-Economic Benefits (employment generation)<sup>188</sup>; Schools and Education (new primary and secondary provision)<sup>189</sup>; Recreational and Sporting Benefits<sup>190</sup>; Community Facilities<sup>191</sup>; Sustainable Transport Benefits<sup>192</sup>; Ecology<sup>193</sup>; High Quality Design<sup>194</sup>; and Sustainability<sup>195</sup>. In addition, there is the Local Plan Failure, as none of these would be delivered without a grant of permission at appeal<sup>196</sup>.

### ***Benefit of Market Housing and Housing Land Supply***

148. The Appellants and the Council are agreed that in light of the housing land supply position, the contribution of the proposal to housing needs should be accorded 'very substantial weight'<sup>197</sup>. Large windfall sites like the appeal site are

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<sup>180</sup> Document APP14 page 14 paragraph 6.4

<sup>181</sup> Document APP14 page 15 paragraph 6.7

<sup>182</sup> Document CD1.23 page 74

<sup>183</sup> Document CD 6.23 Local Flood Risk Management Strategy 2019 – 2029 (February 2019)

<sup>184</sup> Document APP1

<sup>185</sup> Document APP3

<sup>186</sup> Document APP4

<sup>187</sup> Document APP5

<sup>188</sup> Document APP6

<sup>189</sup> Document APP9

<sup>190</sup> Document APP15

<sup>191</sup> Document APP15

<sup>192</sup> Document APP10

<sup>193</sup> Document APP11

<sup>194</sup> Document APP7

<sup>195</sup> Document APP8

<sup>196</sup> Document APP15 page 68 paragraph 11.4 and page 75 paragraphs 11.45-11.46

<sup>197</sup> Document ID60 Table 4

needed to address the housing crisis and support the instruction to significantly boost the supply of housing. In January 2023, the Centre for Policy Studies (CPS) published a report which analyses the importance of housebuilding and the implications of not providing enough homes in the right places<sup>198</sup>.

149. The Council accepts that it cannot demonstrate a deliverable five-year housing land supply against its local housing need and a 5% buffer<sup>199</sup>. The current level of shortfall is more than 4,000 homes, which is likely to increase until such time as the Council adopts a new local plan, which is at least 2 years away<sup>200</sup>. The difference between the two parties is only the extent of the supply. Following the Round Table discussion, the Council submitted a technical note<sup>201</sup> setting out its revised position on what it considers the deliverable supply at the base date, which is 2,828 dwellings<sup>202</sup>. The Appellants consider the deliverable supply is 2,293 dwellings<sup>203</sup>.
150. The reason for the difference between the two positions of 535 dwellings is because the Appellants dispute the build rate on one site<sup>204</sup>, contests the inclusion of three other sites<sup>205</sup> and removes the major sites' windfall allowance<sup>206</sup>. The Appellants consider that:
- a. The Council has failed to have regard to the significant constraints of the Chiltern's Beechwoods SAC and the need for compensatory provision of SANG to be in place prior to the occupation of any new dwellings on sites that did not have the benefit of full planning permission at the base date<sup>207</sup>.
  - b. The Council has not provided the required clear evidence for the inclusion of sites with live planning applications for major development on allocated sites that do not currently have the benefit of planning permission<sup>208</sup>. Extracts of emails does not constitute clear and robust evidence but is the 'best that the Council has got'<sup>209</sup>.
  - c. Their position is supported by previous appeal decisions<sup>210</sup>.

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<sup>198</sup> Document CD6.59 pages 15-16

<sup>199</sup> Document DBC1 page 3 paragraph 1.6

<sup>200</sup> Ronan Leydon in cross examination

<sup>201</sup> Document ID16

<sup>202</sup> Document ID16 table at paragraph 1.3

<sup>203</sup> Document CD12.1 page 13 table at paragraph 5.0

<sup>204</sup> Spencer's Park, Phase 2

<sup>205</sup> National Grid Site, London Road; Land at Marchmont Farm, Hemel Hempstead; Miswell Lane, Tring

<sup>206</sup> Document APP1 Page 35 paragraphs 6.49 and 6.50

<sup>207</sup> Document CD10.1 page 26 paragraph 3.5.5

<sup>208</sup> Document CD6.1 paragraph 66

<sup>209</sup> Ronan Leydon in cross examination

<sup>210</sup> Document APP1 pages 30-35 paragraphs 6.15 – 6.36 e.g. Document CD11.27 pages 12-13 paragraphs 55-58: the Great Torrington appeal decision where the Inspector noted that clear evidence is more than just being informed by landowners, agents or developers that sites will come forward, rather than a realistic assessment of the factors concerning the delivery has been considered



- d. The Council has not provided the compelling evidence necessary for the inclusion of a major windfall allowance<sup>211</sup>.
151. Spencer's Park, Phase 2<sup>212</sup>: a revised build rate put forward by Homes England in an email dated 23 January 2023<sup>213</sup> fails to recognise that there are number of pre-commencement conditions and non-material amendment applications remaining to be discharged/ determined. The application for a non-material amendment to the application triggers the requirement for an appropriate assessment of the proposal under the Habitat Regulations and provision of compensatory SANG in advance of any of those new homes being occupied. There is no evidence from the developer to support the assertions set out in the email, and this does not comprise the necessary evidence to demonstrate that the revised timeframe is realistic, or that housing delivery will commence in 2023.
152. LA1 Land at Marchmont Farm<sup>214</sup>: the site is the subject of an outline planning application with a resolution to grant consent subject to a section 106 agreement. The Council is unable to say how long the section 106 negotiations will take, which includes a requirement for the delivery of on-site SANG necessitating an appropriate assessment under the Habitat Regulations and the involvement of Natural England in the preparation of a SANG Management Plan. There is no indication that a developer is on board or that reserved matters are being prepared. An email from Homes England refers to a tentative timetable<sup>215</sup>.
153. H/15 Miswell Lane, Tring<sup>216</sup>: whilst a planning application has been submitted for development of a residential care home on the site, that application remains undetermined and there are a number of outstanding matters. Revised plans were submitted to the Council on 9 March 2023. The site is allocated for 24 dwellings in the adopted DP. The Council has not provided any evidence that the proposal, which departs from the draft allocation, is acceptable and when the application will be determined. There is no supporting evidence from the potential developer confirming firm progress towards delivery of the scheme in the event planning permission is granted.
154. H/2 National Grid Site, London Road<sup>217</sup>: the site is the subject of a current application for full planning permission for 425 homes, which is 75 dwellings more than the local plan allocation. There are unresolved technical constraints, and there is no agreed date for taking the application to planning committee<sup>218</sup>.

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<sup>211</sup> Document CD6.1 page 19 paragraph 70

<sup>212</sup> Document CD12.11 page 11 paragraph 4.1: Deduction of 120 dwellings

<sup>213</sup> Document DBC1a Appendix C: the email from Homes England states- *"NB: these figures are subject to change depending on when the developer achieves House Build Commencement as a milestone"*

<sup>214</sup> Document CD12.11 Annex A page 24: Deduction of 198 dwellings

<sup>215</sup> Email from Homes England notes that the timetable is *"reliant on positive engagement from DBC with regards to progressing the OPA ad RM application timetables.....and await confirmation that the planning programme is achievable"*

<sup>216</sup> Document CD12.11 Annex A page 29: Deduction of 39 dwellings

<sup>217</sup> Document CD12.11 Annex A page 27: Deduction of 75 dwellings

<sup>218</sup> Document DBC1a Appendix C page 42: notes that the applicants are currently developing their own bespoke SANG solution



There is no indication of what that SANG solution comprises, whether Natural England agrees with the proposal and when it will be delivered. The land comprises a former gas works and significant remediation is required before any housing development can commence on site<sup>219</sup>. There is a two-line extract of an email from the applicant's planning consultant agreeing to the Council's suggested trajectory for delivery on that site. There is no clear evidence when permission will be granted, or when any dwellings will be subsequently delivered.

155. Windfalls: the major sites windfall delivery rate fell significantly to just 40 dwellings in 2022, and this was before the Beechwoods SAC moratorium was put in place<sup>220</sup>. The Council has been unable to identify any new major sites that have a realistic prospect of delivery within 5 years; each of the sites identified<sup>221</sup> is constrained due to the inability to provide SANG or flawed in some other way, such as design, over-development or inability to provide a satisfactory residential environment. The constraint on SANG is particularly important<sup>222</sup>.
156. The Appellants' evidence is that the deliverable supply is 2,293 dwellings, which against the local housing need and a 5% buffer equates to 1.77 years<sup>223</sup>. There is a significant shortfall of 4,165 dwellings in the five year HLS. It represents a substantial deficit<sup>224</sup>. The scale of this shortfall increases the weight to be afforded to the benefit of new housing and must reduce the weight that can be accorded to any restrictive policies, where applicable.
157. The Council will be unable to demonstrate a deliverable five year HLS until such time a new plan is in place<sup>225</sup>. Other measures to increase housing delivery will only result in modest numbers of dwellings being brought forward<sup>226</sup>. The latest housing delivery in Dacorum, at the base date of 1 April 2022, confirms an undersupply of 1,016 against a requirement of 3,061 over the previous 3 years, which represents 66% delivery<sup>227</sup>.
158. The Appellants have provided clear and compelling evidence of their ability to deliver homes on site within 5 years to make a meaningful contribution towards the five year HLS<sup>228</sup>. The Appellants control the whole site and there will be no delays due to land assembly or equalisation agreements. Redrow are a major housebuilder and have been fully engaged in the planning and master planning process. A planning condition commits to submitting the first reserved matters

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<sup>219</sup> Ronan Leydon in cross examination accepted that remediation and viability for development of the site is a material consideration that should also be taken into account

<sup>220</sup> Document DBC1 page 15 paragraph 4.31

<sup>221</sup> Document DBC1 page 17 paragraph 4.40

<sup>222</sup> Section 106 Planning Obligation round table session: the Council's Solicitors commented that the Council has only identified SANG to meet existing commitments and that further SANG will inevitably be needed

<sup>223</sup> Document APP1 page 37 paragraph 6.51

<sup>224</sup> Document CD11.22 page 10 paragraph 56: reminiscent of the circumstances in the Kennel Lane, Billericay decision where the Inspector concluded there was an acute shortfall of housing land supply

<sup>225</sup> Document APP1 page 20 paragraph 4.38

<sup>226</sup> Document APP1 page 21 paragraph 4.43

<sup>227</sup> Samantha Ryan examination in chief

<sup>228</sup> Documents APP1 Section 7 paragraph 7.6 and APP1a Appendices SAR2 and SAR3; Samantha Ryan examination in chief and cross examination

application within 12 months. The highways access and other enabling works, including provision of the SANG, can progress during that time. The proposal will directly deliver SANG on site in accordance with a scheme that has already been agreed by Natural England<sup>229</sup>. Both the bilateral section 106 Agreement with the Council and the Unilateral Undertaking (UU) have been agreed. There is no likelihood that construction on the appeal site would be halted or constrained significantly across the breeding season.

159. With regard to the availability of other land, the urban capacity of the Borough is significantly lower than the potential capacity<sup>230</sup>. The Table to show the potential of all sites includes those with major constraints e.g. in the Green Belt and AONB. The quantum of dwellings that cannot be accommodated within the existing urban area is 7,370 dwellings<sup>231</sup>.

### ***Benefit of Affordable Housing***

160. The Council and the Appellants are agreed that the provision of affordable housing across a range of different tenures is a benefit to be accorded very substantial weight. The scheme involves an enhanced level of affordable housing<sup>232</sup> consisting of a mixture of rented (social and affordable rent), First Homes and other routes to home ownership (Intermediate affordable housing) in accordance with the definition of affordable housing in the Framework. There are known affordability issues in Dacorum and there is no early prospect of affordable housing needs being addressed. A signed section 106 Agreement is in place.
161. Evidence to support the extent of the housing crisis and the needs for affordable housing in Dacorum is provided in the following documents<sup>233</sup>: House of Commons Debate (October 2013)<sup>234</sup>; Bleak Houses: Tackling the Crisis of Family Homelessness in England (August 2019)<sup>235</sup>; Denied the Right to a Safe Home – Exposing the Housing Emergency, Shelter (May 2021)<sup>236</sup>; Unlocking Social housing: How to Fix the Rules that are holding back building, Shelter (April 2022)<sup>237</sup>; Rising cost of Living in the UK, House of Commons Briefing Report (November 2022)<sup>238</sup>; Briefing: Cost of Living Crisis and the Housing Emergency, Shelter (September 2022)<sup>239</sup>; 'Homes for the Future' Housing Strategy 2019 to 2021<sup>240</sup>; Prevention of Homelessness and Rough Sleeping Strategy 2020-2024<sup>241</sup>; and 'Delivering for Dacorum' Corporate Plan 2020 to 2025<sup>242</sup>.

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<sup>229</sup> Document APP1a Appendices SAR2 and SAR3

<sup>230</sup> Document CD7.20.1 page 50

<sup>231</sup> Document APP1 paragraph 4.26 and paragraphs 4.28-4.31

<sup>232</sup> It is the largest single application for the delivery of affordable homes that James Stacey has presented in over 100 appeals

<sup>233</sup> Document APP3a Appendix JS5: Chapter 3 and 4

<sup>234</sup> Document APP3a Appendix JS5

<sup>235</sup> Document CD6.27

<sup>236</sup> Document CD6.31

<sup>237</sup> Document CD6.28

<sup>238</sup> Document CD6.29

<sup>239</sup> Document CD6.30

<sup>240</sup> Document CD10.3

<sup>241</sup> Document CD10.4

<sup>242</sup> Document CD10.5

162. There is an acute need for affordable housing in Dacorum Borough which is not being met. This is exacerbated by the 'Right to Buy', which is resulting in an average of one dwelling lost per three new completions<sup>243</sup>. Dacorum is a borough that has experienced serious and persistent shortfalls in the provision of affordable housing across the entire CS period from 2006 to the present. The future deliverable supply of affordable housing is only a fraction of what is needed to meet needs. All this is against a backdrop where lower quartile house prices cost 14.49 times lower quartile earnings, 1,449 households have qualified for the Council's housing register, and average house prices in Tring East are more than double those in England<sup>244</sup>.
163. The planning system gives far too much of a voice to the objectors of development, and far too little to the beneficiaries, as recognised in previous appeal decisions<sup>245</sup>. The need for accelerated affordable housing provision pervades national and local policy. The 2020 Local Housing Needs Assessment (LHNA) sets out a requirement of some 611 affordable dwellings per annum (dpa) from 2020/21 to 2035/36 which has not been, and is not being close to being, met<sup>246</sup>. The average net delivery is just 92 affordable homes per annum over the 16 years. Compared to the needs in the 2016 Strategic Housing Market Assessment (366 homes per annum) the scale of the shortfall is 2,390 homes<sup>247</sup>.
164. From the analysis provided by the Council<sup>248</sup> there are just 912 affordable homes in the pipeline. Even if all the affordable homes were to be delivered in the next 5 years, it would only average 182 homes, made worse if the prevailing rate of 'Right to Buy' losses continue (47 per annum). The committed dwellings are equivalent to less than one-and-a-half years' worth of the identified need in the LHNA 2020<sup>249</sup>. A step-change in affordable housing delivery in Dacorum is desperately needed<sup>250</sup>.
165. With regard to the amount of affordable housing to be provided, there is no requirement to provide a viability assessment where there is a section 106 agreement in place and the affordable housing offer is in excess of policy requirements. There is no requirement to demonstrate that any tenure should have been increased. The Appellants' affordable housing offer is generous and exceeds policy requirements.

### ***Benefit of Self-Build Housing***

166. Both parties are agreed that the provision of up to 70 self-build housing units is a benefit to be accorded very substantial weight, which is reflected in another

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<sup>243</sup> Document APP3 paragraph 6.28

<sup>244</sup> Document APP3 paragraph 11.27

<sup>245</sup> Documents CD 11.38 IR paragraph 8.123 Inspector Stephens in the Pulley Lane, Droitwich Spa appeal: "*Needless to say these socially disadvantaged people were unrepresented at the Inquiry.*"; and APP3 paragraph 11.20

<sup>246</sup> Document APP3 Figure 6.6: shows a shortfall of 850 affordable homes in just 2 years

<sup>247</sup> Document APP3 Figure 6.5

<sup>248</sup> Document APP3a Appendix JS3: the future supply of affordable housing

<sup>249</sup> Document APP3 paragraph 7.6

<sup>250</sup> Document APP3 paragraph 7.6

appeal decision<sup>251</sup>. Central Government promotes self-build as another way to get on the property ladder<sup>252</sup>. It has been more than a decade since the 2011 Housing Strategy for England set out the Government's ambition to grow this sector which stated: "*The Government wants to make building your own home a mainstream housing option – an affordable way of building a place people are proud to call home.*"<sup>253</sup> The 2017 Housing White Paper stated that: "*The government wants to support the growth of custom build homes.*"<sup>254</sup> The December 2019 Conservative Party Election manifesto reaffirmed the current Government's commitment to the growth of this sector in stating that it will: "*Support community housing by helping people who want to build their own homes find plots of land and access the help to buy scheme*"<sup>255</sup>.

167. The importance placed upon this sector of the housing market by the Government is demonstrated in a series of documents, including the August 2020 Planning for the Future White Paper<sup>256</sup>; the 30 October 2020 announcement by the Secretary of State for Housing, Robert Jenrick MP, of a review of the Right to Build legislation to make it easier for people to build their own home<sup>257</sup>; the Chancellor's announcement of £2.2 billion of new loan finance to support housebuilders including delivering 'Help to Build' for custom and self-builders through the November 2020 Spending Review<sup>258</sup>; and further revisions to the Self-Build and Custom Housebuilding section of the PPG on the 8 February 2021, which provided guidance for the first time on how councils can record suitable permissions towards their statutory duty<sup>259</sup>. In April 2021 the Government announced an Action Plan intended to scale up delivery and provide funding support for self and custom builders<sup>260</sup> and more recently, the 'Bacon Review' made a series of recommendations to the Government for scaling up the self-build and custom housebuilding sector<sup>261</sup>.
168. Paragraph 61 of the Framework sets out that in determining the minimum number of homes needed, strategic policies should be informed by a local housing need assessment<sup>262</sup>. Paragraph 62 states that within this context, the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in policy, including "*people wishing to commission or build their own homes*", with footnote 28 of the Framework detailing that: "*Under section 1 of the Self Build and Custom Housebuilding Act*

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<sup>251</sup> Document CD11.31 land behind 31-33 The Causeway, Steventon Inspector McGlone page 5 paragraph 26 attributed substantial weight to the provision of 7 plots that would help meet demand arising from the current base period.

<sup>252</sup> Martin Stickley in cross examination

<sup>253</sup> Document APP4a Appendix AG1 page 1 paragraph 1.7

<sup>254</sup> Document APP4a Appendix AG1 page 7 paragraph 1.37

<sup>255</sup> Document APP4a Appendix AG1 page 17 paragraph 1.68

<sup>256</sup> Document APP4a Appendix AG1 page 18 paragraph 1.70: "*we wish to...support innovative developers and housebuilders, including small and medium-sized enterprises and self-builders*"

<sup>257</sup> Document APP4a Appendix AG1 page 18 paragraph 1.74

<sup>258</sup> Document APP4a Appendix AG1 page 20 paragraph 1.78

<sup>259</sup> Document APP4 pages 8-10 paragraph 038 Reference ID 57-038-20210508

<sup>260</sup> Document APP4a Appendix AG1 pages 22-25

<sup>261</sup> Document APP4a Appendix AG1 page 26

<sup>262</sup> Document APP4 pages 7-8 paragraph 2.35

*2015, local authorities are required to keep a register of those seeking to acquire serviced plots in the area for their own self-build and custom house building. They are also subject to duties under sections 2 and 2A of the Act to have regard to this and to give enough suitable development permissions to meet the identified demand.”<sup>263</sup>*

169. LPAs are required to address this through granting sufficient development consents to meet the demand for Self-Build and Custom Housebuilding arising within their administrative area and examining secondary data sources in addition to their Register numbers in order to obtain a robust assessment of demand<sup>264</sup>. There are no adopted DP policies relating to self-build and custom housebuilding provision<sup>265</sup> despite being prepared in the context of the original 2012 Framework<sup>266</sup> and the 2015 Self-Build and Custom Housebuilding Act (as amended). Policy DM8 of the Emerging DLP made a requirement for new development of 40 or more dwellings to have 5% of the house plots on site available as serviced building plots to enable the delivery of self and custom build properties<sup>267</sup>. The 2020 Custom and Self-Build Demand Assessment Framework (2020 DAF) forecasts demand for 68 plots per annum in the first 5 years, rising to 74 per annum in years 6-10 and 78 per annum in years 11-17, which equates to 1,291 plots<sup>268</sup>.
170. Once taking account of emerging proposed allocations providing residential development above the threshold, that are not for flatted developments and/or have live applications/ permissions that do not include any provision for self and custom build plots, the policy, if successfully applied, would yield 433 serviced plots over the period<sup>269</sup>. When including the 70 plots that would be delivered at the appeal site this figure increases to 503 plots over the plan period or 28 plots per annum<sup>270</sup>. Given that the Council has delayed a Regulation 19 consultation on the Emerging DLP, it will not come close to meeting the needs identified in the 2020 DAF for some time, if ever, without sites such as the appeal site. The importance of giving due consideration to future supply was addressed in a recent appeal decision<sup>271</sup>.
171. The Council’s ‘Self-Build Register’ cannot predict longer term demand for plots and is therefore only part of the picture in robustly assessing demand<sup>272</sup>. The

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<sup>263</sup> Document APP4 page 7 paragraph 2.34

<sup>264</sup> Document APP4 page 42 paragraph 6.5

<sup>265</sup> Document APP4 page 11 paragraph 2.54 and Martin Stickley in cross examination

<sup>266</sup> Document APP4a Appendix AG1 page 2 paragraph 1.10: This required local authorities to plan for people wishing to build their own homes

<sup>267</sup> Document APP4 page 6 paragraph 2.26

<sup>268</sup> Document APP4 page 16 paragraph 3.28

<sup>269</sup> Document APP4 page 29 paragraph 4.24

<sup>270</sup> Document APP4 page 29 paragraph 4.25

<sup>271</sup> Document CD11.31 Pear Tree Lane, Euxton, Chorley page 13 paragraph 62:

*“Even so, and treating the Buildstore demand figures with caution, the evidence clearly indicates that the 5-year supply of self-build plots in the borough is likely to fall well short of the anticipated demand. As such the provision of a further 18 self-build and custom housebuilding plots on the appeal site would make an important contribution to the need for this type of housing”*

<sup>272</sup> Document APP4 page 22 paragraph 3.62



2020 DAF states that: *"The scale of demand shown by registers can be as much a reflection of the approach taken to promoting CSB [Custom and Self Build] locally as a pattern of local demand. Whilst it can be a useful indicator of demand it is not useful as a long term planning tool."*<sup>273</sup> The only way the Council has publicised its register is through its website<sup>274</sup>. A national survey in 2020<sup>275</sup> revealed that 8 out of 10 people are still unaware that councils keep a register of people interested in buying a development plot in the local area for a self-build and custom housebuilding project<sup>276</sup>.

172. The parties agree that the 2020 DAF applies the recommendations of the PPG<sup>277</sup> to undertake a robust assessment of demand for self-build and custom housebuilding in Dacorum, and that in doing so, it identifies a sizeable level of demand which has not yet been reflected in the Council's Self-Build Register<sup>278</sup>.
173. Data from a range of secondary data sources in line with the recommendations in the PPG provide an indication of demand for this type of housing, which is not currently being met. The 2020 DAF figure sits within this range and the figures identified *"should not be viewed as maximum"*<sup>279</sup>. It identifies a sizeable level of demand which broadly aligns with the Buildstore figure and is yet to be reflected in the Council's Self-Build Register. Buildstore holds the largest database of self and custom housebuilding in the UK and its data<sup>280</sup> showed that on 29 November 2022 there were 282 people on their 'Custom Build Register' seeking an opportunity for a custom-built home and 974 people on their 'Plot-Search' platform seeking a serviced plot of land to build or commission their own home in Dacorum. This data is cross-checked by Buildstore<sup>281</sup> which means that, cumulatively, there were a total of 1,256 people looking to self or custom-build within the Borough.

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<sup>273</sup> Document CD7.19 page 3 paragraph 6

<sup>274</sup> Document APP4a Appendix AG2 page 15 paragraph 14; and Appendix AG3 page 8 paragraph 012: The PPG states *"As a minimum, it is recommended that relevant authorities hold and regularly update a web page that is dedicated to self-build and custom housebuilding. Relevant authorities are encouraged to consider additional innovative methods of publicising their register to increase awareness of it such as hosting events."*

<sup>275</sup> Ipsos Mori polls commissioned by NaCSBA between 2014 and 2020

<sup>276</sup> Document APP4 page 22 paragraph 3.60

<sup>277</sup> Documents APP4 page 9 paragraph 2.43; APP4a Appendix AG3 page 8 paragraph 011: The PPG states *"Local authorities should use the demand data from the registers in their area, supported as necessary by additional data from secondary sources (as outlined in the housing and economic development needs guidance), to understand and consider future need or this type of housing in their area."*; and APP4 page 18 paragraph 3.40: PPG paragraph 003 reference ID 67-003-20190722 states that: *"In order to obtain a robust assessment of demand for this type of housing in their area, local planning authorities should assess and review the data held on their register. They should also supplement the data from the registers with secondary data sources such as: building plot search websites, 'Need-a-Plot' information available from the Self Build Portal, and enquiries for building plots from local estate agents."*

<sup>278</sup> Document CD7.19 page 7 paragraph 9

<sup>279</sup> Document CD7.19 page 4 paragraph 12

<sup>280</sup> Document APP4 page 19 paragraph 3.42

<sup>281</sup> Document APP4 page 19 paragraph 3.43

174. Buildstore data found on 29 November 2022 demand for 55 registrants on their Custom Build Register who are wishing to create their own homes within Tring Parish (20% of Borough-wide demand) and 200 Plot-Search subscribers, who are searching for a plot to purchase within that location to either build a home or commission one to be built for them within the Parish (21% of Borough-wide demand). This results in a current total demand for 255 plots within Tring Parish (18% of Borough-wide demand). The importance of secondary data sources has been regularly recognised by Inspectors in appeal decisions<sup>282</sup>.
175. The appeal site is providing a level of provision in line with the requirements of emerging Policy DM8. The Emerging DLP also identifies that: *"the Council's evidence on custom and self-build housing identifies that annual demand outstrips the supply of such housing in Dacorum. It adds weight to the need for larger sites to provide for a proportion of custom and self-build housing."*<sup>283</sup> The appeal site is the only proposed allocation with a live permission/ application that makes any provision for self-build plots<sup>284</sup>. The proposed location of the self-build plots would ensure they are built out in a timely manner<sup>285</sup>. The Council has until 30 October 2023 to meet a shortfall of 36 plots against Base Period 5 demand<sup>286</sup>. The Appellants have made a commitment to make the 70 plots available in the early phases (2 and 3) of the development at Condition 11(9).

### ***Benefit of Older Persons Housing***

176. Both parties are agreed that the Older Persons Housing component should be accorded very substantial weight. In the PPG, under the heading 'Why is it important to plan for the housing needs of older people?', the first point made is that the need to provide such housing is 'critical' and the reasons given are because people are living longer lives, society as a whole is ageing, and the sheer numbers involved e.g. the number of people aged 85 and over, an age group

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<sup>282</sup> Documents CD11.30 land at Pear Tree Lane, Euxton Inspector Hayden page 13 paragraph 60: *"The PPG advises that data on registers can be supplemented from secondary data sources to obtain a robust assessment of demand. The Buildstore Custom Build Register, the largest national database of demand for self and custom build properties, has 185 people registered as looking to build in Chorley, with 699 subscribers to its PlotSearch service. Data from a national survey conducted by Ipsos Mori for the National Custom and Self-Build Association, when applied to Chorley's population, indicates that as many as 1,929 people may wish to purchase serviced plots in Chorley over the next 12 months"* and *"They provide evidence of a greater level of demand for self-build than the Council's register shows."*; and CD11.1 land off Bullens Green Lane, Colney Heath Inspector Masters pages 11-12 paragraph 50: *"the Planning Practice Guidance advises that local authorities should use the demand data from registers, supported by additional data from secondary sources, to understand and consider future need for this type of housing in their area."* Paragraph 51: *"neither authority has an up-to-date assessment of likely future demand for this type of housing in line with the planning practice guidance"* and *"the appellant provided detailed evidence in relation to the Custom Build Register, none of which was disputed"* and found *"taking into account other secondary data sources, these shortfalls may well be on the conservative side"*.

<sup>283</sup> Document CD7.1 page 59 paragraph 14.14

<sup>284</sup> Document APP4 page 29 paragraph 4.21

<sup>285</sup> Accepted by Martin Stickley in cross examination

<sup>286</sup> Document APP4 page 28 paragraph 4.12



more likely to need some kind of care and support as well as specially designed housing to live independently, will double by mid-2041<sup>287</sup>.

177. 'Extra care housing' or 'housing-with-care', the specialist housing type proposed as part of the appeal development, is the only one of four specialist housing types defined by the PPG that allows residents to live independently with the benefit of care and support services available on site, 24/7<sup>288</sup>. The wider benefits of such housing include better health and wellbeing; improved quality of life; reduced pressure on, and associated cost savings for, health and social care services; and it helps to free up market housing<sup>289</sup>.
178. 27,100 people aged 65 and over live in Dacorum, which is 17% of the total population, of whom 4,000 are aged 85 and over. The latest projection is for the population aged 65 and over to reach 37,800, which is 23% of the Borough's total population, by 2040, including 6,500 people aged 85 and over<sup>290</sup>. At present, 6,700 to 12,100 older people in Dacorum require care and support to varying degrees, with numbers projected to steadily increase over the next twenty years to 17,300 older people by 2040<sup>291</sup>.
179. The only approach to comprehensively address planning for specialist housing need is set out in 'Housing in Later Life'<sup>292</sup> by applying the target provision rates published therein<sup>293</sup>. This is preferable to the Council's assessment, which is constrained by current levels of provision<sup>294</sup>. Even on the Council's terms, the current shortfall in Dacorum's supply of extra care housing is significant and increasing<sup>295</sup>. The minimum requirement is for an additional 609 'Market Extra Care' units and 305 'Affordable Extra Care' units by 2040, of which 384 market and 192 affordable units are currently needed. Dacorum's development pipeline is comprised of one 'Extra Care' housing development of 103 'Market Extra Care' housing units with planning permission and expected to be operational later in 2023. In addition, an application submitted in 2022 for about 69 'Extra Care' units of accommodation, tenure unknown, is yet to be determined<sup>296</sup>.

### ***Socio-Economic Benefits***

180. The Council agrees with the Appellants that the socio-economic benefits of the appeal proposal are to be accorded significant weight. The additional and wider socio-economic benefits to those in addressing housing need are<sup>297</sup>:
- 180.1 ensuring a more vital age profile in Tring, addressing the accepted challenges associated with an ageing population;

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<sup>287</sup> Documents CD2.2 and APP5a Appendix 4 page 1: PPG ID: 63-001

<sup>288</sup> Document APP5a Appendix 4 page 2: PPG ID: 63-010

<sup>289</sup> Document APP5a Appendix 4 paragraphs 4.18-4.34

<sup>290</sup> Document APP5 page 5 paragraph 3.1

<sup>291</sup> Document APP5 page 5 paragraph 3.5

<sup>292</sup> Document CD6.42

<sup>293</sup> Documents APP5 Section 2 and APP5a Appendix 4: endorsed at Appeal and EiP

<sup>294</sup> Documents APP5 page 13 and CD8.1 page 153 paragraph 7.47

<sup>295</sup> Document APP5 page 14 paragraph 5.8

<sup>296</sup> Document APP5a Appendix 7

<sup>297</sup> Document APP6

- 180.2 addressing challenges facing businesses in recruiting and retaining labour (Tring, Dacorum and Hertfordshire), including increased opportunities for businesses in Tring to source labour locally;
- 180.3 improving health and well-being of new residents and existing residents, with specific reference to identified more vulnerable groups;
- 180.4 generating new employment opportunities, both through construction and operation; and
- 180.5 increasing retail and leisure expenditure to help support the vitality of the town centre.
181. The methodology used to calculate quantifiable benefits has been agreed by the Council, along with the quantified outputs<sup>298</sup>. Beyond issues and challenges associated with housing need or social infrastructure provision, the socio-economic challenges that currently face Tring include an ageing population, those facing businesses in recruiting and retaining labour, and health and wellbeing issues in the Borough, particularly for more vulnerable groups<sup>299</sup>. The economic contribution and spending power of new households will represent a considerable benefit to Tring and the wider locality<sup>300</sup>. The Framework and the Government's 'Levelling-Up Agenda' both attach significant importance to the generation of economic benefits<sup>301</sup>, which remains the case in the Framework consultation proposals<sup>302</sup>.
182. The number of Tring's residents aged 65 or above has doubled over the last forty years (1981–2021) and the rate at which its population profile is ageing is increasing. Over the same period those aged 20–49 have reduced in number by 9% and those aged 19 and under by 10%. There is very slow growth in the population overall<sup>303</sup>. In contrast to previous periods of growth the town has seen a very modest number of new homes of any tenure, but in particular affordable homes, added to its supply. The average price paid to purchase housing in the town has risen by 79% between 2011 and 2021, exceeding the 64% growth recorded in Dacorum where median house prices now equate to over 14 times median earnings<sup>304</sup>. Rents have risen by some 35% between 2013 and 2021. It is apparent that the availability of stock has not been able to respond to the changing needs of households in the town. There are increasing numbers of households within Dacorum unable to have their housing needs met, and this is in many cases detrimental to their health and wellbeing.
183. Tring has a successful and growing business base<sup>305</sup> and is an established employment location<sup>306</sup>, with it and the surrounding area accommodating some

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<sup>298</sup> Document CD12.8 pages 21-23 paragraphs 10.0 and 10.3

<sup>299</sup> Document CD12.8 pages 21-23 paragraphs 10.1.2 and 10.1.2.0–10.1.2.3

<sup>300</sup> Document APP6 page 1 paragraph 1.6

<sup>301</sup> Document APP6 page 16 paragraphs 4.3-4.8

<sup>302</sup> Document APP6 page 17 paragraph 4.12: Framework Consultation Paper Chapter 11 paragraphs 3, 5 and 6

<sup>303</sup> Document APP6 pages 4-5 paragraphs 2.3-2.5 and Figures 2.1 and 2.2

<sup>304</sup> Document APP6 page 7 paragraph 2.10 Figure 2.5

<sup>305</sup> Document APP6 page 8 paragraph 2.14 Figure 2.6

<sup>306</sup> Document APP6 paragraphs 2.13-2.16

1,030 businesses as of 2022 and about 5,650 individuals employed by businesses in Tring as of 2021. It has a low proportion of residents claiming out of work benefits. Only 1.7% of the town's residents aged between 16 and 64 (125) claimed as of November 2022, which is less than half the equivalent proportion for England and the second-lowest rate recorded in any month since the beginning of the pandemic. The profile of jobs in the town is oriented towards lower paid opportunities<sup>307</sup>, but the labour-force living in the town has become increasingly skewed towards people working in higher paid and higher skilled occupations<sup>308</sup>. The consequence of this is that those on lower incomes are having to pay to travel into the town to access lower paid employment. Therefore, the accommodation of new working age residents (circa 1,735) would reduce the need for in-commuting and improve quality of life for those for whom *"a significant proportion of their income is spent on housing costs"*<sup>309</sup>.

184. As a result of its scale, the profile of housing it proposes and the social and green infrastructure it will provide, the proposal would address the challenges in Tring by increasing local labour to support businesses<sup>310</sup>. The proposal will accommodate potential downsizers, freeing up larger homes in the town for families, up-sizers including young families, freeing up smaller and more affordable homes already in the town as well as older households with specific needs, where it provides new 'Extra-Care' housing. As a result, it will offer the opportunity to create a more balanced profile of population growth<sup>311</sup>. It will provide for households on lower incomes, many of whom may be working in Tring itself or in the surrounding area and who have been unable to live in the town or have had to spend unsustainable amounts of their wages on housing costs.
185. The accommodation of over 1,700 potential workers will offer the potential to sustainably meet local businesses' needs to support their vitality and enable their growth. Support to the town's businesses and in particular those on the 'High Street' will also be provided through the additional potential spend of the resident population, estimated at some £40.4 million per annum, a reasonable proportion of which can be expected to be spent in the retail and leisure offer of the town. The accommodation also offers the opportunity to make a proportionate contribution to achieving wider economic ambitions and opportunities for economic development, particularly those articulated by the Local Enterprise Partnership (LEP)<sup>312</sup>. The LEP's published evidence base has confirmed that the issue of labour-force availability is impacting on the ability to support growth in higher value sectors, as well as filling lower-paid but important jobs in other sectors, e.g. the health sector<sup>313</sup>.

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<sup>307</sup> Document APP6 page 9 Figure 2.7

<sup>308</sup> Document APP6 page 11 Figure 2.9

<sup>309</sup> Document CD12.8 page 22 paragraph 10.1.3.0

<sup>310</sup> Document APP6 pages 22-23 Figures 5.1 and 5.2

<sup>311</sup> Document CD12.8 page 22 paragraph 10.1.3.1

<sup>312</sup> Document APP6 page 17 paragraphs 4.15-4.16, citing Document CD6.37: Hertfordshire LEP (July 2017) Perfectly Placed for Business: the refreshed Strategic Economic Plan: 2017-2030 page 15 and CD6.38: Hertfordshire Local Industrial Strategy: Draft for consultation (September 2019) page 33

<sup>313</sup> Document APP6 page 18 paragraphs 4.17-4.18 and 4.20

186. The development will make an important potential contribution to the health and wellbeing of not only new residents but also those who currently live in Tring<sup>314</sup>. Alongside the new homes, schools and the local centre, the green infrastructure and sporting facilities will offer a benefit to both new and existing residents. In accordance with national policy these provisions will create enduring health and wellbeing benefits, impacting on the lives of individuals and the economy, by assisting in supporting a healthier and more productive workforce. This provision will be of particular benefit to those more vulnerable households, which are identified in the Health Impact Assessment (HIA)<sup>315</sup> including those at risk of low rates of physical activity, older persons and low-income households, reflecting local health issues identified in the County's Joint Strategic Needs Assessment.
187. The proposed development will create and accommodate new jobs through its development and occupation. Over about a 10-year period the construction of the homes and infrastructure proposed will be expected to generate on average about 175 gross direct FTE jobs<sup>316</sup>. These jobs will help to sustain the Borough's construction industry, assist in the training of new construction apprentices<sup>317</sup>, and help provide opportunities to attract the next generation of workers into this sector. Once complete the proposed development could accommodate around 180 gross direct FTE jobs on site, in the new schools and the local centre which includes flexible workspace to help new households to live and work in the town<sup>318</sup>. There will be a total net additional employment of 90 jobs locally and 140 more widely across Hertfordshire<sup>319</sup>. It will also directly support home and flexible working<sup>320</sup>.
188. New residents will also provide the town with an estimated additional £40.4m annual gross household expenditure<sup>321</sup>. As there is a strong level of retention of retail spend, it will assist Tring's High Street in its future resilience and ensure its ongoing vitality<sup>322</sup>.
189. The Government sees the challenge of building a strong and competitive economy as requiring a range of interventions, including a recognition that there are challenges created in 'richer areas' with regards labour mobility that need to be addressed<sup>323</sup>. The proposed development of new housing, in an economically prosperous area that is agreed to have historically underdelivered, can help to address this issue<sup>324</sup>.

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<sup>314</sup> Documents APP6 pages 30-33 Section 7 and CD1.16: Health Impact Assessment

<sup>315</sup> Document CD1.16 pages 26-27 paragraph 4.60

<sup>316</sup> Document APP6 page 28 Table 6.3

<sup>317</sup> Document APP6 page 28 paragraph 6.23

<sup>318</sup> Document APP6 pages 24-25 paragraph 6.7 and Table 6.1

<sup>319</sup> Document ID24 page 1 Table 1

<sup>320</sup> Document APP6 page 26 paragraphs 6.11-6.16

<sup>321</sup> Document APP6 page 22 paragraph 5.15

<sup>322</sup> Document APP6 page 22 paragraph 5.16 citing Documents CD8.6: South West Hertfordshire Retail and Leisure Study (September 2018), Nexus Planning, Appendix C, pages 15-18 and CD7.25: Dacorum Borough Council (2020) Further Dacorum Retail Study

<sup>323</sup> Document APP6 paragraphs 4.5-4.7 and Antony Pollard in cross examination

<sup>324</sup> Document APP6 paragraph 4.8

### ***Educational Benefits***

190. The Appellants consider that the benefits of providing a new primary school and secondary school site should be accorded significant weight<sup>325</sup>. The development will provide both community and education facilities, which will benefit the wider settlement of Tring and ensure that this is a genuinely sustainable new community. The new school sites are among the largest for any new build state school in the country. The co-location of the sports hub and scale of new facilities, such as a full-size 3G all-weather pitch and 9 pitch fine turn cricket square, will provide young people with access to facilities on a par with leading independent schools. The scale and position of the school sites provides opportunities for schools to expand and meet the changing needs of the area over time.
191. There is a public benefit in providing the education facilities on site, configured within the wider development and flexible to suit any changes to pupil place planning strategy and demographics for the area<sup>326</sup>. The new primary school will meet and exceed national school building standards, follow national school building delivery processes, and involve HCC and end-users of the new school throughout. The delivery commitments made by the Appellants go far beyond the levels of commitment and detail in other section 106 agreements and provide absolute certainty in terms of delivery standards.
192. The secondary school site would be co-located with the new sports hub responding directly to the drivers articulated by the Council, HCC and Sport England, as well as the promotion of dual-use facilities in the CS<sup>327</sup>. The Appellants have evolved the sports hub and dual use sports facilities to phase the delivery to suit the community demand and the flexibility being given to HCC in when it decides whether the new secondary school provision should be on or off-site.
193. The Appellants have committed to trigger points for the delivery of the new primary school and has committed to secondary school contributions. They are also providing extensive land for two schools and a sports hub. This amounts to millions of pounds of investment in education, providing very high-quality provision.

### ***Recreational and Sporting Benefits, including Playing Pitches and Open Spaces***

194. The Appellants consider that the recreational and sporting benefits should be accorded significant weight<sup>328</sup>. The appeal proposal will deliver land for, and full delivery of, a MUGA, 3G sport pitch, grass sports pitches and a full 9-pitch fine

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<sup>325</sup> Document APP15 page 57 paragraph 7.49 and page 76 Table 11.2 and Professor May examination in chief and Document ID60 Updated Table of Benefits

<sup>326</sup> Documents APP15 pages 57-58 paragraphs 7.49-7.51 and CD11.13: APP/C2741/W/21/3282969, North Lane, Huntingdon, York page 6 paragraphs 30-31, pages 40-41, paragraphs 179-181 and page 44-45 paragraph 196

<sup>327</sup> Document CD4.2 page 103 Policy CS23: Social Infrastructure

<sup>328</sup> Document APP15 pages 56-57 paragraphs 7.41-7.44 and page 57 paragraph 7.51 and page 76 Table 11.2; Professor May examination in chief and Document ID60 Updated Table of Benefits

turn cricket facility at early phasing so that these are available for wider community and club use. The Sports Hub building will be constructed in two phases with a core sports hub to support the senior 3G all-weather pitch, the MUGA and grassed pitches for community use. An extension to the Sports Hub building will follow if HCC request the 'Secondary School land' for development of new secondary school provision. This offers considerable benefits in terms of the quality of facilities, flexibility and adaptability and is unprecedented for developments of the scale proposed.

195. The Appellants have agreed to pay commuted sums for the sports facilities for a period of up to 15 years. The 'Sport and Physical Activity Facilities Strategy' is clear that a full size 3G all-weather pitch and a full cricket facility including artificial wicket, scorers base and practice nets are not justified purely by the demand from the proposed development. The enhanced facilities exceed the quality and quantity that would be required from a development of the proposed scale and offer wider benefits.

196. The appeal proposal will also deliver improved access to the countryside by the provision of new footpaths and recreational routes and the improvement of the canal towpath. The site, as agricultural fields, currently provides no public open space and very little public right of access. The proposal would see the creation of new open space, most of which would be always publicly accessible.

### ***Benefits of Community Facilities***

197. The appeal proposal will deliver four types of community facility<sup>329</sup> plus a pre-school/nursery building and land. The latter, which will provide childcare and early years education for 0 to 4 year olds and support families, is best considered as a community facility, given the important role it will play within the community. It will complement nursery provision for 3 to 4 year olds that the Appellants have committed to delivering as part of the new primary school. There will be a community hall, with provision of facilities that will serve the wider community to ensure it can function both as a clubhouse for the new cricket facility, accommodate one badminton court, and be used by community groups including as a place of worship. Orchards and allotments will also be delivered, with early phasing to ensure that these are available for wider community use. Collectively all these community facilities underscore and reinforce the sustainability of the appeal proposal and should be accorded significant weight<sup>330</sup>.

### ***Sustainable Transport Benefits***

198. The Appellants consider that the appeal proposal will give rise to significant sustainable transport benefits<sup>331</sup>. The appeal site is already a highly sustainable location, well-related to Tring town centre and to Tring railway station. The Appellants have proposed significant improvements to accessibility<sup>332</sup>. The

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<sup>329</sup> Document APP15 pages 73-74 paragraphs 11.39.1-11.39.4

<sup>330</sup> Document APP15 page 76 Table 11.2; Professor May examination in chief and Document ID60 Updated Table of Benefits

<sup>331</sup> Documents APP15 page 76 Table 11.2; and ID60 Updated Table of Benefits

<sup>332</sup> Document APP10 page 5 paragraph 4.4.1 and Transport Strategy



development will provide local facilities and services as well as a new primary school and land for a secondary school, all of which will be well connected by new pedestrian and cycle routes, thereby reducing the need to travel by car for both existing and new residents.

199. The Appellants have had very positive dialogue with WMT, who are the operators of Tring railway station and have sent a letter which confirms that they will use the financial contributions provided by the Appellants to improve the station forecourt for the principal benefit of cyclists and pedestrians, as well as general improvements for all passengers. However, these improvements are not essential to make the site sustainable.
200. A comprehensive package of pedestrian and cycle improvements has been agreed with HCC, as well as the principle of a new bus route connecting the proposed development to the town centre and Tring railway station<sup>333</sup>. A new route for pedestrians and cycles will be provided within the site away from the carriageway, parallel to Station Road, which will be designed to latest guidance, lit and surfaced appropriately for year-round use in all conditions and will benefit from good natural surveillance from the proposed new homes. Both CS Policy CS8<sup>334</sup> and paragraph 105 of the Framework prioritise sites where the need to travel can be reduced and where sites are, or can be, made sustainable through the promotion of travel by active modes first, then public transport, with motor vehicle user needs afforded least priority. The Marshcroft transport strategy fully accords with these goals and has been developed in dialogue with HCC<sup>335</sup>.
201. The details of off-site transport improvements and measures to be delivered have been agreed with HCC. These encompass a raft of measures drawn from the HCC/Dacorum Borough Council Berkhamsted and Tring Sustainable Transport Strategy, as well as a series of additional specific measures to mitigate the potential impact of the development. These will be delivered through the section 106 obligations in the Agreement and UU, and section 278 works directly by the Appellants.
202. The section 278 works will comprise:
- A priority controlled T-Junction site access via Bulbourne Road;
  - A signal controlled site access via Station Road;
  - Improvements at Brook Street/ High Street/ London Road and London Road/ Station Road junctions;
  - Improvement at Station Road/ Cow Lane/ Grove Road junction;
  - Introduction of traffic signals at the A4251/ Cow Lane junction;
  - A new Puffin Crossing on Station Road in the vicinity of Tring Railway Station;

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<sup>333</sup> Documents APP10 page 13 paragraph 6.3.4 and Table 6.2: considering compliance with paragraph 104 of the Framework

<sup>334</sup> Document CD4.2 page 55

<sup>335</sup> Document APP10 page 11 paragraph 6.2.6 and Table 6.1 considering compliance with Policy CS8



- A new pedestrian crossing of Station Road in the vicinity of the Court Theatre;
- A new Toucan pedestrian/cycle crossing outside Tesco Superstore in Tring;
- A new cycle route along the A4251 between London Road/ Cow Lane junction to Newground Road/ Beggars Lane;
- A junction enhancement at the junction of Grove Road and Marshcroft Lane;
- Grove Road pedestrian crossing and widened footways;
- A new cycle route between Station Road and Mortimer Hill; and
- A new crossing of Grove Road between Marshcroft Lane and Chiltern Way.

**Ecological Benefits: Biodiversity Net Gain and SANG**

203. The ecological benefits should collectively be accorded very substantial weight<sup>336</sup>. The appeal scheme will deliver a BNG of circa 35% in habitat units<sup>337</sup>. The Appellants have agreed a section 106 provision and a planning condition to require a net gain in hedgerow units of at least 10%<sup>338</sup>. These figures exceed the requirements of the Environment Act (which are not yet mandatory) and of Emerging DLP policy (which requires only 10% gain)<sup>339</sup>. The SoFS and the Inspector in the decision in Rainham Kent accorded a net gain of 20% substantial weight<sup>340</sup>.
204. The Main Metric measures what will actually be delivered and the Mini Metric calculates the habitat enhancements necessary to deliver a basic and functional SANG. This allows for the concept of 'additionality', defined in the Biodiversity Net Gain User Guide as: *"The need for a compensation measure to provide a new contribution to conservation, additional to any existing values, i.e. the conservation outcomes it delivers would not have occurred without it."* Therefore, land or habitat provided as part of the development for one purpose may serve another purpose e.g. trees and vegetation required for visual and screening purposes will have value for wildlife; open space required by planning policy for recreation will also offer habitat for wildlife.
205. The approach to SANG and BNG for the appeal scheme followed guidance on the topic provided by Natural England's 2021 SANG Guidelines<sup>341</sup>. To be functional as a place for walkers and dog walkers the SANG would need to

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<sup>336</sup> Documents APP15 page 76 Table 11.2 and ID60 Updated Table 4

<sup>337</sup> Documents APP11 page 27 paragraph 7.3 and CD1.27: Biodiversity Net Gain Assessment

<sup>338</sup> Documents APP11 paragraph 7.9 and ID79: Section 106 Agreement Schedule 13 page 117 Definition of Minimum Biodiversity Increase

<sup>339</sup> Document APP11 pages 27-28 paragraphs 7.6-7.9

<sup>340</sup> Document CD11.3: APP/A2280/W/20/3259868, DL paragraph 35 and IR paragraph 12.204

<sup>341</sup> SANG Guidelines page 10: *"Through appropriate design and implementation BNG can complement the purpose of SANGS. These are designed to provide more natural and diverse green space for communities to benefit from and, consequently, delivering more effective mitigation to alleviate pressure on SPAs. SANG is not an automatic delivery mechanism for BNG but the two can exist on the same site. BNG on SANG is only attributable to such habitat creation or enhancement that proves measurable additionality over and above the minimum requirements of the SANG, demonstrated through use of the Biodiversity Metric stipulated by the consenting body."*

include grassland and screening features, but these need not necessarily be of high distinctiveness or quality to provide a semi-natural experience. The Mini Metric was used to establish the BNG contribution of these poor quality and low distinctiveness habitats, to provide a figure to discount from the Main Metric, in which higher distinctiveness and quality habitats were assessed.

206. The use of modified grassland in the SANG Mini Metric i.e. improved grassland pasture and poor quality hedgerows and scrub is appropriate as most of the grassland fields in the Chilterns AONB are like this, in common with large swathes of the English countryside. Hence the new grassland in the SANG was set to be poor quality modified in the hypothetical scenario of the Mini Metric, but in reality it is to be a higher quality neutral grassland<sup>342</sup>. In the Mini Metric scenario scrub in poor condition was included as a habitat that served the screening function but was not ecologically diverse. In reality, the scrub is to be more species-rich; this is more than the basic requirement and so can be counted<sup>343</sup>, which is the situation shown in the Main Metric. The projected condition status for the various habitats in the BNG Assessment have been set at a maximum of 'Moderate', which is considered to be a reasonable conservative assumption, as it will be perfectly possible in time to manage the new habitats to achieve 'Good' condition.
207. The appeal scheme will deliver at least 27 ha SANG, which will be available for new residents from first occupation. An additional 10.56 ha could be made available for other developments locally, with delivery linked to development and prior to first occupation<sup>344</sup>. This expanded SANG would account for 4,695 new residents, or an additional 1,297 people above the 3,398 new residents accounted for in the original 27 ha area. The SANG has been developed in consultation with Natural England and meets its SANG criteria. It includes new areas of semi-natural habitat for visitors, including areas for dog walking, and a café. Natural England agree that the SANG would act as an intercept site for people that might otherwise travel to the SAC<sup>345</sup>. A draft SANG Management Plan has been prepared and the Appellants have agreed a position with the 'Land Trust', an organisation with significant experience, to manage the SANG in perpetuity<sup>346</sup>. There is therefore certainty on these aspects of the scheme.
208. The Council has produced an approach for SAMM. The Appellants have agreed to pay the necessary tariff<sup>347</sup>. Taken together, these measures will avoid or

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<sup>342</sup> Natural England's SANG Guidelines page 17 "*Examples of Biodiversity Net Gain delivered within a SANG: B. Planting wildflower bulbs on appropriately sited amenity grassland within a SANG and in turn converting it to species rich meadow could be counted towards BNG.*"

<sup>343</sup> Natural England's SANG Guidelines page 17 "*Examples of Biodiversity Net Gain delivered within a SANG: A. If an extra hedgerow was put into a SANG, not for screening purposes, this could count. If it is put in for screening reasons, this is a key SANG feature and therefore cannot count towards BNG unless the hedgerow was of higher distinctiveness than that needed for screening purposes or maintained in better ecological condition, in which case it could count.*"

<sup>344</sup> Documents APP11 page 24 paragraph 6.13 and CD1.33: Draft SANG Management Plan

<sup>345</sup> Document APP11 page 24 paragraph 6.12

<sup>346</sup> Documents APP11 pages 35-36 paragraphs 8.15-8.19 and APP11a Appendix 7: Letter of Intent (6 January 2023)

<sup>347</sup> Document APP11 page 35 paragraph 8.16

mitigate any increased recreational pressure arising on Chilterns Beechwoods SAC as a result of the appeal scheme. The Council's SANG at Bunkers Park, which has been accepted by Natural England as being suitable as a SANG, is an area to which there is already a significant degree of public access and amenity. The Appellants' SANG goes far beyond what has been proposed and accepted at Bunkers Park. In addition, the wider green infrastructure and additional measures proposed, retaining most of the existing hedgerows and treelines, will offer significant benefits for people and wildlife<sup>348</sup>. The other benefits not recognised by the Metric, such as bat and bird boxes, will be provided as part of the wider scheme of biodiversity enhancement<sup>349</sup>.

### ***Design Benefits***

209. The Appellants consider that the appeal development will deliver very high built design quality and that this should be accorded significant weight<sup>350</sup>. The development demonstrates the highest standards of design, consistent with Government policy. The Appellants have developed a strong landscape-led design concept, based on extensive and detailed analysis of the site and its context, including physical features such as topography, green infrastructure and ecological features, views, access, local character, adjacent communities and nearby settlements<sup>351</sup>.
210. The 'Dacorum Strategic Sites Design Guide' (DSSDG)<sup>352</sup> strongly influenced the Appellants' approach to the Masterplan, as is demonstrated through the DAS and Design Code documents<sup>353</sup>. The comprehensive approach to 'Observation and Evaluation' of Tring's built form and open space and that of the surrounding area has directly shaped and informed the 'Making' of the Masterplan for Marshcroft. The appeal proposal will be designed around the traditional main street, connecting important routes, with existing bus routes. Along this tree-lined street, there will be segregated walking and cycling routes along with specific points of interest including a local centre incorporating community uses, defined with traffic offsets to reduce vehicle speeds, opportunities for increased density and variety of housing typologies, all of which will help to create a special place. Existing landscape, new planting and wildlife habitat and play or leisure facilities will also help enhance and define these places<sup>354</sup>.
211. The appeal proposal will provide a safer and overlooked route to Tring railway station, with segregated provision for walking and cycling, and therefore will improve non-car use. In addition to the active travel connectivity enhancements, the strong character of Station Road will be preserved and protected into the

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<sup>348</sup> Document APP11 page 25 paragraph 6.18

<sup>349</sup> Document APP11 pages 25-26 paragraphs 6.20-6.24

<sup>350</sup> Document APP15 page 77 Table 11.2 and Professor May examination in chief and Document ID60: Updated Table 4

<sup>351</sup> Document APP7 pages 5-8 Section 2

<sup>352</sup> Document CD5.3a-b

<sup>353</sup> Document CD5.3a part 1 pages 38/39

<sup>354</sup> Documents APP7 page 10 paragraphs 3.22-3.24; CD1.10 Design Code pages 93-99 and CD1.9 DAS pages 40-43

future through the retention of the existing mature trees and supplementary planting of successional trees<sup>355</sup>.

212. The Masterplan has adopted a 'landscape-led' approach, with the development layout being defined by the existing field patterns and landscape features. Within the site, existing hedgerows will be retained, save for breaks created to provide access, and where possible enhanced to form a clear framework for leisure, BNG and habitat connectivity, SuDS, play and wellbeing. Over 50% of the site will remain green providing areas of new publicly accessible open space. The layout of open space allows wide 'green fingers' to extend into the core of the scheme providing visual and physical connectivity with the wider landscape<sup>356</sup>. Following consultation, the proposed development was moved a clear field width away from the Canal, to benefit from screening and leave a significant parkland space beside the Canal<sup>357</sup>.
213. The creation of an extensive network of connected, safe and direct routes for walking and cycling will promote active modes of travel as the first choice for getting to, from and through the development. The landscape and open spaces include features such as a comprehensive network of SuDS, extensive areas of connected green space and street tree planting which will provide resilience to severe weather events and climate change. The primary street includes focal points at key locations along it with public transport connectivity further helping to reduce the need and/or desire for private vehicle use. The creation of a north-south street with most roads running east-west maximises the opportunity for solar collection on south facing roofs. The central village square especially, defined by communal buildings and south facing flats, provides a special opportunity for low energy buildings, incorporating green technologies<sup>358</sup>.
214. The proposal has been accepted by the Council in terms of densities, mix, and overall design approach and responds nationally to the requirements of the Framework and its latest provisions in terms of design quality<sup>359</sup>. The Masterplan, Design Code, DAS and the assembled plans therefore represent a firm foundation upon which to develop more detailed design ideas to create a beautiful place. There is a very high degree of certainty that the proposal will be designed to the highest quality, as illustrated throughout the application documentation.

### ***Sustainable Energy Benefits***

215. The Appellants consider that the sustainable energy benefits should collectively and individually be accorded significant weight<sup>360</sup>. The appeal proposal will deliver low carbon sustainable housing and buildings from the outset, with a 90%

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<sup>355</sup> Documents APP7 page 10 paragraph 3.23; CD1.10 Design Code pages 158-159 and CD1.9 DAS pages 46-47

<sup>356</sup> Document APP7 page 11 paragraph 3.35, citing Document CD1.9 DAS pages 57 and 60-63 illustrating the blue/green framework within the Masterplan

<sup>357</sup> Document APP7 page 8 paragraphs 3.5-3.6

<sup>358</sup> Document APP7 page 11 paragraph 3.34

<sup>359</sup> Document APP7 page 12 paragraphs 4.1-4.5, citing Document CD2.4: Report to Committee

<sup>360</sup> Document APP15 page 77 Table 11.2 and Professor May examination in chief and Document ID60: Updated Table 4

reduction in regulated carbon emissions against an emerging new Part L baseline reported across the development, to be secured by condition<sup>361</sup>. The development will therefore be highly sustainable in energy terms through a 'fabric first' approach, using photovoltaic cells, air source heat pumps and under floor heating. The heat pumps will be fitted from the start, thereby avoiding any need for a retrofit<sup>362</sup>. All of this will deliver a 90% carbon reduction against allowable emissions, and zero-carbon ready homes from 2025 (Phase 1)<sup>363</sup>.

216. The Legislation and policy in 'Low Carbon' and 'Net Zero' is rapidly evolving but the proposed development strategy squarely aligns with the Government's recently published independent review of Net Zero<sup>364</sup>. Whilst the Future Homes and Buildings Standards (FHS) are expected to be in place from 2025, there is limited technical detail available. The proposal therefore uses the most up-to-date baseline for compliance (Part L 2021) to confirm the extent of the carbon reduction. Where previous Building Regulations Part L version (2013) represents 100 'carbon units' for compliance, the current compliance level (Part L 2021) is set at 70 'carbon units' against which the proposed development would generate only 7. By comparison, the compliance level for FHS will be circa 20-25 'carbon units'. The strategy for the proposed development will emit 3 to 4 times less carbon than FHS compliant ones from 'Day 1', delivering performance beyond these incoming Regulations<sup>365</sup>.
217. With regard to the Council's position, emerging Policy DM23 was not sufficiently ambitious for the Appellants' vision to deliver energy efficient, low carbon new homes and to ensure no legacy of future retrofit new homes built in the period up to 2030. In this fashion, the appeal scheme exceeds what would be delivered through the Emerging DLP, and in a timelier manner. The Council has a Climate Emergency Plan but are not taking the necessary proactive steps to deliver decarbonisation. Planning Condition 14, sitting alongside Condition 9(5) are appropriate for an outline scheme and allow the extent of the reduction (or net zero energy balance where appropriate) to be confirmed in detail and quantified at each reserved matters application. This approach affords the necessary flexibility for the proposed development to respond to opportunities for further energy demand reduction, generation and storage across different phases as the supply chains and market for low carbon housing develop.

### **Local Plan Failure**

218. None of the benefits will be realised without the appeal scheme since the Local Plan is not progressing. The Council's members are not progressing matters, the Council has only suggested that there is a list of studies that are underway<sup>366</sup>. The Council will not be in a position to progress allocations needed to meet its

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<sup>361</sup> Documents APP8 Section 2 and CD1.17: Energy and Sustainability Statement

<sup>362</sup> Rebecca Lydon in examination in chief

<sup>363</sup> Document APP8 pages 13-15 paragraphs 4.3.4 and 4.4

<sup>364</sup> Documents APP8 page 15 paragraph 5.2.1.2 and summarised in Section 3 pages 3-5 paragraphs 3.2.1-3.2.4; and CD6.26: Mission Zero- Independent Review of Net Zero report to Government

<sup>365</sup> Document APP8 page 4 paragraphs 3.2-4.2

<sup>366</sup> Document DBC1 page 6 paragraph 5.3



housing need for some years to come. That is a powerful other consideration, as it has been in other cases<sup>367</sup>.

***Very Special Circumstances and the Planning Balance***

219. The factors which go into making VSC do not have to be rare or uncommon to be special<sup>368</sup> and there is no restriction on what might be considered as an 'other consideration'<sup>369</sup>. Ministerial statements have indicated that housing need will not normally or usually be sufficient to demonstrate VSC<sup>370</sup>, but this is not stated in the Framework and it is to ensure that unmet housing need will not become the sole reason for allowing a proposal in the Green Belt. To do so might undermine the Green Belt given the sheer enormity of unmet need, especially across London and the Home Counties. However, the Appellants' case on VSC has never proceeded on the basis of just housing need alone.
220. The chronic and acute housing needs of the area are a key component of the benefits of the scheme capable of making up a major component of the Appellants' VSC case. There is a severe shortage of new homes in the Borough; a failure to meet the housing delivery targets; a chronic shortfall in 5 year housing land supply; severe affordability problems; a virtual collapse in the delivery of affordable housing; new housing development which has been almost non-existent at Tring for the past two decades; the almost complete absence of Extra Care homes for elderly people; and an emerging shortfall in the delivery of Self Build and Custom Build Homes. The proposal would deliver 45% affordable housing and hundreds of social rented, affordable rented, intermediate and First Homes.
221. Other benefits of the proposal in addition to the very extensive housing benefits include the following:
- a. the site's location between the edge of the town and a mainline railway station with a very high frequency service into London Euston<sup>371</sup>;
  - b. the provision of at least a 27 ha SANG capable of delivering 1,400 homes in a Borough which is struggling to find solutions to the European protected SAC issue that is hindering housing delivery;
  - c. the provision of an extra 10.56 ha of land to expand the SANG to over 37 ha which is capable of ensuring the release of additional housing in the Borough, especially the planned development around the sustainable town of Tring;
  - d. the provision of a new primary school built and paid for by the developer, and allowing for future expansion;
  - e. the provision of land for a secondary school expansion as well as a 7 figure financial sum to facilitate that expansion;

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<sup>367</sup> Document CD 11.22 DL paragraph 54

<sup>368</sup> Wychavon DC v SSCLG and Butler [2008] EWCA Civ 692

<sup>369</sup> Brentwood BC v SSE [1996] 72 P&CR 61 and Document CD11.15 paragraph 31

<sup>370</sup> Written Ministerial statements from Greg Clark and Brandon Lewis

<sup>371</sup> Document 6.1 paragraph 142: the location is something that cannot be replicated across most of the Green Belt and is enough to create the very special circumstances needed to avoid its replication across the wider Green Belt



- f. the socio-economic benefits of the proposal for Tring where there are real problems emerging in terms of sustainable work patterns and other features necessary to create an effective and socially cohesive community;
- g. making access to the station much safer especially for women, the young and the elderly;
- h. the provision of a very extensive Sports Hub;
- i. the provision of community facilities;
- j. the financing of excellent bus facilities linking the site to the high frequency mainline railway station within minutes;
- k. the commitment to creating homes which are highly sustainable and well designed;
- l. a commitment to a minimum 30% BNG; and
- m. the Council's very comprehensive evidence base for the Emerging DLP which has identified the site as suitable for development.

These benefits are coupled with the absence of an up-to-date local plan, making plan-led development impossible in the Borough.

222. All the benefits of the proposal collectively combine to create the VSC in this case. The Council accepts each benefit except one and gives many of them substantial or significant weight<sup>372</sup>. These are weighty factors in the scales. They are VSC for a grant of permission. On all questions of harm, the Council can never get beyond its acceptance that the site can be released without unacceptable harm. The evidence base and conclusion in support of an allocation in the Emerging DLP are very powerful material considerations.

### **Conclusion**

223. For all the above reasons, the appeal should be allowed.

## **7 The Case for Dacorum Borough Council**

*I have reported the case on the basis of the closing submissions<sup>373</sup> with additional references to the evidence submitted prior to and during the Inquiry. The following is the gist of the material points made.*

### **The Required Approach to the Decision**

224. The appeal should be determined in accordance with the statutory DP unless material considerations indicate otherwise. If the SofS finds that VSC have been demonstrated, he will in effect have found that any conflict with the DP has been clearly outweighed. If the SofS is not so satisfied, the appeal proposal would represent unjustified inappropriate development in the Green Belt contrary to the DP and such is the very strong presumption against, the proposal must be refused permission.

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<sup>372</sup> Document ID60: Updated Table 4

<sup>373</sup> Document ID77

225. As to the VSC balance, the words 'very special circumstances' as used in paragraph 147 of the Framework indicate that the bar is a very high one. That is not surprising as the Green Belt is a designation of national importance, and the strength of its protection must reflect that<sup>374</sup>. The Courts have held that the requirement for the demonstration of VSC before inappropriate development is sanctioned in the Green Belt is a higher bar than the exceptional circumstances test which must be met before the release of Green Belt sites through a development plan process<sup>375</sup>.
226. The fundamental aim of Green Belt is to prevent urban sprawl "*by keeping land permanently open*"<sup>376</sup>. Imposing a very high bar before inappropriate development is permitted in the Green Belt through the development management process is key to ensuring permanence. The clear policy intent is that Green Belts should endure "*well beyond the plan period*"<sup>377</sup> in order to ensure the requisite permanence.
227. To that end, LPAs are required to ensure that "*substantial weight*"<sup>378</sup> is given to any harm to the Green Belt arising from proposals for inappropriate development through the development management process. That weighting is mandated by policy irrespective of the circumstances. On the correct application of Green Belt policy, it is not permissible to reduce the weight to be accorded to the harm to the Green Belt (and by inference its continued protection) by reference to a five year HLS deficit or other identified needs, irrespective of how acute they may be.
228. Those are matters which go to the weight to be accorded to the "*other considerations*" in the VSC balance and which then fall to be weighed against the Green Belt and other harms. It is only by approaching the VSC balance in this way that the clear intent of the Framework taken as a whole is properly reflected and the double counting of the benefits advanced is avoided.
229. The protection of the Green Belt in national policy is regarded as so important that the presumption against inappropriate development displaces the paragraph 11 tilted balance. Had it been the Government's intention to reduce the weight to be afforded to Green Belt harms in cases in which there was an absence of a five year HLS, footnote 7 in the Framework would not have been included and the Framework would have been worded very differently.
230. The clear intent of the Government is that the need to preserve the Green Belt should not usually be outweighed by unmet housing need. The Appellants have referred to two Written Ministerial Statements which provide that unmet housing need is not normally a VSC. As statements of Government policy, they have the same status as the Framework as material considerations in planning decision-

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<sup>374</sup> Professor May accepted this in cross examination

<sup>375</sup> R (Luton Borough Council) v Central Bedfordshire [2015] EWCA Civ 537 per Sales LJ @ paragraph 54

<sup>376</sup> Document CD6.1 paragraph 137

<sup>377</sup> Document CD6.1 paragraph 143(c)

<sup>378</sup> Document CD6.1 paragraph 148

making<sup>379</sup>. Any exception<sup>380</sup> has to be justified by the demonstration of VSC taking full account of the context and applying weight in accordance with the approach outlined above.

231. The VSC test requires a qualitative rather than a quantitative assessment and it is not necessary for each consideration relied upon in support of Green Belt development to be 'very special' of itself<sup>381</sup>. There is no requirement for any particular 'mathematical exercise'. What is required is that the decision maker should have regard to the "*real importance of the Green Belt*"<sup>382</sup>.
232. To ensure the required evaluative judgment is properly undertaken, the decision maker's required judgment should go well beyond the descriptors of harm and benefits. For example, a 'substantial' or 'very substantial' harm to an asset of national importance such as the Green Belt is not either logically or sensibly outweighed by a 'substantial' benefit which gives rise to only local effects.
233. Beyond ensuring that the relevant considerations appear on the right side of the balance, it is essential to ensure that there is no double counting in the balance, which the Appellants have not done. Instead, the Appellants have weighed into the cumulative balance in favour of the grant of planning permission considerations which, when they are properly analysed, are simply different ways of expressing the housing need benefit of the appeal proposal<sup>383</sup>.
234. Whilst there is no dispute that there are a number of material considerations which weigh against the Green Belt harm and some of those are entitled to very substantial weight, it is important that multiple reliance on the same benefit, albeit under different guises is avoided.
235. The rigour of the test is such that each and every square metre of inappropriate development is shown to be justified by the demonstration of VSC and the VSC test must be satisfied at the point of approval.

### **Policy**

236. There is no dispute as to the most important policies of the statutory DP for the determination of the appeal<sup>384</sup>. There is, further, no dispute that the relevant components of the DP<sup>385</sup> are out-of-date given that they planned for a much

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<sup>379</sup> R (West Berkshire District Council) v SSCLG [2016] EWCA Civ 441

<sup>380</sup> As evidenced by e.g. Documents CD11.1 Colney Heath, CD11.17 Oxford Brookes, CD11.22 Billericay and ID17 which all turn on their very specific facts and, in all instances adjudged limited impact on the Green Belt and its purposes

<sup>381</sup> Wychavon District v SSCLG [2008] EWCA Civ 692

<sup>382</sup> R (Sefton MBC) v SSCHLG [2021] EWHC 1082 (Admin)

<sup>383</sup> Documents APP6 Section 3 pages 13 to 15, APP15 paragraph 7.12 page 53; Antony Pollard accepted in cross examination that aspects of his evidence reflect, rather than supplement, the weight accorded by James Stacey, James Donagh and Annie Gingell; and Professor May also relies on local plan failure as a further consideration in the VSC balance, but could not give any coherent explanation of the additional weight this attracts above that already taken into account with respect to the ability of the proposed development to meet housing need

<sup>384</sup> Document APP15 paragraph 4.2 page 15

<sup>385</sup> Documents CD4.1: The Dacorum Borough Local Plan 2004; and CD4.2: the Dacorum Core Strategy 2013

lesser scale of housing growth within Dacorum and there is an absence of a five year HLS within the Borough as assessed against the Local Housing Need (LHN). The Council accepts that the policies of the Framework should attract greater weight in the decision than the policies of the statutory DP and it is the Council's case that assessing the appeal proposal solely against the Framework should lead to its rejection<sup>386</sup>.

237. The policies of the DP are still entitled to weight in the decision depending on the degree of their consistency with the Framework. The age of the policies and the fact that they might pre-date the Framework is irrelevant<sup>387</sup>. While there are some differences between the parties on the weight to be given to certain policies, it is agreed that the CS and the DLP are broadly consistent with the Framework and can be afforded due weight in the determination of the appeal<sup>388</sup>. It is therefore wrong to suggest that the entire plan is out-of-date, and this is not the position of the Appellants' planning witness<sup>389</sup>.
238. CS Policy CS1<sup>390</sup> sets out the settlement hierarchy and notes that the market towns will accommodate new development provided that it is commensurate with the size of the settlement and associated services/facilities, helps maintain the vitality and viability, causes no damage to the existing character and is compatible with Green Belt and Rural Area policies. The policy wording is somewhat more onerous than the Framework<sup>391</sup>, which states that development should 'respect', 'reflect', 'respond to' and 'maintain' character. As the policy is broadly consistent with the Framework, it should be accorded moderate weight<sup>392</sup>.
239. CS Policy CS5<sup>393</sup> states that the Council will apply national Green Belt policy. Whilst it does not reference VSC, it states that development management policy contained in the Framework will be applied. The policy is partially compliant with the Framework and moderate weight should be attributed<sup>394</sup>.
240. CS policies CS17, CS18 and CS19 deal with housing-related matters. Policy CS17<sup>395</sup> sets an average annual number of homes to be provided over the plan period. The policy refers to a lower housing requirement than is now required. The policy is therefore out-of-date and should be given limited weight<sup>396</sup>. Policy CS18<sup>397</sup> deals with the mix of housing to be provided in new developments. It requires a choice of homes to be provided, including a range of housing types, sizes and tenures, housing for special needs and affordable housing. Although not explicitly stated, 'housing types' is broad enough to include self-build and

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<sup>386</sup> Document DBC5 Paragraph 8.2 page 35

<sup>387</sup> Document CD6.1 paragraph 219

<sup>388</sup> Document CD 12.8 paragraphs.5.5-5.6

<sup>389</sup> Professor May in cross examination

<sup>390</sup> Document CD4.2 page 42

<sup>391</sup> Document CD6.1 Section 12

<sup>392</sup> Document DBC5c page 6 Table 2

<sup>393</sup> Document CD4.2 page 49

<sup>394</sup> Document DBC5c page 6 Table 2

<sup>395</sup> Document CD4.2 page 91

<sup>396</sup> Document DBC5c page 7 Table 2

<sup>397</sup> Document CD4.2 page 93

custom housing. Therefore, the policy is consistent with the Framework and should be given full weight<sup>398</sup>. Policy CS19<sup>399</sup> sets a requirement for affordable housing to be provided on sites above a certain threshold. Whilst the demand forecast on which the policy is based is out-of-date, the policy still requires the provision of affordable housing in alignment with the Framework. This policy is considered partially compliant with the Framework and therefore moderate weight should be attributed to it<sup>400</sup>.

241. CS Policy CS23<sup>401</sup> requires all new development to contribute to the provision of social infrastructure, which for larger developments may include the provision of land or buildings. The policy also promotes dual use, provides facilities in defined zones and protects existing social infrastructure. It broadly complies with the Framework and therefore moderate weight should be attributed to this policy<sup>402</sup>.
242. CS Policy CS8<sup>403</sup> requires all new development to contribute to a well-connected and accessible transport system. It sets out principles a to h, which are consistent with the provisions of the Framework. This policy is therefore compliant with the Framework and should be afforded full weight<sup>404</sup>.
243. There is no dispute in relation to the remaining relevant policies of the CS. It is agreed that policies CS10 to CS13<sup>405</sup> on securing quality design are at least partially consistent with the Framework and should attract moderate weight<sup>406</sup>. Policy CS24<sup>407</sup> on the Chilterns AONB is agreed to align with the Framework and therefore to carry full weight. It ensures that development has regard to the special qualities of the Chilterns AONB and Chilterns Conservation Board's Management Plan and Design Guide<sup>408</sup>. Policy CS25<sup>409</sup> on Landscape Character is agreed to be partially consistent with the Framework and therefore to carry moderate weight, on the basis that it does not refer to guidance for development in Natural England's national character areas<sup>410</sup>.
244. Three saved policies of the DLP are relevant to the appeal<sup>411</sup>. Saved Policy 97<sup>412</sup> requires the conservation of the beauty of the AONB. While seeking to conserve and enhance the natural environment consistently with the Framework, the policy is more onerous than the Framework and therefore should be accorded moderate weight<sup>413</sup>.

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<sup>398</sup> Document DBC5c page 7 Table 2

<sup>399</sup> Document CD4.2 page 95

<sup>400</sup> Document DBC5c page 7 Table 2

<sup>401</sup> Document CD4.2 page 103

<sup>402</sup> Document DBC5c page 7 Table 2

<sup>403</sup> Document CD4.2 page 55

<sup>404</sup> Document DBC5c page 7 Table 2

<sup>405</sup> Document ID61

<sup>406</sup> Document ID61

<sup>407</sup> Document CD4.2 page 113

<sup>408</sup> Document ID61

<sup>409</sup> Document CD4.2 page 114

<sup>410</sup> Documents ID61 and APP15 paragraph 4.8.8

<sup>411</sup> Document ID61

<sup>412</sup> Document CD4.1 page 241

<sup>413</sup> Document DBC5 paragraph 2.21

245. There is no material dispute between the Council and the Appellants with regard to the other two relevant DLP policies. It is agreed that Saved Policy 106<sup>414</sup>, which requires development to make a positive contribution to the canal side environment and improve access, is consistent with the Framework and carries full weight<sup>415</sup>. Similarly, it is agreed that Saved Policy 108<sup>416</sup> on high quality agricultural land is more onerous than the requirements of the Framework which tempers the weight to be given to it<sup>417</sup>.
246. The weight to accord to the various policies will be a matter of judgment but, even if no weight should be accorded to any of the local policies, the application of the Framework policies alone leads to the conclusion that the development is an unsustainable one which should not be permitted.
247. With regard to the weight to be accorded to the paused draft Emerging DLP, the purpose of the Regulation 18 Emerging Strategy for Growth was to seek the views of consultees on what a new local plan should contain<sup>418</sup>, and is as a matter of law at a formative stage. The LPA also has a legal duty to consider consultation responses conscientiously and report its response to these<sup>419</sup>. It is common ground between the planning witnesses that the draft plan and its proposed allocations (draft allocation Tr03) should be given no weight<sup>420</sup>.
248. The draft plan is still at an early stage of preparation and a considerable number of objections were made by consultees<sup>421</sup>, including to the level of growth that had been proposed in Tring. It was agreed by the Appellants that there are a number of possible options open to the Council in the local plan process going forward, which might include proceeding with the preferred option in the Emerging Strategy for Growth<sup>422</sup>, reducing growth at Tring and redistributing it across the Borough, or concluding that the extent of harms to the Green Belt and/or AONB were such that local housing need cannot and should not be met<sup>423</sup>. Which option the Council will proceed with is unknown at this stage.
249. Given the extent of the objections to the Emerging DLP's proposed Green Belt releases<sup>424</sup>, the distribution of proposed growth and site selection within that process, none of which has as yet been tested, the weight which may be accorded to the evidence base which the Appellants have themselves challenged in a number of instances<sup>425</sup>, must be informed by the fact that it too was

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<sup>414</sup> Document CD4.1 page 257

<sup>415</sup> Document ID61

<sup>416</sup> Document CD4.1 page 260

<sup>417</sup> Documents ID61 and APP15 paragraph 4.5.3

<sup>418</sup> Accepted by Professor May in cross examination

<sup>419</sup> Professor May in cross examination

<sup>420</sup> Document APP15 paragraph 5.12 page 26 and Professor May in cross examination

<sup>421</sup> Document CD10.9 paragraph 1.3: Representations from 3445 people/groups and others with 15573 individual responses

<sup>422</sup> Document CD7.1

<sup>423</sup> Professor May in cross examination

<sup>424</sup> Also reflected in the number of objections from local residents to the Proposed Development presented at the inquiry

<sup>425</sup> Document APP15 paragraph 5.13 page 26: Professor May stated that it needed to be challenged, corrected and completed



contentious and the Council itself is still considering the consultation responses and the implications for the way forward. This was also reflected in the evidence of a number of the Appellants' witnesses, who disputed or disagreed with some of the assessments in the evidence base documents<sup>426</sup>. Even Professor May was unwilling to give significant weight to certain documents in the evidence base when they went against the Appellants' case, undermining his claim<sup>427</sup> that the evidence base as a whole should be given significant weight. Careful judgment is required as to the weight to be accorded to evidence base. Where it is essentially objectively based (Green Belt assessments, assessments of need) it should attract great weight<sup>428</sup>. Where it is founded on planning judgment (site selection, exceptional circumstances) which the Regulation 18 consultation was undertaken to seek views on, it must attract commensurately less weight. That must be right or, otherwise, the Appellants would not have accepted that no weight should be given to the draft allocation.

250. The need for further work to demonstrate the exceptional circumstances for the release of Green Belt land, to assess whether the harm to the Green Belt and/or AONB of the extent of growth proposed is too great, and on the distribution of growth has been recognised<sup>429</sup>. That evidence base does however indicate that the total land in the Borough potentially suitable for residential development (15,192 ha) far exceeds in extent the number of sites which would need to be allocated over and above existing commitments to address all housing need in the Borough (7,370 homes)<sup>430</sup>. Important decisions as to the sound distribution of growth and on site selection are still to be made. The Council has given appropriate weight to that evidence base but nonetheless has concluded that the Appellants' case falls short of demonstrating the requisite VSC.

### ***Housing Need including 5 Year Supply of Housing Land***

251. The Council does not have a five year HLS, there is an acute affordable housing need in Dacorum and no early prospect of the needs being addressed. That is not an acceptable position and, in consequence the Council has afforded the very highest weighting level to the contribution which the appeal proposal would make to the unmet needs.
252. The respective positions of the parties on the 5 Year HLS have been set out<sup>431</sup>. There is agreement as to the base date (1 April 2022), that supply should be measured against the LHN and that a 5% buffer should be applied, because housing delivery across the Council's area assessed against the 2022 Housing

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<sup>426</sup> Matthew Chard Examination in Chief and cross examination; Annie Gingell Examination in Chief and cross examination; James Donagh Examination in Chief and cross examination

<sup>427</sup> Document APP15 paragraph 5.4 page 25

<sup>428</sup> Accepted by Martin Stickley in cross examination

<sup>429</sup> Document CD 10.9 paragraphs 5.13, 5.15 & 5.22

<sup>430</sup> Samantha Ryan in cross examination; Document CD 7.20.1 page 50; Document APP1 paragraph 4.26

<sup>431</sup> Documents CD12.11: Housing Land Supply SOCG; and ID18:The Council's Update on 5 Year Housing Land Supply Position

Delivery Test is 87%<sup>432</sup>. It is further agreed that, at the base date, the minimum housing requirement was 1,292 dpa<sup>433</sup>.

253. The differences between the parties relate solely to the supply. Following the hearing of the housing evidence at the Inquiry, the Council's revised position is that it has a supply of 2,828 dwellings in the period 2022-2027. The Appellants argue that there is a supply of 2,293 units over this period. The range is therefore 1.77–2.19 years' supply<sup>434</sup>.
254. Four individual sites remain in dispute between the parties and there remains a dispute as to the level of windfall for major sites which is appropriately allowed for within the supply. While there is a minor disagreement (3 units) regarding the total supply for small sites with planning permission at the base date, it is agreed that this difference is immaterial to the overall deliverable supply<sup>435</sup>.
255. When assessing the likely contribution of the disputed sites to supply, regard should be had to all the evidence and reasonable judgment should be exercised by reference to the local context. With regard to the large number of Inspectors' and SofS decisions on HLS that the Appellants have referred to, each decision is fact-sensitive<sup>436</sup>. Ultimately, it is a matter of judgment applying the tests in the Framework and having regard to the guidance in the PPG.
256. Spencer's Park Hemel Hempstead is a Category A site. The difference between the parties is 120 units, of a total of 276 which benefit from a grant of reserved matters on 13 July 2021. The Appellants accept that 132 units are deliverable in the 5 year period but dispute the Council's position of 252 units. The difference between the parties is the result of an updated trajectory from Homes England provided on 23 January 2023<sup>437</sup> which indicates that development on site is expected to commence in 2023, two years earlier than previously anticipated. The site is within the catchment of the Council's Strategic SANG at Bunkers Park which will be made available for the development if a bespoke solution is not found.
257. The test for Category A sites is where detailed planning permission has been granted, it is necessary to provide clear evidence that the units will not come forward within five years for them to be removed from the supply. The only evidence that the Appellants have put forward is that a number of applications relating to discharge of conditions had not yet been determined and there were further discussions to be had on SANG<sup>438</sup>. However, the Council has shown that SANG is available through the Council site at Bunkers Park in the event that a bespoke SANG cannot be provided. Given Homes England's contractual obligation to deliver the homes, the updated trajectory should be given

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<sup>432</sup> Document CD6.1 paragraph 74c: There is therefore no significant under-delivery to date as defined

<sup>433</sup> Document CD12.11 paragraphs 3.0-3.3

<sup>434</sup> Documents CD12.11 paragraph 5.0 page 13; and ID18 page 2

<sup>435</sup> Document CD12.11 paragraph 3.6

<sup>436</sup> Samantha Ryan in cross examination

<sup>437</sup> Document DBC1a Appendix C page 46

<sup>438</sup> Samantha Ryan Housing RT

considerable weight. It is certainly not outweighed by any clear evidence advanced by the Appellants. The 120 units should remain in the supply.

258. The other development in dispute is on Category B sites. With regard to land at Marchmont Farm, the difference between the parties is 198 units. The site benefits from a resolution to grant outline planning permission for up to 350 dwellings, land for 5 gypsy & traveller pitches. It is allocated in the DLP and awaiting the conclusion of a legal agreement. The Council's position is supported by an email from Homes England which indicates that the indicative yield of 198 units can be achieved within the five year period<sup>439</sup>. The email confirms that the legal agreement is at an advanced stage subject to minor changes following an updated position on SANG and final comments from HCC, and the trajectory takes account of the delay due to the SANG<sup>440</sup>, the principle of which is now resolved and will be delivered on site. The trajectory is consistent with Homes England's contractual obligation to put in place enabling works by 31 March 2025. That is sufficient clear evidence to demonstrate deliverability and 198 units should remain in the supply.
259. In relation to the National Grid site, London Road, the difference between the parties is 75 units. The site is allocated in the DP for a residential development of up to 350 dwellings. An application has been submitted for a residential development of 441 units which is awaiting final decision. The application is for detailed planning permission and is at advanced stage, with an expectation that it will go to committee in July 2023 after the local elections. The planning consultants acting on behalf of the applicant have agreed with the Council's proposed trajectory and have not put forward any different trajectory. The applicant is developing a bespoke SANG solution and therefore will not need to rely on the Council's strategic SANG<sup>441</sup>. Given the advanced stage of the application, there is clear evidence of deliverability and the overall number of units proposed, 75 units is a cautious number to expect to come forward in the five year period and should remain in the supply.
260. In terms of Miswell Lane, the difference between the parties is 39 units. The site is allocated in the DP for 24 units; it is subject to an application for detailed planning permission for a 71-bedroom care home which equates to 39 residential units for the purposes of HLS. The site is likely to be screened out from Habitats Regulation Assessment on the basis that no exercise facilities or dedicated parking is provided for residents on site and the development will therefore not be required to provide a SANG<sup>442</sup>. Given the advanced stage of the planning application, there is clear evidence that the site will be delivered in the five year period. 39 units should remain in the supply.

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<sup>439</sup> Document DBC1a Appendix C pages 48-49

<sup>440</sup> The moratorium on the grant of residential planning permissions in the Borough put in place in consequence of Natural England's advice relating to the Burnham Beechwoods SAC was only lifted in late 2022 following the Council's extensive work on putting in place its Mitigation Strategy

<sup>441</sup> Document DBC1a Appendix C page 41

<sup>442</sup> Reflecting Natural England's advice

261. In relation to the deliverability of the proposed development should it be consented<sup>443</sup>, Samantha Ryan's evidence was that she was confident that 450 units could be delivered on the site by 2027. However, there is no clear evidence to demonstrate this. All that the Inquiry was presented with was her own assertion that this number of units will be delivered within the five year period. As she accepted, the only commitment in relation to timescale made on behalf of the Appellants, by way of a condition, is that reserved matters approval for the first 93 dwellings will be sought within a year of any grant of planning permission<sup>444</sup>. Applying her approach to, for example, Land at Marchmont Farm to the proposed development, only 93 units should be counted to the five year land supply, less than 1 month's supply. Further constraints on early delivery of the appeal proposal includes 14 pre-commencement conditions as well as the indication by the Appellants' ecology witness that construction would be halted or constrained during the breeding bird season<sup>445</sup>. There is no clear evidence that this site would make any meaningful contribution to the five year HLS. Its contribution, were it to be consented, would be longer term.
262. Turning to the windfall allowance, the difference between the parties is 100 dwellings<sup>446</sup>. This relates only to major development and an allowance of 67 dwellings in year 5 for windfall on minor development is agreed between the parties<sup>447</sup>. The Council considers that a modest allowance of 100 dwellings in year 5, having regard both to past delivery rates and pipeline applications, is justified<sup>448</sup>. The Council's approach is clearly a cautious one as it has only allowed for 100 dwellings in year 5, when the mean and average per annum completion figures for major windfall developments between 2006 and 2022 is much higher than this<sup>449</sup>. Even taking a three or five year average, there is only one instance where windfall completions on major sites were lower than 100 dwellings. Live windfall applications (most awaiting decision, some granted) show a total of net new dwellings of 373, providing the evidence on future trends which the Appellants contended to be lacking<sup>450</sup>.
263. The Council's Strategic SANG would be more than sufficient to enable 100 windfall dwellings to come forward<sup>451</sup>. Completions for prior approvals are not included in the review of historic trends for windfall applications and are no part of the evidence informing the Council's windfall allowance<sup>452</sup>. Windfall sites are clearly a continuing and important source of supply for the Council and an allowance of 100 dwellings should be included in the supply figure.
264. The HLS deficit is a significant one, it is not acceptable and the contribution that the appeal site can make to addressing it is a very substantial benefit of the

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<sup>443</sup> Samantha Ryan in cross examination

<sup>444</sup> Samantha Ryan in cross examination and with the Appellants seeking to dilute the commitment to allow for any potential legal challenge to be concluded

<sup>445</sup> Peter Hadfield, in response to questions from Elizabeth Hamilton

<sup>446</sup> Document CD12.11 page 13 paragraph 5.0

<sup>447</sup> Document CD12.11 page 13 paragraph 5.0

<sup>448</sup> Document DBC1 paragraphs 4.31-4.43

<sup>449</sup> Document DBC1 paragraph 4.35

<sup>450</sup> Document CD12.11 paragraph 4.7

<sup>451</sup> Ronan Leydon's oral evidence and Document DBC1c

<sup>452</sup> Document DBC1c paragraphs 2.1-2.3, 3.1-3.2; Ronan Leydon Housing Round Table

proposal, although the extent of the five year HLS benefit will depend on the contribution of the proposed development to the five year land supply.

265. As to the delivery of 45% affordable housing, i.e. 630 units assuming that the maximum 1,400 dwellings is constructed, that is a benefit of the appeal proposal to which very substantial weight should also be given. Historically the delivery of affordable housing in Dacorum has been very low<sup>453</sup> which is exacerbated by acute affordability issues with local households on median incomes needing 14 times their income to afford a median home in Dacorum<sup>454</sup>. For these reasons, and taking account of the fact that there is not likely to be any early resolution of the problems, the Council, as with the Appellants, has attached the same level of weight to this benefit. It has consistently accorded the delivery of affordable housing very substantial weight as a benefit of the scheme<sup>455</sup>, and the weight to be given to this matter is not in dispute between the parties<sup>456</sup>.
266. Weight must also be given to the 5% self and custom build plots which would be delivered i.e. a maximum of 70 plots<sup>457</sup>, and the provision of 140 Extra Care C2 dwellings. Both of these elements should attract very substantial weight in the planning balance. However, the Appellants' evidence must be treated with a degree of care in order to avoid over-weighting the benefit to be accorded to these types of units. In relation to the self-build and custom build housing, Annie Gingell accepted<sup>458</sup> that the Council's Demand Assessment Framework<sup>459</sup> was the best assessment of demand for custom and self-build housing in Dacorum, and that the figures she set out of "*an overall need for between 1,278 and 1,836 self-build and custom housebuilding plots*"<sup>460</sup> were not a robust assessment of need<sup>461</sup>. She accepted, that the appeal site's provision of 5% self-build and custom build plots is inadequate<sup>462</sup> but at no stage did she advise her client of the need to provide more self-build and custom build housing on the basis of her assessment of need. Finally, the Council is in compliance with its statutory duty to grant planning permission for self and custom-build housing under the Self-build and Custom Housebuilding Act 2015, section 2A.
267. In relation to the Extra Care provision, the need and benefits for such provision are recognised and the Appellants have now committed to the delivery

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<sup>453</sup> Document APP3 paragraph 6.3 page 29

<sup>454</sup> Document APP3 paragraph 8.24 page 45

<sup>455</sup> Document CD2.4: Committee Report paragraph 9.837

<sup>456</sup> Document CD12.8 paragraph 7.2.1; PINS Procedural Guide (Updated 21 December 2022) paragraph F.10.3: Proofs of Evidence to express opinion and argument concisely and only cover areas which remain at issue between the parties; Document APP3 paragraph 9.14 page 56: James Stacey expressly acknowledged that the Council had not sought inappropriately to downplay the benefit of the proposed affordable housing provision

<sup>457</sup> Annie Gingell in cross examination: This is agreed to be a qualitative benefit rather than a quantitative benefit. The 70 units fall within the 1400 dwellings proposed and meet no additional quantitative need for housing; there is agreed to be no evidence that they produce any quantifiable additional economic benefit on a comparison with any other housing unit

<sup>458</sup> Annie Gingell in cross examination

<sup>459</sup> Document CD7.19

<sup>460</sup> Document APP4 paragraph 3.52

<sup>461</sup> Instead Annie Gingell stated that these would be an "indication of what demand is likely to be"

<sup>462</sup> Annie Gingell in cross examination



of 140 units. The Council has consistently attached greater weight to this benefit of the appeal proposal in its balance than the Appellants<sup>463</sup>.

268. Overall, the Council assesses the weight to be accorded to the housing benefits of the appeal proposal as very substantial, albeit marginally less weighty than the Appellants by reason of its exaggeration of the ability of the appeal site to contribute to the five year HLS and some of the benefits of the self-build and custom build housing.

### ***Green Belt Harm***

269. There is no dispute that the proposed development is inappropriate development in the Green Belt and therefore substantial weight must be accorded to the definitional harm<sup>464</sup>. However, there is a dispute as to the extent to which the appeal site contributes towards Green Belt purposes, as well as the impact of the proposed development on the openness of the Green Belt.
270. The site comprises approximately 121 ha of undeveloped greenfield countryside. It is free of any built or other development which would be regarded as inappropriate in Green Belt policy terms and is therefore spatially completely open<sup>465</sup>. While there is some screening of views into the site from vegetation and trees along Marshcroft Lane and Bulbourne Road, there remain partial and glimpsed views into the open areas of the site from those locations<sup>466</sup>. More open views into the site can be obtained from Station Road<sup>467</sup>. There are also open views into the site from PRowS 057 and 058 along its eastern boundary<sup>468</sup> as well as from the entrance to Grove Farm in the north and the residential back gardens adjoining the site to the west<sup>469</sup>. Open views across the whole of the site can be obtained from the Ridgeway National Trail in the Chilterns AONB to the north-east of the site<sup>470</sup>, and there are partial and glimpsed views of the whole site from the Ridgeway and Tring Park to the south-west of the site<sup>471</sup>. To a great extent, the site is therefore also visually open.
271. The fullest consideration of the strategic and comparative value of the part of the Green Belt within which the appeal site lies is found in the Stage 2 Green Belt Review and Landscape Appraisal undertaken by ARUP in 2016<sup>472</sup>. That document was given very substantial weight by the Appellants' planning witness as part of the evidence base of the Emerging DLP in his written proof<sup>473</sup>. It considers the appeal site both as part of strategic parcel GB04 Land north of Tring and as two sub-areas, TR-A2 and TR-A3, which are identified in the overall categorisation of

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<sup>463</sup> Document ID59

<sup>464</sup> Document DBC5c Table 3 page 9; all the relevant planning witnesses have reflected the national importance of Green Belt by according the definitional harm very substantial weight

<sup>465</sup> Matthew Chard agreed in cross examination

<sup>466</sup> Document CD1.6(i) D4 Site Context photo 3

<sup>467</sup> Documents DBC5 paragraph 3.18 page 19 and CD1.6(i) D4 Site Context photos 8, 15, 17 & 18

<sup>468</sup> Document CD1.6(i) D4 Site Context photos 1 and 17

<sup>469</sup> Document DBC5 paragraphs 3.22-3.23 page 21

<sup>470</sup> Document DBC3a Appendix 4 photos 1-6

<sup>471</sup> Documents DBC5 paragraph 3.20 page 20 and DBC3a Appendix 4 photos 8-11

<sup>472</sup> Document CD7.23.4 Annex Report 1 pages 130-134

<sup>473</sup> Document APP15 paragraph 5.12 page 26



sub-areas as strongly contributing to Green Belt purposes, the highest categorisation of sites assessed by the report<sup>474</sup>.

272. The ARUP report recommended considering a reduced TR-A2 further but advised that TR-A3 should be excluded from further consideration for release on the basis that it would compromise the ability of the wider Green Belt to meet its purposes<sup>475</sup>. A revised and significantly reduced sub-area TR-A2 was subsequently proposed for further consideration for Green Belt release<sup>476</sup>. That sub-area is largely outside the appeal site, covering the neighbouring site known as New Mill. The Green Belt assessments undertaken by the Council concluded that the appeal site should not be taken forward for further assessment for release<sup>477</sup>. That is a very important consideration in this case. The appeal site is not land which has been identified through the comparative Green Belt assessment as making only a limited contribution to the Green Belt or its purposes or one which has been recommended for release. This is high value Green Belt which the assessment recommended should not be taken forward for further consideration.
273. A Site Assessment Study was undertaken by AECOM in 2020<sup>478</sup>. This assessed sites proposed for development as part of the 'call for sites' for the Emerging DLP. To the extent that it considered Green Belt, it was concerned only with Green Belt boundary definition in the event that sites were released from the Green Belt. It involved no further assessment of Green Belt value beyond the earlier ARUP work<sup>479</sup>. No additional landscape or Green Belt study was undertaken for that assessment, which did not revisit the Green Belt assessments, but rather considered other factors which might comprise exceptional circumstances for Green Belt release<sup>480</sup>. While overall the report recommended the site as potentially suitable for allocation subject to major constraints, on Green Belt terms it reflected ARUP's view that the site should be excluded from further consideration<sup>481</sup>. Consistently with the ARUP report, the AECOM report recognised the significant constraints of the site in Green Belt terms and therefore significant Green Belt harm that development on the site would entail<sup>482</sup>.
274. Turning to the Green Belt purposes, the site assists in preventing the encroachment of development into the countryside (Purpose (c)), and meets this criterion at least relatively strongly<sup>483</sup>. The ARUP Stage 2 Assessment concluded that both parcels of the site assessed in that document, TR-A2 and TR-A3, made the highest contribution to this purpose (a score of 5 out of 5)<sup>484</sup>. The Appellants

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<sup>474</sup> Document CD7.23.4 Table 5.2 page 54 and Annex Report 1 pages 130-134

<sup>475</sup> Document CD7.23.4 Table 5.6 page 98

<sup>476</sup> Document CD7.23.4 page 117

<sup>477</sup> Recognised by Matthew Chard in cross examination

<sup>478</sup> Document CD7.7

<sup>479</sup> Document CD1.6 paragraph 8.2.46 page 101

<sup>480</sup> Matthew Chard in cross examination

<sup>481</sup> Document CD7.7.2 page 163

<sup>482</sup> Document CD7.7.2 pages 163-164

<sup>483</sup> Document APP2Table 9 pages 32-34; Matthew Chard in cross examination; and Document CD6.1 paragraph 138

<sup>484</sup> Document CD7.23.4 pages 131-134

also recognise, consistently with the ARUP Assessment, that the site makes a moderate contribution to Purpose (a), in its role in preventing the “*outward sprawl of the large built-up area of Tring*”<sup>485</sup>. Correspondingly, the site is countryside and all landscape features on the site are typical of the countryside, and the western boundary of the site currently prevents the spread of Tring into the countryside<sup>486</sup>.

275. The Appellants, through their landscape witness<sup>487</sup>, sought the following flawed ways in which to reduce the level of contribution of the site to the purposes of the Green Belt. First, he assessed the combined contribution of the site to Green Belt purposes as ‘moderate’ on the basis that on his assessment it only made a relatively strong and moderate contribution to two purposes, and no contribution at all to the three other Green Belt purposes<sup>488</sup>. This is wrong as Green Belt purpose scores cannot be ‘averaged’ in this way and Green Belt purposes are not ranked and should be treated of equal importance. The strong contribution of the site in protecting the countryside from encroachment must be given appropriate weight in the planning balance<sup>489</sup>.
276. Second, the Appellants sought to lessen the Green Belt harm by reference to the fact that only part of the site would be developed<sup>490</sup>. However, as was accepted<sup>491</sup>, where a developer chooses, or is required, to draw the red line boundary does not affect the impact of the proposed inappropriate built development on the Green Belt purposes or openness of the land which is to be developed<sup>492</sup>. It was accepted that development even on only 40% of the site would still amount to a reasonably large portion of Green Belt<sup>493</sup>. The fact that only part of the site will be developed does not reduce its contribution to Green Belt purposes or the harm to those purposes that would result from the development that will take place.
277. Third, the Appellants relied upon the benefit of the development with regard to enabling access to an area of the Green Belt that is currently closed to the public, namely that part of the site which is proposed as SANG<sup>494</sup>. However, that is at best compensation for the loss of Green Belt; it does not mitigate the harm to the purposes of the Green Belt. Further, as was clarified<sup>495</sup>, it was no part of the Appellants’ case that any part of the appeal site remain in the Green Belt once developed. The Appellants’ position is that, with the development in place, the Green Belt boundary should be revised to follow the Grand Union Canal<sup>496</sup>. There is therefore no justification for reducing the harm to the Green Belt on the basis that access to the Green Belt will be improved.

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<sup>485</sup> Document APP2 paragraphs 9.7, 9.12, Table 9.1 pages 31-34

<sup>486</sup> Matthew Chard in cross examination

<sup>487</sup> Matthew Chard

<sup>488</sup> Document APP2 paragraph 9.12 page 34; Matthew Chard in cross examination

<sup>489</sup> Document DBC5 paragraph 8.3 page 35

<sup>490</sup> Document APP2 paragraphs 9.13-9.14 pages 34-35

<sup>491</sup> Matthew Chard in cross examination

<sup>492</sup> Matthew Chard in cross examination

<sup>493</sup> In response to a question from the Inspector

<sup>494</sup> Matthew Chard examination in chief

<sup>495</sup> Matthew Chard in cross examination

<sup>496</sup> Matthew Chard in cross examination

278. Turning to the effects of the development on openness, the appeal proposal would represent a significant encroachment into the openness of the site. That loss of spatial openness, as accepted by the Appellants, cannot be mitigated<sup>497</sup>. As well as built development, the activity associated with the development generated by over 3,000 new residents, including vehicular movements, would also have a detrimental impact on openness<sup>498</sup>.
279. On visual openness, this is determined by whether the Green Belt will appear more built up than before<sup>499</sup>, not the quality of design or attractiveness of any new buildings or other benefits of development. Matthew Chard's fundamental error in his approach by reducing the harm on the basis of the benefits for visual receptors in terms of visual amenity, improved public experience and public accessibility<sup>500</sup> influenced his assessment of the harm to visual openness. He had applied the wrong test and in consequence inevitably understated the harm to visual openness.
280. This error was compounded by failing to recognise or assess the increase in views of the site (and therefore increased perception of the reduction in openness) which will result from the removal of vegetation along Marshcroft Lane to enable the proposed spine road to be delivered<sup>501</sup>. Similarly, he failed to recognise or assess the impact of the finger of development along Station Road which will be clearly visible from PRow 057, Station Road and the Ridgeway, further reducing visual openness<sup>502</sup>. The consequence of the flaws in Matthew Chard's assessment are that it significantly underplays the Green Belt harms. Rather than representing a more detailed/refined assessment supporting a different judgment on Green Belt value and harm to that reached by ARUP, which is how Professor May sought to portray it, in reality it wrongly confuses visual openness with visual attractiveness and is worthless as an analysis of Green Belt harm<sup>503</sup>. Professor May's overall planning balance is wholly reliant on Matthew Chard's purported Green Belt assessment.
281. It is undeniable that a development of the proposed size would have a significant impact both on the spatial openness of the Green Belt and on its perceived openness. Whilst the site has reasonably firm physical boundaries, they exert limited visual containment, particularly in relation to elevated views of the site from the Ridgeway National Trail. The loss of openness of this part of the Green Belt would be obvious to users of PRow 057 and 058, the Ridgeway National Trail viewpoints, Station Road, Marshcroft Lane and Bulbourne Road. The Green Belt would appear substantially more built up with the development in place than before<sup>504</sup>.

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<sup>497</sup> Matthew Chard in cross examination

<sup>498</sup> Matthew Chard in cross examination

<sup>499</sup> Turner v SSCLG [2016] EWCA Civ 466

<sup>500</sup> Document APP2 paragraphs 10.15, 10.20 pages 39-40

<sup>501</sup> Document DBC5 paragraph 3.19 page 20

<sup>502</sup> Document DBC5 paragraph 3.21 pages 20-21

<sup>503</sup> Document DBC5c paragraph 4.5 page 11

<sup>504</sup> The test posed by Sales LJ in Turner v SSCLG [2016] EWCA Civ 466 paragraph 14

### ***Landscape and Visual Effects***

282. Although, there is no reason for refusal on landscape, the impact of the proposed development on the character and appearance of the area was agreed as a main issue<sup>505</sup>, and all parties agree that the proposed development will have a significant adverse impact in that regard at least during construction and at year 1<sup>506</sup>. Furthermore, the effect on landscape character and visual amenity is a matter going to 'other harm' in the Green Belt balance and therefore relevant to weight. On behalf of the Appellants, Professor May has indicated that harm to the AONB is a matter which weighs against the grant of planning permission irrespective of whether or not, of itself, it would justify refusal of planning permission<sup>507</sup>.
283. The Council's landscape evidence from Tanya Kirk was clearly defined as was its relevance to the issues for the SofS's consideration<sup>508</sup>, reflecting the approach to landscape and visual impact taken in the Committee Report<sup>509</sup>, and the outstanding areas of disagreement on landscape matters, as understood by the parties on 3 February 2023, in the Landscape SoCG<sup>510</sup>.
284. In order to demonstrate VSC, it is necessary for definitional harm to the Green Belt and 'any other harm' to be clearly outweighed by other considerations. In that balance, all harms must be taken into account, not just those effects which reach the threshold of significance under the environmental impact assessment regime<sup>511</sup>. Therefore, even minor adverse effects on landscape character and visual amenity must be weighed in the balance.
285. The baseline situation is largely agreed. It is agreed that the site is open countryside in an agricultural and pastoral land use<sup>512</sup>, is surrounded on three sides by the Chilterns AONB, which is adjacent to the site boundary, and forms part of the AONB's setting<sup>513</sup>. The existing settlement of Tring is well-integrated into the landscape, and this is part of its character as a settlement<sup>514</sup>. In landscape terms, the site has an open feel; it is possible to see across the site for quite some distance from PRoWs 057 and 058 along its eastern boundary<sup>515</sup>.
286. In terms of the baseline landscape character sensitivity, the differences between the Appellants and the Council for LCA 114: Tring Gap Foothills results from a difference in the assessment of susceptibility. The difference between the

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<sup>505</sup> Document CD12.7

<sup>506</sup> Documents CD12.12 paragraph 2.29 page 6; and DBC3a Appendix 2

<sup>507</sup> Document APP15 paragraph 11.11.3 page 69

<sup>508</sup> Document DBC3 paragraph 1.2.1 page 2

<sup>509</sup> Document CD2.4 paragraphs 9.48-9.64. At paragraph 9.64 the report concludes that "*the proposal would have a major negative impact on the landscape character of the area and adjacent AONB even allowing for additional mitigation which might be secured by condition*"

<sup>510</sup> Document CD12.12 paragraph 3.1 page 7

<sup>511</sup> Matthew Chard accepted in cross examination

<sup>512</sup> Document CD12.12 paragraphs 2.3-2.4

<sup>513</sup> Document CD12.12 paragraph 2.6; Tanya Kirk examination in chief; Matthew Chard cross examination

<sup>514</sup> Document CD12.12 paragraph 2.14; Tanya Kirk examination in chief

<sup>515</sup> Document CD12.12 paragraph 2.13; Tanya Kirk examination in chief; Matthew Chard examination in chief noted that there were panoramic views of the AONB from Footpath 58

parties in relation to the character of the site and its surroundings results from a difference in both value and susceptibility.

287. It is agreed that the site is broadly representative of LCA 114 Tring Gap Foothills<sup>516</sup>, the key characteristics of which are<sup>517</sup>:

- views to the Chilterns escarpment;
- framing and containment by wooded scarp slopes;
- arterial transport corridor, including west coast main line, A41, Grand Union Canal and Akeman Street;
- mixed open farmland;
- parkland landscapes at Tring Park and Pendley Manor;
- urban fringe influences around Tring, including residential sports pitches and a garden centre; and
- recreational routes, including the Grand Union Canal Walk and the Ridgeway.

288. The character area and the site form part of the setting to Tring but also the rural outlook for the Chilterns escarpment<sup>518</sup>. Given the integration of Tring into the landscape, the character area and the site have a relatively weak relationship with the settlement of Tring. There is no basis in the LCA assessment for elevating the strength of relationship of the character area to the settlement of Tring, as the Appellants did. Similarly, the detracting features relied on by the Appellants to argue that the susceptibility of the LCA to development should be lower, namely the West Coast Main Line, the A41 and the Grand Union Canal, are not present, and do not exert an influence, on the site. They do not lessen its susceptibility to development.

289. Matthew Chard assessed the relevant national character area, NCA 110, as having medium-high susceptibility to development but applied a lower susceptibility to the smaller LCA within which the appeal site sits, with no explanation. It is illogical for a larger character area to have a higher susceptibility to development, as the smaller a character area, the less likely it will be able to accommodate a large urban extension without undue consequences for its baseline<sup>519</sup>. The appeal site comprises around 10% of LCA 114 and will involve built development and loss of key LCA characteristics on around half of that area. Whilst Matthew Chard has referred to the number of designations in NCA 110, for example ancient woodlands, SSSIs and SACs, it is very substantial and includes a number of very large conurbations as well as environmental constraints.

290. With regard to the character of the site and surroundings, the main reasons for the difference between the parties relate to the assessment of the impact of the settlement Tring on the site. The LVIA refers to the urbanising influence of the

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<sup>516</sup> Matthew Chard in cross examination

<sup>517</sup> Document CD4.3 page 80

<sup>518</sup> Evident from the key characteristics and explained by Tanya Kirk in examination in chief

<sup>519</sup> Matthew Chard in cross examination

eastern edge of the settlement on the site<sup>520</sup>; and the Appellants have referred to the presence of dwellings, the railway station and the car park at Tring Station, as well as development along Station Road<sup>521</sup>. However, Matthew Chard also referred to the eastern extent of the site becoming more rural away from the settlement edge, as well as having a greater sense of remoteness<sup>522</sup>. Similarly, he accepted that Tring Station is not visible from the site itself and emphasised that landscape character is perceptual: what you see, hear and smell<sup>523</sup>.

291. This is consistent with the approach taken by the LVIA to the designated heritage assets just to the south of Station Road, which were not identified as having an effect on the baseline landscape character as there was no intervisibility between those heritage assets and the site<sup>524</sup>. From PROWs 057 and 058 along the eastern boundary of the site it is only possible to obtain glimpses of the settlement of Tring and it is generally well-screened<sup>525</sup>. Any urban influences which are perceived from the site are very limited and do not lessen its sensitivity to the degree asserted by the Appellants.
292. Regarding the landscape value of the site and its immediate surroundings, the Appellants accept that the appeal site shares at least some of its key characteristics with the designated AONB<sup>526</sup>, a landscape of high value, and that the landscape features on the site complement the AONB in some respects<sup>527</sup>. The Appellants also assessed the Tring Gap Foothills LCA 114 as having a high value, notwithstanding the identification of urbanising influences on that character area. Given the site shares a number of key characteristics with LCA 114 and is agreed to be broadly representative of it, assessing the landscape value of the site as medium underplays that value and is inconsistent with other elements of the Appellants' assessment<sup>528</sup>.
293. Tanya Kirk also assessed the Tring Scarp Slopes LCA 111 and Aldbury Scarp Slopes LCA 116 as having a medium sensitivity. These two LCAs are relevant to the SofS's consideration as they cover parts of the escarpments within the AONB with views of the site. The appeal proposal would indirectly affect one of their characteristics, namely fine panoramic views from the Chilterns escarpment<sup>529</sup>.
294. With regard to the baseline sensitivity of visual receptors, there is agreement between the Council and the Appellants<sup>530</sup>. All of the identified viewpoints in the AONB have a high sensitivity. It is similarly agreed that while the zone of theoretical visibility is reasonably limited, it covers some of the most sensitive landscape and visual receptors in the area<sup>531</sup>.

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<sup>520</sup> Document DBC3a Appendix 2 Landscape Character Comparison Table page 6

<sup>521</sup> examination in chief

<sup>522</sup> examination in chief

<sup>523</sup> Matthew Chard in response to a question by the Inspector

<sup>524</sup> Document CD1.6 Environmental Statement paragraph 8.5.19 page 110

<sup>525</sup> examination in chief

<sup>526</sup> Matthew Chard in cross examination

<sup>527</sup> Matthew Chard in cross examination

<sup>528</sup> Document CD1.6 Environmental Statement paragraphs 8.5.9, 8.5.14 page 109

<sup>529</sup> Tanya Kirk examination in chief; Document DBC3a Appendix 2 pages 5-6

<sup>530</sup> Document DBC3a Appendix 2 Visual Effects Table

<sup>531</sup> Tanya Kirk examination in chief; Document APP2 paragraph 6.5 page 17



295. The differences between the parties on the landscape and visual effects<sup>532</sup> narrow with the Appellants' commitment to a condition requiring the provision of additional structural planting within the scheme. The condition overrides parts of the submitted Design Code which did not allow for sufficient space for such planting to be accommodated. The Appellants' assessment artificially reduced effects at year 1 by reference to there being a more settled landscape at that stage than at construction stage<sup>533</sup>, which serves to underestimate the relevant post-construction effects as they will be experienced. The correct application of the LVIA methodology required the comparison of the landscape or visual effects against the baseline, not against a more disrupted landscape caused by the construction of the development itself.
296. In relation to agricultural fields, the Appellants' assessment finds a large magnitude of effect with moderate to major adverse significance at year 1<sup>534</sup>. However, by year 15 the LVIA finds that, notwithstanding the magnitude of effect does not change, the significance of the effect is negligible adverse. This must be wrong on the basis that, as was accepted, the agricultural fields are a feature which contributes to character and will be lost completely<sup>535</sup>. The SANG cannot mitigate the loss of openness and agricultural fields and will have a greater sense of enclosure due to the proposed new tree and scrub planting<sup>536</sup>.
297. With regard to the Tring Gap Foothills LCA, the Appellants accepted that the site represents 10% of the LCA as a whole<sup>537</sup> and would experience a permanent and irreversible change, including the loss of open character from approximately half of the appeal site<sup>538</sup>. Key characteristics of the LCA would be lost including mixed open farmland and views from PRoWs 057 and 058 to the escarpment to the south-west. There would be other negative landscape character effects including new infrastructure, additional activity and vehicle movements and reduced tranquillity. Matthew Chard was not able to justify why 1,400 dwellings at year 1, with no mitigation in place, would have a lesser magnitude of change than at year 15 when planting had become more established<sup>539</sup>. If the SoFS accepts that a medium-high sensitivity should be applied to the Tring Gap Foothills, consistently with NCA 110, this would have a knock-on effect on the assessed significance of effect and, as was agreed, in those circumstances the residual significance of effect would be moderate, aligned with Tanya Kirk's findings<sup>540</sup>. This is an area of landscape which is agreed by the Appellants to form part of the 'open and largely undeveloped setting' to the AONB<sup>541</sup>.
298. With regard to visual effects, the main differences relate to the residual effects of development at year 15. Tanya Kirk ascribed a higher magnitude of effect to

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<sup>532</sup> Document DBC3a Appendix 2

<sup>533</sup> Document APP2 paragraph 8.8 page 26

<sup>534</sup> Document DBC3a Appendix 2 page 1

<sup>535</sup> Document APP2b paragraph 1.8 page 2: There appears to be a lack confidence in this finding

<sup>536</sup> Document DBC3a Appendix 2 page 1

<sup>537</sup> Matthew Chard in cross examination

<sup>538</sup> Matthew Chard in cross examination

<sup>539</sup> Matthew Chard in cross examination

<sup>540</sup> Matthew Chard in cross examination

<sup>541</sup> Document APP2 paragraph 5.18 page 15

the southern part of PRow 057 on the basis that development along Station Road would be highly visible, which was not taken into account in the LVIA<sup>542</sup>. There is also a discrepancy in the Appellants' assessment of the effect on pedestrians on the Ridgeway at Pitstone Hill, in which a medium magnitude is ascribed to both the construction and residual effects, but the significance of effect reduces to negligible at year 15, notwithstanding the combination of a medium magnitude with a receptor of high sensitivity. The descriptive text in the LVIA refers to the development being 'noticeable' at year 15, whereas the LVIA methodology describes a negligible adverse effect as one that is 'barely perceptible'<sup>543</sup>.

299. The main remaining differences between the parties in terms of the landscape and visual effects of greatest significance relate to the effectiveness of the mitigation of landscape effects and the landscape impact of the finger of development along Station Road, which lead to the resultant harm to the character and appearance of the area as well as the Chilterns AONB. Mitigation is critical and the need for it in the present case derives directly from the Framework which provides that "*development within [the setting of an AONB] should be sensitively located and designed to avoid or minimise adverse impacts on the designated areas*"<sup>544</sup>. The importance of ensuring the parameters of an outline scheme enable sufficient mitigation to be delivered is underpinned by guidance in GLVIA which advises that the design concept for mitigation must have a good chance of being achieved in practice<sup>545</sup>.
300. The Appellants have recognised the importance of structural landscaping, noting that the existing structure in the southern parcel would soften and mitigate built form and referring to the existing "*strong substantial hedgerow features*" in that part of the site which would visually and physically contain built form. It is common ground that those features are much less present in the northern parcel of the site<sup>546</sup>. The importance of landscape mitigation is further evident in the appearance of Pitstone Village from Pitstone Hill, which all parties were agreed is stark and has been poorly mitigated through a lack of structural planting<sup>547</sup>.
301. Structural planting is necessary along north-south corridors in order to break up the massing of development proposed along the western edge of the appeal site, which will appear foreshortened in views from the Ridgeway National Trail to the east of the appeal site. Taller trees comparable to building heights would help to break up built form. They would also assist in assimilating the new development into the town of Tring, creating a development that reflects the existing character of Tring as well-settled in the landscape and with wide tree-lined verges. Existing examples of such structural planting include that along Marshcroft Lane, the vegetation lining the Canal and Tree Belt 3. There is no concrete suggestion for the location of such new structural planting on the

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<sup>542</sup> Tanya Kirk examination in chief

<sup>543</sup> Matthew Chard in cross examination; Document CD1.6 Environmental Statement Appendix D2 page 10

<sup>544</sup> Policy introduced after the Council had produced its Regulation 18 Emerging Strategy for Growth

<sup>545</sup> Document CD6.21 GLVIA paragraph 4.42 page 65; Matthew Chard examination in chief

<sup>546</sup> Matthew Chard examination in chief

<sup>547</sup> Matthew Chard examination in chief

Landscape and Open Parameter Plan<sup>548</sup>. Sufficient space also needs to be provided for structural mitigation to be successful and grow to sufficient height. The 'Mandatory Design Principles' for the primary street, intended to be one of the densest parts of the development, do not provide sufficient verge width to enable trees to grow to or above building heights<sup>549</sup>.

302. An agreed condition which would require details of structural landscaping to be provided prior to the commencement of development and a commitment to specified verge widths would in large part resolve the Council's concerns regarding the lack of structural mitigation proposed. However, some residual effects would remain, as the site planting at year 15 would be at its highest having reached 12m in the SANG<sup>550</sup>. In order to successfully soften and screen views of the development from the elevated vantage points to the east, tree planting will need to reach the depth and height of Tree Belt 3, which is 21m high<sup>551</sup>.
303. The Appellants have agreed that DP policy on the AONB is consistent with the Framework and therefore entitled to full weight<sup>552</sup> and accepts that, if the proposed development causes harm to the setting of AONB, this must be given great weight pursuant to paragraph 176 of the Framework<sup>553</sup>. It is common ground that the site is part of the setting of the AONB, due to the key characteristics of the AONB which include panoramic views and in particular due to views of the site from the Ridgeway National Trail and Pitstone Hill within the AONB. Views of the proposed development from the AONB include those from the elevated scarp to the north-east and going along Pitstone Hill, Tring Park and Icknield Way, as well as channelled views out at certain gaps<sup>554</sup>. The receptors for views in the AONB are all agreed to be of high sensitivity<sup>555</sup>. They would experience adverse effects as a result of the appeal proposal, both from the lack of structural mitigation and the finger of development along Station Road, which would be very evident in views from the elevated escarpments.
304. There would also be a loss of panoramic views of the AONB from PRowS 057 and 058, as the current views of the scarp to the south-west of the site would be lost as a result of built development and the tree planting in the SANG. The retention of these views had not been considered at any point as part of the design rationale for the scheme<sup>556</sup>. Matthew Chard confirmed that the views of the scarp from those footpaths were distinctive and provided a sense of place and accepted that they contribute to the enjoyment of the PRow<sup>557</sup>. He accepted that there was no attempt within the 'Development Framework Plan'<sup>558</sup> to provide for retention of views from the footpaths to the escarpment to the south-west.

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<sup>548</sup> Document CD1.4a

<sup>549</sup> Document CD1.10 Design Code page 79

<sup>550</sup> Matthew Chard in cross examination

<sup>551</sup> Tanya Kirk examination in chief

<sup>552</sup> Document ID60

<sup>553</sup> Professor May in cross examination

<sup>554</sup> Matthew Chard examination in chief

<sup>555</sup> Document DBC3a Appendix 2

<sup>556</sup> Robert Coles in cross examination

<sup>557</sup> Matthew Chard in cross examination

<sup>558</sup> Document CD1.4a

The Council's concerns on this matter were raised at consultation stage by the Council's appointed landscape consultants<sup>559</sup>.

305. With regard to the suggestion by the Appellants that Tring was also part of the setting of the AONB, the proposed development has a harmful impact on the AONB precisely because it fails to follow the settlement pattern of Tring. In terms of the development at Roman Way, referred to by the Appellants to demonstrate that the Council considered that development up to the AONB boundary was acceptable, no details of that application or decision are before the Inquiry. Furthermore, given that context is key, and each site will have different circumstances, the appeal site is particularly large, open and very visible from a number of footpaths in the AONB, including nationally designated trails.
306. What the evidence before the Inquiry shows, taken as a piece, is that there will be residual adverse visual effects arising from the development of the appeal proposal, including when viewed from the National Trail and other AONB viewpoints. Those effects will be greater than the LVIA assesses, but with the structural planting condition, less than originally assessed by the Council. Some remain significant effects. Great weight should be accorded to all the adverse effects on the AONB in the overall balance<sup>560</sup>.
307. The finger of development along Station Road would cause additional significant harm to the landscape both in terms of the character and appearance of the area and on the AONB. The character of this element of the development, which is described in the 'Mandatory Design Principles' as becoming more urban away from Tring and towards Tring Station and as 'higher density development' in the DAS, would not be complementary to the current rural character of Station Road in terms of its density and height<sup>561</sup>. It would also not be complementary to the settlement pattern of Tring, as recognised in the AECOM Site Assessment Study<sup>562</sup>. At the southern end of PRoW 057, the development on Station Road will not be integrated into the SANG and will be clearly visible to users of that PRoW<sup>563</sup>.
308. The Appellants have not correctly assessed this part of the proposed development<sup>564</sup>. It was also accepted that, when asserting that an open swathe of countryside (i.e. the SANG) would be retained along the border of the AONB, Matthew Chard had failed to take into account the linear development along

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<sup>559</sup> Document CD3.45a paragraph 3.6 page 4; Matthew Chard in cross examination confirmed that he had been aware of those comments at the time

<sup>560</sup> As required by the Framework and agreed by Professor May in cross examination.

Document ID39: The Appellants produced a pie chart to show that in terms of the AONB paths views would be obtainable from only 87% of their length but those viewpoints the development would be seen from include some of the most sensitive AONB views and the length of paths over which views may be obtained still exceeds 4 km (14% of 29 km)

<sup>561</sup> Document CD1.10 Design Code page 95

<sup>562</sup> Document CD7.20.2 page 164

<sup>563</sup> Accepted by Matthew Chard

<sup>564</sup> Document APP2a Appendix 2 page 7: Matthew Chard was under the impression that lower density development was proposed to address the rural character of Station Road and the LVIA assessment of the landscape impact of the development along Station Road which reflects this misunderstanding, is therefore flawed and should be given no weight

Station Road which would incur into the SANG along Station Road<sup>565</sup>. Regarding the suggested justification for extending the development along Station Road into the SANG being surveillance due to concerns around the safety of Station Road for vulnerable users at night, there are other less harmful ways of ensuring the pedestrian and cycle routes are perceived as safe<sup>566</sup>. The design response leads to a significantly harmful extension of built form into the SANG, materially diluting the originally proposed design response to the Station Road frontage. Further, despite causing significant harm, the extent of development proposed would still leave parts of Station Road to the east without surveillance which materially weakens the benefit<sup>567</sup>.

### **Highways**

309. The only outstanding issue between the parties on highways relates to the speed limit on Station Road and whether this could be safely reduced to 40mph. The speed limit is a matter for HCC<sup>568</sup>. The speed limit on Station Road does affect the design of the Station Road access<sup>569</sup>. There is no dispute that speed limits should be self-enforcing<sup>570</sup>. While lower vehicle speeds on roads may create a more welcoming environment for pedestrians and cyclists, it does not follow that a reduction in speed limits, without the necessary environmental factors to cause a change in driver behaviour, will lead to a reduction in actual vehicle speeds<sup>571</sup>. The recorded speeds on Station Road, around 50mph for the 85 percentile and 43mph mean speed, are higher than the speeds required to justify a reduction to 40mph in HCC's adopted 'Speed Management Strategy'<sup>572</sup>. They would justify a reduction from the national speed limit to 50mph, which HCC is willing to impose. The Appellants' evidence described Station Road as a 'fast road'<sup>573</sup> or 'very fast'<sup>574</sup>, notwithstanding the fact that the speed limit at Tring Station and at Tring is 30mph.
310. Given the need for speed limits to be self-enforcing, the relationship between the proposed development and Station Road is crucial. Whether the design for a 40mph access or that for a 50mph access is adopted, the internal cycle and pedestrian route and the new houses will be set back quite some distance (at least 10m) from the northern edge of the carriageway<sup>575</sup>. Given the outline nature of the application, how the new built environment will affect speeds on

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<sup>565</sup> Matthew Chard in cross examination and response to the Inspector's question

<sup>566</sup> Martin Stickley in cross examination

<sup>567</sup> Document CD1.9 Part 1 page 47

<sup>568</sup> Scott Witchalls recognises this in examination in chief

<sup>569</sup> Document CD 12.3: The access design for a 50mph speed limit on Station Road; and Document CD1.4b access design that could be implemented if a 40mph speed limit is imposed

<sup>570</sup> Scott Witchalls in cross examination

<sup>571</sup> Scott Witchalls in examination in chief was reluctant to agree that it would be possible to reduce the speed limit on Station Road to 30mph, stating that this would require caution without introducing further design features to maintain that speed

<sup>572</sup> James Dale examination in chief; Document DBC2a: Speed Management Strategy page 18 Table 1

<sup>573</sup> Matthew Chard and Professor May

<sup>574</sup> Professor May in examination in chief

<sup>575</sup> James Dale examination in chief and Scott Witchalls cross examination; Document CD1.4b



Station Road cannot at this point of time be accurately predicted. There will be an opportunity to revisit speed limits at the reserved matters stage<sup>576</sup>.

311. With regard to the bus service contribution and station improvements, it is agreed that these are necessary to make the development acceptable in planning terms and therefore can be taken into account in the planning balance as part of the Appellants' commitments in its section 106 contribution<sup>577</sup>. The station improvements were a key strand of the accessibility of the scheme and were required to enhance and ensure the safety of access for pedestrians and cyclists to the station<sup>578</sup>. The ability to serve the appeal site by public transport is a factor which makes it sustainable development, and cycle facilities at the station are important for achieving the proposed mode share for sustainable travel<sup>579</sup>. The development would not be exemplary if served by a station with poor facilities and that was why the station improvements are essential<sup>580</sup>.
312. A letter from WMT regarding the proposed contribution for station improvements<sup>581</sup> did not provide any commitment to a timetable for spending the money or any details as to precise works to be undertaken. A further letter dated 21 April 2023<sup>582</sup> provides sufficient detail on how and when the proposed contributions will be spent to enable the Council to accept that these are secured through a section 106 obligation and for the commitments to be weighed accordingly.

### ***Very Special Circumstances Balance***

313. The cumulative harms which the proposed development would give rise to are very substantial. The development would constitute a very significant encroachment by inappropriate development into an area of high performing Green Belt resulting in substantial harm to its openness in conflict with its fundamental aim and at least one of its purposes. The fact that these harms may be capable of brief articulation does not lessen the weight which should be given to this important nationally protected asset. Those harms are increased by the significant residual landscape effects, including harm to the setting of the AONB.
314. An additional factor which is agreed to weigh against the development is the loss of BMV agricultural land. Professor May's attribution of negligible weight cannot be correct and Alastair Field was not willing to adopt it<sup>583</sup>. It does not reflect the assessment in the ES, which finds that the residual effect of the proposed development on agricultural land, taking into account proposed mitigation, is a direct, permanent and major adverse effect, on the basis of the permanent loss of 116.7 ha of agricultural land of which 59 ha is BMV agricultural

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<sup>576</sup> James Dale cross examination: accepted by HCC

<sup>577</sup> Scott Witchalls and Professor May in cross examination

<sup>578</sup> Scott Witchalls in examination in chief

<sup>579</sup> Scott Witchalls in cross examination

<sup>580</sup> Scott Witchalls oral evidence; and the assessment in the Environmental Statement and the Appellants' Transport Assessment Documents CD1.6 Environmental Statement paragraph 10.6.1 and CD11.1 Travel Plan paragraphs.11.4.10-11.4.11

<sup>581</sup> Document ID29

<sup>582</sup> Document ID62

<sup>583</sup> Alastair Field in cross examination



- land<sup>584</sup>. The Addendum Note provided by Alastair Field<sup>585</sup> does not change the position. Regardless of whether the agricultural land is lost to built development or green infrastructure, it will still be lost.
315. It is common ground that the development will cause less than substantial harm to heritage assets<sup>586</sup>, which must also be given great weight in the VSC balance<sup>587</sup>.
316. Whilst the considerations relied upon by the Appellants in support of the scheme are weighty ones, a number of which must be accorded very substantial weight, in particular the contribution to much needed HLS and the acutely needed affordable housing, those and the other considerations relied upon do not clearly outweigh the harms which would be caused. As the Appellants have accepted, they cannot point to any other decision of the SofS where this extent of Green Belt harm has been sanctioned in order to deliver housing on a site which has not been included in at least a Regulation 19 submission draft Local Plan.
317. In dealing with the overall balance the Appellants sought to maintain that however the balance was performed VSC would arise<sup>588</sup>. However, the starting point in the Appellants' balance is an assessment of Green Belt which seriously underestimates the harms which, coupled with the absence of any recognition in Professor May's proof that the VSC test is more onerous than the exceptional circumstances test, undermines any balance which he undertook.
318. With regard to the other benefits of the development, there is a large degree of agreement regarding the weight to be given to these<sup>589</sup>. Those benefits where there remains dispute between the parties regarding the weight are discussed in more detail below.
319. First, with regard to the provision of the SANG required to mitigate the recreational pressure of the development on the Chilterns Beechwoods SAC, this is directly related to the effects of the development and necessary in order to avoid an adverse effect to the integrity of a European site<sup>590</sup>. Without it, planning permission could not lawfully be granted. It should not attract any weight in the planning balance. The attribution of weight to the SANG based on its early delivery and wider benefits to the community<sup>591</sup> are undermined on the Appellants' own case. As emphasised by Samantha Ryan in relation to the sites within the Councils' five year HLS, SANG must be in place before the development can commence. Early delivery is obligatory and not an additional benefit<sup>592</sup>. Peter Hadfield indicated that he relied on the SANG as migratory habitat for the bats which currently use the site for foraging, feeding and

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<sup>584</sup> Document CD1.6 Environmental Statement paragraphs 13.7.1, 13.9.1 page 236

<sup>585</sup> Document ID65

<sup>586</sup> Document CD12.8 Planning SOCG section 12 page 25 for the detail of the identified less than substantial harm to the affected assets

<sup>587</sup> Professor May in cross examination

<sup>588</sup> Document APP15 paragraph 11.57 page 77

<sup>589</sup> Document ID60 Table 4

<sup>590</sup> Conservation of Habitats and Species Regulations 2017 SI 2017 No 1012, reg.63

<sup>591</sup> Document APP15 paragraph 11.41 page 74

<sup>592</sup> Samantha Ryan 5YHLS Roundtable

commuting, some of which would be displaced from the areas of the site which will be built on<sup>593</sup>. He made a similar comment in respect of ground nesting birds. Jonathan Smith also referred to the effect of the SANG as a buffer between the Grand Union Canal and the developed area of the site, which resolved the concerns of the Canal and River Trust<sup>594</sup>. Matthew Chard relied on the SANG in terms of landscape mitigation and claimed compensation for loss of Green Belt. These are clear examples of the role of the SANG in mitigating the various effects of the development rather than providing additional benefits to which weight can be attached.

320. There was also a suggestion by the Appellants that the proposed SANG should be given greater weight because the Council's own strategic SANG at Bunkers Park did not actually fulfil the requirements of SANG as an interceptor of recreational activity, notwithstanding Natural England's acceptance of the SANG at Bunkers Park as appropriate mitigation. The Council's mitigation strategy for the Chilterns Beechwoods encompasses both SANG and SAMM, the latter of which is a payment for the management and monitoring of access to the Chilterns Beechwoods SAC to ensure that recreational impacts do not have an unduly harmful effect on the SAC. The SAMM tariffs are calculated on the assumption that SANG is successful in intercepting recreational users. If Bunkers Park is inadequate as an interceptor site, then the SAMM tariffs for the Chilterns Beechwoods SAC will be inadequate. This would mean that the Appellants' own SAMM contribution would not be sufficient to mitigate recreational impact on the Chilterns Beechwoods, and therefore that planning permission should not be granted on the basis of the contribution they offer. Professor May stated he was not claiming any issue with the SAMM contribution and therefore his point was a bad one.
321. The supplemental SANG is entitled to moderate weight on the basis that it will enable other sites to come forward for development in Tring if a decision is made in due course to allocate such sites<sup>595</sup>. However, as confirmed by Peter Hadfield<sup>596</sup>, it also provides mitigatory habitat for the protected species that are currently present on the site which will be displaced from the built up areas.
322. With regard to the weight to be given to new social infrastructure, this has been overplayed by the Appellants. Both the primary school and provision for a secondary school are required to mitigate the harmful effect the development would otherwise have on local infrastructure. There would be no need for a new primary school absent the development<sup>597</sup>. While additional capacity may enable other developments to come forward in Tring, the extent to which that additional capacity will be taken up depends on whether any sites for development are allocated in Tring, which as agreed by Professor May is in turn dependent on the eventual outcome of the Local Plan process<sup>598</sup>. A similar conclusion can be drawn in relation to the proposed health and community facilities<sup>599</sup>.

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<sup>593</sup> Peter Hadfield examination in chief

<sup>594</sup> Jonathan Smith examination in chief

<sup>595</sup> Document DBC5 paragraph 7.11 page 53

<sup>596</sup> In response to questions from the Inspector

<sup>597</sup> Professor May in cross examination

<sup>598</sup> Document DBC5 paragraphs 7.5-7.6 page 52; Professor May in cross examination

<sup>599</sup> Document DBC5 paragraph 7.8 page 52

323. With regard to the proposed orchards and allotments, there is already an overprovision in the area<sup>600</sup>. When asked about the appetite for allotments, Professor May was unable<sup>601</sup> to point to any specific local demand, and only made the generalised statement that there was 'high demand across the country'. The orchards and allotments do have some wider benefit for the residents of Tring, and therefore limited rather than no weight should be accorded to them.
324. The sports facilities, bus service and station improvements are entitled to moderate weight because, although in the main they mitigate the effects of development, they also provide some additional benefit for the local community<sup>602</sup>. It must also be noted that to ensure their commercial viability, the sports facilities available to existing and future residents will be more limited if there is no secondary school on the site.
325. Professor May complained that giving such benefits only limited or moderate weight provided no incentive to developers to deliver those benefits<sup>603</sup>. However, without the commitment to bring forward the necessary social infrastructure, planning permission could not be granted at all, as is evident in reasons for refusal 4 and 7.
326. The wider benefit of the public open space on the site is tempered by the fact it would be within walking distance of only a limited number of properties on the eastern side of Tring. There are existing large open spaces around Tring, such as the 92 ha Tring Park<sup>604</sup> emphasised on behalf of the Appellants<sup>605</sup> which referred to the "*vast areas of publicly accessible countryside on the doorstep of Tring residents*" and the fact that "*nobody in this area or in Tring is in any way deprived of access to vast areas of countryside*"<sup>606</sup>.
327. In terms of energy sustainability, the proposed fabric first approach with local air source heat pumps and on-site renewable energy production through solar panels are capable of delivering a 90% carbon reduction (regulated emissions) and be carbon zero ready by 2030. This would be secured by condition and a commitment to deliver a substantial number of homes at higher efficient standards is a benefit of the appeal proposal. However, that needs to be seen in context. As the Appellants' evidence shows<sup>607</sup>, if the UK is to meet its climate change commitments, comparable standards will need to be secured for all new housing development. By the time the vast majority of the appeal scheme's dwellings come forward, the FHS will be in force requiring circa 75-80% fewer emissions and possibly a higher standard. Viewed in this context, the benefit is a moderate one.
328. Whilst the Local Plan evidence base was sufficient to persuade the Council that exceptional circumstances existed for the release of the site from the Green Belt,

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<sup>600</sup> Document DBC5 paragraph 7.13 page 53

<sup>601</sup> Professor May examination in chief

<sup>602</sup> Document DBC5 paragraphs 7.7, 7.17-7.18 page 53

<sup>603</sup> Professor May examination in chief

<sup>604</sup> Martin Stickley cross examination

<sup>605</sup> In a question put to Chris Berry

<sup>606</sup> Chris Berry cross examination

<sup>607</sup> Document APP8

the opportunity for its more detailed scrutiny through the Inquiry, has demonstrated that the higher VSC bar is not attained. The site has some advantages as a location for housing<sup>608</sup>, but there are undeniably disadvantages and the appeal scheme serves to materially exacerbate those, rather than to assimilate development and mitigate its effects.

329. The development therefore conflicts with the DP<sup>609</sup> and the Framework<sup>610</sup>.

### **Conclusion**

330. In conclusion, the considerations relied upon by the Appellants as demonstrating the existence of VCS fall very well short of clearly demonstrating that the Green Belt and other harms have been outweighed. The development fails to comply with the DP or the Framework and would represent unsustainable development. The appeal should be dismissed.

## **8 The Case for the Combined Objectors' Group (Rule 6 Party)**

*I have reported the case on the basis of the oral evidence given at the Inquiry and the closing submissions<sup>611</sup> with additional references to the evidence submitted prior to the Inquiry. The following is the gist of the material points made.*

331. The Combined Objectors' Group (COG) consists of The Chiltern Society, Grove Fields Residents Association and Campaign for the Protection of Rural England (CPRE) Hertfordshire. The Chiltern Society is a charitable body with almost 7,000 members that campaigns for the conservation and enhancement of the Chilterns, which includes the Chilterns AONB and part of the London Green Belt. The Society's role in the planning system is co-ordinated through a Planning Manager and a network of voluntary planning field officers. The Grove Fields Residents Association (GFRA) was established in 2017 and consists of over 570 members across Tring and the surrounding villages. 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<sup>612</sup>.

332. The COG has stated that it welcomes new development, but it must be the right number of houses, in the right place with the right supporting infrastructure, enabling Tring to thrive whilst maintaining the market town character. The LPA is taking its time to prepare and produce a plan, but that does not mean that it should be perpetually punished when it is confronting the necessary trade-offs. The delays are not in spite of a plan led system but are the result of it. The Regulation 18 draft produced an unprecedented number of responses from the community, and these require careful consideration. This is

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<sup>608</sup> It is in a sustainable location, and its size enables a significant proportion of affordable housing as well as self-build and custom housing to be provided

<sup>609</sup> Documents CD4.2 Policies CS1, CS5, CS10, CS 24 and CS25 and CD4.1 Saved Policies 97 and 108 of the Local Plan; Professor May in cross examination: While he did not carry out an assessment of compliance with the development plan in his Proof, he confirmed that he also considered the proposed development to conflict with the development plan

<sup>610</sup> Document CD6.1 paragraph 147

<sup>611</sup> Document ID78

<sup>612</sup> Document COG2 paragraphs 3 to 5

the plan led system in action and paragraph 15 of the Framework indicates that development is meant to be genuinely plan led. A direct impact of granting permission for the appeal scheme would be a further erosion of the plan led system and this weighs heavily against permission.

333. There are multiple sites available for development. The acute housing challenges are not going to be solved by building on the appeal site. The Green Belt should be permanently open and inappropriate development should only be allowed where there are VSC which will only exist if the benefits of a scheme clearly outweigh the impacts. This is an exceptionally high bar and the High Court<sup>613</sup> supports this as not being a quasi-mathematical exercise but an overall assessment of whether the circumstances truly constitute VSC so that development may be permitted notwithstanding the importance of the Green Belt.

### ***Affordable Housing***

334. The provision of affordable housing at 45% is commendable; however, before it is added to the consideration of whether there are VSC it must be scrutinised and placed in its full context. The evidence for the Emerging DLP attracts 'very significant weight'<sup>614</sup>. That evidence indicates that the overwhelming majority (87%) of those in need of affordable housing require social rent<sup>615</sup>. Although the affordable housing provision has been altered so that it includes 25% social rent, the remaining 88.75% will be out of reach to those in need of social rent.
335. No viability evidence has been submitted to accompany the offer of affordable housing. Therefore, there is no evidence to show that the proposed provision is genuinely deliverable except for Professor May's assertions, and he is not a chartered surveyor<sup>616</sup>. Consent should make plain that permission is contingent on delivering all the affordable homes. Also, any assessment of VSC should be made in the knowledge that the Appellants have failed to demonstrate that no more socially rented homes can be viably delivered. The failure to demonstrate that the provision of affordable housing has been optimised or robustly secured goes to whether there are VSC<sup>617</sup>.

### ***Landscape, Character and Visual Harm***

336. Landscape character is a resource that once lost to housing cannot be realistically recovered. Once views are compromised, they cannot be re-established. Even on the Appellants' case, there is harm to landscape character and views. Harm to the landscape character and visual outlook is distinct from harm to the Green Belt and harm to the setting of the AONB<sup>618</sup>.
337. The Appellants case accepts that there is harm to the character. Matthew Chard states that during the 10 year construction period there will be major

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<sup>613</sup> Sefton MBC v Secretary of State For Housing, Communities, And Local Government [2021] EWHC 1082 (Admin)

<sup>614</sup> Document APP15 paragraph 5.12

<sup>615</sup> Document CD 8.1 page 112

<sup>616</sup> Professor May in cross examination

<sup>617</sup> Document COG0: raised in the Statement of Case paragraph 7.1

<sup>618</sup> Accepted by Professor May in cross examination and Document COG0 Section 4

adverse harm to the character of the agricultural fields, adverse harm to hedgerows, trees, NCA 110 character area and Tring Gap Foothills LCA; and overall there will be moderate adverse harm to the character, the site and its immediate surroundings. At the end of construction, he states that there will still be 'Major' adverse impacts on the character of the agricultural fields and there will be adverse impacts on Chiltern's NCA and the Tring Gap foothills LCA. He accepts that there will be moderate adverse impacts to the night-time sky even at year 15 and there will be harms to views during and after construction. Pedestrians on national rights of way and along Marshcroft Lane, which forms a popular access walk, will have their view compromised; and residential views will be sorely and permanently compromised.

338. It is only at year 15 that these character, landscape and visual harms attenuate on the Matthew Chard's case to a negligible level. Realistically, this means that even on the Appellants' case there will be at least moderate adverse impacts over a at least a twenty year horizon if the adverse impacts over the construction period and the years of plant growth are combined. These impacts should have been recognised, properly weighed and explicitly weighed in the planning balance, regardless of the existence or absence of landscape and visual impacts forming part of a reason for refusal.
339. Matthew Chard's approach made the following omissions. He does not explain how he combined judgments regarding susceptibility and value to result in judgments concerning sensitivity, as required by the GLIVIA<sup>619</sup>, given that in some cases he rounds up, whilst in others he rounds down. He omitted viewpoints from high up upon the escarpments where there was seating but substituted those for views which are heavily filtered by woodland<sup>620</sup>. The LVIA does not note the Dacorum Borough Landscape Sensitivity Study (April 2020) despite this forming the most recent, site specific GLIVIA compliant appraisal<sup>621</sup>. Although he acknowledged that his assessment of the legacy effects with regards to the character assessment depends on the landscape quality of the SANG provision, there is no mention of the obvious negative features of the SANG such as fencing. Marshcroft Lane has not been included within the character assessment.
340. Matthew Chard's view that there is a strong urban influence on the site is unsubstantiated. Looking at the northern field, there are no urbanising features on site; to the north there is a garden centre and cottages. To the east, south and west there are fields or Marshcroft Lane. For the southern plot, to the north and east there are fields, including an AONB, to the south is Station Road with some heavily shielded houses. To the west there are large and undeveloped back gardens. This is not an example of a strong urban influence.

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<sup>619</sup> Guidelines for Landscape and Visual Impact Assessment – Third Edition paragraphs 3.28 and 3.29

<sup>620</sup> Document COG1 Appendix 1: Landscape Statement on behalf of Tring Town Council page 12

<sup>621</sup> Guidelines for Landscape and Visual Impact Assessment – Third Edition paragraphs 3.15 to 3.17 state that baseline studies should be informed by existing landscape character assessments



341. Matthew Chard's view that the overall impact of the scheme on the agricultural fields as a landscape resource at year 15 is negligible is not credible. All the defining features of an agricultural field: the ploughing, the tilling, the openness and the crops will be lost.
342. Matthew Chard's view that it is a fragmented landscape is not tenable. Tring is a nucleated settlement that nestles within a cohesive and shielded landscape<sup>622</sup>. In terms of the visual impact, his view that the proposal would not have long lasting effects on views from PRowS 057 and 058 is not sustainable. The view of the Chilterns will be reduced to occasional glimpses<sup>623</sup>. The residual view would not be unpleasant but would not have the links to the wider countryside, which are so apparent at the baseline stage<sup>624</sup>.
343. Of the visual effects predicted to arise from the proposed development, those available from PRowS 057 and 058, the AONB and on the approach to and from Tring are of particular concern. Views from the Chilterns escarpment and higher ground that encircles the eastern and southern sides of Tring are of high sensitivity and of particular importance to appreciating the sylvan and well contained setting of the town and its distinctive compact nature. For receptors using the Grand Union Canal Walk, the foreground view of open farmland would be truncated and new buildings of up to 3 storeys in height would have encroached significantly closer to the viewer. Whilst new planting might be delivered as part of the scheme and could provide some filtering of views, there would be likely to remain a strong sense of development, vehicles and lighting beyond the planting. The scarp backdrop to Tring would be screened.<sup>625</sup>
344. For receptors using Bulbourne Road, the viewer would be looking along a primary access into a new large scale development. The proposed development would introduce new buildings that would essentially fill the open farmland setting to the existing settlement edge and block out the backdrop to the Chilterns scarp that provide a sense of place and distinctiveness to the town. This would be a permanent adverse change. New planting that might help to 'further integrate' built forms into the landscape could not be considered to reduce this effect.<sup>626</sup>

### ***Harm to the Setting of the Area of Outstanding Natural Beauty***

345. The site immediately abuts an AONB. It is part of its immediate setting as well as forming the backdrop to impressive and important views from the Chilterns escarpments. The Chilterns Conservation Board Position Statement on Development states that 'the best way of minimizing adverse impacts on the setting of the AONB is through avoidance in the first place.'
346. The proposed development results in a scheme that would have long-lasting adverse effects on the setting of the Chilterns AONB, and the visual amenity of

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<sup>622</sup> Nicola Brown examination in chief and re-examination

<sup>623</sup> Tanya Kirk in oral evidence

<sup>624</sup> Tanya Kirk in oral evidence

<sup>625</sup> Document COG1 Appendix 1: Landscape Statement on behalf of Tring Town Council paragraphs 4.23 to 4.26

<sup>626</sup> Document COG1 Appendix 1: Landscape Statement on behalf of Tring Town Council paragraph 4.27

the recognised views from the Chilterns escarpment<sup>627</sup>. Given the high bar that is set in national policy for the conservation and enhancement of valued landscapes such as the AONB and its setting and that the Council was advised that the proposal would not do this and would be harmful to the AONB, it is surprising that no separate landscape grounds for refusal have been cited.

347. The proposal will harm the setting of the AONB in that it will interfere with views out of the AONB, including the Ridgeway National Trail; interfere with views of the AONB, including from PRoWs 057, 058 and the Grand Union Canal Walk and Marshcroft Lane; there will be a loss of tranquillity through the introduction of lighting, noise and traffic movements; and there will be a loss of openness<sup>628</sup>. These impacts will be severe, longstanding and noticeable as the site serves as a critical buffer between the AONB and Tring<sup>629</sup>. Moreover, the flat land adjacent to the site is an example of outstanding natural beauty which warrants the protection afforded to it under the Framework.

### **Green Belt**

348. The Green Belt's two defining features are the absence of development and its permanence. Visual harm is defined by the absence or presence of development, whereas Matthew Chard's judgment was informed by the quality of that development. He also attempts to average out purposes mechanistically without explanation.
349. There is definitional Green Belt harm since land which was free from development will be developed. There will be harm to spatial openness; tranquil open land will be permanently lost. There will be harm to visual openness as Green Belt land will no longer appear free from development. There will be harm to the first Green Belt purpose as, left unrestricted, London will grow exponentially and will seep through to any cracks along transport corridors to grow if given the chance. There will also be harm to the third Green Belt purpose as it is a large and substantial encroachment into the countryside. In addition, there will be harm to the fifth green belt purpose as it is a large and ambitious scheme and, if given permission, will operate as a persuasive precedent to developers up and down the country that there is no need to exhaust brownfield sites.<sup>630</sup>
350. The arguments put forward by the Appellants to justify abandoning the Green Belt in the form of the acute housing challenges this country is facing could be replicated at inquiry after inquiry. This would plainly be death by a thousand cuts to the Green Belt were this development to be allowed without demonstrating VSC<sup>631</sup>.

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<sup>627</sup> Document COG1 Appendix 1: Landscape Statement on behalf of Tring Town Council paragraphs 5.1 to 5.4

<sup>628</sup> Document COG1 Appendix 1: Landscape Statement on behalf of Tring Town Council paragraph 4.31

<sup>629</sup> Document COG1 Appendix 1: Landscape Statement on behalf of Tring Town Council paragraphs 5.5 to 5.9

<sup>630</sup> Document COG2 paragraphs 12-24

<sup>631</sup> Document ID17: Professor May acknowledged that planning inspector Wilkinson had not dismissed this as an invalid argument in a previous case and it is one that must be considered

### ***Very Special Circumstances***

351. Development covering in excess of 50 ha in the Green Belt should be the exception, never expected. No other planning consideration enjoys a higher status within planning. VSC are required to justify inappropriate development on the Green Belt. VSC will not exist unless the benefits of a proposal clearly outweigh the harms; or in other words, benefits clearly outweighing the harms are necessary for permission, but not sufficient as all the circumstances must be looked at. The importance of keeping land permanently open must be consciously considered.
352. Provision that mitigates a development's own impacts is not a benefit. The harms of the scheme are severe, and legion given its unprecedented scale. There is substantial landscape and visual harm which, given that these impacts are irreversible and long-lasting, should attract substantial weight. There is harm to the setting of an AONB which demands great weight, as in paragraph 176 of the Framework. There is definitional harm to the Green Belt. There are harms to the underlying purposes of the Green Belt as the countryside is going to be badly encroached; development such as this discourages developers from robustly considering brownfield sites, Dacorum borders the London Borough of Barnet and therefore this Green Belt restricts the urban sprawl of London. The site also acts in preserving openness and the countryside. There is loss of BMV agricultural land. There is heritage harm which attracts great weight.
353. The Appellants' case presented by Professor May has made no attempt to explicitly weigh the landscape and visual harms arising from this development. There has been a failure to precisely distinguish between the 'benefits' of the scheme that are mitigation of the site's inherent impacts. There has been a failure to bring to the attention material matters despite the professional obligation to bring forward everything that is relevant and apply a fair and even-handed approach e.g. whilst the Appellants are happy to 'bank' the benefits arising from construction jobs for a ten year period they are not happy to mark down the character impacts for the same time.
354. The scheme's purported benefits are not very special either together or singularly. The affordable housing does not predominately address the pressing need for socially rented homes and there is no justification provided for this offer in terms of viability argument. The development is a further car led development dominated by market homes. The additional facilities (SANG, education provision, community infrastructure) mostly mitigate the development's own impact. It attempts to undermine the principal of a democratically accountable plan led system.
355. The proposal represents a substantial land grab and is within the immediate setting of an AONB. The numerous authorities and previous decisions cited by the Appellants cannot justify this degree of encroachment. For the reasons set out above, planning permission should be refused.

## 9 The Cases for Other Interested Parties

*Oral representations were made at the Inquiry. These are summarised below and are supported by written statements. The following is the gist of the material points made.*

### **Sue Yeomans<sup>632</sup>**

356. Sue Yeomans is a founder member of the Chiltern Countryside Group, established in 2008 to help protect the Chilterns and its AONB. She is concerned that her home and her enjoyment of it would be negatively impacted by the proposal, which would be adjacent to the rear garden in the Green Belt. The proposal would build on a significant proportion of the Green Belt which is adjacent to and informs the setting of the Chilterns AONB. It would destroy Green Belt, productive agricultural land, cause light and noise pollution and completely change the visual character of the AONB as seen from one of its highest points at Ivinghoe Beacon. The land has the protection of the Chilterns Beechwoods SAC. The scale of development would be inappropriate to the current size of Tring. Other concerns are regarding the adequacy of the Appellants' contributions towards new schools and a health centre and flooding.

### **Steve Ballantyne<sup>633</sup>**

357. Steve Ballantyne objected on the grounds that the proposal would result in built development on the Green Belt and adjacent to an AONB when the Council are reviewing the availability of brownfield sites in urban areas to minimise the need to build on the Green Belt. The scale would be inappropriate to the current size of Tring and would result in pressure on the infrastructure and changes to the character of the historic town for ever. The schools and health facility proposed may not be built and that land could then be used for more housing. It would also exacerbate flood risk in an area where the fields are prone to flooding.

### **Philip Moore<sup>634</sup>**

358. Philip Moore opposed the proposal which he considered to be of a scale that should only be brought forward as part of a strategic local plan. It would damage the Green Belt, lead to ineffective use of land by building on some of the BMV agricultural land in the Borough and lead to unsustainable car dependency. It would have a terrible impact on the surrounding nationally important countryside and would have a negative impact on the historic character of Tring town.

### **Tim Amsden<sup>635</sup>**

359. Tim Amsden has lived locally to the area of the development all his life, 40 years of it being in Tring. He was a Dacorum Borough councillor for 4 years, and 20 years a Tring Town councillor, including three as Town Mayor.

360. The proposed development would be at a distance from Tring town centre that cannot be bridged in practical terms. The recent development by CALA Homes

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<sup>632</sup> Document ID5

<sup>633</sup> Document ID9

<sup>634</sup> Document ID14

<sup>635</sup> Document ID34

off Icknield Way ('Roman Park') consists of 200 or so houses, but is isolated from the town centre, being a 20-minute walk away. It has no facilities and will have no meaning or identity of its own. The same would apply at the appeal proposed development. With poor public transport services, it would be dependent on car ownership and use, or else a 30-minute walk, to access the town centre. Much of the traffic would use Brook Street, which has one-way working. The town centre has inadequate parking and development on such a scale is not capable of absorption by the town's infrastructure.

361. The development would increase pressure on the local countryside for recreation; the Ashridge Estate, and Tring Woodlands, have already been found to be suffering from overuse. It would reduce the amount of local land for farming, at a time when domestic food production is more vital than ever. It would attract yet more wealthy people to an already prosperous area, entrenching existing inequalities.
362. Further housing on the scale proposed is not needed for Tring people; social housing providers are not even able to discriminate in favour of Tring applicants. Housing should go to places where it is needed. Growth is not inevitable, or necessarily desirable, and a fundamental shift in attitudes is called for. Proposals of the kind proposed are self-fulfilling and self-perpetuating, creating yet more pressure from developers. The proposal would result in Tring ceasing to be a compact, rural, market town with its own unique character, and it would become an amorphous, anonymous residential sprawl.

**Elizabeth Hamilton<sup>636</sup>**

363. Elizabeth Hamilton has made comments on the Ecological Assessment<sup>637</sup>. With regard to bats, the consultation response to the application from Hertfordshire Ecology<sup>638</sup> states: "*I found the assessment to verge on the superficial and mitigation measures limited and poorly defined; reliance on hedgehog gateways and bird/bat boxes is not adequate for a development of this scale*". Trees within the site were assessed and some noted for their potential to support roosting bats. The Assessment states that those with potential will be subject to further tree climbing surveys, once a tree removal plan has been prepared for the site, to confirm the presence or absence of roosting bats. The 'European Protected Species' status of bats generally and the rarity of one species found on the site suggests that an earlier and more robust survey of bat activity and roosting should be carried out. Trapping and radio tracking could be used. Impacts arising from the development proposal on a significant foraging area for a local roost could impact on the local distribution or abundance of a species, in particular those species which are locally scarce or rare.
364. Use of the proposed development site by Barbastelles was recorded across all the bat survey sessions. Reductions in suitable foraging areas mean bats have to fly further to suitable sites, reducing feeding time. This is critical in particular for breeding females. Any artificial lighting where bats roost, commute or feed can be extremely disturbing to all species. Most bats generally avoid foraging and

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<sup>636</sup> Documents ID2 and ID27

<sup>637</sup> Documents CD1.26a and b

<sup>638</sup> Document CD3.20

commuting areas if these are affected by light spill as this can prevent bats from reaching their habitual foraging areas. Barbastelles are among a group of bat species which generally avoid all streetlights. With no legal requirements concerning lighting installed by private individuals on the outside of buildings, the impact on bats could be severe. Car headlights and glare, and in particular sports floodlighting, are potential additional obstacles to bats. Newly planted vegetation may not contribute to light attenuation for many years depending on the plant species, during which time bat populations may be irreparably damaged. There is also the risk that such vegetation may subsequently be cut down or heavily trimmed. Bats are also preyed on by cats.

365. In terms of birds, the Assessment suggests that ground-nesting birds will be able to utilise areas of open grassland incorporated into the green infrastructure, which is unlikely outside the SANG where the open grassland areas would be under heavy and frequent recreational, sporting, and educational use. In practice disturbance from free-running dogs could prevent successful nesting in the SANG. Displacement of these species from the agricultural land would represent harm to Natural Environment and Rural Communities (NERC) Act 2006<sup>639</sup> section 41 species.
366. Insufficient information has been submitted to demonstrate that there would not be an unacceptable impact to protected and priority species and their habitats. This was needed to enable the LPA to demonstrate the proposal's compliance under section 40 NERC Act 2006, and to be able to properly assess any potential impacts upon protected species. Without this information, the LPA are unable to properly assess the proposal and impacts on legally protected and priority species. The proposal would thereby be contrary to policy GEN7 of the DLP and the Framework.
367. The ecological interest of the agricultural fields has not been established. A key species group (invertebrates) was not surveyed, some survey timings were sub-optimal, and the habitats support bats and Section 41 bird species. Many of the plant species recorded, although common, support the food chains present on the site, provide nectar and pollen for pollinators or are foodplants for insects including butterflies and moths. The vegetation at the base of hedges and other long grassy areas can be expected to shelter numerous species overwinter, including the stages of invertebrates' life cycles. Arable soils are rich in invertebrates. Farmland is a priority habitat in the Hertfordshire Biodiversity Action Plan<sup>640</sup>, and should be protected for food production.
368. Not all the hedgerows on site would be retained since gaps would be created to accommodate access points and roads. Habitat connectivity would not be maintained across the site as there would be a central road bisecting the site. New native tree planting would not offset unavoidable losses to existing trees for many years. It is unlikely that new trees would mature sufficiently to provide potential roosting spaces for bats for 100 years or more. The proximity of the site to the Grand Union Canal, and beyond that the woodland and species-rich grassland of Aldbury Nowers and Pitstone Hill, and beyond that the core area of

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<sup>639</sup> Natural Environment and Rural Communities Act 2006, as updated by the Environment Act 2021

<sup>640</sup> Documents CD1.26a and b paragraph 5.2.21/23



the Ashridge Estate with its varied habitats, contribute to the significance of the site for bats. This area is largely free from light pollution and the railway is set in a deep cutting.

369. Claims that the SANG would prevent additional impacts on the Ashridge Estate, Tring Reservoirs, the Grand Union Canal network and College Lake are very contentious and not supported by any evidence, although assessments on the designated sites in question were requested by several responses to the Scoping Opinion. Residents of the proposed development would wish to visit these places. Should the SANG draw visitors from outside the proposed development, this would have implications as to the adequacy of the size of the SANG. The vehicle access to the car park through the housing areas would introduce additional traffic, pollution, and a potential hazard to the residential areas. The car park capacity appears insufficient given the claims about the SANG's potential attractiveness to draw existing visitor use away from the SAC, Tring Reservoirs, and other local sites.
370. With regard to flood risk and surface drainage, comments from local residents posted on the Council's consultation website refer to the site flooding, with water sometimes persisting for months.
371. The proposed development can be expected to impact on the quiet enjoyment of the PRowS close to the Canal which run along the edge of the site. There is some traffic noise in the vicinity of Tring Station and Bulbourne, but for most of its length this route is quiet and enjoys a fine view of the high land in the AONB to the south.
372. The surrounding important ecological resources which include the SAC sites at Tring Woodlands and Ashridge, Tring Park's chalk grasslands, Aldbury Nowers, Pitstone Hill and Tring Reservoirs, make the area one of the most sensitive in the county to development of the scale proposed, and to the associated pressure on sites it would generate.
373. The BNG figure claimed for the proposed development is grossly overstated. The habitats attributed to the 'Mini Metric' are too low in quality to meet guidelines for an acceptable SANG. This has the effect of substantially increasing the BNG attributed to the Main Metric.

**Peter Davidson<sup>641</sup>**

374. Peter Davidson submitted a report which analyses the proposal's TA. His report suggests that the TA seriously under-estimates the transport impacts of the proposed development. Using information largely from the TA itself, the report shows what the transport impacts would be and what mitigation measures would really be needed if the development was built.
375. The scale of the development increases Tring by about one third. Tring is already congested. Its car parks are full through much of the day, with it being difficult to get into Tesco car park at peak shopping times. Its schools are full. Its doctors' surgeries are already very busy. Tring's through traffic has bypass routes to two sides of the triangle containing it, but it does not have a bypass on

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<sup>641</sup> Documents ID3 and ID32

its third side to take the north-south through traffic. The development's two access roads and its 'main street' spine road would act as an effective bypass for this north-south through traffic, and the development has not been planned for this.

376. There would be extra traffic on the two weak bridges over the Canal and railway line along Bulbourne Road. The proposed bus service would not be self-financing. Tring town centre and Tesco car park would need at least one third more parking spaces and the station one sixth more parking spaces. The junction of Marshcroft Lane with the development's main street would be an accident black spot where pedestrians, some with prams, young children on small bikes and horses would come into conflict with busy car traffic from the development, school drop-offs and shops, and fast through 'rat running' traffic trying to bypass east of Tring in a north-south direction.
377. The TA's baseline traffic counts which measure the current traffic levels, are too low and unrepresentative, and key junctions were missed. No journey time survey has been carried out and no accident data was collected for key locations such as Grove Road where there is a primary school and is traffic calmed with road cushions. No traffic count has been taken on the important Grove Road/Wingrave Road junction. All of these would be affected by the development. The accessibility to key local services in the TA is using statistics about non-car owners which were applied to car owners who do not walk so far. This has the effect of having a car traffic baseline lower than it should be.
378. The trip generations were underestimated and were distributed to biased destinations which underestimated the impact on Tring's junctions. This, in combination with the low baseline, has led to an underestimation of which junctions would need mitigation measures to accommodate the additional traffic produced by the development.
379. WSP forecast the impact of the development based on traffic flows from HCC's COMET county transport model and concluded that twenty junctions needed mitigation measures. This was consistent with the observation of a third more traffic from the additional one third more people brought into Tring by the development. Stantec's reasons for its assessment of three junctions requiring mitigation measures are not valid. A Table which summarises the worst-turn using COMET demonstrates the 20 junctions where a volume/capacity ratio below about 85% has not been achieved to demonstrate that the junction would function properly even with considerable congestion and delay.
380. The additional delay to Tring's traffic caused by the development amounts to a penalty of £24 million to Tring's economy, which would probably far outweigh any economic benefit that the development might bring, and it would have a serious impact on Tring's economy.

**Jennifer O'Brien<sup>642</sup>**

381. Jennifer O'Brien expressed concerns about the impact of the development on Tring's Green Belt and the depth of community feeling against the development, which included referring to a petition against the development.

**Rachel Moore<sup>643</sup>**

382. Rachel Moore expressed concern about the benefits that the Appellants have put forward to demonstrate that VSC exist. Any large site would deliver housing as a benefit. The appeal site was initially in the draft Emerging DLP for consultation to meet the housing targets which, as the SofS<sup>644</sup> has set out is now likely to become an advisory starting point. The other benefits are intrinsic to doing any development at all, for example on sustainability. The Appellants' argument about filling a 'gap' is not valid in that the town and station are situated where they are for historical and geographical reasons and the space in between was deliberately designated Green Belt, on the edge of the AONB. The Prime Minister gave assurance on 25 January 2023, in relation to the Chilterns, that *"this Government will always protect our precious green spaces. The recent changes in our planning reforms will ensure that we can protect the Green Belt everywhere."* There is no agreed new Local Plan yet because residents did not agree with what the Appellants want to do. How then is it logical, let alone democratic, to conclude that this very situation means that the appeal proposal should go ahead?

**Chilterns Conservation Board<sup>645</sup>**

383. The Chilterns Conservation Board (CCB) was established by the Countryside and Rights of Way (CROW) Act 2000 with a primary purpose set out in section 87 that includes: (1) It is the duty of a conservation board in the exercise of their functions, to have regard to (a) the purpose of conserving and enhancing the natural beauty of the AONB, and (b) the purpose of increasing the understanding and enjoyment by the public of the special qualities of the AONB.
384. The CCB considers the site to be part of a valued landscape. The Chilterns AONB Management Plan is prepared by the CCB in partnership with, and on behalf of, the local authorities that have parts of the AONB within their boundaries. It is a material consideration, and reference to it by all decision-makers is a good way to demonstrate that the duty of section 85 of the CROW Act 2000 has been observed.
385. The Chilterns AONB is recognised for the unusual amount of built development that is present in the landscape and around its edges, and for the pressures for development that it is under. This is explicitly recognised in the Government's Landscapes Review for special attention and is part of the reason why Natural England is currently taking action on two fronts in the Chilterns. First, it is looking at extending the boundary of the AONB, and second, it is looking into

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<sup>642</sup> Document ID36

<sup>643</sup> Document ID37

<sup>644</sup> WMS 6 December 2022

<sup>645</sup> Documents ID48 and ID49

new ways of managing the governance of the AONB, including strengthening the status of the Management Plan.

386. The CCB expressed its concern that, despite the attention paid to landscape and AONB issues in the Officer's Report to the Planning Committee, attention has not been translated into a reason for refusal. There is no evidence that the report has addressed paragraph 176 of the Framework, which states that development within the setting of protected landscapes (i.e. National Parks, The Broads and AONBs) should be sensitively located and designed to avoid or minimise adverse impacts on the designated areas. This policy post-dates the work that the Council did to assess sites for inclusion in its Emerging DLP, and the consultation on the local plan itself. All the sites considered in the plan need to be re-assessed in relation to the new policy, since it fundamentally alters the context.
387. The policy brings the setting of the AONB into the 'policies' of the Framework relating to an 'area or asset of particular importance' in the senses used in paragraph 11, and that, arguably, the presumption in favour of sustainable development should be disapplied. Paragraph 11 indicates that LPAs do not have to plan to meet or exceed the guideline figure derived from the standard method for assessing local housing need when setting their local plan requirement if that would conflict with the policies of the Framework that support limited development.
388. The CCB's outstanding objection to the draft Emerging DLP questioned whether the Council's stated reason justifying the quantum of growth in the Local Plan, which related to the regeneration of Hemel Hempstead, justified the levels of growth that the Council was proposing in the setting of the AONB on the northern edge of Hemel Hempstead itself, let alone in Berkhamsted and Tring which are not towns that are in obvious need of regeneration.
389. The Chilterns AONB is designated on the basis of the identified natural beauty of the land, regardless of whether it is part of a colloquial understanding of what the 'Chilterns' is. The designation of the AONB depends on:
- a) The land being characterised as demonstrating outstanding natural beauty, which is a very high bar;
  - b) the land being identified as 'desirable' to designate; and
  - c) a defensible boundary being present.
390. The low land below the scarp to the east of the appeal site is part of the AONB. It has been assessed as demonstrating outstanding natural beauty. It would not have been designated otherwise.
391. The Community has a reasonable expectation that the Government's policies expressed through the Framework, and the language used by Ministers, should be upheld both strategically and in decisions. The issue in the draft Emerging DLP was whether its development strategy was consistent with the Framework in terms of the policies that seek to protect 'areas or assets of particular importance' such as those listed in footnote 7.

**Councillor Sally Symington<sup>646</sup>**

392. Sally Symington is a Hertfordshire County Councillor, Tring Division. She indicated that she has received numerous emails from residents in Tring opposing the new development due its scale and impact on the town. The proposed development would be disproportionate to the size of the original settlement in terms of number of new homes and land area occupied. Building new homes would not bring the town centre any closer to the station but a regular bus service and safe walking/ cycling route would mitigate that issue. The proposal would cause further damage to both Tring's historic town centre and the Chiltern Beechwoods SSSI at Ashridge. The proposed SANG would not substitute for access to the AONB.
393. The 50mph speed limit proposed by HCC along Station Road is inconsistent with promoting active travel and safety. The bridge over the Canal at Tring Station cannot be widened enough to accompany a cycleway. As a result, there would be an ongoing pressure to use cars to get to the station. Tring Station does not have the capacity to increase further car parking. The proposed development would add to the problem of pinch points on the local highway network which cannot be mitigated by road widening.
394. The proposed development does not address the need for cohesive and co-located sports facilities in Tring. Standing alone, the development does not warrant a new secondary school in Tring. There is also an existing sewage capacity issue in the area.
395. The historic village of Aldbury would be significantly impacted by the new development as it is the gateway to the AONB and facilities at Ashridge. Aldbury Parish Council would like a cycle/ footway from Tring Station to the village and the provision of this will be essential if the development proceeds. Residents are also concerned about the length of the construction period and its impact on Tring town. Whilst accepting the need for more affordable houses of a higher quality, the proposal is the wrong development in the wrong place.

**Gagan Mohindra MP<sup>647</sup>**

396. Gagan Mohindra is the Member of Parliament for South West Hertfordshire, having been first elected in December 2019 and has been a resident of Tring for about 2.5 years. He is opposed to the proposal in that there has been strong local opposition, with about 100 of his constituents contacting him. He referred to a petition signed by over 1,000 people and that about 300 objected to the application. In January the then Housing Minister, Lucy Frazer, stated that "*two words sum up what we want; they are 'local consent'*". Anyone attempting to argue that this appeal proposal has 'local consent' would have a very hard time doing so. He also referred to proposed amendments to the Framework in that the housing numbers would be a guide and that local people would be at the centre of the planning process.

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<sup>646</sup> Document ID38

<sup>647</sup> Document ID56A

397. The proposal would be detrimental to the area and would add about 3,000 more people to Tring, increasing it by about 30%. This would result in an increase car usage, with the railway station being distant from Tring itself and residents using it to commute into London. It would be in the Green Belt, with VSC not being demonstrated, and would be in the setting of an AONB.
398. New housing should be considered in the Local Plan process, with a pause in the Council's local plan preparation to allow more work on examining suitable sites. The appeal site is in the wrong place for housing, the Local Plan is being reviewed and there will be a government change in tone for housing demand in the Levelling-Up Bill.

## **10 Written Representations**

*Written representations were made during the Inquiry, at the appeal stage and at the application stage<sup>648</sup>, of which the main concerns expressed are similar to those that I have summarised under the Council's case and the cases for the COG and other interested parties. The following is the gist of the material points made.*

399. Nicky Hulse<sup>649</sup> has expressed concerns about the effect of the proposal on educational provision in the area. The Appellants use of HCC's pupil yield calculator to estimate the number of children who would be accommodated in the proposed development appears to be a conservative estimate, bearing in mind Tring is an area which attracts families due to the excellent schooling and beautiful surroundings. Although Tring could not accommodate these children in its schools, the data does not seem to show a full picture of the potential number of children in a development of the size proposed.
400. Moira Freeman Lea<sup>650</sup> has been a resident of the small settlement at 'Tring Station' since 1994. She has commented that the appeal site is within sight of an SSSI, which will be spoilt by increased footfall, and is near to the Ridgeway National Trail. She has suggested that the area does not need more housing as many have been built at nearby towns, such as Aylesbury. She has expressed concerns about the effect on the local roads and the hospital at Stoke Mandeville as well as local flooding. However, her main concern is regarding the proposed alterations to Tring railway station forecourt, and the blocking of access to Fog cottages. She has supported these concerns with a video and photograph showing the usage of the forecourt. She has indicated that, because the road is uneven and sometimes waterlogged, the cycle path is too narrow for use by pedestrians and cyclists, there is lack of space on the forecourt, and the bus service to Aldbury is under threat, new residents will be likely to wish to drive and park at the station, which would have insufficient parking to meet the demand.
401. Councillor Penny Hearn<sup>651</sup> has stated the concerns of some of her constituents in objecting to the proposal, which by itself she has suggested would increase

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<sup>648</sup> Documents and representations summarised in Document CD2.4: Committee Report and submitted in response to the appeal prior to, and during, the Inquiry

<sup>649</sup> Document ID28

<sup>650</sup> Document ID28A

<sup>651</sup> Document ID12



Tring's population by a quarter, and yet there is nothing in the proposal that would increase or improve infrastructure in the town. Moreover, it would not resolve any of the existing and future planning issues that there are in the town, for example, education, health, parking and leisure facilities.

402. The concerns expressed in writing by many local residents in objecting to the proposal at the application and appeal stage include those of the COG and other individuals and parties who appeared at the Inquiry. I have summarised these concerns. The first, and probably the main, concern is that the whole site is in a designated Green Belt, which can only be released for development in exceptional & VSC. The proposal fails to fulfil the statutory criteria.
403. Some objectors have referred to the Council's review of the Local Plan, following community feedback from the consultation, with the intention to consider brownfield and urban sites within the Borough, rather than release Green Belt. They have suggested that it is imperative that this review should be finalised before any decisions are made on releasing Green Belt, particularly that of such a substantial nature and in such a significant location for the Chilterns and the Borough. Therefore, the proposal is unwarranted and premature.
404. The site is currently a beautiful natural space, providing open views towards the Chilterns AONB and the Grand Union Canal, which are easily accessible to the many people who already enjoy its peace, mature green landscape and wildlife, by walking, cycling, running, horse-riding, boating and fishing. It cannot be replaced by an artificial man made 'green area' which will take years to mature if ever built.
405. The site adjoins and informs the setting for the Chilterns AONB and will therefore have an extremely high adverse impact upon that landscape, which is protected under statute by the CROW Act 2000. Development will be visible from the high points of the AONB, such as Ivinghoe Beacon, thus destroying its rural and peaceful green character.
406. The appeal site falls within the Chilterns Beechwoods SAC. Mitigation would be required to alleviate visitor pressure on Ashridge and Tring Woodlands. The site falls within the Zone of Influence and should be protected from development of any kind.
407. The site is BMV agricultural land. Nationally, we need to increase our food self-sufficiency. The site is currently in use for arable crops. This contribution to our nation's food would be lost forever.
408. The large number of buildings which include 1,400 houses plus 2 schools, a community hub and associated roads, would drastically and adversely change the rural setting and character of the market town of Tring forever. The size of the proposed development would be far greater than is appropriate for the present size of the town, which has already been extended recently by a large and ongoing housing development on its western edge. The hamlet of Tring Station would be overwhelmed.
409. Tring requires more affordable housing for key workers and young people, developed by a Housing Association/shared ownership or other in conjunction with the Council to thrive as an inclusive community. As there are few 'executive' jobs in the area, the proposed development will be mainly inhabited

- by commuters, albeit some part time. The development adds to the suburban sprawl in the area.
410. The proposal would cause harm to the setting of the locally listed Pendley Manor Historic Park. The development would also affect the historic designed long views from Ashridge at Duncombe and Aldbury Terraces, towards Tring, which have recently been the subject of a listing application to Historic England. The effect on Ashridge, Tring Park and Pendley Manor landscapes is contrary to the Framework and the Council's Heritage policies.
411. There will be a vast increase in traffic to and from any development onto single carriageway roads, one with a narrow bridge where access is controlled by traffic lights. The access to the proposed development from the A41 via the Grove Road/ Cow Lane/ Station Road junction is inadequate and the junction is not suited to the demands of increased traffic levels. The current road cannot cope with the inevitable rise in traffic heading to and from the A41. The proposed cycleways and footpaths will not tempt residents to completely abandon their cars to reach either the station or the town centre. It would be too far to walk back from town centre shops with heavy shopping bags.
412. The proposal ignores extra demand on hospital health care, which is already under pressure. Building a health centre, which will only serve new housing, does not alleviate demand on local hospitals. There is no guarantee that authorities responsible for healthcare and educational provision within the Borough will be willing to facilitate or financially contribute towards the schools, health centre and other community resources proposed.
413. The timeframe of the development over 10 years (2023-2033) means long drawn-out adverse impacts of construction and loss of amenity. There would be an increased demand on local resources without any obligation from the developer to provide infrastructure. There would also be other associated adverse effects, especially for neighbouring residents and parking in the town centre and at Tring Station.
414. The area is prone to flooding. This will either result in flooding of the proposed dwellings, or a surplus of water being diverted into other parts of Tring, with unknown consequences. The runoff of water with added phosphates and nitrates that will enter the local watercourse will always be a problem. Water supply and sewage services are already under strain in the area and the huge increased demand is likely to exacerbate both, to the detriment of current residents. Thames Water has been called out in increasing frequency to attend to sewage problems and water pressure issues. Also, there is no mention of how broadband/electricity supplies will address the increased demand from the proposal in an ecological way and to not add further strain to the local services.
415. The Council no longer intends to allocate a substantial amount of housing to Tring. Instead it will take a more considered local view of actual housing need and to prioritise the use of existing brownfield land. In 2022, Dacorum has delivered 'in excess of the target set by Government, with a record year for delivery despite the global pandemic.' Tring has already made a substantial contribution relative to its size in this delivery with 226 dwellings (including 90 affordable units) on the western edge of the town, consisting of 104 houses

across 3 schemes in Brook Street, High Street, and the Aylesbury Road, and a further 53 dwellings scheduled for Akeman Street.

416. L&Q Estates have a commercial interest in the site known as 'Land at New Mill', which is about a 15 ha site located immediately to the south-western boundary of the appeal site. They seek to ensure that access could be accommodated on Bulbourne Road for the land at New Mill to be developed at an appropriate stage in the future, alongside the appeal proposal.
417. Some letters in support of the proposal have been received that have included arguments regarding the high price of houses in Tring, the sustainability of the proposal, the provision of affordable housing, new facilities and open space and the proposed connections with Tring railway station.

## **11 Planning Obligations**

418. Following the close of the Inquiry, I have received an engrossed section 106 Agreement, dated 5 June 2023<sup>652</sup>, and a completed UU, dated 31 May 2023<sup>653</sup> for the appeal development, which include those planning obligations in the draft section 106 Agreement and draft UU discussed at the Inquiry<sup>654</sup>. I have examined the planning obligations to determine whether they meet the tests in Community Infrastructure Levy Regulations (CIL) Regulation 122. These are that the obligation is necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development.
419. The Council and HCC have provided documents to demonstrate CIL compliance for the appeal proposal's planning obligations<sup>655</sup>. I have also taken into account the discussions held at the Inquiry to satisfy myself that the obligations meet the necessary tests. I have summarised below my views as to whether the planning obligations, including potential contributions, meet the CIL tests.
420. The section 106 Agreement with the Council includes an obligation to ensure that 45% of the total number of dwellings to be provided on the site would be affordable housing units. Of these, the Appellants have agreed with the Council a proposed tenure split of 40% affordable rent, 25% social rent, 25% First Homes and 10% intermediate housing, which would be secured by the obligation. This accords with CS Policy CS18, which requires housing developments to provide a choice of homes to comprise a range of housing types, sizes and tenure, housing for those with disabilities and affordable housing in accordance with Policy CS19. CS Policy CS19 provides an overall policy objective of 35% affordable housing with a 75/25 affordable rent/intermediate housing tenure and, for 'Greenfield' sites, it usually requires 40% affordable housing. The Government now requires 25% of affordable homes to be 'First Homes'. Although the obligation would exceed policy requirements in terms of its provision, it would address an identified need.

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<sup>652</sup> Document ID85

<sup>653</sup> Document ID84

<sup>654</sup> Documents ID43, ID44, ID45, ID69, ID70, ID71 and ID72

<sup>655</sup> Documents ID46, ID46A, ID58 and ID73

421. An obligation to secure 140 dwellings (10%) to be constructed to meet the Extra Care Housing Standards and provided as 'Extra Care' housing' is in accordance with policy guidance to contribute to housing provision for older people. Furthermore, paragraph 62 of the Framework identifies the range of housing types required, which includes for older persons.
422. An obligation to secure the provision of serviced plots within the development for self-build/ custom build homes to be constructed, the total to be 5% of the dwellings, is necessary to ensure that the development would accord with Government policy that requires LPAs to make such a provision. Paragraph 62 of the Framework explains that LPAs should provide opportunities for people who wish to commission or build their own homes. The provision is based on the Appellants' Housing Needs Statement<sup>656</sup> and South West Hertfordshire Local Housing Needs Assessment (2020).
423. I am satisfied that an obligation to secure a site for National Health Service (NHS) primary or secondary care services or ancillary services, including general practitioner services, and a contribution of £1.8 million (index linked) towards NHS healthcare is necessary to address an increased need for health services from the future residents. The sum is calculated using a formula based on the number of units proposed and therefore related in scale, not considering any existing deficiencies or shortfalls. The Council has indicated that the proposed increase in residents would mainly impact on the Rothschild House Group Practice (RHG) and their branch surgery in Tring town centre which has limited ability to absorb any increase in patient population. Therefore, additional health care provision for the residents of the 1,400 dwellings would be required, as the current local GP practices do not have the capacity to absorb the resulting increase in the number of additional patients. CS Policy CS23 relates to the provision of social infrastructure within the Borough. The explanatory text of the policy outlines that this infrastructure includes health facilities. The land would be capable of accommodating a surgery for additional capacity over and above that required to meet the resulting demand from the development itself.
424. An obligation to secure the transfer of facilities, which include any or all of the allotments, the orchards, the community building, the Sports Hub, the play areas, the open space and the sports pitches, to a Management Company, is necessary to ensure that these facilities are available in the long term to meet the needs of the future occupants of the development.
425. An obligation to provide public open space and children's play areas is necessary to cater for the recreational needs of future residents of the 1,400 dwellings. The children's play areas would serve a variety of ages and would include three LEAPs, which would provide an unsupervised area equipped for children of early school age and within five minutes from their home, and one larger NEAP. This provision would ensure compliance with DLP saved Policy 76 which requires open land to be provided at a standard of 1.2 ha per 1,000 population or 5% of the development area whichever is greater, and that it should be useable, well located and purposefully designed. It also requires 'Major Developments' to contribute to other recreational needs of the

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<sup>656</sup> Document CD1.14ii Appendix 2 (Self-Build Housing Statement)

- development such as off-site provision of sports pitches or enhancements to other open spaces. Saved Policy 76 also requires usable, well located and purposefully designed play equipment. The provision would include substantially more open space than the minimum required by this policy.
426. An obligation to secure the provision of a 3G pitch, cricket square, grassed pitches, MUGA and Sports Hub building containing a sports hall, activity studio, fitness gym, changing rooms, café/bar is to address deficiencies in outdoor sports provision in the Tring area identified in the Council's Dacorum Playing Pitch Strategy (2019). The Council's Dacorum Leisure Facilities Strategy (2019) covers indoor sports facilities and identifies the need to address the issue of daytime access to sports halls in Tring. Using the Playing Pitch Calculator to estimate the demand and the associated capital cost generated by the additional population from a development, the Council has suggested that the facilities detailed would exceed the minimum policy and Sport England requirements. The obligation allows for a 'Sports Hub Extension' should a new secondary school be constructed on the site, to cater for the additional demands that would be generated by the children that would attend the new school.
427. An obligation to secure the provision of a 'Community Building' to serve as both a community hall and a pavilion for the cricket pitch is to meet the requirements of CS Policy CS23, which relates to the provision of social infrastructure within the Borough. The explanatory text indicates that this includes community and leisure facilities. The policy states that new developments will be expected to contribute towards the provision of community infrastructure to support the development. The Council has indicated that the proposed facilities are appropriate for the scale of the development.
428. An obligation to ensure that an area of land would be provided to accommodate a pre-school nursery within the development for a nursery/crèche is necessary in response to the additional demand resulting from the development. I am satisfied that the provision would be appropriate for the scale of the development and the likely need that would be generated by the residents.
429. An obligation to secure the provision of an area of land of 1.22 ha within the development for allotments, and the provision of an area of 0.34 ha within the development as newly planted orchard meets the requirements of the Framework paragraph 92, which encourages healthy lifestyles that include the provision of allotments; and paragraph 131, which promotes opportunities to provide community orchards. These facilities would promote social interaction and support healthy lifestyles for residents of the development and provide environmental benefits for the community. Based on the Council's calculated requirement of 0.84 ha of allotments, which takes a figure of about 3,360 new residents and uses the national allotment benchmarks of 0.25 ha per 1,000 residents, the provision would exceed the minimum requirement.
430. An obligation regarding apprenticeships, progression into employment, work experience and opportunities for students to attend workshops, with a local labour target of 10% and use of at least 3 local suppliers, is necessary to promote and provide employment opportunities to local people and to support the local economy. Whilst there is no specific policy support for this obligation, it does accord with paragraph 81 of the Framework.



431. An obligation to ensure that measures would be taken to secure a BNG increase of at least 30% in habitat units and 10% in hedgerow units with the payment of a BNG Monitoring Fee is necessary to ensure that the stated ecological benefits would be realised. Although there are no DP policies requiring any stated BNG, paragraph 180 (d) of the Framework encourages opportunities to improve biodiversity in and around developments, especially where this can secure measurable net gains for biodiversity or enhance public access to nature. CS Policies NP1, CS2, CS10, CS26 and CS29 seek to ensure that new development improves the environment, has regard to environmental assets, preserves and enhances green gateways and wildlife corridors and minimises impacts on biodiversity whilst incorporating positive measures to support wildlife. The BNG is substantially above the 10% requirement indicated in the Environment Act 2021 but the Appellants have calculated using the appropriate Metric that the proposal would be likely to achieve at least a 30% BNG.
432. A financial contribution of £396,270 (index linked) towards 'Canal Towpath Improvements' to upgrade the Grand Union Canal towpath between Marshcroft Lane and Station Road is necessary to promote sustainable travel such as walking and cycling. It would mitigate impacts that would be likely to accrue from the development due to an increased use of the towpaths. The sum relates to costings from the Canal and Rivers Trust<sup>657</sup>.
433. An obligation has been included to secure a financial contribution of £1,080,062 (index linked), comprising £73,532 for new or improved pitches and changing rooms at Tring Sports Centre, £205,166 for new or improved pitches and changing rooms at Tring RUFC, and £801,364 for further improvements to swimming facilities at Tring Sports Centre. These sums of money have been calculated as being necessary to contribute to new and improved facilities at these venues to cater for the additional demand that would be likely to be generated by new residents at the proposed development.
434. An obligation to secure the Chilterns Beechwoods SAC SAMM financial contribution of £913.88 per dwelling (subject to indexation) is necessary because the appeal site is within the 'Zone of Influence' of this wildlife conservation site. I am satisfied that the sum would be appropriate, as the National Trust has confirmed that the SAMM measures will cost a total of £18.2 million to be shared across all the affected local authorities with developers in Dacorum being required to contribute a calculated proportion for each new home built.
435. Obligations to secure the provision of on-site SANG and the ongoing maintenance of this SANG are necessary to mitigate the recreational impact of the development on the Chilterns Beechwoods SAC. The SANG has been designed in accordance with Natural England's guidance, which highlights that 8 ha should be provided per 1,000 residents. As such, 26.88 hectares would be required based on an average occupancy rate of 2.4 for 1,400 dwellings. The provision of at least 27 ha therefore fairly and reasonably relates in scale to the development. The appeal proposal also allows for supplementary SANG consisting of at least 10.56 ha that could potentially be used as mitigation to allow other new development in the locality.

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<sup>657</sup> Document ID36 Appendices 2a and 2b



436. An obligation has been included to secure a 'Highway Works Scheme' for off-site improvements at 3 junctions that have been identified by traffic modelling as being over capacity with the traffic that is forecast to be generated by the development; together with new pedestrian crossings and a cycle route along the A4251 between the London Road/ Cow Lane junction to Newground Road/ Beggars Lane. This is necessary to ensure that there would not be a resulting unacceptable impact on highway safety, or that the residual cumulative impacts on the road network would not be severe.
437. The obligations to secure phased contributions towards highways and transportation include £52,371 (index linked) towards improvements to restricted byway TT62 for the length of 220m between Marshcroft Farm and Parkhill Farm in the section 106 Agreement; £10,000 (index linked) towards the provision of covered cycle parking for 10 bikes at Startop's End car park; £100,000 (index linked) towards the provision of the footway and cycleway improvements from Tring to Northchurch along the A4251; £15,000 (index linked) towards the provision of improved cycle signage on Bulbourne Road and Tringford Road for a route to the Grand Union Canal and Tring reservoirs cycle paths; and £35,000 (index linked) towards the provision of town centre cycle parking in Tring town centre in the UU.
438. The above contributions, together with contributions towards a 'Bus Service Strategy' to enable a 2 bus service between Tring town centre, Tring railway station and Aldbury and the development over a 10 year period; improvements to Tring railway station; and travel plans, are necessary to encourage the use of sustainable means of transport and reduce the reliance on the private car by future residents of the development. The money would be targeted towards the infrastructure that would be relatively close to the development and therefore likely to be used by its occupants.
439. The obligations to secure educational facilities, including the land and a building for a new on-site two form entry primary school with a nursery, and land for an on-site secondary school, together with financial contributions, would be necessary as the existing facilities are insufficient to cater for the additional demand that would be generated by future occupants of the dwellings. The UU secures a sum of £314,916 for primary school hardware. It also secures a sum of £10,486,957 as a 'Secondary Education Contribution', calculated pursuant to the 'Development Mix' and 'Secondary Education Calculation Tables', to be used towards the provision of an extension to Tring Secondary School or a new secondary school or expansion secondary school or sixth form college on the site, dependant on the requirements of the Education Authority. This allows for flexibility and there is also flexibility on the level of sports facilities that would be provided, which would be greater should new secondary educational facilities be provided on the site. I am satisfied that the provision is necessary and proportionate to the scale of the development. However, the primary school allows for an expansion to three form entry and the land to be made available is greater than the minimum requirements.
440. Based on the above, I am satisfied that all the planning obligations in the section 106 Agreement and UU meet the tests in CIL Regulation 122 and paragraph 57 of the Framework, even though some of the provisions exceed the minimum requirements. In my conclusions and recommendation, I have taken

into account those planning obligations that secure the necessary provision to meet the tests.

## **12 Planning Conditions**

441. Should the SofS be minded to grant planning permission, I recommend that the conditions set out in Appendix C of this report be imposed on the planning permission. They are based on the conditions suggested by the Appellants, Council and HCC as the Education Authority and the Local Highway Authority (LHA). These conditions have been discussed at the Inquiry as described in the documents submitted<sup>658</sup>, and I have based my recommended conditions on the final agreed conditions following these discussions<sup>659</sup>. The Appellants have agreed to the pre-commencement conditions that I have suggested. I am satisfied that they accord with the tests in the PPG.
442. The access is for full planning permission. In this respect, the condition (1) regarding commencement of the access development has a reduced timescale from the standard 3 years to ensure that it is carried out expediently. I have also included the provision of this time scale being increased to one year after the signing of a section 278 Agreement to allow for any delays outside the control of the developer, including any High Court challenge to the decision. The condition (2) referring to the plans submitted is necessary in the interests of certainty and to ensure that the access is safe, depending on what speed limit is used for Station Road. It allows for a design to accommodate either a 40mph speed limit or a 50mph speed limit, dependent upon the LHA's ultimate decision.
443. The condition (3) to secure a Construction Environmental Management Plan (CEMP) and Site Waste Management Plan (SWMP) is necessary to protect the environment and in the interests of sustainability and safety. The condition (4) to ensure the protection of retained trees is necessary to protect the ecology and visual amenity of the area.
444. In terms of the outline permission, conditions regarding reserved matters approval and the timescales (5, 6, 7), together with a condition referring to submitted plans (8) are necessary in the interests of expediency and certainty. The condition (6) regarding the first submission of the reserved matters has a reduced timescale from the standard time limits to ensure that the development is commenced expeditiously. However, I have also allowed it to tie in with the commencement of the access development to allow for any delays outside the control of the developer, rather than specifically state within 12 months of the conclusion of any legal challenge to the decision, as requested by the Appellants.
445. A condition (9) requiring details to be submitted for approval at reserved matters and to be implemented is necessary to ensure the provision of a high quality development. A condition (10) to secure an access link to an adjacent site for development, known as New Mill, is in the interests of design quality and planning. A condition (11) regarding the implementation of an approved Phasing Strategy is necessary to ensure the provision of supporting infrastructure ahead

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<sup>658</sup> Documents ID40, ID50 and ID74

<sup>659</sup> Document ID81

- of each phase of development in the interests of the free and safe flow of vehicles on the local highway network during construction.
446. A condition (12) regarding Quality/ Design Review Panels for each phase of the development is necessary to secure a good quality design. A condition (13) regarding landscaping is necessary in the interests of ecology and visual amenity. It includes a provision to override the Design Code with regard to details to be provided on a strategic structural landscaping plan to ensure that sufficient structural landscaping can be accommodated within the built development to protect the character and appearance of the area. A condition (14) requiring an Energy and Sustainability Strategy is necessary to protect the environment and ensure that the development is sustainable.
447. A condition (15) to secure the provision of fire hydrants is in the interests of health and safety. A condition (16) to ensure compliance with an approved Landscape Concept Plan (LCP) for the village centre is necessary to ensure that the development provides high quality civic space, good placemaking and a community heart. A condition (17) to ensure that the development takes account of the Canal and Waterway infrastructure during construction and operation is to protect the infrastructure, avoid unacceptable risks from flood risk and land instability and protect the operation and structural integrity of the Grand Union Canal.
448. Conditions regarding contamination (18 and 35) are necessary to protect the environment and for health and safety reasons. A condition to ensure compliance with a Site Waste Management Plan (SWMP) and a Construction Environmental Management Plan (CEMP) (19) is necessary in the interests of sustainability and public amenity. A condition (20) requiring compliance with a Construction Traffic Management Plan (CTMP) is necessary to protect air quality and highway safety. A condition (21) to ensure the implementation of a Traffic Regulation Order over a section of Marshcroft Lane is necessary for health and safety reasons.
449. Conditions regarding archaeological investigation (22 and 32) are necessary for the purposes of historical recording, given the findings of the studies in the ES. The Surface Water Drainage and Flood Risk conditions (23, 24 and 34) are necessary to ensure that the new development does not increase the risk of flooding to the site or to future and existing developments. A condition to control external lighting (25) is necessary to protect the environment and natural wildlife, including protected species.
450. A condition (26) requiring the implementation of a Public Realm, Landscape Management and Maintenance Scheme is necessary for ecological and visual amenity reasons. A condition (27) to protect visibility splays and a condition (28) to ensure that the streets are satisfactorily managed and maintained are in the interests of highway and pedestrian safety. A condition (29) to secure public transport infrastructure is necessary to promote sustainable transport options.
451. I am satisfied that conditions to require the provision of electric car charging points (30 and 31) are necessary in the interests of sustainability and climate change. A condition (33) limiting the use of render is to safeguard the character and appearance of the area.

### **13 Inspector's Conclusions**

*The numbers in square brackets [ ] refer back to earlier paragraph numbers which are relevant to my conclusions.*

452. Following the CMC, I submitted a list of what I considered to be the main considerations in the appeal. These were:

- the five year HLS situation;
- the effect of the proposal on the openness of the Green Belt and the purposes of including land within the Green Belt;
- the effect of the proposal on the character and appearance of the surrounding area and the adjacent AONB;
- the effect of the proposal on the provision of agricultural land in the Borough;
- whether the harm by reason of inappropriateness and any other harm is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the development.
- whether concerns about management arrangements for the proposed SANG, financial sums for SAMM to mitigate recreational pressure on the Chilterns Beechwoods SAC, the provision for necessary social infrastructure including education, health, sports and community facilities, the provision of 45% of the units to be affordable, the provision of travel plan measures and bus service improvements, the provision of off-site highway, footpath and cycle improvements can be overcome by section 106 obligations and/or planning conditions.
- the impact of offsite flood risk; and
- whether the proposed surface water attenuation and infiltration facilities would be satisfactory.

453. The above considerations were based on the reasons for refusal. However, the Council has since indicated in the SoCG that its reasons for refusal Nos 2 to 9 have been resolved, subject to agreeing appropriate section 106 obligations and planning conditions. These have been agreed at the Inquiry and I have summarised the reasons in the sections on Planning Obligations and Planning Conditions. I have taken account of them in reaching my conclusions. In addition, I have assessed the impact of the proposal on the setting of heritage assets, as this has been identified as a potential harm; and whether the proposal would have an unacceptable effect on the integrity of Protected Wildlife Sites to assist the SofS in making the Appropriate Assessment as the 'Competent Authority' under the Habitats Regulations. I have also examined other matters raised by objectors.

#### ***Housing Land Supply (HLS)***

454. For calculations of HLS, both the Council and the Appellants have agreed the housing requirement at the base date of 1 April 2022 of 1,018 dpa. They have also agreed that, at the base date, the minimum five year housing requirement

was 6,458 dpa, which includes a shortfall of 1,060 dwellings and a 5% buffer of 307 dwellings. This equates to an annual requirement of 1,292 dpa. **[149, 252]**

455. In terms of the supply of housing, the Framework defines a *'deliverable' site as being "...available now, offer a suitable location for development now, and be achievable with a realistic prospect that housing will be delivered on the site within five years."* For those sites with full planning permission, paragraph a) indicates that to be excluded it is necessary for there to be clear evidence that the housing would not be delivered in the 5-year period. In paragraph b) of the definition, it covers, amongst other things, sites with outline planning permission or that have been allocated in a DP. It states that such sites *"...should only be considered deliverable where there is clear evidence that housing completions will begin on site within five years."*
456. The Appellants have calculated that the Council can only demonstrate a 1.77 year HLS. Following discussions at the Inquiry, the Council issued a revised five year HLS of 2.19 years, having conceded that the 200 dwellings allowed for at the West Herts College site, the 40 dwellings at the Molyneux Avenue site and the 25 dwellings at the Hemel Hempstead Station Gateway site would not meet the Category b) site criteria of being deliverable within the 5 year period. Having heard the evidence at the Inquiry, I agree that these sites do not meet the necessary criteria to be considered deliverable in the five year period and I have therefore not included them in the HLS. **[149, 156, 253]**
457. Of those sites that remain in dispute, Spencer's Park, Hemel Hempstead is a Category a) site, with planning permission. The Council has allowed for 252 dwellings and the Appellants 132 dwellings on this site. The Council's position is based on a revised trajectory given by Homes England in an email of 23 January 2023. This indicates that the development of 276 units, which has been granted reserved matters approval on 13 July 2021, is expected to commence on site two years earlier than had previously been expected in the HLS. There does not appear to me to be any substantive evidence to demonstrate that this would not be achievable, given that the Council's Strategic SANG at Bunkers Park would be available if necessary. **[150, 151, 256, 257]**
458. The other remaining sites in dispute are Category b) sites. Marchmont Farm, where the difference between the parties is 198 units, has not been granted planning permission but the Council has resolved to grant an outline application subject to a section 106 agreement. The Council supports its position by reference to an email from Homes England which gives an expected trajectory to tie in with its contractual obligation for enabling works to be put in place by 31 March 2025. However, given that the section 106 obligations include a requirement for the delivery of on-site SANG, the Council has not shown that there is a developer on board or that reserved matters are being dealt with, I am not satisfied that Homes England's trajectory is sufficient evidence to demonstrate that housing completions will begin on site within five years. **[150, 152, 258]**
459. The National Grid site, London Road, where the difference between the parties is 75 units, is the subject of an application for full planning permission for 425 homes. However, the Council has not provided sufficient evidence to demonstrate that the potential problems with the provision of SANG and remediation works can be resolved to enable the grant of planning permission.



Therefore, although the Council has supported its inclusion of 75 units in the five year HLS by a consultant agreeing to its trajectory, there is no clear evidence that this number of dwellings would be deliverable in the five years. **[150, 154, 259]**

460. The Miswell Lane site is allocated in the DP for 24 units, but the Council has included 39 units in its five year HLS. This is based on a detailed planning application that has been submitted for a 71 bedroom care home which has not yet been determined. The Council has included the delivery of the whole care home, which it has suggested equates to 39 residential units in the HLS, based on one residential unit being equivalent to 1.83 bedrooms, and recent amendments to the scheme. However, I have not been provided with sufficient supporting evidence to demonstrate that the application will be approved or that the site will be developed within the next five years to include it in the five year HLS. **[150, 153, 260]**
461. The Appellants have disputed the 100 dwellings that the Council has included on major windfall sites. In this regard, paragraph 71 of the Framework states that, where an allowance is to be made for windfall sites as part of anticipated supply, there should be compelling evidence that they will provide a reliable source of supply and that any allowance should be realistic having regard to the Strategic Housing Land Availability Assessment, historic windfall delivery rates and expected future trends. **[150, 262]**
462. The Council has indicated that it has relied upon the windfall allowance only in year 5 of the five year HLS assessment period. Taking account of the evidence provided by the Council, including historic windfall deliveries and its Strategic SANG, I find that this is a realistic level of windfall, and that by only including it in year 5, there is some allowance for delays due to issues such as the effect on the Chilterns Beechwoods SAC. I have therefore included the full amount of the Council's windfall allowance of 100 dwellings on major sites and 67 on minor sites. **[150, 155, 262, 263]**
463. Concluding on the five year HLS position, for the reasons given above, I find that the Council has only demonstrated a deliverable supply of 2,516 dwellings. This is because I am not satisfied that the Council has provided clear evidence that housing completions on the Category b) sites on land at Marchmont Farm with 198 dwellings, the National Grid Site, London Road with 75 dwellings and Miswell Lane with 39 dwellings would contribute towards the five year HLS. On this basis, the Council is only able to demonstrate 1.95 years of deliverable housing. The Council has accepted that, even on its own figures, the HLS deficit is significant and unacceptable. In these circumstances, the policies which are most important for determining the application are considered to be out-of-date, in accordance with footnote 8 to paragraph 11(d) of the Framework. **[156, 236, 264]**

### ***Integrity of Protected Wildlife Sites***

464. The site lies within the zone of influence of Chilterns Beechwoods SAC, which is an internationally recognised designation for sites whose habitats and species have significant ecological importance. It comprises nine separate sites, of which Ashridge Commons and Woods SSSI is about 2km to the east of the appeal site; and Tring Woodlands SSSI lies about 2.3km south-west of the site. Under



Regulation 63 of the Conservation of Habitats and Species Regulations 2017 (as amended) the SofS is required as the 'Competent Authority' to undertake an 'Appropriate Assessment' of the proposal on the basis of its likely significant effects on a 'Protected Site'. Consequently, my conclusions on this matter represent my assessment of the evidence presented to me but do not represent an 'Appropriate Assessment'. **[8]**

465. The Council undertook an Appropriate Assessment as the Competent Authority, and consulted Natural England, when determining the planning application. At that time, the Council concluded that the proposal would be contrary to Regulation 63 of the Conservation of Habitats and Species Regulations 2017.
466. The reason given for the Council's conclusion was that further information was required to rule out whether, as a result of the development (alone or in combination), it would not have a likely significant effect in terms of recreational pressure on Chilterns Beechwoods SAC. The Appellants have demonstrated that the SANG design has been brought forward in consultation with Natural England, and its initial concerns have been addressed, with Natural England withdrawing its objection, having been satisfied that the Land Trust would be a suitable party to assume responsibility for future SANG management. Hertfordshire Ecology has been shown to be similarly satisfied. Neither of these parties objected to the application on ecological grounds other than the effects on the SAC.
467. Since the refusal of the application, the Council has adopted a SAMM strategy to account for in-combination effects on the SAC, and the Appellants have committed to paying the requisite tariff, which is secured under a section 106 planning obligation. Both Natural England and Hertfordshire Ecology are satisfied with this commitment. Taking account of this, I find that the Appellants have addressed the reasons for the Council finding against the proposal with respect to the Habitat Regulations. Neither the Council nor the Rule 6 Party have contested this matter and there is no expert evidence to show that the proposal would have a significant effect on any of the nearby designated sites. Therefore, in accordance with paragraph 182 of the Framework, I conclude that the proposal would not adversely affect the integrity of the designated habitats site and I consider it to be acceptable under the tests of the Habitats Regulations. **[35, 121-124, 132-134, 207-208, 319-320, 356, 406, 434]**

### ***Green Belt***

468. The appeal site is within the Green Belt. Although the evidence base published by the Council about the Emerging DLP has examined boundary changes to the Green Belt to remove the site from it, the grant of planning permission for the proposed development would not alter the boundary and it would remain in the Green Belt until such time as the DP process changes it. As such, I have dealt with the whole proposal as representing inappropriate development in the Green Belt, which has been accepted by all the parties. In this respect, Section 13 of the Framework provides the approach to be taken. In taking this approach, I have attached weight to the harm that I have identified, examined and attached weight to those considerations in favour of the proposal and carried out a balancing exercise to establish whether the harm is clearly outweighed by other considerations.

469. In terms of footnote 7 of the Framework, it gives examples of specific policies that indicate development should be restricted, including the Green Belt. In the case of harm to the Green Belt, if the balancing exercise in paragraph 148 of the Framework to determine whether or not VSC exist to justify inappropriate development in the Green Belt is not favourable to the proposal, the presumption in favour of sustainable development in paragraph 11 of the Framework would not apply. Conversely, if the balancing exercise is favourable to the proposal, the presumption would apply, and it would not be necessary to apply the tilted balance in paragraph 11(d)(ii). **[32, 229]**
470. The differences between the Council and the Appellants are regarding whether the other considerations carry sufficient weight to amount to VSC. Even if this is the case, applications for planning permission must be determined in accordance with the DP unless material considerations indicate otherwise in accordance with S38(6) of the Planning and Compulsory Purchase Act 2004. The Framework is only one such material consideration and, even where paragraphs 147 to 151 apply, it remains necessary to conclude against the DP as a whole in accordance with S38(6).

***Openness of the Green Belt and the purposes of including land within the Green Belt***

471. The Framework in paragraph 137 states that the Government attaches great importance to Green Belts and the fundamental aim is to prevent urban sprawl by keeping land permanently open. The Appellants have accepted that there would be harm to the openness of the Green Belt resulting from the proposed development. As to the degree of this harm, the proposed built development would occupy about 40% of the 121 ha appeal site with potentially up to 1,400 homes and other buildings that include a community building, a sports hub, a primary school, a pre-school facility, possibly a secondary school or sixth form facility and a SANG cafe. In addition, there would be the infrastructure associated with these buildings, such as roads, lighting and parking, and activity associated with the development. **[24, 60-61, 269, 278, 349, 352]**
472. Whilst the Appellants have recognised that the built part of the development would erode the spatial openness, they seem to me to reduce the harm by suggesting that the eastern half and some of the central part of the site would be mainly free from development. This would still leave a significant area of Green Belt with built development on it that would permanently lose its openness. They have also suggested that the areas of the site that would be free from development, together with the vegetation on and around the site, would be reasons to significantly reduce the effect on visual openness. However, the appeal site is currently free from any built or other development which would be regarded as inappropriate in the Green Belt, making it spatially completely open. Also, at my site visit, I observed that there are open views into the site from PRowS 057 and 058 on its eastern boundary, some adjoining residential gardens, and the Ridgeway National Trail in the Chilterns AONB, as well as partial and glimpsed views into the site from other adjacent public areas. As such, I find that the site is both spatially and visually open. The proposal would, therefore, result in significant harm to its openness. **[61, 62, 269, 270, 278-281]**
473. With regard to the purposes of including land within the Green Belt given in paragraph 138 of the Framework, both the Appellants and Council acknowledge

that the proposal would be contrary to purpose c) in that the area of the Green Belt taken by the appeal site acts to safeguard the countryside from encroachment. I also find that the site is included in the Green Belt to check the unrestricted sprawl of large built-up areas, as defined in purpose a), which the Appellants have accepted to a limited degree. Whilst I accept that the appeal site represents a relatively small part of the Green Belt that has been designated to prevent unrestricted sprawl, it is very much part of the open countryside adjacent to Tring and its loss to development would be a significant encroachment into the countryside. As such, I do not agree with the Appellants that it would result in moderate harm to the purposes. I find that the proposal would result in significant harm to the above-mentioned purposes. **[63, 274-278]**

474. For the reasons given above, I conclude on this main issue that the proposal would have a significant adverse effect on the openness of the Green Belt and the purposes of including land within the Green Belt. In accordance with national policy in the Framework, which is referred to in CS Policy CS5, inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in VSC. CS Policy CS5 is the only DP Policy that the remaining reason for refusal states that the development would contravene, and I have given it moderate weight due to it referring to the application of national Green Belt policy. **[34-38, 239]**

***Character and Appearance of the surrounding area and the adjacent AONB***

475. The Council has not given a reason for refusal based on the effect of the proposal on character and appearance or its effect on the adjacent AONB. However, the Rule 6 Party and other objectors have suggested this should have been a reason for refusal and all the parties accept that there would be an adverse effect. **[66, 282, 346, 386]**
476. I have based my assessment of the landscape and visual effects of the proposal on what I observed at my site visits, together with the assessments given by the Council's expert and the Appellants' expert, which includes the LVIA. The Rule 6 Party did not provide any expert analysis but only commented on the assessments carried out by the Appellants and Council.
477. I accept that the appeal site does not form part of a valued landscape for the purposes of paragraph 174a of the Framework, as I do not consider that the views of the CCB are backed by current national policy and guidance, and there are no protected views covering it or the wider borough. However, I consider that it forms part of the open countryside adjacent to the settlement of Tring. It is mainly in an agricultural land use. It is surrounded on three sides by the Chilterns AONB, which is adjacent to the site boundary. The site forms part of the AONB's setting. However, no substantive evidence has been provided to show that Natural England has considered extending the boundary to include the site within the AONB, as suggested by the CCB, particularly as Natural England did not mention this when it withdrew its objection to the proposal. **[67-68, 72, 285, 346, 384-385]**
478. In terms of the landscape effects, the site is within LCA 114: Tring Gap Foothills, which I find has a high landscape value, and exhibits most of the key characteristics of this LCA. There are views from the site to the Chilterns

escarpment, it is mainly open farmland, and it is bounded by the Grand Union Canal and a garden centre. It forms part of the setting of Tring but is largely screened from the adjacent built development within that settlement by relatively deep, well planted gardens and mature hedgerows and trees adjacent to, and along, the settlement boundary. It does not contain the West Coast Mainline Railway, the A41 or the Grand Union Canal, none of which are visible from the site. As such, I consider that any urban influences on the site are limited. **[70-71, 286-292, 340]**

479. The Council's expert has summarised the respective weight that has been given to the different landscapes by the Council and Appellants, with reference to the LVIA, in a Table<sup>660</sup>. In this respect the LVIA has not assessed the effect on the Tring Scarp Slopes LCA 111 and Aldbury Scarp Slopes LCA 116, which cover parts of the escarpments within the AONB. I consider that the proposal would have an adverse effect on panoramic views from these LCAs, which is one of their characteristics. However, this would not be significant by year 15 due to the planting within the site that would have been established at that time. **[293]**
480. I agree with the Council's assessment of a moderate adverse residual effect with regard to the agricultural fields, in that they contribute to the character and would be permanently lost, regardless of how much landscape planting would be retained or implemented. The Tring Gap Foothills LCA, of which the appeal site covers about 10%, would lose its open character over about half of the site, as well as its use as farmland, and views of the Chilterns escarpment would be lost from PRoWs 057 and 058. I agree with the Council's assessment that the residual significance of effect would be moderate adverse. **[73, 75, 94-96, 296, 297, 341]**
481. Generally, the Council's expert and the Appellants' expert have agreed on the severity of the effect of the proposal on the landscape in terms of the hedgerows and canopy trees, most of which would be retained and supplemented by new planting; the waterbodies, which would be supplemented; NCA 110 Chilterns; and the overall character of the site and its immediate surroundings, which the Council has assessed as being minor adverse in year 15. Based on these assessments and my own observations on site, I accept that the overall residual effect of the proposal on the landscape would be minor adverse, once the mitigation has been established in the SANG, hedgerows and along the proposed and existing streets. **[74, 297, 337-338]**
482. With regard to the visual effects, all the viewpoints in the AONB that have been identified by the Appellants and Council have a high sensitivity, and the zone of theoretical visibility covers some of the most sensitive landscape and visual receptors in the area. The Council and the Appellants' assessments of the visual effects on different receptors has been summarised in a Table<sup>661</sup>. I have based my findings on what I observed on site together with these assessments. Whilst the views of built development would be softened by year 15, once the mitigation planting has started to establish, I consider that it would still be clearly visible from three of the receptors. The first would be from Station Road, where

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<sup>660</sup> Document DBC3a Appendix 2

<sup>661</sup> Document DBC3a Appendix 2

the proposed access would be located and new housing would be visible to provide surveillance for pedestrians using it as a route to the Station. The second would be from the southern end of PRow 057, due to the built development extending further east towards the south of the site. Thirdly, built development would be visible from parts of the Ridgeway National Trail, and in particular from Pitstone Hill where the site would be most visible due to the elevation of this receptor and its relative orientation to the site. **[76, 81, 83, 99, 104-106, 294, 298, 299, 307-308, 343-344, 371]**

483. At the Inquiry, the Council's expert witness suggested that one of the main concerns about the visual and landscape effects of the proposal was regarding the proposed structural planting within the built development. The Appellants and Council have now agreed on amendments to the landscaping planning condition to try to address this concern. Condition 13 overrides parts of the submitted Design Code to allow additional space to accommodate planting. Whilst this would assist in mitigating the harm to views from distant viewpoints, such as from the Ridgeway National Trail and most of PRow 057 and 058, especially where the built development would be separated from these views by the SANG, playing fields and hedge lines, it would not have a significant effect on views from locations that are closer to the proposed built development. **[66, 85, 295, 300-302]**
484. The residual views after the proposed mitigation have matured that would be most affected would include Station Road, where its rural appearance would be changed by the views of buildings along most of its length, as well as the proposed access, which would be more intrusive for the 50mph speed limit currently required by HCC due to the greater widths involved; as well as from Marshcroft Lane, which would be crossed by the proposed spine road. There would also be harm to views over the open countryside that I observed are currently available from rear gardens that abut the appeal site. However, as many of these gardens are relatively deep, the loss of the openness would not be significant, given that mitigation in the form of new planting would be able to be provided along the boundaries. At my site visit I observed that Bulbourne Road already has an access from it to the garden centre, as well as more visible built development than Station Road. Therefore, I consider that the proposed development adjacent to it, which would be significantly less and set back further from the road than along Station Road, and the proposed new access would not result in any significant harm to its appearance. **[7, 68, 84, 270, 280-281, 337, 347, 356, 446]**
485. Based on the above, I am satisfied that, although the site would be clearly visible from sensitive locations on the Ridgeway, which would be at a significant distance, Station Road, Marshcroft Lane and from PRow 057 and 058, the extent of planting that would be accommodated within the SANG and streets, combined with that which would be retained, would ensure that the residual visual effect of the proposal would be moderate adverse.
486. Turning to the effect of the proposal on the setting of the Chilterns AONB, any harm must be given great weight pursuant to paragraph 176 of the Framework. The Appellants have indicated that the proposal has had regard, where applicable, to the objectives of the Chilterns AONB Management Plan in terms of the BNG, improvements to pedestrian and cycle permeability, new areas for



recreation and increases in vegetation, which would soften and integrate the built form within the landscape. It has also reflected the CCB Position Statement on Setting, which does not preclude new development in the setting of the AONB, by careful design and landscaping to provide mitigation, even though it has failed to avoid any impact on the setting of the AONB, which is CCB's first preference. **[90-91, 101, 345, 384-386, 397, 405]**

**487.** I observed that views of the site from the AONB are available from the elevated scarp to the north-east from Pitstone Hill to Tring Park and Icknield Way, as well as some channelled views at certain gaps, including Aldbury Nowers. Although built development within Tring is visible in the distance from many of the views, the appeal proposal would extend this built development, much of which would be closer to these sensitive receptors. These receptors would experience adverse effects and there would also be harm due to a loss of panoramic views of the AONB from PRoWs 057 and 058 resulting from the tree planting and buildings. Much of this harm would be mitigated by the SANG, the retention of existing planting and the proposed structural planting within the built development, especially in later years when it matures. This would act to break up the views of the buildings, particularly as they would be seen from a distance of about 1.5km against the backdrop of the existing built development in Tring. However, I find that, even with the existing and proposed planting, there would be residual adverse effects on the setting of the AONB, to which great weight should be given. **[89, 92, 99-103, 303-306, 342, 347, 356, 387-391]**

**488.** For the reasons given above, I conclude on this main issue that the proposal would have an adverse effect on the character and appearance of the surrounding area and the setting of the AONB. It would fail to accord with CS Policy CS1, as the proposal would result in harm to the existing character of Tring's adjoining countryside; and CS Policy CS25, as it would fail to conserve or improve the prevailing landscape quality, character and condition. I have given these policies moderate weight due to their broad consistency with Framework policies. It would also fail to accord with saved DLP Policy 97, to which I have given moderate weight; and CS Policy CS24, which I have given full weight, as the proposal would fail to conserve the special qualities of the Chilterns AONB. **[107, 238, 243-244]**

### ***Agricultural Land***

**489.** The Appellants have stated that the proposal would use 116.7 ha of agricultural land of which about 59 ha (49%) is BMV land. The ES's findings regarding the impact of the loss of agricultural land, which was informed by surveys carried out in 2013 and 2017, is that the residual effect of the proposed development on agricultural land remains major adverse, which is significant. This takes account the proposed mitigation. The Appellants' expert has not assessed the weight to be given to this loss but has indicated that the agricultural land quality is mostly limited by soil wetness and/or workability and the farmer has described the Station Road land to the south and the Grove Farm land to the north as some of the poorest performing land farmed within the overall holding. **[118-120, 314]**

**490.** The Council has not given any expert evidence to counter that given by the Appellants' expert at the Inquiry. The Framework indicates in paragraph 174 b) that planning decisions should recognise, amongst other things, the economic



and other benefits of the BMV agricultural land. In this respect, the Council has indicated in the Committee Report that the loss of the site to agricultural use would not warrant a reason for refusal. However, given the extent of agricultural land that would be lost, including a relatively high percentage of BMV agricultural land, and the findings of the ES, I consider that this harm carries significant weight. The proposal would also fail to accord with DLP Policy 108, as the Appellants have not demonstrated that there is no alternative land of lower quality which could reasonably be used, albeit that limited weight can be given to this Policy due to it not being up-to-date and its inconsistencies with the Framework. **[245, 314, 352, 356, 358, 407]**

### ***Heritage***

491. The Planning (Listed Building and Conservation Areas Act 1990, sections 16 and 66 require LPAs to have special regard to the desirability of preserving historic buildings and their settings. Paragraph 199 of the Framework indicates that, irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance, great weight should be given to the asset's conservation, when considering the impact of a proposed development on the significance of a designated heritage asset.
492. There are no nationally designated buildings or CAs within the site boundary. The designated heritage assets that would be most affected by the proposal are the buildings associated with Pendley Manor: the Lodge and the Stables, both of which are Grade II, fronting Station Road. A section of the appeal site forms a part of these assets' setting. I accept the Appellants' expert's findings on these assets that the southern margin of the site provides a lower, secondary level of contribution to the asset's significance as a largely screened, small element of the asset's rural context. I agree with the Council and Appellants that the proposal would not have any significant effect on the recently extended Ashridge Park, as it would be too far away to affect the views. **[136-137, 139, 410]**
493. Three non-designated heritage assets have been identified as being affected in that parts of the site are within their settings. These are Ivy Cottage on Station Road, to which the south-western corner of the site provides a secondary level of contribution to its significance; the Grand Union Canal, to which the site makes a minor positive contribution to its local, low significance; and Pendley Park and Gardens, to which the southern fields of the site provide only a negligible level of contribution to its significance. The Built Heritage Statement and ES have assessed the level of harm to the significance of these heritage assets. I agree with the Appellants' assessment that the development would cause minimal harm to the contribution setting makes to the high significance of the two identified designated heritage assets and the lower significance of the three non-designated heritage assets. This would amount to less than substantial harm to the contribution setting makes to the significance of these heritage assets. **[136-137]**
494. I am satisfied that the less than substantial harm to these heritage assets would be outweighed by the public benefits of the proposal, in accordance with paragraph 202 of the Framework. The proposal would accord with CS Policy CS27 as it would protect the integrity, setting and distinctiveness of designated and undesignated heritage assets. However, the less than substantial harm that I have found that the proposal would cause to the significance of the two

designated heritage assets must be given great weight in accordance with the Framework. **[135, 138-139, 315, 352]**

### **Highways**

495. The Council has accepted that its reasons for refusal 6 and 7 regarding highways issues have been addressed. In terms of the outstanding matter of the speed limit on Station Road, which would affect the design of the proposed access, the Appellants have promoted a 40mph design speed but HCC as the LHA has only supported lowering the speed limit to 50mph. At the Inquiry, HCC agreed to re-assess the speed limit but at the present time the appropriate design speed would be 50mph, as the Appellants do not have any powers to lower it below that which would be imposed by the LHA. The speed limit would operate on a relatively short length of Station Road between two areas with 30mph speed limits, and I consider that the proposed signalised junction arrangement would be likely to reduce the average speed to below 40mph. Based on this, together with the evidence provided to the Inquiry, it seems to me that HCC may well conclude that a 40mph speed limit would be more appropriate than 50mph, and would be capable of being 'self-enforcing', when it re-assesses the speed limit. **[108-111, 309-310, 393]**
496. The Appellants have demonstrated by a comprehensive assessment of the highway impact to the satisfaction of the LHA that, with agreed improvements to the highway, the residual impact on the road network would not be severe, as required by paragraph 111 of the Framework. I am satisfied that the TA has adequately assessed the highway impact of the proposed development and that the measures agreed with the LHA would be sufficient mitigation, in combination with improvements to the bus services and cycling and walking facilities, to reduce the reliance on the car. The methodology used to assess the existing and future traffic flows, including the TRICS data, and not basing the assessment of junction performance on the COMET modelling, have been agreed with the LHA. I have been provided with insufficient substantive evidence to show that methodologies used by the Appellants to assess junction performance and trip generation are not appropriate, given that they have been agreed with the LHA. The assessments have shown that, with the proposed works, the impact on major junctions would not be significant. **[110-115, 374-380, 411]**
497. The Council and HCC have welcomed the proposed bus service between Tring town centre and Aldbury, via the proposed development and Tring Station. Although it would result in a longer route and journey times than the existing route between Tring town centre and the Station, it would be more frequent and the proposed funding and likely increase in numbers of residents that it would serve should make it a benefit in encouraging greater use of public transport. Whilst there would potentially be an increase in the need to use car parks in the town centre, Tesco's and at the railway station, the proposal would seek to reduce the need to use the car by the measures that it would implement in promoting the use of more sustainable means of transport. **[116-117, 311, 358, 360, 375, 393, 401]**
498. Having taken account of the evidence provided at the Inquiry and the written submissions from objectors, I conclude on this issue that the proposal would not have an unacceptable impact on highway safety and its residual cumulative highway impacts on the road network would not be severe. It would therefore

accord with paragraph 111 of the Framework. I am satisfied that, with the measures that would be secured by planning conditions and obligations, it would also make adequate provision for alternative non-car methods of travel, would enhance PROWs and mitigate significant impacts from the development on the transport network. In this respect it would accord with CS Policy CS8 and DLP Policy 106.

### ***Flooding and Drainage***

499. The Council has accepted that its reasons for refusal 8 and 9 on flooding and drainage matters have been addressed by the Appellants supplying additional information following the application. This has included additional soakaway testing and hydraulic modelling, as well as direct rainfall modelling and additional sensitivity testing. The results show that there would be sufficient storage within the SANG to manage forecast extreme flows to prevent any impact on existing and proposed properties. Although local residents have provided details of 'flooding' in the area, I consider that it does not represent a flood risk. The evidence indicates that it is related to poor surface water drainage in clay soils. The proposed SuDS, which would include infiltration basins, should improve the drainage of the land and address the existing flooding due to poor surface water drainage. Given that the site is within Flood Zone 1, which is an area of low risk, and that the Environment Agency has not objected, and the Council has withdrawn its reasons for refusal on this issue, I find that the proposal would not have an adverse effect on the risk from flooding or drainage and would accord with CS Policy CS31. **[140-146, 356, 357, 369, 370, 414]**

### ***Other Considerations***

500. The Council has provided a Table<sup>662</sup> that indicates the weight that it and the Appellants have attached to the other considerations put forward by the Appellants to demonstrate VSC. I have used my own judgment in deciding the weight to attach to each of the considerations in reaching my decision as to whether they amount to the VSC necessary to justify the development in the Green Belt. I have based my judgment on the evidence provided, with the Appellants providing expert evidence at the Inquiry to support the claimed benefits, much of which was unopposed by the Council. **[147]**

501. The section 106 obligations in the Agreement and UU secure benefits in terms of open space, allotments, orchards, BNG, land for potential use as supplementary SANG, and additional space for schools above those provisions that would be required to meet the CIL Regulation 122 tests. The areas of land to be used for these purposes are identified on the Parameter plans, which are included in a planning condition. Therefore, these areas of land would be protected for the stated purposes. As such, I am satisfied that some of those benefits associated with the provision of this land can be taken into account as other considerations. **[425, 429, 431, 435, 439]**

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<sup>662</sup> Document ID60 Table 4

### *Market Housing*

502. The Government has committed itself to delivering 300,000 new homes a year and national policy reflected in the Framework paragraph 60 is to significantly boost the supply of homes. I have found that the Council has only been able to demonstrate about a 2 year HLS which is only a bit less than the 2.19 years HLS that it has accepted as being deliverable within the next five years. This indicates that there is an acute shortage of new homes in the Borough, which the Council has accepted. Out of the maximum of 1,400 dwellings proposed, up to 560 would be market housing that would have a mix that would be agreed with the Council to meet the identified housing need. I acknowledge that past Government Written Ministerial Statements have suggested that housing need should not be used as a reason for allowing new development in the Green Belt. However, addressing this need is not the only benefit of the proposal that has been suggested by the Appellants. Although the Council has questioned whether the proposal would be capable of contributing to the five year supply of housing, the Appellants, who include a national house builder, have demonstrated that there would be a reasonable prospect that a significant number of new homes would be delivered on the site within five years of the grant of planning permission. **[17, 24.1, 148, 149, 158, 219-220, 261, 264]**

503. Both the Council and Appellants have attached very substantial weight to this benefit. I find that the proposal would result in a significant boost to new housing in the Borough which I am satisfied would be capable of contributing to the five year HLS that the Council has been unable to demonstrate that it can meet. As such, I have attached substantial weight to the provision of up to 560 new market homes. **[148, 268]**

### *Affordable Housing*

504. The proposal would provide 45% of the maximum of 1,400 dwellings on the site as affordable housing, which would be split between 25% social rented, 25% First Homes, 40% affordable rented and 10% intermediate affordable homes. It would provide a greater percentage of affordable homes than required by CS Policies CS18 and CS19, to which I have attached moderate weight even though they are partly inconsistent with the Framework. **[24.1, 39, 240, 420]**

505. The Appellants have referred to an extensive evidence base to demonstrate the acute need for affordable homes in the Country as a whole and in the Borough in particular, which has not been met. Although the Rule 6 Party has questioned the deliverability of the proposed affordable homes, based on there being no accompanying viability assessment, there is no requirement to provide such an assessment where there is a section 106 agreement in place to secure the required number. With this agreement in place, I am satisfied that the proposal would deliver the proposed number of affordable homes and that these would help to address the identified significant deficiency in affordable homes in the Borough and in Tring. Both the Appellants and Council have afforded this benefit very substantial weight. I accord it substantial weight, which is the highest weight that I have used in my assessment of the planning balance. **[46, 51, 160-164, 220, 251, 265, 316, 334-335]**

*Self and Custom Build Housing*

506. The Council has acknowledged that very substantial weight should be given to the provision of 5% self and custom build plots, which is the same weight given by the Appellants. I have based the weight that I attach to this provision on the demand identified using the Council's 2020 DAF, even though the Appellants have identified that this may be an under-estimate of the actual need. I have also taken account of the importance that the Government has placed on this sector of the housing market, as demonstrated by the documents referred to by the Appellants. The proposed provision is necessary to ensure compliance with section 2A of the Self-build and Custom Housebuilding Act 2015 and paragraph 62 of the Framework. To meet this demand, the Appellants have agreed to a planning condition to make the proposed 70 plots available in the early phases of the development. Accordingly, I have given the proposed provision of self and custom build plots substantial weight. **[166-175, 266, 422]**

*Extra Care Housing*

507. The Appellants have committed to provide 140 Extra Care C2 units. The importance of this provision is recognised by the Council in that it has given it very substantial weight. The need for this housing is critical, as indicated in the PPG, and the proposal would provide housing that would allow residents to live independently with the benefit of care and support services available on site. This should result in wider benefits that include those associated with better health and well-being and freeing up market housing. The Council's figures show a significant shortfall in the Borough's supply of Extra Care housing, and this has not been addressed in projected future development. On this basis, I have given the provision of the proposed 140 Extra Care units substantial weight. **[176-179, 266-267, 421]**

*Socio-Economic Benefits*

508. The Council and the Appellants have given the socio-economic benefits of the appeal proposal significant weight. The extensive scale of the proposed development would generate significant employment benefits, both during its construction which would be over at least a 10 year period, and after it has been completed, such as in the new school and the community centre. The future residents would be able to contribute to the local labour force required by businesses, given the relatively high cost of housing in Tring and the demographics of the population of the town, as well as making a significant contribution to the local economy by their expenditure. This would help to maintain the viability and vitality of businesses in Tring. In determining the weight to attach to these benefits, I have been careful not to double count those benefits such as from the new housing that I have allowed for under different considerations. On this basis, I have nevertheless attached substantial weight to the socio-economic benefits of the proposal. **[24.14-24.16, 180-189, 221(f)]**

*Schools and Educational Facilities*

509. The proposal would make provision for community and educational facilities, including a sports hub that would be made available for the use of the proposed school. Whilst the new primary school would be necessary to meet the planning needs generated by the proposed future residents, it would have additional



capacity that could enable other new development to come forward in Tring. The secondary school provision would only be required should the existing secondary school in Tring be unable to cater for the increased demand that would be generated by the development. Whilst the Appellants would be securing land for these facilities as well as a large sum of money invested in their provision, they would be necessary to mitigate the demand on educational facilities in the area from future residents of the proposed development. I have attached low moderate weight to the provision of schools and educational facilities, as land would be secured for these purposes. **[24.2-24.4, 190-193, 322, 375, 394, 399, 412, 439]**

#### *Recreational and Sporting Benefits*

510. The proposed provision of orchards and allotments would be a recreational benefit to the residents of Tring, which has been acknowledged by the Council, even though there does not appear to me to be any deficit of these in the area. As the proposed public open space on the site would be within walking distance of a limited number of existing residents on the eastern side of Tring, its main benefit would be to those residents in the proposed dwellings, given that there are other attractive areas of open space within easy access of local residents. The new sports facilities and sports hub would be delivered for use by the secondary school, but the level of facilities would be reduced should the site not be used for the school. Contributions to existing recreational facilities would also be made. In addition, there would be improved access to the countryside and pedestrian routes within the SANG. I have given these recreational and sporting facilities moderate weight as they would provide a wider benefit to local residents beyond those residing within the new development. **[24.4, 24.6, 24.27, 24.28, 24.31, 24.32, 194-196, 323, 326]**

#### *Community Facilities*

511. The proposed community facilities would consist of a serviced site to accommodate a new doctor's surgery and financial contributions towards healthcare infrastructure to include buildings for a new medical centre, a private day nursery and a multi-function community hall. These facilities would be secured by section 106 obligations, and I have found that they would meet the required CIL Regulation tests. However, they would be available to more than the future residents of the proposed development. I have also considered the reliance upon the NHS and private organisations to run the facilities. Taking everything into consideration, I have given them low moderate weight as they would provide benefits to the wider community. **[24.17, 197, 354, 423, 427-428]**

#### *Sustainable Transport Benefits*

512. I agree with the Council and Appellants that the appeal site is in a sustainable location. It is sited between Tring railway station, which is on the mainline to London, and the settlement boundary of Tring, which is one of the largest settlements in the Borough and provides a wide range of facilities and employment opportunities. The proposal would improve the level of surveillance and security along the route between the town and railway station from new residential development that would overlook Station Road and improved cycleways and footpaths, linking them and the development. **[19, 81-84]**



513. The proposal would contribute towards forecourt improvements at Tring railway station, including cycle parking, and would include travel plans and contributions towards footpath improvements. Whilst many of the proposed improvements would be necessary to overcome planning objections associated with sustainability and the impact of traffic that would be generated by the development, there would be benefits to the wider community from an increase in frequency of bus services between the town centre and station and improvements to pedestrian and cycling facilities, including the removal of vehicles from part of Marshcroft Lane. I have considered all the transport improvements that would be delivered through section 106 planning obligations and section 278 for off-site works. Taking account of the above factors, I have given moderate weight to the proposal's sustainable transport benefits. **[24.18-24.23, 84, 108, 111, 198-202, 311-312, 324]**

### *Ecology*

514. The Biodiversity Net Gain Assessment indicates that the appeal scheme is projected to achieve an increase of 36.55% in habitat units and 1.03% in hedgerow units under Version 3.01 of the Biodiversity Metric, which I accept is the appropriate metric to use in this case. This allows for a discount due to the SANG designation, the method for which was agreed by Natural England. Although an objector has criticised the method used to arrive at this BNG figure, and in particular the use of a Mini-Metric, I am satisfied that the Appellants have provided sufficient evidence to justify their approach. A section 106 planning obligation would ensure that the proposal would secure the BNG, including a 10% uplift in hedgerow units. The BNG is considerably more than the requirement under planning policy and legislation, which has not yet been enacted. **[24.10-24.13, 58, 78, 203-208, 221, 373]**

515. The proposal would provide bird and bat boxes and 'Hedgehog Gateways', none of which are recognised by the Metric, in addition to enhancement and management of habitats, including the SANG, additional semi-natural open space and the green infrastructure. This would deliver significant ecological benefits for people and wildlife. I am satisfied that the Appellants have provided sufficient evidence to demonstrate that they have fully considered and taken account of habitats and species, including bats, in the assessments of the BNG improvements to the ecology. It is not surprising to me that the replacement of large areas of intensively farmed arable land with natural woodland, and the retention of most of the existing hedgerows and trees, as well as additional planting over the site, would result in a significant BNG. There would also be additional land protected from built development shown on the Parameter plans that would be available for supplementary SANG to enable development on other sites in Tring. Whilst the SANG provision and the other measures would be secured as necessary mitigation, they would also provide ecological enhancement of the site, to which I have given moderate weight as a benefit of the proposal. **[126-133, 203-208, 319-321]**

### *Design*

516. Design and layout are matters of detail that have been reserved for later consideration. The planning conditions seek to control these matters with

reference to a Design Code and Parameter Plans<sup>663</sup>. However, much of this design is necessary to mitigate the impact of the built development on the character and appearance of the surrounding area. Whilst I accept that the proposal would ensure that a sensitive design would be provided to minimise this harm, I have taken account of this in my consideration of the effects on the character and appearance of the surrounding area and in the weight that I have given to other considerations. Therefore, I have not attached any weight to design matters in my consideration of VSC. **[24.24, 79, 209-214]**

### *Sustainability*

517. The Appellants are committed to providing sustainable energy measures that include wide use of Air Source Heat Pumps, on-site sustainable energy production, and a reduction of 90% allowable emissions against 2021 Building Regulation Part L. They claim that this will deliver zero-carbon ready homes from 2025, and be carbon zero ready by 2030, by allowing the extent of the measures to be confirmed in detail and quantified at each reserved matters application to comply with the appropriate standards at that time. These measures would be secured by a planning condition. However, as the proposal would deliver housing over a significant period, higher standards of energy sustainability would be expected of most new developments at the time of construction of many of the proposed homes. As such, I have given this low moderate weight as a benefit of the proposal. **[24.29-24.30, 215-217, 327]**

### *Development Plan*

518. The Government is committed to a plan led system to control the type and location of future development, as reflected in paragraph 15 of the Framework. However, the Council has accepted that it does not have an up-to-date DP and the Appellants have demonstrated that the Council has a history of failing to meet its commitments to deliver one. The CS, which is the latest part of the DP to be adopted, does not have a Framework compliant figure of OAN for housing and has never addressed the housing needs in accordance with the Framework. This has resulted in the Council's failure to adequately plan for the Borough's future housing needs identified by the Local Plan Inspector in June 2012 and confirmed by the High Court to be required to be reviewed in 2017/18, which has never been done. **[22, 25, 27-30, 48, 221, 332, 354, 398]**

519. Although the proposal would result in an encroachment into the countryside and Green Belt by increasing the extent of the built-up area of Tring, the site has been included as an allocation in the Emerging DLP, albeit that this document has only reached Regulation 18 stage and has since been withdrawn. Prior to the withdrawal of this emerging plan, the site's inclusion as an allocation indicates that the Council must have considered that the exceptional circumstances necessary to justify its removal from the Green Belt had been met. I have not been provided with details of any alternative draft plan to demonstrate that this allocation would be likely to be taken out and there is nothing before the Inquiry to show how the Council is progressing the next stage of the local plan process to meet its 2025 deadline. The evidence has demonstrated that the appeal site has been considered as a potential future allocation for the past 10 years and a

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<sup>663</sup> Conditions 8 and 13

significant amount of work has been carried out to ensure that an acceptable development would be able to be provided on the site. **[11, 20, 23, 26, 33, 42, 47, 49, 50, 54-56, 225, 248-249, 317, 328, 403]**

520. The Council has not contested the Appellants claim that there would be a need to release sites within the Green Belt to meet the future housing needs of the Borough, given that it contains about 60% Green Belt outside the urban areas. As part of the DP process that informed the decision to allocate the appeal site in the Emerging DLP, the Council carried out a thorough examination of the Green Belt to identify potential sites to accommodate the required level of development, and to avoid the AONB that covers large parts of the Borough. The Emerging DLP identified the appeal site for allocation as site Tr03 with the same number of houses and a similar level of other development as proposed. This document remains the most up-to date assessment that has been made available to the Inquiry of how the Council would be able to meet its future housing needs. **[21, 30, 31, 41, 44-46, 247, 249]**

521. Documents that the Council has used to inform its Emerging DLP include the Stage 2 Green Belt Review and Landscape Appraisal undertaken by ARUP in 2016. It assessed the appeal site as two sub-areas, TR-A2 and TR-A3, which it identified as strongly contributing to the Green Belt purposes. It advised that TR-A3, which is the southern part of the appeal site, should be excluded from further consideration for release, and concluded that neither of the sites should be taken forward. However, the appeal site has since been re-examined as a potential allocation. The AECOM Site Assessment Study for the Council, 2020, has identified the area of the appeal site, referred to as 'Land East of Tring', as potentially suitable for allocation with major constraints, which include the Green Belt and AONB setting. The Study shows that the urban capacity for the Borough is significantly lower than the potential capacity and the Table showing the potential of all sites includes sites with constraints due to Green Belt and AONB, with 7,370 dwellings identified as not being able to be accommodated within the existing urban area. **[53, 159, 250, 271-274, 333]**

522. Based on the above, I consider that the Council's repeated failure to progress an up-to-date DP that would update its future housing need and ensure the provision of sufficient sites to address this need is an important factor in my determination of this appeal. This, combined with the latest findings of documents used to inform the Emerging DLP on allocations, which have identified the release of the appeal site from the Green Belt as a potential option to address the future housing needs even though it is subjected to significant constraints, weigh heavily in favour of the appeal proposal. Whilst the test for exceptional circumstances needed to justify the removal of the site from the Green Belt is less stringent than the VSC needed to justify the development in this case, this matter carries significant weight with regard to my findings on whether VSC exist.

### ***Other Matters***

523. The Appellants have referred to, and provided copies of, many previous appeal decisions and reports in support of the appeal proposal. However, they involve significantly different circumstances than the current appeal, particularly with regard to the scale of the proposed development and the relative location. Whilst I have noted the points made, they are not directly comparable to the appeal,

and I have reached my conclusions on this appeal based on its own individual planning merits in the light of prevailing policies and guidance. **[50, 150, 163, 166, 170, 174, 218, 230, 255, 355]**

524. I have considered the significant number of objections to the application and appeal, together with the petition against it, which convey many concerns about the proposal. However, the Appellants have indicated that beneficiaries are not always given sufficient recognition in the planning system, and I have taken everything into account in the planning balance. Whilst many objectors have suggested that there is not a pressing need for new housing in the Borough and Tring, due to the recently permitted new development, this is not supported by the HLS figures and the Council accepts that there is an acute need for more housing. Furthermore, the Council acknowledges that there is a need for more affordable housing in the Borough, which is indicated in the letters in support of the proposal. **[163, 381, 396, 417]**
525. The argument that allowing this appeal would make it more difficult for LPAs to resist other new development in the Green Belt does not take account of the individual circumstances of this appeal proposal. The combination of the level of housing shortage that has been accepted by the Council, and in particular affordable housing, the relative location of the site and the documents that have considered the release of the site from the Green Belt are very unlikely to be replicated in other appeals or applications for new development in the Green Belt. Therefore, I am satisfied that by allowing this appeal, it would not make it any more difficult for LPAs to prevent future unacceptable inappropriate development in the Green Belt. **[219, 222, 350, 362]**
526. Concerns have been expressed by Aldbury Parish Council, a local Councillor and local residents regarding the impact of the proposal on Aldbury and residents at the hamlet, known as Tring Station. Whilst the proposal would not provide a cycleway/walkway to Aldbury, it would make arrangements to provide a more frequent bus service to Aldbury from Tring town centre, via the development and Tring Station, which should encourage the use of sustainable transport between these places. Furthermore, it would improve the cycleway and footway along Station Road, including the surveillance, which would make it more attractive to use these sustainable means of transport to access Tring railway station, even though there are constraints that do not seem to me to have been overcome at the narrow bridge and occasional flooding of the road that I observed at one of my site visits. **[393, 395, 400, 408, 438]**
527. Reference has been made by objectors to the proposed changes to national policy in the Framework. Whilst these objections have relied upon suggestions that the housing need figures would be used as a guide rather than be mandatory, there is nothing before me to show that this would be the case, given that the Government has recently confirmed its commitment to providing significant numbers of new dwellings. Furthermore, I have no timetable of when any amendments to the Framework would be introduced. Based on the significant number of responses that has been received on the consultation document, the final amended Framework document could be a long way from being introduced. **[56, 396]**
528. I am satisfied that the concerns about the effect of the proposal on services and local infrastructure would be addressed by the provisions that would be

secured under planning obligations in the section 106 Agreement and UU. These have been agreed with the Council and extensively discussed at the Inquiry, in order to take on board comments from HCC. As a result, the Council has withdrawn its reasons for refusal on these matters. With regard to the services required for the proposed development, there have been no objections from the providers, including Thames Water, and the Council has not raised any concerns. There is a statutory obligation for the undertaker to cater for the expected increase in demand for the supply of water and disposal of sewage, and I have nothing before me to show that the electricity and internet supply to the development would not be provided ecologically. **[322, 356, 399, 401, 412-414, 423]**

529. The concerns expressed by L&Q Estates regarding the access to the development site at New Mill have been addressed by planning condition 10, which secures provisions to accommodate future development of this site. This is another benefit of the appeal proposal, by helping to release significantly more land that has been identified for new housing. **[416, 445]**

### ***Very Special Circumstances and Planning Balance***

530. Taking account of the above, I have assessed the harm to the Green Belt. This harm would be through the loss of openness, which would be significant due to the large scale of the development, and the significant harm that the proposal would cause to the Green Belt's purposes of checking the sprawl of built-up areas and safeguarding the countryside from encroachment, due to the relatively large area of the Green Belt that would be taken. The harm to the Green Belt, which includes harm due to inappropriateness, carries substantial weight, in accordance with paragraph 148 of the Framework. The other harm that I have found is to the character and appearance of the surrounding area, to which I attach moderate weight due to the sensitive design of the development and proposed mitigation; and the setting of the Chilterns AONB, which carries great weight; the significance of heritage assets, which also carries great weight in accordance with the Framework; and the significant weight that I have given to the loss of BMV agricultural land. **[314, 315]**

531. The other considerations that I have taken into account in my determination of whether they amount to VSC include the substantial weight that I have given to the market housing, affordable housing, self and custom build housing, Extra Care housing and socio-economic benefits. I have also given moderate weight to the ecological and sustainable transport benefits and low moderate weight to the additional land for schools and educational facilities, recreational and sporting facilities, community facilities and sustainable energy measures, which takes account of reductions in weight due to measures being necessary mitigation. Another important factor that I consider weighs in favour of granting planning permission is the evidence that has been provided to show that the proposed development would reflect that which has been considered as an allocation on the appeal site in the Emerging DLP, to which the weight is increased because of the delays in progressing the local plan, given that the existing DP is out-of-date.

532. Based on the above, I find that the other considerations in this case clearly outweigh the harm that I have identified. I am satisfied that this would still be the case, even if no weight were given to the additional benefits that would arise from measures that I consider to be necessary mitigation. Therefore, looking at

the case as a whole, I consider that VSC exist which justify the development. There are no other matters before me to alter my conclusions that the conflict that I have found to the DP are outweighed by these other material considerations. For the reasons given above, I conclude that the appeal should succeed. **[36]**

#### **14 Recommendation**

533. I recommend that the appeal be allowed, and planning permission granted subject to the conditions set out in Appendix C. If the SofS is minded to agree, I also recommend that the section 106 Agreement and UU take effect as indicated at paragraph 440 of this report.

*M J Whitehead*

INSPECTOR



## APPENDIX A: APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY: Dacorum Borough Council

Simon Bird KC and Esther Drabkin-Reiter	Counsel for Dacorum Borough Council, instructed by Nargis Sultan, Dacorum Borough Council Legal Services
They called	
Ronan Leydon BA(Hons) MPlan	Team Leader, Strategic Planning Team, Dacorum Borough Council
James Dale MSc DipCivEng	Area Development Manager, Environment and Infrastructure Directorate, Hertfordshire County Council
Tanya Kirk BSc(Hons) PGDip CMLI	Director, Hankinson Duckett Associates
Martin Stickley BA(Hons), MSc	Principal Planning Officer, Dacorum Borough Council
Dan Harding BEng(Hons)	Senior Planning Officer, School Planning, Children's Services, Hertfordshire County Council

At the Round Table sessions on section 106 planning obligations:

Joan Reid	Team Leader, Dacorum Borough Council
Victoria Searle	Solicitor, Dacorum Borough Council
Benedict King	Solicitor, Hertfordshire County Council
Jamie Alderson MRTPI	Planner, Hertfordshire County Council

FOR THE APPELLANTS: Redrow Homes Ltd & James, John and Jacqueline Westrope

Christopher Young KC and James Corbet Burcher	Counsel for the Appellants, instructed by Reverend Professor Bob May, Ryan & May
They called	
Samantha Ryan BA(Hons) MRTPI	Director, Ryan & May
James Stacey BA(Hons) DipTP MRTPI	Managing Director, Tetlow King Planning
Annie Gingell BSc(Hons) MSc MRTPI	Associate, Tetlow King Planning
James Donagh BA(Hons) MCD MIED	Director, Stantec
Kerrie Norman BEng(Hons) LLM	Director, Flinders Chase
Rob Coles BA(Hons) DipArch RIBA	Master Planner/Urban Designer, David Lock Associates
Antony Pollard BA(Hons) MTPL MRTPI	Head of Economics, Turley
Peter Hadfield BSc(Hons) MSc MCIEEM	Senior Director, Ecology Solutions
Jonathan Smith BA(Hons) MA DipHC MCIA MIHBC	Senior Director, Heritage, RPS Consulting UK

Alastair Field BA(Hons) MSc FBIAC PIEMA MISoilSci	Director and the Company Secretary, Reading Agricultural Consultants
Matthew Chard BA (Hons) Dip (Hons) MAUD CMLI	Director, Landscape Planning, Stantec
Scott Witchalls MSc CMILT MCIHT MTPS	Director, Stantec
Rebecca Lydon BSc(Hons) MRes AMEI PIEMA	Associate Director of Smart Energy and Sustainability, Hydrock
Stuart Nelmes BSc (Hons) MRes MCIWEM C.WEM CEnv	Regional Director, BWB Consulting Limited
Reverend Professor Bob May BA (Hons) BPI Dip Mgt AoU FRTPI	Director, Ryan & May

At the Round Table sessions on section 106 planning obligations:

Jane Lancaster	Solicitor, Redrow Homes Ltd
Nicole Cameron	Solicitor, Cripps

FOR THE RULE 6 PARTY: Combined Objectors' Group (The Chiltern Society, Grove Fields Residents Association and CPRE Hertfordshire)

Joseph Thomas	Counsel for Combined Objectors' Group, instructed by Chris Berry, CPRE Hertfordshire
He called	
Nicola Brown BA(Hons) BLandArch CertUD CMLI	Managing Director, Huskisson Brown Associates
Chris Berry BA(Hons) DipTP MRTPI	Planning Manager, CPRE Hertfordshire

#### INTERESTED PERSONS:

Sue Yeomans	Local resident and Member of the Chiltern Countryside Group
Steve Ballantyne	Local resident
Philip Moore	Local resident
Tim Amsden	Local resident
Elizabeth Hamilton	Local resident
Peter Davidson BSc MSc CEng MICE Euring CITP MBCS CMRS	Local resident and Managing Director of Peter Davidson Consultancy Ltd and Peter Davidson Software Ltd
Jennifer O'Brien	Local resident
Rachel Moore	Local resident
Dr Matt Thomson BA DipTP MRTPI	Chilterns Conservation Board
Councillor Sally Symington	Hertfordshire County Councillor
Gagan Mohindra MP	MP for the Constituency

**APPENDIX B: DOCUMENTS**

<b>Doc. No</b>	<b>Title</b>
<b>CD1</b>	<b>Application Documents</b>
CD1.1	Application Form & Certificates
CD1.2	CIL Form
CD1.3	Application Document Summary Guide
CD1.4a/Part 1 rev B	Application Plans for Approval – Parameter Plans: Development Framework Plan HRE003-025 Rev F
CD1.4a/Part 2 Rev B	Application Plans for Approval – Parameter Plans: Landscape & OpenSpace Framework HRE003 – 026 Rev F
CD1.4a/Part 3 Rev A	Application Plans for Approval – Parameter Plans: Building Heights Plan HRE003 – 027 Rev C
CD1.4a/Part 4 Rev A	Application Plans for Approval – Parameter Plans: Movement & Access Plan HRE003 – 028 Rev C
CD1.4a/Part 5 Rev A	Application Plans for Approval – Parameter Plans: Density Plan HRE003 – 029 Rev B
CD1.4b	Application Plans for Approval – Access Details for Approval
CD1.4c	Red Edge Location Plan
CD1.5a	Application Plans Illustrative – Master Plan
CD1.5b	Application Plans Illustrative – Phasing Plan
CD1.6	Environmental Statement
CD1.6a	ES Appendices
CD1.6i	Environmental Statement – Appendix
CD1.6ii	Environmental Statement – Non-Technical Summary
CD1.7	Planning Statement
CD1.8	S.106 HoT & Very Special Circumstances Statement Rev A
CD1.9/Part 1	Design and Access Statement – Making a Place Rev A
CD1.9/Part 2	Design and Access Statement – Observing & Evaluating a Place Rev A
CD1.9/Part 3	Design and Access Statement – Demonstrating Compliance & Appendices Rev A
CD1.9ii/Part 1	Design and Access Statement – Appendix 2 – Utilities Statement
CD1.9ii/Part 2	Design and Access Statement – Appendix 2 – Utilities Statement
CD1.9ii/Part 3	Design and Access Statement – Appendix 2 – Utilities Statement
CD1.9ii/Part 4	Design and Access Statement – Appendix 2 – Utilities Statement
CD1.9ii/Part 5	Design and Access Statement – Appendix 2 – Utilities Statement
CD1.9ii/Part 6	Design and Access Statement – Appendix 2 – Utilities Statement
CD1.10/Part 1	Design Code Rev A
CD1.10/Part 2	Design Code Rev A
CD1.11/Part 1	Transport Assessment
CD1.11/Part 2	Transport Assessment
CD1.11/Part 3	Transport Assessment
CD1.11/Part 4	Transport Assessment

CD1.11/Part 5	Transport Assessment
CD1.11a/Part 1	Addendum to the Transport Assessment
CD1.11a/Part 2	Addendum to the Transport Assessment
CD1.11a/Part 3	Addendum to the Transport Assessment
CD1.11b	Transport Technical Note 15: Stantec Response to HCC
CD1.12	Framework Travel Plan
CD1.13	Statement of Community Engagement
CD1.14	Housing Needs Statement
CD1.14i	Housing Needs Statement – Appendix 1
CD1.14ii	Housing Needs Statement – Appendix 2
CD1.14iii	Housing Needs Statement – Appendix 3
CD1.15	Socio-Economic Impact Statement
CD1.16	Health Impact Statement – Rev A
CD1.17	Energy & Sustainability Strategy
CD1.18	Archaeological Statement
CD1.18i	Archaeological Desk Based Assessment
CD1.19	Built Heritage Statement
CD1.20	Education Infrastructure Assessment – Rev A
CD1.21	Sport and Physical Activity Strategy – Rev B
CD1.21a	Technical Note – Sport and Physical Activity Strategy_S02
CD1.22/Part 1	Flood Risk Assessment – Rev A
CD1.22/Part 2	Flood Risk Assessment – Rev A
CD1.22/Part 3	Flood Risk Assessment – Rev A
CD1.23/Part 1	Phase 1 Geo-Environmental Assessment Report
CD1.23/Part 2	Phase 1 Geo-Environmental Assessment Report
CD1.23/Part 3	Phase 1 Geo-Environmental Assessment Report
CD1.23/Part 4	Phase 1 Geo-Environmental Assessment Report
CD1.23/Part 5	Phase 1 Geo-Environmental Assessment Report
CD1.23/Part 6	Phase 1 Geo-Environmental Assessment Report
CD1.23/Part 7	Phase 1 Geo-Environmental Assessment Report
CD1.23/Part 8	Phase 1 Geo-Environmental Assessment Report
CD1.23/Part 9	Phase 1 Geo-Environmental Assessment Report
CD1.23/Part 10	Phase 1 Geo-Environmental Assessment Report
CD1.23/Part 11	Phase 1 Geo-Environmental Assessment Report
CD1.23/Part 12	Phase 1 Geo-Environmental Assessment Report
CD1.24/Part 1	Sustainable Drainage Strategy – Rev A
CD1.24/Part 2	Sustainable Drainage Strategy – Rev A
CD1.24/Part 3	Sustainable Drainage Strategy – Rev A
CD1.24/Part 4	Sustainable Drainage Strategy – Rev A
CD1.24/Part 5	Sustainable Drainage Strategy – Rev A
CD1.24/Part 6	Sustainable Drainage Strategy – Rev A
CD1.24/Part 7	Sustainable Drainage Strategy – Rev A
CD1.25	Arboricultural Report
CD1.25i/Part 1	Tree Report
CD1.25i/Part 2	Tree Report
CD1.25i/Part 3	Tree Report
CD1.26a/Part 1	Ecological Assessment – Northern Parcel
CD1.26a/Part 2	Ecological Assessment – Northern Parcel
CD1.26a/Part 3	Ecological Assessment – Northern Parcel

CD1.26a/Part 4	Ecological Assessment – Northern Parcel
CD1.26b/Part 1	Ecological Assessment – Southern Parcel
CD1.26b/Part 2	Ecological Assessment – Southern Parcel
CD1.26b/Part 3	Ecological Assessment – Southern Parcel
CD1.26b/Part 4	Ecological Assessment – Southern Parcel
CD1.27	Biodiversity Net Gain Assessment – Rev A
CD1.27a	Biodiversity Main Metric Calculation
CD1.27b	Biodiversity Mini Metric Calculation
CD1.28	SANG Statement
CD1.29	Landscape and Biodiversity Management Strategy (LBMS)
CD1.30	Pre-Construction Site Waste Management Plan
CD1.31	Habitats Regulations Assessment Rev A
CD1.32	Sustainability Appraisal
CD1.33	Draft SANG Management Plan
<b>CD2</b>	<b>Dacorum Borough Council (DBC) Documents relating to the application</b>
CD2.1	Pre-application response
CD2.2	Urban Design pre-application response
CD2.3	Scoping opinion (with appendices)
CD2.4	Report to Development Management Committee
CD2.5	First addendum report to development management committee
CD2.6	Second addendum report to development management committee
CD2.7	Committee minute
CD2.8	DBC Decision Notice
<b>CD3</b>	<b>Consultation responses to the application</b>
CD3.1	Environmental and Community Protection (Air Quality)
CD3.2	Hertfordshire CC Highways
CD3.3	Chilterns Conservation Board
CD3.3a	Chilterns Conservation Board (comments on appeal)
CD3.4	British Pipeline Agency
CD3.5	The Chiltern Society
CD3.6	The Countryside Charity
CD3.7	Canal River & Trust
CD3.8	Conservation (DBC)
CD3.9	Strategic Planning & Regeneration (DBC)
CD3.10	Rights of Way (DBC)
CD3.11	Trees & Woodlands
CD3.12	Environment Agency
CD3.13	Environmental & Community Protection (DBC) - Land Contamination
CD3.14	Historic England
CD3.15	Forestry Commission
CD3.16	Historic Environment (Archaeology) (HCC)
CD3.17	Education (HCC)
CD3.18	Health & Safety Executive
CD3.19	Hertfordshire Property Services (HCC)
CD3.20	Hertfordshire Ecology

CD3.20a	Hertfordshire Ecology -(comments on appeal)
CD3.21	Fire Hydrants (HCC)
CD3.22	Hertfordshire Fire & Rescue (HCC)
CD3.23	Hertfordshire Gardens Trust
CD3.24	Herts & Middlesex Badger Group
CD3.25	Crime Prevention Design Advisor
CD3.26	Highways England
CD3.27	Lead Local Flood Authority (HCC)
CD3.28	National Air Traffic Services
CD3.29	Natural England
CD3.29a	Natural England (comments on appeal)
CD3.30	Herts Valleys CCG
CD3.31	The National Trust
CD3.32	Network Rail
CD3.33	Waste Services (DBC)
CD3.34	Sport England
CD3.35	Cadent Gas Limited
CD3.36	Affinity Water – Three Valleys Water PLC
CD3.37	Thames Water
CD3.38	East of England Ambulance Service
CD3.39	Parish / Town Council
CD3.40	Urban Design (DBC)
CD3.41	Herts & Middlesex Wildlife Trust
CD3.42	Environmental and Community Protection (DBC) - Noise
CD3.43	Next Phase submission on behalf of Grove Fields Residents (appeal submission)
CD3.44	Huskisson Brown on behalf of Tring Town Council (appeal submission)
CD3.45a	HDA Landscape comments 1
CD3.45b	HDA Landscape comments 2
<b>CD4</b>	<b>Development Plan Documents (DPDs) and associated evidence base</b>
CD4.1	Dacorum Borough Local Plan 1999 – 2011 (adopted 2004)
CD4.1a	DBC Local Plan Proposals Map (sheet 1)
CD4.1b	DBC Local Plan Proposals Map (sheet 2)
CD4.2	Dacorum Borough Core Strategy (2006 – 2031) (adopted 2013)
CD4.3	Landscape Character Assessment (2004)
CD4.4	Dacorum Urban Design Assessment Tring (2011)
CD4.5	Not used
CD4.6	High Court Judgement re Core Strategy (12 June 2014)
CD4.7	Core Strategy Examining Inspector's Report (9 July 2013)
CD4.8	Site Allocations DPD (July 2017)
CD4.9	Site Allocations DPD Examining Inspector's Report (April 2017)
<b>CD5</b>	<b>Supplementary Planning Documents (SPDs) and Guidance (SPG)</b>
CD5.1	Affordable Housing SPD (2013)
CD5.2	Car Parking Standards SPD (2020)



CD5.3a	Dacorum Strategic Design Guide SPD: Design Process (February 2021)
CD5.3b	Dacorum Strategic Design Guide SPD: Design Principles (February 2021)
CD5.4	Planning Obligations SPG (2011)
CD5.5	Refuse Storage Guidance Note (2015)
CD5.6	Extracts of Environmental Guidelines SPG (2004)
CD5.7	Sustainable Development Advice Note (2016)
CD5.8	Affordable Housing SPD - Clarification Note version 4 dated March 2022
CD5.9	Employment and Skills draft SPD (October 2022)
<b>CD6</b>	<b>Other Policy, Guidance Documents and Reports</b>
CD6.1	National Planning Policy Framework
CD6.2	National PPG (on-line: Planning practice guidance - GOV.UK (www.gov.uk))
CD6.3	Manual for Streets (2010)
CD6.4	Roads in Hertfordshire, Highways Design Guide 3rd Edition (2011)
CD6.5	Chilterns Conservation Board Position Statement – Development affecting the setting of the Chilterns AONB (2011)
CD6.6	Chilterns Area of Outstanding Natural Beauty Management Plan (2019 – 2024)
CD6.7	National Model Design Code - The Coding Process (2021)
CD6.7a	National Model Design Code - Guidance Notes
CD6.8	National Design Guide (2021)
CD6.9	T&CPA Understanding Garden Villages
CD6.10	Chilterns Building Design Guide (2010)
CD6.11	Chilterns Building Design Guide – Chilterns Brick Technical Note (2006)
CD6.12	Chilterns Building Design Guide – Roofing Materials Technical Note (2007)
CD6.13	Not used
CD6.14	Biodiversity Metric 3.1 Auditing and accounting for biodiversity User Guide
CD6.15	Biodiversity Metric 3.1 Auditing and accounting for biodiversity Technical Supplement
CD6.16	Environment Act 2021
CD6.17	GPA2: Managing Significance in Decision-Taking in the Historic Environment (March 2015) – Historic England
CD6.18	GPA3: The Setting of Heritage Assets (December 2017) – Historic England
CD6.19	Levelling up on the United Kingdom White Paper (2022)
CD6.20	Planning for the Future: Hertfordshire Local Skills Report (2021)
CD6.21	GLVIA 'Guidelines for Landscape and Visual Impact Assessment Third Edition Spon Press' 2013 (on line - Guidelines for Landscape and Visual Impact Assessment - 3rd Edition - (routledge.com))

CD6.22	LLFA Summary Guide for developers, updated August 2021 (Hertfordshire County Council)
CD6.23	Local Flood Risk Management Strategy (LMFRS 2, 2019-2029), Adopted 18 February 2019 (Hertfordshire County Council)
CD6.24	Sustainable Drainage Systems, Non-statutory technical standards for sustainable drainage systems, dated March 2015 (DEFRA)
CD6.25	South West Hertfordshire Level 1 Strategic Flood Risk Assessment, Final Report, dated October 2018 (Ref 2018s0161 SW Hertfordshire L1 SFRA v4.0, JBA Consulting)
CD6.26	Mission Zero
CD6.27	Bleak Houses: Tackling the Crisis of Family Homelessness in England"; Children's Commissioner; August 2019
CD6.28	Unlocking Social Housing: How to fix the rules that hold back building"; Shelter; April 2022
CD6.29	Rising Cost of living in the UK"; House of Commons Library; November 2022
CD6.30	Briefing: Cost of Living Crisis and the Housing Emergency"; Shelter; September 2022
CD6.31	Denied the Right to a Safe Home: Exposing the Housing Emergency: Shelter, (May 2021)
CD6.32	Written Ministerial Statement 6 Dec 2022
CD6.33	PINS Note re Gove Letter and WMS
CD6.34	Consultation on Amendments to NPPF (22 December 2022)
CD6.35	Conservation of Habitats and Species Regulations (2017)
CD6.36	Shelter in partnership with ComRes (2017) The Impact of Housing Problems on Mental Health
CD6.37	Hertfordshire LEP (July 2017) Perfectly Placed for Business: the refreshed Strategic Economic Plan: 2017-2030
CD6.38	Hertfordshire Local Industrial Strategy: Draft for consultation (September 2019), page 33
CD6.39	Working from Home: Planning for the new normal? (December 2021) Barratt Developments PLC / Lichfields
CD6.40	Hertfordshire CC Local Transport Plan (2018 – 2031)
CD6.41	Natural England Technical Information Note 49 – Agricultural Land Classification: protecting the best and most versatile agricultural land
CD6.42	Housing in later life; planning ahead for specialist housing for older people: National Housing Federation, Housing LIN, McCarthy & Stone, Contact Consulting, Tetlow King Planning (December 2012).
CD6.43	Government response to the Second Report of Session 2017-19 of the Housing, Communities and Local Government Select Committee inquiry into Housing for Older People (September 2018)
CD6.44	Housing our Ageing Population: Plan for Implementation; All Party Parliamentary Group for Housing and Care for Older People (2012).

CD6.45	People at the Heart of Care: Adult Social Care Reform White Paper, Department of Health & Social Care (December 2021)
CD6.46	Meeting Housing Demand report; House of Lords (10th Jan 2022)
CD6.47	Her Majesty's Government's response to the House of Lords Built Environment Committee report on Meeting Housing Demand (28 March 2022)
CD6.48	Joining up care for people, places and populations: The government's proposals for health and care integration, Department of Health and Social Care (09 February 2022)
CD6.49	Hertfordshire and West Essex Integrated Care Strategy (December 2022)
CD6.50	Housing for Older People, RTPi (November 2022)
CD6.51	Mid Sussex District Council's Site Allocations Development Plan Main Modifications (November 2021)
CD6.52	Mid Sussex District Council's Site Allocations Development Plan (June 2022)
CD6.53	The health and social care cost-benefits of housing for older people (2019)
CD6.54	The Extra Care Charitable Trust Research Report (2019)
CD6.55	The Mayhew Review; Future Proofing Retirement Living – Easing the Care and Housing Crisis (November 2022)
CD6.56	Article from the Guardian: Up to one in three English hospital beds occupied by patients fit for discharge (Nov 2022): <a href="https://www.theguardian.com/society/2022/nov/13/hospital-beds-englandoccupied-patients-fit-discharge">https://www.theguardian.com/society/2022/nov/13/hospital-beds-englandoccupied-patients-fit-discharge</a>
CD6.57	The Association of Directors of Adults Social Services, Autumn Survey Report (November 2022)
CD6.58	The Association of Directors of Adults Social Services, Adult Social Care – Shaping a Better Future; Nine Statements to Help Shape Adult Social Care Reform (July 2020)
CD6.59	Centre for Policy Studies – The Case for Housebuilding (January 2023)
CD6.60	Build Bulletin 103 – Area Guidelines for Mainstream Schools
CD6.61	Guide to Developer Contributions Technical Appendix 3: Education (Mainstream Schools)
CD6.62	HCC Hertfordshire Place and Movement Design Guide (July 2021)
CD6.63	Hertfordshire Speed Management Strategy November 2020
<b>CD7</b>	<b>Emerging Local Plan and its evidence base</b>
CD7.1.1	Emerging Local Plan Documents: Dacorum Local Plan 2020-2038, Emerging Strategy for Growth (November 2020) Part 1
CD7.1.2	Emerging Local Plan Documents: Dacorum Local Plan 2020-2038, Emerging Strategy for Growth (November 2020) Part 2
CD7.1.3	Emerging Local Plan Documents: Dacorum Local Plan 2020-2038, Emerging Strategy for Growth (November 2020) Part 3

CD7.1.4	Emerging Local Plan Documents: Dacorum Local Plan 2020-2038, Emerging Strategy for Growth (November 2020) Part 4
CD7.1.5	Emerging Local Plan Documents: Dacorum Local Plan 2020-2038, Emerging Strategy for Growth (November 2020) – Proposals Map
CD7.1.6	Emerging Local Plan Documents: Dacorum Local Plan 2020-2038, Emerging Strategy for Growth (November 2020) – Summary document
CD7.2	Local Development Scheme (February 2022)
CD7.3	Local Development Scheme (January 2016)
CD7.4	Strategic Housing Market Assessment (2016)
CD7.5	Settlements Profiles Topic Paper (2017)
CD7.6	Housing Topic Paper
CD7.7	AECOM Site Assessment Study (2020)
CD7.8	Interim Sustainability Appraisal Report (2020)
CD7.9.1	Dacorum Landscape Sensitivity Study (2020) Part 1
CD7.9.2	Dacorum Landscape Sensitivity Study (2020) Part 8
CD7.9.3	Dacorum Landscape Sensitivity Study (2020) Part 9
CD7.10	Dacorum Local Plan Consultation Summary Report (2021)
CD7.11	Visitor Survey, Recreation Impact Assessment and Mitigation Requirements for the Chilterns Beechwoods SAC and the Dacorum Local Plan (2022)
CD7.12	Tring Conservation Area Appraisal (2019)
CD7.13	Open Space Study – Standards Paper (2019)
CD7.14	Employment Development Topic Paper (2020)
CD7.15.1	Green Belt Topic Paper
CD7.15.2	Green Belt Topic Paper Appendix A
CD7.15.3	Green Belt Topic Paper Appendix B
CD7.16	Emerging Local Plan Documents: Issue and Options September 2017
CD7.17	Site Selection Topic Paper November 2020
CD7.18	Development Strategy Topic Paper November 2020
CD7.19	Custom and Self Build Topic Paper 2020
CD7.20.1	Site Assessment Study Vol 1
CD7.20.2	Site Assessment Study Vol 3 part 3
CD7.21	Urban Capacity Study, main report 2020
CD7.21a	Urban Capacity Study - Tring sites
CD7.21b	Urban Capacity Study Historic Windfall Data
CD7.21c	Urban Capacity Study – Hemel Hempstead sites
CD7.22	Infrastructure Delivery Plan
CD7.22a	Infrastructure Delivery Plan – Tring Schedule
CD7.23.1	Green Belt Review 2013 Final report part 1
CD7.23.2	Green Belt Review 2013 Final report part 2
CD7.23.3	Green Belt Review 2013 Annex 1
CD7.23.4	Green Belt Review 2016 Annex 1 ARUP
CD7.23.5	Green Belt Review stage 3 final report part 3a 2020
CD7.23.6	Green Belt Review stage 3 final report part 3b 2020
CD7.23.7	Green Belt Review stage 3 final report Annex B 2020

CD7.24	AECOM Sustainable Transport Study 2020
CD7.25	Dacorum Borough Council (2020) Further Dacorum Retail Study
CD7.26	Dacorum Growth and Infrastructure Strategy to 2050
CD7.27	Chiltern Beechwoods Topic Paper summary of evidence
CD7.28	Climate change and sustainability topic paper
<b>CD8</b>	<b>South West Hertfordshire Joint Strategic Plan</b>
CD8.1	South West Hertfordshire Local Housing Needs Assessment (2020)
CD8.2	SW Herts Joint Strategic Plan: Realising our Potential – Regulation 18 Consultation Document (2022)
CD8.3	SW Herts Joint Strategic Plan 'Living in South West Herts: What have we heard?' (2021)
CD8.4	South West Hertfordshire Strategic Housing Market Assessment 2016
CD8.4a	South West Hertfordshire Strategic Housing Market Assessment 2016 (Appendices)
CD8.5	Housing Topic Paper
CD8.6	South West Hertfordshire Retail and Leisure Study (September 2018), Appendix C
<b>CD9</b>	<b>Housing Land Documents</b>
CD9.1	Authority Monitoring Report 2019/20 (2021)
CD9.1a	Authority Monitoring Report 2019/20, Technical Appendix
CD9.2	Housing Delivery Test Action Plan (2021)
CD9.3	London Commuter Belt (West) Sub-Region Strategic Housing Market Assessment 2008
CD9.4	Residential Land Position Statement (April 2022)
CD9.5	DBC Housing Schedule and Trajectory (November 2022)
CD9.6	DBC Housing Schedule and Trajectory (December 2022)
CD9.7	Correspondence from DBC (8 December 2022)
CD9.8	Correspondence from DBC (19 December 2022)
<b>CD10</b>	<b>Other Dacorum Borough Council Documents and Reports</b>
CD10.1	Pages from Report to Cabinet regarding Chilterns Beechwoods (15 November 2022)
CD10.2	Policy Statement: Sustainable Drainage, version 1, dated February 2015 (Dacorum Borough Council)
CD10.3	Homes for the Future Housing Strategy 2019-2021
CD10.4	Prevention of Homelessness and Rough Sleeping Strategy 2020-2024
CD10.5	'Delivering for Dacorum' Corporate Plan 2020-2025
CD10.6	Dacorum Growth and Infrastructure Strategy to 2050
CD10.7	Dacorum Recovery Plan (September 2021)
CD10.8	Minutes of Scrutiny Committee July 2021
CD10.9	Report to Cabinet 20 July considered 27 July 2021
CD10.10	DBC Climate and Ecological Emergency (CEE) Strategy
<b>CD11</b>	<b>Appeal Decisions and Court Judgements</b>
CD11.1	Roundhouse Farm, Colney Heath (APP/B1930/W/20/3265925 & 6)

CD11.2	Little Sparrows, Sonning Common (APP/Q3115/W/20/3265861)
CD11.3	Land off Pump Lane, Rainham (APP/A2280/W/20/3259868)
CD11.4	Land at Filands Road /Jenner Lane, Malmesbury (APP/Y3940/W/21/3278256)
CD11.5	Barnwell Manor Wind Energy Ltd v East Northamptonshire District Council & Ors [2014] EWCA Civ 14
CD11.6	Cranfield Road, Woburn Sands, Milton Keynes, June 2020 (APP/Y0435/W/17/3169314)
CD11.7	Gleneagles Way, Hatfield Peverel (APP/Z1510/V/17/3180729)
CD11.8	Land to the west of Langton Road, (Norton APP/Y2736/W/15/3136237)
CD11.9	Land at the corner of Oving Road and A27, Chichester (APP/L3815/W/16/3165228)
CD11.10	Not used
CD11.11	Not used
CD11.12	Site of the former Hazeldens Nursery, London Road, Albourne, West Sussex BN6 9BL (APP/D3830/W/19/3241644)
CD11.13	North Lane, Huntington, York (December 2022) (APP/C2741/W/21/3282969)
CD11.14	Haverhill Road and Hinton Way, Stapleford (APP/W0530/W/21/3280395)
CD11.15	Land to the rear of the former Dylon International Premises, Station Approach, Lower Sydenham, London; June 2019 (APP/G5180/W/18/3206569)
CD11.16	Footzie Social Club, Station Approach, Lower Sydenham; March 2021 (APP/G5180/W/20/3257010)
CD11.17	Oxford Brookes University, Wheatley Campus, College Close, Wheatley, Oxford; April 2020 (APP/Q3115/W/19/3230827)
CD11.18	Land at Maitland Lodge, Southend Road, Billericay; November 2022 (APP/V1505/W/22/3296116)
CD11.19	Land to the West of Burley-in-Wharfedale at Sun Lane and Ilkley Road; March 2021 (APP/W4705/V/18/3208020)
CD11.20	North of Boroughbridge Road, South of Millfield Lane, York; October 2019 (APP/C2741/W/19/3227359)
CD11.21	Land at Beeches Park, Beaconsfield. December 2022 (APP/ N0410/W/22/3299849)
CD11.22	Land north of Kennel Lane, Billericay. December 2022 (APP/V1505/W/22/3298599)
CD11.23	Green Road, Woolpit, Suffolk. September 2018 (APP/W3520/W/18/3194926)
CD11.24	North Lodge Farm, Effingham, Leatherhead. November 2022 (APP/Y3615/W/22/3298341 & 3928390)
CD11.25	Cox Green Road, Rudgwick, Surrey. September 2019 (APP/R3650/W/19/3227970)
CD11.26	Popes Lane, Sturry, Canterbury (APP/J2210/W/18/3216104)
CD11.27	Caddywell Lane, Great Torrington, Devon (APP/W1145/W/19/3238460)



CD11.28	Spruce Close Exeter. August 2022 (APP/Y1110/W/22/3292721)
CD11.29	Corner Mead, Newland Lane, Droitwich Spa (13 July 2020) APP/H1840/W/19/3241879
CD11.30	Land at Pear Tree Lane, Euxton (11 August 2020) APP/D2320/W/20/3247136
CD11.31	Land behind 31-33 The Causeway, Steventon (28 May 2021) APP/V3120/W/20/3265465
CD11.32	Land east of Park Lane, Coalpit Heath, South Gloucestershire (6 September 2018) APP/P0119/W/17/3191477
CD11.33	Land off Hepworth Road, Woodville (25 June 2019) APP/G2435/W/18/3214451 (Appeal A) and APP/G2435/Q/18/3214498 (Appeal B)
CD11.34	Land South of (East of Griffin Place) Radwinter Road, Sewards End, Saffron Walden (5 October 2022) APP/C1570/W/22/3296426
CD11.35	Land off Darnhall School Lane, Winsford, Cheshire (4 November 2019) APP/A0665/W/14/2212671
CD11.36	Land adj Orchard Business Park, Ledbury (21 March 2021) APP/W1850/W/20/3244410
CD11.37	Inglewood, Brixham Road, Paignton APP/X1165/W/20/3245011
CD11.38	Pulley Lane, Droitwich Spa, Worcestershire (July 2014) Cover Sheet
<b>CD12</b>	<b>Documents submitted post decision by Dacorum Borough Council</b>
CD12.1	Village Centre Detailed Study Dec 22
CD12.2	Draft S.106
CD12.3	Southern Site access drawing (50mph)
CD12.4	JBA Correspondence and Technical Notes of Flood risk rfr 8 and rfr9
CD12.5	Response to Road Safety Audit for Bulbourne Road Access
CD12.6	Response to Road Safety Audit for Station Road Access
CD12.7	Inspector notes of Case Management Conference
CD12.8	Main Statement of Common Ground
CD12.9	Highways Statement of Common Ground
CD12.10	Education Statement of Common Ground
CD12.11	5 Year Housing Land Supply Statement of Common Ground
CD12.12	Landscape Statement of Common Ground
CD12.13	CIL Compliance Statement

<b>APP</b>	<b>Appellants' Evidence</b>
APP0	Statement of Case
APP1	Samantha Ryan Proof of Evidence
APP1a	Samantha Ryan Proof of Evidence Appendices
APP1b	Samantha Ryan Summary Proof of Evidence
APP2	Matthew Chard Proof of Evidence
APP2a	Matthew Chard Proof of Evidence Appendices
APP2b	Matthew Chard Summary Proof of Evidence
APP3	James Stacey Proof of Evidence
APP3a	James Stacey Proof of Evidence Appendices
APP4	Annie Gingell Proof of Evidence
APP4a	Annie Gingell Proof of Evidence Appendices
APP4b	Annie Gingell Summary Proof of Evidence
APP5	James Donagh Proof of Evidence
APP5a	James Donagh Proof of Evidence Appendices
APP5b	James Donagh Summary Proof of Evidence
APP6	Antony Pollard Proof of Evidence
APP6a	Antony Pollard Summary Proof of Evidence
APP7	Robert Coles Proof of Evidence
APP8	Rebecca Lydon Proof of Evidence
APP8a	Rebecca Lydon Proof of Evidence Appendices
APP8b	Rebecca Lydon Summary Proof of Evidence
APP9	Kerrie Norman Proof of Evidence
APP9a	Kerrie Norman Proof of Evidence Appendices
APP9b	Kerrie Norman Rebuttal Proof of Evidence
APP10	Scott Witchalls Proof of Evidence
APP10a	Scott Witchalls Proof of Evidence Appendices
APP10b	Scott Witchalls Summary Proof of Evidence
APP11	Peter Hadfield Proof of Evidence
APP11a	Peter Hadfield Proof of Evidence Appendices
APP11b	Peter Hadfield Summary Proof of Evidence
APP12	Jonathan Smith Proof of Evidence
APP13	Alastair Field Proof of Evidence
APP14	Stuart Nelmes Proof of Evidence
APP14a	Stuart Nelmes Proof of Evidence Appendices
APP15	Revd Professor Bob May Proof of Evidence
APP15a	Revd Professor Bob May Proof of Evidence Appendices
APP15b	Revd Professor Bob May Summary Proof of Evidence
<b>DBC</b>	<b>Council's Evidence</b>
DBC0	Statement of Case
DBC1	Ronan Leydon Proof of Evidence
DBC1a	Ronan Leydon Proof of Evidence Appendices
DBC1b	Ronan Leydon Summary Proof of Evidence
DBC1c	Ronan Leydon Rebuttal Proof of Evidence
DBC2	James Dale Proof of Evidence and Appendix
DBC2a	James Dale Proof of Evidence Appendices
DBC2b	James Dale Rebuttal Proof of Evidence
DBC3	Tanya Kirk Proof of Evidence
DBC3a	Tanya Kirk Proof of Evidence Appendices

DBC3b	Tanya Kirk Rebuttal Proof of Evidence
DBC4	Martin Wells Statement in support of planning obligations sought towards Hertfordshire County Council (non-highways) services
DBC4a	Martin Wells Appendices to Statement
DBC4b	Dan Harding Rebuttal Proof of Evidence
DBC4c	Dan Harding Rebuttal Proof of Evidence Appendices
DBC5	Martin Stickley Proof of Evidence
DBC5a	Martin Stickley Proof of Evidence Appendices
DBC5b	Martin Stickley Summary Proof of Evidence
DBC5c	Martin Stickley Rebuttal Proof of Evidence
<b>COG</b>	<b>Combined Objectors' Group's Evidence</b>
COG0	Statement of Case
COG1	Nicola Brown Proof of Evidence and Appendices
COG2	Chris Berry Proof of Evidence and Appendices

<b>ID</b>	<b>Evidence submitted after opening the Inquiry</b>
ID1	List of appearances for Dacorum Borough Council, submitted by the Council on 7 March
ID2	Interested Party Statement submitted by Elizabeth Hamilton, submitted by Elizabeth Hamilton on 7 March
ID3	Letter of Objection and Transport Analysis Report of Peter Davidson, submitted by Peter Davidson on 7 March
ID4	Supplemental Main Statement of Common Ground, submitted by the Appellants on 7 March
ID5	Statement of Sue Yeomans, submitted by Sue Yeomans on 7 March
ID6	Opening Statement on behalf of the Appellants, submitted by the Appellants on 7 March
ID7	Opening Statement on behalf of Dacorum Borough Council, submitted by the Council on 7 March
ID8	Opening on behalf of the Combined Objectors' Group, submitted by the Combined Objectors' Group on 7 March
ID9	Statement of Steve Ballantyne, submitted by Steve Ballantyne on 7 March
ID10	Note of Site Visit Key Points, submitted by the Appellants on 7 March
ID11	Site Visit Plan, submitted by the Appellants on 7 March
ID12	Statement of Councillor Penny Hearn, submitted by Councillor Penny Hearn on 8 March
ID13	Bunkers Park Suitable Alternative Natural Greenspace Management Plan, submitted by the Appellants on 8 March
ID14	Statement of Philip Moore, submitted by Philip Moore on 8 March
ID15	Tring- Mark Steel's in Town web site, submitted by the Appellants on 8 March
ID16	Update to Dacorum Borough Council's Five Year Land Supply Position, submitted by the Council on 10 March
ID17	Appeal Decision Ref APP/X0415/W/22/3303868, Amersham, submitted by the Appellants on 10 March
ID18	Appeal Decision Ref APP/Q4245/W/3306715, Timperley, submitted by the Appellants on 10 March
ID19	Accommodation Analysis- Tring School Indoor PE Facilities, submitted by the Appellants on 22 March
ID20	Cost Analysis- Scorecard vs Framework Cost Estimates, submitted by the Appellants on 22 March
ID21	Email of 22 March regarding active ICT from Stelios Stylianou, Education, submitted by the Appellants on 22 March
ID22	List of witnesses for the Appellants, submitted by the Appellants on 22 March
ID23	Schedule of Core Documents, submitted by the Appellants on 22 March
ID24	Antony Pollard Proof of Evidence: In Erratum, submitted by the Appellants on 22 March

ID25	Guidelines for Creation of Suitable Alternative Greenspace (SANG) August 2021, submitted by the Appellants on 22 March
ID26	Tables of Affordable Housing Mix, submitted by the Appellants on 22 March
ID27	Additional Comments to Interested Party Statement submitted by Elizabeth Hamilton, submitted by Elizabeth Hamilton on 22 March
ID28	Statement of Nicky Hulse, submitted by Nicky Hulse on 23 March
ID28A	Written Statement of Moira Freeman Lea, dated 22 March 2023, submitted by Moira Freeman Lea on 23 March 2023
ID29	West Midlands Railway Letter of Support for Marshcroft Development at Tring, dated 23 March 2023, submitted by the Appellants on 23 March
ID30	Stantec Technical Note: Bus Service Strategy, dated 23 February 2023, submitted by the Appellants on 23 March
ID31	Emails of Hertfordshire County Council regarding buses, submitted by the Appellants on 23 March
ID32	Executive Summary of Statement of Peter Davidson, submitted by Peter Davidson on 23 March
ID33	Timeline of Discussions regarding Education requirements and contribution, submitted by the Appellants on 24 March
INQ34	Statement of Tim Amsden, submitted by the Tim Amsden on 24 March
ID35	Map with additional viewpoints, submitted by the Combined Objectors' Group on 28 March
ID36	Statement of Jennifer O'Brien read out at the Inquiry, submitted by Jennifer O'Brien on 28 March
ID37	Statement of Rachel Moore read out at the Inquiry, submitted by Rachel Moore on 28 March
ID38	Statement of Councillor Sally Symington read out at the Inquiry, submitted by Councillor Sally Symington on 28 March
ID39	Pie Chart of Ground Truthed ZTV- Figure HAD 2, submitted by the Appellants on 29 March
ID40	Condition Schedule 29 March 2023, submitted by the Council on 29 March
ID41	Plan of the Chiltern Hills, submitted by the Appellants on 30 March
ID42	Copies of Slides from a talk by Natural England regarding criteria for designating an AONB, submitted by the Appellants on 30 March
ID43	Draft S106 Obligations and Schedule of disagreement, submitted by the Appellants on 31 March
ID44	Draft Unilateral Undertaking Scheme A, submitted by the Appellants on 31 March
ID45	Draft Unilateral Undertaking Scheme B, submitted by the Appellants on 31 March

ID46	CIL Compliance Statement and Appendices, submitted by the Council on 31 March
ID46A	HCC CIL Statement input on Secondary School Contribution uplift, submitted by the Council on 31 March
ID47	Supplemental Main Statement of Common Ground on Affordable Housing Mix, submitted by the Council on 31 March
ID48	Copy of notes read at the Inquiry by Dr Matt Thomson, Chilterns Conservation Board, submitted by Dr Matt Thomson on 31 March
ID49	Transcript of Statement delivered by Dr Matt Thomson, Chilterns Conservation Board, submitted by Dr Matt Thomson on 31 March
ID50	Condition Schedule 31 March 2023, submitted by the Appellants on 31 March
ID51	Timeline of Discussions regarding Education requirements and contribution with Hertfordshire County Council comments, submitted by Appellants on 4 April
ID52	Table calculating the Secondary Education Contribution, 4 April 2023, submitted by Appellants on 4 April
ID53	Secondary and Post-16 Contribution Tables, submitted by Appellants on 4 April
ID54	Copy of Email from Dan Hardy, dated 28 March 2023 regarding Education contribution calculations, submitted by Appellants on 4 April
ID55	Table calculating the Secondary Education Contribution, 4 April 2023, submitted by Appellants on 5 April
ID56	Document with website for All-Party Parliamentary Group for Regeneration & Levelling Up, submitted by Appellants on 5 April
ID56A	Gagan Mohindra MP speaking notes, submitted by Gagan Mohindra On 5 April
ID57	APPG Website Extracts, submitted by the Appellants on 5 April
ID58	CIL Compliance Statement Version 5, submitted by the Council on 19 April
ID59	Third Supplemental Main Statement of Common Ground on Extension to area of Ashbridge's National Park and Garden, submitted by the Appellants on 24 April
ID60	Amended Table 4 to Martin Stickley Rebuttal Proof of Evidence, submitted by the Council on 25 April
ID61	Amended Table 1 to Martin Stickley Rebuttal Proof of Evidence, submitted by the Council on 25 April
ID62	West Midlands Railways letter, dated 21 April 2023, submitted by the Appellants on 25 April
ID63	Appeal Site Street Tree Study, April 2023, submitted by the Appellants on 25 April
ID64	E-mail, dated 21 April 2023 from Bob May regarding increased verge width and tree planting with suggested planning condition, submitted by the Appellants on 25 April



ID65	Addendum to Proof of Evidence on Agricultural Land of Alastair Field, submitted by the Appellants on 25 April
ID66	CPRE Document- Countryside next door: State of the Green Belt 2021, February 2021, submitted by the Appellants on 25 April
ID67	Bunkers Hill- Appellants' analysis and site notes, submitted by the Appellants on 25 April
ID68	Copies of Draft Indicative Phasing Plan and Plan of CAs & Self-build/Custom Build extents, submitted by the Appellants on 26 April
ID69	Draft Section 106 Planning Obligation by Deed of Agreement, submitted by the Appellants on 26 April
ID70	Section 106: Schedule of matters not yet agreed between the parties, submitted by the Appellants on 26 April
ID71	Draft Planning Obligation by Unilateral Undertaking with track changes, submitted by the Appellants on 26 April
ID72	Draft Unilateral Undertaking Memorandum, dated 26 April 2023, submitted by the Appellants on 26 April
ID73	CIL Compliance Statement Version 6, submitted by the Council on 26 April
ID74	Suggested Condition Schedule- 24 April 2023, submitted by the Council on 26 April
ID75	Document- Principles of Lighting Design for Bats, submitted by the Appellants on 27 April
ID76	Further Site Visit Note and Maps, submitted by the Appellants on 27 April
ID77	Closing Submission on behalf of the Council, submitted by the Council on 2 May
ID78	Closing Submission on behalf of the Combined Objectors Group, submitted by the Combined Objectors Group on 2 May
ID79	Section 106 Agreement, submitted by the Appellants on 4 May
ID80	Unilateral Undertaking, submitted by the Appellants on 4 May
ID81	Agreed Planning Conditions Schedule, submitted by the Appellants on 4 May
ID82	Closing Submissions on behalf of the Appellants, submitted by the Appellants on 4 May
ID83	Amended Unilateral Undertaking and Appendices, submitted by the Appellants on 5 May
ID84	Unilateral Undertaking, submitted by the Appellants on 2 June
ID85	Final engrossed section 106 Agreement, submitted by the Council on 12 June

## **APPENDIX C: RECOMMENDED CONDITIONS**

### ***Full Permission Statutory Conditions***

- 1) The access development hereby permitted shall be begun either before the expiration of one year from the date of this permission or within one year of the signing of a section 278 Agreement relating to those works, whichever is the later. Prior to commencement, the local planning authority shall be notified in writing of which access plan for Station Road is included in the section 278 Agreement.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:
  - Stantec Drawing 332110605/5500/003/H showing the proposed T-Junction access to the site via Bulbourne Road
  - The approved Station Road access plan as agreed in the section 278 Agreement which shall be either Plan (a): Stantec Drawing 332110605/5500/011/D showing a signal controlled access to the site from Station Road with a 40mph design speed or Plan (b): Stantec Drawing 332110605/5500/044/B showing a signal controlled access to the site from Station Road with a 50mph design speed.

### ***Full Permission Pre-commencement Conditions***

- 3) Construction Environmental Management Plan (CEMP), Site Waste Management Plan (SWMP)

Prior to the commencement of each access development hereby approved, as well as the enabling works, a Site Waste Management Plan (SWMP) and a Construction Environmental Management Plan (CEMP) for that access Phase shall be submitted to and approved in writing by the local planning authority.

The SWMP shall, as a minimum, describe how materials will be managed efficiently and disposed of during the construction of the works, explaining how the re-use and recycling of materials will be maximised.

The CEMP shall set out, as a minimum, the proposed demolition, earthworks and construction methodology. The CEMP shall outline site specific measures to control and monitor impact arising in relation to construction traffic, noise and vibration, dust and air pollutants, land contamination, ecology and ground water. It shall also set out arrangements by which the developer shall maintain communication with residents and businesses in the vicinity of the site, and by which the developer shall monitor and document compliance with the measures set out in the CEMP. In addition to those commitments outlined within the Stantec Framework Construction Environmental Management Plan (referenced 332110605/300 and dated 6 March 2022), the CEMP shall include a commitment to require non-road mobile machinery that reasonably minimises air pollution emissions.

The development shall be undertaken in accordance with the approved details.

#### 4) Tree Protection

No work (including site clearance) in relation to the access development hereby approved shall be undertaken until full details setting out how retained trees, identified in the plans approved under Condition 2, shall be protected, in accordance with BS5837:2012 (Trees in relation to design, demolition and construction), have been submitted to and approved in writing by the local planning authority. Details shall include:

- A scaled Tree Protection Plan showing the approved development layout and retained trees (surveyed in accordance with BS5837:2012), to include their accurate crown spreads and root protection areas (RPAs).
- The sequential order of events required for tree protection.
- The position and specification of tree protection fencing in accordance with BS5837:2012 (as applicable).
- The position and specification of ground protection in accordance with BS5837:2012 (as applicable).
- Details of hard surfacing constructed using no-dig techniques where proposed over the RPA of retained trees (as applicable).
- Details of proposed levels.
- The position of service routes and drainage (to include soakaways), and means of installation if these encroach through the RPA of retained trees.
- The position(s) of welfare site cabins and areas for the storage of materials.
- Tree protection measures during the landscaping stage(s).
- Details of arboricultural site supervision to include timing and how each site visit shall be recorded.

There shall be no excavation, changes in levels, storage of materials or access within the RPA of retained trees.

Arboricultural supervision shall include a pre-commencement site visit prior to any work commencing. The local planning authority shall be informed of this at least three working days prior to it occurring. Arboricultural monitoring reports shall be sent to the local planning authority within five working days of each site visit.

The works shall be carried out in accordance with the approved details.

#### ***Outline Permission Statutory Conditions***

#### 5) Reserved Matters to be Submitted

Approval of the details of the layout, scale, design and external appearance of the buildings and the landscaping of the site (hereinafter called "the reserved matters") shall be obtained from the local planning authority in writing for each phase of development before any development in that phase of development is commenced.

6) Timing of Reserved Matters Submissions

Submission of all reserved matters for the first phase of residential development (93 dwellings) shall be made within 12 months from the date of this outline permission or within 12 months of the commencement of the access development hereby permitted, whichever is the later.

All other submissions for approval of the reserved matters for other phases of development shall be made to the local planning authority before the expiration of 8 years from the date of this outline permission.

7) Timing of Reserved Matters Commencements

The first phase of residential development (93 dwellings) shall be begun before the expiration of 12 months from the date of approval of the final reserved matter for that phase, or the final approval of details required to be submitted pursuant to pre-commencement conditions for that phase, whichever is the later.

The remainder of the development 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 within that phase.

8) Approved Plans/Documents

The development hereby permitted shall be carried out in accordance with the following approved plans/documents:

- Parameter plans: Development Framework Plan HRE003-025 Rev F
- Parameter plans: Landscape & Open Space Framework HRE003-026 Rev F
- Parameter plans: Building Heights Plan HRE003-027 Rev C
- Parameter plans: Movement & Access Plan HRE003-028 Rev C
- Parameter plans: Density Plan HRE003-029 Rev B
- Design Code Rev A including its Regulatory Plan (Figure 6)

***Outline Permission Details to accompany Reserved Matters Submissions***

9) Application(s) for each phase of reserved matters consent (as relevant) shall be accompanied by:

- i. A plan identifying the Phase of development covered by that Reserved Matters application in relation to the overall Phasing Strategy approved under Condition 11.
- ii. Full details in relation to the design of estate roads for that phase.
- iii. Tree Survey and Arboricultural Impact and Method Statement for that phase.
- iv. Plans to confirm how the provision of two trees per dwelling are to be provided in that phase, noting species and tree sizes.

- v. A sustainability and energy compliance statement. The Compliance Statement shall provide detail on energy demand and supply, carbon emissions, waste and materials, water supply and demand and climate resilience.
- vi. A detailed scheme for the provision of car parking / powered two-wheeler parking, Blue Badge parking, active and passive electric vehicle charging points and for any blocks of flats cycle parking.
- vii. Location, design and materials of covered and secure cycle parking for all dwellings and other buildings in that phase.
- viii. Details of the existing and finished site levels, the finished floor and ridge levels and the finished external surface levels
- ix. Full details of the internal layout of the proposed residential units which shall be designed to comply with the Technical Housing Standards - Nationally Described Space Standard (2015), or such updated guidance.
- x. A detailed refuse and recycling strategy, including the design and location of the refuse and recycling stores.
- xi. Full details of the private amenity, communal amenity and open spaces, including any children's play space (including any equipped play areas within that phase).
- xii. A Secure by Design Statement.
- xiii. Details of integrated bat cavity boxes and integrated swift boxes or similar.
- xiv. A Soil Resource Management Plan confirming the different soil types; suggesting the most appropriate re-use and methods for handling, storing and replacing; and helping to re-use displaced soil resources.
- xv. A Building for a Healthy Life Assessment
- xvi. 3D Massing and visuals including street scenes for any phase that contains more than 10 dwellings or more than 1,000 sqm of floorspace. The details shall include an assessment of landscape and visual impacts including photographic montages and key views as agreed with the local planning authority prior to producing them.
- xvii. An Active Design Assessment demonstrating how Active Design principles have been considered.
- xviii. A program of continued tree maintenance for the lifetime of the development, including inspection.
- xix. A statement to demonstrate how account has been taken of Design and Access Statement Rev A and is fully in accord with the Design Code Rev A.

For the avoidance of doubt the details required by this condition shall apply to all Reserved Matters submissions, including those for Self-Build and Custom Build phases.

Development shall be carried out in accordance with the approved details.

## 10) New Mill Link

Any application for a phase of reserved matters consent for more than 10 dwellings or 1,000 sqm of commercial floorspace in relation to 'land in proximity to the New Mill Tr02 site', as identified in the Dacorum Local Plan Emerging Strategy for Growth (2020 – 2038) shall, in addition to being accompanied by the matters set out in condition 9, provide details of 'cycle and pedestrian links' between that phase and the New Mill Tr02 site. In this condition 'land in proximity to the New Mill Tr02 site' means:

- land that has a contiguous boundary with New Mills Tr02; and
- is within 500 m of that boundary; and
- is within either the Orchard Quarter or Garden Suburb Core Character Areas as set out in the approved Design Code Rev A.

The details of 'cycle and pedestrian links' between the phase of development and the New Mill Tr02 site shall show the following:

- Provision for footpath and cycle way links designed in accordance with the Mandatory Design Principles of the Active Travel Network as set out in the approved Design Code Rev A (page 73);
- Such links provided up to the boundary with the New Mill Tr02 site; and
- The timing of their delivery as part of that phase.

The approved cycle and pedestrian links shall be implemented in accordance with details approved as part of the relevant reserved matters consent.

## ***Outline Permission Pre-commencement Conditions***

### 11) Phasing Strategy

On or before the submission of the first reserved matters application, a Phasing Strategy for development of the entire site shall be submitted to the local planning authority. No development shall commence until the local planning authority has approved in writing the Phasing Strategy and the approved development shall thereafter be constructed in accordance with the approved Phasing Strategy. The approved Phasing Strategy shall not be updated or amended unless otherwise agreed in writing with the local planning authority. The Phasing Strategy shall demonstrate how development of the entire site shall be brought forward to secure the following:

1. maximum 1,400 homes, including 140 use class C2 dwellings;
2. 27 ha Suitable Alternative Natural Greenspace;
3. Health facilities and Community hall;
4. Two Form Entry Primary School;
5. Serviced Site for Six Form Entry School or alternative school places provision;
6. Outdoor sports Facilities and hub;



7. Public open spaces;
8. 45% affordable housing;
9. Plots to accommodate 5% custom / self-build housing within phases 2 and 3 of the development;
10. a local centre, including community facilities, retail and business uses; and,
11. a spine road, cycle ways and footpaths.

## 12) Quality / Design Review Panels

Prior to the submission of any Phase of development containing more than 10 dwellings, a Quality/Design Review Panel (Q/DRP) shall be undertaken.

The Q/DRPs shall include the following themes:

1. Design & Vision for the Village Centre, including a review of the public realm proposal for the Village Centre Square.
2. Public Realm Framework with a focus on walking, cycling and wider connections of the site, connections between parcels identified in the approved phasing and Design Code; and quality of the public realm and landscape.
3. Architectural Design and Interpretation of the relevant Character Areas, including house typologies design, elevations, materials, sustainability and public realm design.

The developer shall invite the local planning authority in writing to attend the Q/DRPs and subsequently provide a summary report to them. The conclusions of the Q/DRPs shall be incorporated into the reserved matters application(s), where appropriate. Detail of the elements included shall be provided to the local planning authority at the relevant reserved matters stage. Any follow up reviews shall ensure that recommendations from the Q/DRP have been taken on board.

## 13) Landscaping - General

Before each Phase of the development commences, excluding the enabling works, details of a Hard and Soft Landscaping Scheme and maintenance arrangements shall be submitted to and approved in writing by the local planning authority for that Phase. These details shall include:

- i. hard surfacing materials;
- ii. means of enclosure;
- iii. soft landscape works which shall include planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment);
- iv. schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate;
- v. biodiversity enhancement measures (with reference to the Biodiversity Net Gain Management Plan);

- vi. minor artefacts and structures (e.g. furniture, storage units, signs etc.);
- vii. proposed and existing functional services above and below ground (e.g. drainage, power, communications cables, pipelines etc., indicating lines, manholes, supports etc.);
- viii. play equipment to be included in the Local Areas of Play; Local Equipped Areas of Play (LEAP) and Neighbourhood Equipped Areas for Play (NEAP) as appropriate in each relevant Phase;
- ix. retained historic landscape features (Iron Age/Romano-British enclosure identified in aerial and geophysical surveys at Appendix C.1 and C.2 of the Environmental Statement) and proposals for restoration, where relevant; and
- x. a programme of works for that Phase.

Notwithstanding the mandatory street design principles in the Design Code, a strategic structural landscaping plan for all of those parts of the site identified in the Design Code Regulatory Plan Fig 6 as being for Residential, Mixed Use, Secondary and Primary School development, including the Primary Street, as identified in the Design Code, shall be provided to enable larger, structural planting in key areas. This detail shall be provided within the relevant landscaping scheme for each relevant Phase. Specifically the minimum verge widths for tree planting along the Primary Street shall be a minimum of 4m on each side and a minimum of 5m from the nearest building to enable larger structural tree planting. Secondary Streets, as identified in the Design Code, shall be provided with a tree planted verge of a minimum width of 4m on one side of the street where there is no on-plot parking provided, or a minimum width of 2.5m where there is on-plot parking provided; and a planted verge of minimum width of 2.5m on the other. This detail shall be provided within the relevant landscaping scheme for each relevant Phase. All such verges are to be planted with trees spaced at 6-8m centres.

The approved landscape works shall be carried out in accordance with an agreed programme of works. Any tree or shrub which forms part of the approved landscaping scheme which within a period of five years from planting fails to become established, becomes seriously damaged or diseased, dies or for any reason is removed shall be replaced in the next planting season by a tree or shrub of a species, size and maturity to be approved by the local planning authority and maintained until satisfactorily established.

#### 14) Sustainability Provision

Each application for the approval of reserved matters shall be accompanied by an Energy and Sustainability Strategy. The details shall incorporate but are not be limited to:

- passive design measures including the orientation of buildings to optimise photovoltaic (PV) solar panels, solar gains through dual-aspect and larger windows and low g-value glazing;
- active design measures to deliver efficiency benefits through building services specifications, for example, all lighting to be high efficiency LED types,

mechanical ventilation with heat recovery (MVHR) systems, heat pump systems and the use of solar panels; and

- enhanced fabric of buildings to align with the Future Homes Standard. A Fabric Energy Efficiency Standard shall also be utilised to ensure a minimum level of building fabric performance across new homes.

In addition to the above, the Energy and Sustainability Strategy shall provide details of measures to demonstrate and achieve reduced regulated carbon emissions of 90% against Part L 2021 (Building Regulations) compliance as per Section 13 of the Environmental Statement by Stantec (referenced 332110605/300.3, dated March 2022).

The development shall be carried out in accordance with the approved Strategies.

#### 15) Fire Hydrants

No development (excluding groundworks) of each Phase shall take place until details of fire hydrants or other measures to protect the development from fire have been submitted to and approved in writing by the local planning authority. Such details shall include provision of the mains water services for the development whether by means of existing water services, new mains, or extension to or diversion of existing services where the provision of fire hydrants is considered necessary. The proposed Phase of development shall not be occupied/used until such measures have been implemented in accordance with the approved details.

#### 16) Landscape concept - Village Centre

Before the Phase comprising the village centre commences, excluding the Enabling Works, details of a Landscape Concept Plan (LCP) for the village centre shall be provided to, and approved in writing, by the local planning authority. The LCP shall be in accordance with and the 'Village Centre Detailed Study Dec 22' and establish the key principles for the public square, determining the relationship between the public realm, community space and car parking.

The reserved matters submissions for development within the Phase comprising the village centre shall be made in accordance with the approved LCP.

#### 17) Canal and Waterway Infrastructure

Prior to the commencement of any development within 500m of the Grand Union Canal, details of proposed measures to safeguard the waterway infrastructure and environment during construction and operation of the development shall be submitted to and approved in writing by the local planning authority. The details shall include:

- A Grand Union Canal slope stability assessment and a full inspection of the canal cutting to demonstrate that the development would not result in any increase in loadings to the cutting slope.
- Details on the drainage proposals including an assessment of impacts to the Grand Union cutting slope and any adjusted inflows into the Tring reservoirs from the development.

- An assessment of the potential impacts on the tow path access points and canal bridges from increased use.
- Details on the potential increased infiltration rate attributed to the drainage strategy and related impacts on the stability of the canal cutting slope both in the short and long term.
- Mitigation measures and future maintenance and management responsibilities and regimes, where necessary.

The development shall thereafter be implemented in accordance with the approved details.

#### 18) Contamination - Intrusive Site Investigation

No development (excluding demolition) within any phase shall take place until a Phase II Report (Intrusive Site Investigation) to assess the actual or potential contamination of land within that phase has been submitted to and approved in writing by the local planning authority.

Where such report identifies any actual or potential contamination and/or ground gas risks; the Phase II Report will need to establish the relevant remediation or protection measures necessary for the site and a Remediation Statement shall be submitted to and approved in writing by the local planning authority.

For the purposes of this condition:

- A Phase II Report consists of an intrusive site investigation and risk assessment. The report should make recommendations for further investigation and assessment where required.
- A Remediation Statement details actions to be carried out and timescales so that contamination no longer presents a risk to site users, property, the environment or ecological systems.

#### 19) Site Waste Management Plan and Construction and Environmental Management Plan.

Prior to the commencement of each Phase of development, as well as the enabling works, a Site Waste Management Plan (SWMP) and a Construction Environmental Management Plan (CEMP) for that Phase shall be submitted to and approved in writing by the local planning authority.

The SWMP shall, as a minimum, describe how materials will be managed efficiently and disposed of during the construction of the works, explaining how the re-use and recycling of materials will be maximised.

The CEMP shall set out, as a minimum, the proposed demolition, earthworks and construction methodology. The CEMP shall outline site specific measures to control and monitor impact arising in relation to construction traffic, noise and vibration, dust and air pollutants, land contamination, ecology and ground water. It shall also set out arrangements by which the developer shall maintain communication with residents and businesses in the vicinity of the site, and by which the developer shall monitor and document compliance with the measures set out in the CEMP. In addition to those commitments outlined within the

Stantec Framework Construction Environmental Management Plan (referenced 332110605/300 and dated 6 March 2022), the CEMP shall include a commitment to require non-road mobile machinery that reasonably minimises air pollution emissions.

The development shall be undertaken in accordance with the approved details.

## 20) Construction Traffic Management Plan – Air Quality and Highways

No development approved in any Phase shall commence until a Construction Traffic Management Plan (CTMP) that is relevant to the demolition, earthworks and construction stages for that phase of the proposed development has been submitted to and approved in writing by the local planning authority. In addition to those commitments outlined in Section 3.10 of the Stantec Framework Construction Environmental Management Plan (Ref: 332110605/300 6 March 2022), the CTMP shall include a commitment to:

- prevent construction traffic from travelling to or from the development site via the Northchurch Air Quality Management Area; and
- require EURO VI as the minimum acceptable engine standard for HGV and LGV contracted to the development.

The CTMP shall also include the following:

- i. The construction programme;
- ii. Clear access strategy for construction vehicles that avoids conflicts with pedestrians, cyclists, public transport and existing and future residents;
- iii. Hours of operation.
- iv. Phasing of the development of the site, including all highway works.
- v. Construction vehicle numbers, type and routing.
- vi. Traffic management requirements.
- vii. Cleaning of site entrances, site tracks and the adjacent public highway.
- viii. Provision of sufficient on-site parking prior to commencement of construction activities.
- ix. Details of any highway works necessary to enable construction to take place, including temporary access works.
- x. Details of any works to or affecting Public Rights of Way within and in the vicinity of the site, demonstrating how safe and unobstructed access will be maintained at all times or be temporarily closed or extinguished.
- xi. Details of servicing and delivery, including details of site access, compound, welfare facilities, hoarding, construction related parking, loading, unloading, turning areas and materials storage areas.
- xii. Where works cannot be wholly contained 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 and proposed traffic management.

- xiii. Management of construction traffic and deliveries to reduce congestion and avoid school pick up/drop off times, including numbers, type and routing.
- xiv. Control of dust and dirt on the public highway, including details of wheel washing facilities and cleaning of site entrance adjacent to the public highway.
- xv. Details of public contact arrangements and complaint management.
- xvi. Post construction restoration/reinstatement of the working areas and temporary access to the public highway.
- xvii. Measures to be implemented to ensure wayfinding for both occupiers of the site and or those travelling through it.

Thereafter, the construction of that phase of development for which full planning permission has been granted shall only be carried out in accordance with the approved CTMP. The plan shall be prepared in accordance with the Construction Logistics and Community Safety (CLOCS) Standard.

#### 21) Traffic Regulation Order - Prohibition of Vehicles on a Specific Section

No development, excluding demolition, in any phase shall commence until such time as an order to remove vehicular access rights over the Marshcroft Lane land as shown on Figure 5.2 ("Marshcroft Lane Proposals") of the Transport Assessment (Part 1, Page 35) dated March 2022 has been granted. Thereafter, all highway rights over the specified section of Marshcroft Lane land shall have been successfully removed, before the Spine Road is open for use by non-construction traffic.

#### 22) Archaeological - Written Scheme of Investigation

No development, excluding demolition, shall take place/commence for any phase until an Archaeological Written Scheme of Investigation for that phase has been submitted to and approved in writing by the local planning authority. The scheme shall include an assessment of archaeological significance; and:

- a) The programme and methodology of site investigation and recording.
- b) The programme and methodology of site investigation and recording as suggested by the archaeological evaluation.
- c) The programme for post investigation assessment.
- d) Provision to be made for analysis of the site investigation and recording.
- e) Provision to be made for publication and dissemination of the analysis and records of the site investigation.
- f) Provision to be made for archive deposition of the analysis and records of the site investigation.
- g) Nomination of a competent person or persons/organisation to undertake the works set out within the Archaeological Written Scheme of Investigation.



The development shall only be carried out in accordance with the approved Written Scheme of Investigation.

### 23) Surface Water Drainage Scheme and Flood Risk

No development in any phase shall take place until the design of the drainage scheme for that phase has been submitted to and approved in writing by the local planning authority.

The drainage design for each phase/development area shall include the following:

1. Measures to limit the surface water run-off generated by the 1 in 100 year + 40% climate change event so that it will not exceed the run-off from the undeveloped site and not increase the risk of flooding off-site. Where an outfall discharge control device is to be used such as a hydrobrake or twin orifice, this shall be shown on the plan with the rate of discharge stated.
2. Where infiltration forms part of the proposed system such as infiltration trenches and soakaways, the provision of soakage test results and test locations in accordance with BRE digest 365.
3. The provision of storage to ensure no increase in surface water runoff volumes for all rainfall events up to and including the 1 in 100 year + 40% climate change event and details as to how this is to be achieved.
4. Details to demonstrate an appropriate SuDS management and treatment train and inclusion of above ground features reducing the requirement for any underground storage.
5. Where possible avoiding the location of soakaways that serve multiple properties in private curtilage.
6. Silt traps for protection for any residual tanked elements.
7. Calculations to demonstrate how the system operates during a 1 in 100 year + 40% climate change event including drain down times for all storage features.
8. Full detailed engineering drawings including cross and long sections, location, size, volume, depth and any inlet and outlet features. This shall be supported by a clearly labelled drainage layout plan showing pipe networks. The plan shall show any pipe 'node numbers' that have been referred to in network calculations and it shall also show invert and cover levels of manholes.
9. Details regarding any areas of informal flooding (those events exceeding 1 in 30 year rainfall event), this shall be shown on a plan with estimated extents and depths.
10. Details of final exceedance routes, including those for an event which exceeds a 1 in 100 year + 40% climate change event.

The development shall be implemented in accordance with the approved details. The mitigation measures relating to each phase shall be fully implemented prior to the first occupation of each phase or in accordance with the timing/phasing arrangements embodied within the scheme.

## 24) SuDS Design Strategy

Prior to the implementation of each phase of the drainage scheme approved in Condition 23, a SuDS Design Strategy shall be submitted to and approved in writing by the local planning authority. The Strategy shall include details setting out how the SuDS systems will maintain or improve water quality, permanently retain water for ecological benefits, maximise biodiversity, deliver a range of plant species (including native aquatic and riparian plants) and provide naturalistic designs.

The Strategy shall be implemented in accordance with the approved details.

## 25) Lighting

Prior to the commencement of development in any phase hereby permitted, a 'Lighting Design Strategy' for that Phase shall be submitted to and approved in writing by the local planning authority. The Lighting Design Strategy shall take account of the Principles of Lighting Design for Bats (Document ID74, paragraphs 12 and 13) and any necessary lighting requirements to secure road adoption or highway safety. The Strategy shall:

- a) identify those areas/features on site that are particularly sensitive for bats and that are likely to cause disturbance in or around their breeding sites and resting places or along important routes used to access key areas of their territory, e.g. for foraging;
- b) show how and where external lighting will be installed, including street lighting and floodlighting (through the provision of appropriate lighting contour plans and technical specifications), so that it can be clearly demonstrated that areas to be lit will not disturb or prevent the above species using their territory or having access to their breeding sites and resting places;
- c) demonstrate how the proposed lighting will minimise impacts on the landscape character of the area and the adjacent Area of Outstanding Natural Beauty, in particular, any floodlighting associated with the proposed sports and community facilities shall be sensitively designed; and
- d) set out the proposed hours that the Multi-Use Games Area floodlighting can be used.

All external lighting shall be installed in accordance with the specifications and locations set out in the Strategy, and these shall be retained thereafter in accordance with the Strategy

## ***Outline Permission Prior to Occupation Conditions***

## 26) Landscape and Public Realm Management and Maintenance

Prior to the first occupation of any Phase of development a Public Realm, Landscape Management and Maintenance Scheme (PRLMMS) for that phase setting out how the hard and soft landscaped areas identified in the approved Hard and Soft Landscaping Scheme (approved pursuant to that Reserved Matter) are to be maintained and managed in relation to the relevant Phase has been submitted to and approved in writing by the local planning authority.

The relevant PRLMMS shall include details of the proposed quantum of area; location; long-term design objectives; management responsibilities and maintenance schedules for all approved landscape areas for the relevant Phase.

The PRLMMS shall also identify the administrative and funding structure through which the relevant landscaped areas are to be maintained.

The development shall be carried out in accordance with the approved PRLMMS

#### 27) Visibility Splays

Prior to the first occupation of the development hereby permitted, visibility splays shall be provided in full accordance with the details indicated on the approved drawings set out in Condition 2. The splays shall thereafter be retained at all times free from any obstruction between 600mm and 2m above the level of the adjacent highway carriageway.

#### 28) Maintenance of Streets

Prior to the occupation/first use of each Phase of development hereby approved, full details of the proposed arrangements for future management and maintenance of the proposed streets within that Phase shall be submitted to and approved in writing by the local planning authority. Following the provision of such streets, the streets shall thereafter be maintained in accordance with the approved management and maintenance details until such time as an agreement has been entered into under Section 38 of the Highways Act 1980 or a Private Management and Maintenance Company has been established in accordance with the approved details.

#### 29) Public Transport Infrastructure

Prior to the occupation/first use of any Phase of the development, details of the public transport infrastructure relevant to that phase shall be submitted to and approved in writing by the local planning authority. This infrastructure shall comprise of but is not limited to the following:

1. Details of bus stop facilities to include raised height kerbs and shelters and real-time information signs, where agreed;
2. bus priority measures where appropriate within the Central Spine Road;
3. details of any necessary bus-only section and bus gate operation; and
4. a programme for the delivery of the public transport infrastructure.

The public transport infrastructure required to serve a particular Phase shall be implemented in accordance with the approved programme for delivery for that Phase.

The future locations of all bus stops serving that Phase shall be determined prior to the occupation of any buildings within that Phase and be clearly marked on site during construction of the internal roads to ensure visibility for prospective purchasers and users.

30) Electric vehicle parking provision – electricity supply

Prior to the occupation of any dwelling with in-curtilage car parking (or allocated offplot parking), each dwelling shall incorporate sufficient capacity (including any necessary trunking/ducting) within the electricity distribution board for one dedicated radial AC single phase connection (minimum 32A) for electric vehicle charging.

31) Electric vehicle charging facilities

No development shall commence in any phase (as defined in the Phasing Strategy approved pursuant to Condition 11) until a scheme for the provision of electric vehicle charging facilities for non-allocated parking, shared off- plot parking, non-residential and commercial parking within that phase has been submitted to and approved in writing by the local planning authority.

The scheme shall include the location, specification and timescales for installation of all active electric vehicle charging facilities and provide details of the passive provision proposed across the phase. Charging points shall be located in prominent positions and shall be for the exclusive use of electric vehicles. Where additional parking bays are identified for the future installation of electric vehicle charging points (passive provision) they shall be provided with all necessary ducting, cabling and groundworks.

The scheme shall include a Management Plan detailing the management, maintenance, servicing and access/charging arrangements for each electric vehicle charging point for a minimum period of 10 years. The scheme shall be implemented as approved.

32) Archaeology - Site Investigation and Post Investigation

The development within any phase shall not be occupied until the site investigation and post investigation assessment for that phase has been completed in accordance with the programme set out in the Written Scheme of Investigation approved under Condition 22 and the provision made for analysis, publication and dissemination of results and archive deposition has been secured.

***Outline Permission Compliance Conditions***

33) Limit on use of Render

Notwithstanding the details within the Design Code, use of render shall be limited to three of the character areas, of those shown in the Approved Design Code, or two if the 'Garden Suburb Core' is included.

34) SuDS Management and Maintenance

Upon completion of the drainage works for any phase, a management and maintenance scheme for the SuDS features and drainage network within that phase shall be submitted to and approved in writing by the local planning authority. The scheme shall include:

1. Provision of complete set of as built drawings for site drainage.
2. Maintenance and operational activities.

3. Arrangements for adoption or management by another body and any other measures to secure the operation of the scheme throughout its lifetime.

The scheme shall subsequently be implemented in accordance with the approved details.

### 35) Contamination Site - Completion Report

All remediation or protection measures identified in the Remediation Statement referred to in Condition 18 shall be fully implemented within the timescales and by the deadlines as set out in the Remediation Statement. No part of the development hereby permitted shall be occupied until a Site Completion Report has been submitted to and approved in writing by the local planning authority.

For the purposes of this condition: a Site Completion Report shall record all the investigation and remedial or protection actions carried out. It shall detail all conclusions and actions taken at each stage of the works including validation work. It shall contain quality assurance and validation results providing evidence that the site has been remediated to a standard suitable for the approved use.

**APPENDIX D: ABBREVIATIONS & GLOSSARY**

ALC	Agricultural Land Classification
AONB	Area of Outstanding Natural Beauty
BBOWT	Berks, Bucks & Oxon Wildlife Trust
BMV	Best and Most Versatile (agricultural land)
BNG	Biodiversity Net Gain
CA	Conservation Area
CCB	Chilterns Conservation Board
CIL	Community Infrastructure Levy Regulations
CMC	Case Management Conference
COG	Combined Objectors' Group
(the) Council	Dacorum Borough Council
CPRE	Campaign for the Protection of Rural England
CPS	Centre for Policy Studies
CROW Act 2000	Countryside and Rights of Way Act 2000
CS	Dacorum Core Strategy 2006–2031 (adopted September 2013)
2020 DAF	2020 Custom and Self-Build Demand Assessment Framework
DAS	Design & Access Statement
DLP	Dacorum Local Plan 1991–2011 (adopted 21 April 2004)
Emerging DLP	Emerging Dacorum Local Plan (2020-2038)
DP	Development Plan
dpa	dwellings per annum
DPD	Development Plan Document
DSSDG	Dacorum Strategic Sites Design Guide
EIA	Environmental Impact Assessment
ES	Environmental Statement
FHS	Future Homes and Buildings Standards
(the) Framework	(the) National Planning Policy Framework
FTE (jobs)	Full Time Equivalent (jobs)
GFRA	Grove Fields Residents Association



GLIVIA	Guidelines for Landscape and Visual Impact Assessment – Third Edition
ha	hectares
HCC	Hertfordshire County Council
HIA	Health Impact Assessment
HLS	Housing Land Supply
km	Kilometre
LBMS	Landscape and Biodiversity Management Strategy
LCA	Local Character Area
LDS	Local Development Scheme
LEP	Local Enterprise Partnership
LHA	Local Highway Authority
LHN	Local Housing Need
LHNA 2020	2020 Local Housing Needs Assessment
LPA(s)	Local Planning Authority(ies)
LVIA	Landscape and Visual Impact Assessment
m	metres
mph	miles per hour
MUGA	Multi-Use Games Area
NCA	National Character Area
NERC Act 2006	Natural Environment and Rural Communities Act 2006
NHS	National Health Service
OAN	objectively assessed need
PCPA 2004	Planning and Compulsory Purchase Act 2004
PPG	Planning Practice Guidance
PIM	Pre-Inquiry Meeting
PRoW(s)	Public Right(s) of Way
RSL	Registered Social Landlord
SAC	Special Area of Conservation
SAMM	Strategic Access Management and Monitoring
SANG	Suitable Alternative Natural Green Space

Section 73	Section 73 of the Town and Country Planning Act 1990
Section 106	Section 106 of the Town and Country Planning Act 1990
SoCG	Statement of Common Ground
SofS	Secretary of State for Levelling Up, Housing and Communities
SPD	Supplementary Planning Document
SSSI(s)	Site(s) of Special Scientific Interest
Stantec	Stantec UK Limited
SuDS	Sustainable Drainage System
TA	Transport Assessment
TRICS	Trip Rate Information Computer System
UU	Unilateral Undertaking
VSC	Very Special Circumstances
WMT	West Midlands Trains

## **ADDENDUM REPORT: INFORMATION TO INFORM THE SECRETARY OF STATE'S HABITATS REGULATIONS ASSESSMENT**

### **Introduction**

1. The proposed development would comprise up to 1,400 dwellings including affordable, elderly persons' accommodation, First Homes and self/custom-build. It would also include new vehicular and pedestrian/cycle routes, a local centre with health, community and workspaces, a sports/community hub, allotments and orchards, a primary school and land for a potential secondary school and areas of open space and Suitable Alternative Natural Green Space (SANG).
2. The Conservation of Habitats and Species Regulations 2017 (as amended) and the Conservation of Offshore Marine Habitats and Species Regulations 2017 (as amended) (for plans and projects beyond UK territorial waters (12 nautical miles)) require that where a plan or project is likely to have a significant effect on a European site or European marine site either alone or in combination with other plans or projects, and where the plan or project is not directly connected with or necessary to the management of the European site, a competent authority (the Secretary of State in this instance) is required to make an Appropriate Assessment of the implications of that plan or project on the integrity of the European site in view of the site's conservation objectives.

### **Project Location**

3. The proposed development site is located between Bulbourne Road and Station Road, Tring. Chilterns Beechwoods SAC is located approximately 2km to the east of the site at its closest point, which at that location is underpinned by Ashridge Commons and Woods SSSI. The SAC is also underpinned by Tring Woodlands SSSI, approximately 2.3km to the southwest of the site at its closest point.
4. Ashridge Commons and Woods SSSI is separated from the site by the Grand Union Canal, the mainline railway and open countryside. It is owned and managed by the National Trust. Tring Woodlands SSSI is approximately 3.5km from the site (the boundary at the end of Marshcroft Lane) by road, to Harston Lane.
5. The SAC is distributed over a large geographical area, being underpinned in other locations by Aston Rowant Woods SSSI, Bisham Woods SSSI, Bradenham Woods, Park Wood and The Coppice SSSI, Ellesborough and Kimble Warrens SSSI, Hollowhill and Pullingshill Woods SSSI, Naphill Common SSSI and Windsor Hill SSSI, all of which are well removed from the site and not considered in this assessment.
6. The qualifying features for Chilterns Beechwoods SAC are defined by Natural England as being semi-natural dry grasslands and scrubland facies; dry grasslands and scrublands on chalk or limestone; Beech forests on neutral to rich soils; and the presence of the Stag Beetle.
7. Tring Woodlands SSSI is designated for its semi-natural Beech woodland, one of the best examples in Hertfordshire. It does not have additional

SSSI-qualifying features not covered in the SAC designation, and there are no parts of the SSSI that are not also designated SAC. Ashridge Commons and Woods SSSI is designated for its mosaic of habitats, including a mixture of ancient semi-natural and secondary woodland, plantation, scrub, a more open component dominated by bracken, and grassland. The site supports an exceptionally rich breeding bird community including both county and national rarities. There are no parts of the SSSI not also designated as SAC. The protected species (Stag Beetle) is unlikely to be present in either of the Tring Woodlands SSSI or the Ashridge Commons and Woods SSSI.

### **HRA Implications of the Project**

8. The proposed development will generate additional degradation and air quality impacts that have the potential to affect the Ashridge Commons and Woods SSSI and Tring Woodlands SSSI sites and the semi-natural Beech woodland, dry grasslands and scrubland qualifying features of the sites. The impact pathways are physical damage and disturbance arising from an increase in recreational pressure from new residents; and air quality impacts arising from an increase in traffic movements on the SAC.

### **Part 1 - Assessment of Likely Significant Effects**

9. In terms of air quality, in general, deposition at 200m or above from a road is at a level so small to be considered insignificant. As such, only Tom's Hill Road and the B4506 have been assessed, which lie within 200m of Ashridge Commons and Woods SSSI. Overall, the assessment concludes that, with regards to nitrogen dioxide (Nox), ammonia (NH<sub>3</sub>), nitrogen deposition and acid deposition, the proposed development is considered to result in non-significant effects at Ashridge Commons and Woods SSSI when considered alone or with other plans and projects. Whilst no air quality assessment has been undertaken for the A41 which lies within 200m of Tring Woodlands SSSI, Natural England have confirmed that due to the siting of Tring Woodlands between the junctions of the A41, traffic generated to serve the development is unlikely to give rise to significant effects.
10. In terms of physical damage and degradation to habitats, an increase in recreational pressure on a wildlife site has the potential to cause the degradation of its qualifying habitat features including direct damage to habitat features through walking and other activities, leading to soil compaction, erosion, trampling of vegetation and damage to veteran tree roots. Increased recreational pressure may also result in nutrient enrichment of habitats (e.g. as a result of dog fouling), fly-tipping / littering and increased fire risk. In all but the case of fires, these potential pathways for impacts are directly related to the frequency of visits and management of visitors on site.
11. In order to have an effect in terms of potential damage and degradation of the habitats for which the SAC designated, any walk would necessarily need to extend into the site. This would mean the only section of walk that could feasibly result in damage would be that situated beyond 5.6km (Tring Woodlands SSSI) and beyond 5.2km (Ashridge Commons and Woods SSSI) respectively. I consider that it is unlikely that new residents

of the proposed development would access the SAC on foot, either regularly or on an occasional basis, such that any measurable effect from physical degradation and damage to habitats could arise. However, residents at the site could drive or use other means of transport to access open space in the local area for informal recreation, including the SAC, which could lead to potential habitat damage and disturbance.

12. In conclusion, with regard to physical damage and degradation, the proposed development proposal would be likely to lead to a significant effect when considered alone, which would also contribute towards a significant effect on the SAC via potential physical damage and degradation, when considered in combination with other plans and projects.

## **Part 2 - Findings in relation to Adverse Effects on the Integrity**

13. To address the potential for the development proposal to contribute towards adverse effects from an increase in recreational pressure at the SAC (when considered both alone and in combination with other plans and projects), a package of site-specific avoidance and mitigation measures would be delivered as part of the proposed development. These measures include a large area of proposed Suitable Alternative Natural Green Space (SANG) in the east of the site, which would be greater than the area that would be required in Natural England's guidelines for the proposed number of residents. Its role would be to provide alternative green space to divert visitors from visiting protected areas such as the SAC as frequently through provision of enhanced green space choice.
14. A strategic approach to deal with the Strategic Access Management and Monitoring (SAMM) has been agreed with Natural England, the National Trust and Dacorum Borough Council. A Section 106 Obligation would secure the required financial contributions. Natural England is satisfied with this approach and the SANG design. It has withdrawn its initial objections and is satisfied that the Land Trust would be a suitable party to take responsibility for future SANG management.
15. Based on the above, I consider that the potential effects identified in relation to the development proposal will be avoided or fully mitigated through the implementation of the measures described above, such that there would be no significant residual adverse effects on the SAC (or component SSSIs) when the project is considered alone.

## **HRA Conclusions**

16. In accordance with paragraph 182 of the Framework, I conclude that the proposed development would not adversely affect the integrity of the designated habitats sites alone or in combination with other plans or projects and I consider it to be acceptable under the tests of the Habitats Regulations.
17. These conclusions represent my assessment of the evidence presented to me but do not represent an appropriate assessment as this is a matter for the SoS to undertake as the Competent Authority.

*M J Whitehead*

INSPECTOR

6 November 2023





# Department for Levelling Up, Housing & Communities

[www.gov.uk/dluhc](https://www.gov.uk/dluhc)

## RIGHT TO CHALLENGE THE DECISION IN THE HIGH COURT

These notes are provided for guidance only and apply only to challenges under the legislation specified. If you require further advice on making any High Court challenge, or making an application for Judicial Review, you should consult a solicitor or other advisor or contact the Crown Office at the Royal Courts of Justice, Queens Bench Division, Strand, London, WC2 2LL (0207 947 6000).

The attached decision is final unless it is successfully challenged in the Courts. The Secretary of State cannot amend or interpret the decision. It may be redetermined by the Secretary of State only if the decision is quashed by the Courts. However, if it is redetermined, it does not necessarily follow that the original decision will be reversed.

## SECTION 1: PLANNING APPEALS AND CALLED-IN PLANNING APPLICATIONS

The decision may be challenged by making an application for permission to the High Court under section 288 of the Town and Country Planning Act 1990 (the TCP Act).

### Challenges under Section 288 of the TCP Act

With the permission of the High Court under section 288 of the TCP Act, decisions on called-in applications under section 77 of the TCP Act (planning), appeals under section 78 (planning) may be challenged. Any person aggrieved by the decision may question the validity of the decision on the grounds that it is not within the powers of the Act or that any of the relevant requirements have not been complied with in relation to the decision. An application for leave under this section must be made within six weeks from the day after the date of the decision.

## SECTION 2: ENFORCEMENT APPEALS

### Challenges under Section 289 of the TCP Act

Decisions on recovered enforcement appeals under all grounds can be challenged under section 289 of the TCP Act. To challenge the enforcement decision, permission must first be obtained from the Court. If the Court does not consider that there is an arguable case, it may refuse permission. Application for leave to make a challenge must be received by the Administrative Court within 28 days of the decision, unless the Court extends this period.

## SECTION 3: AWARDS OF COSTS

A challenge to the decision on an application for an award of costs which is connected with a decision under section 77 or 78 of the TCP Act can be made under section 288 of the TCP Act if permission of the High Court is granted.

## SECTION 4: INSPECTION OF DOCUMENTS

Where an inquiry or hearing has been held any person who is entitled to be notified of the decision has a statutory right to view the documents, photographs and plans listed in the appendix to the Inspector's report of the inquiry or hearing within 6 weeks of the day after the date of the decision. If you are such a person and you wish to view the documents you should get in touch with the office at the address from which the decision was issued, as shown on the letterhead on the decision letter, quoting the reference number and stating the day and time you wish to visit. At least 3 days notice should be given, if possible.