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## LAND NORTH OF LITTLE GREEN LANE, CROXLEY GREEN

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### Green Belt: Purpose A August 2025

We submitted a Green Belt Impact Assessment alongside the Application, which found that the Site did not strongly contribute to purpose a of the Green Belt.

Our assessment noted:

*'The Site is free from built development, and is located adjacent to a large built-up area. As set out within the submitted Landscape and Visual Impact Assessment and Green Belt Assessment (dated December 2024), the Green Belt at the Site plays some role in preventing sprawl. However, clearly identifiable physical features which would restrict further development occur to the west, north and east of the Site, in the form of lanes and woodland blocks. The Site is assessed as making a moderate contribution to purpose a of the Green Belt.'*

*Development as proposed at the Site would come forward through a masterplan, and include a holistic design for the Site, including buildings and open spaces, and it would not constitute sprawl. The development would also be very well contained by the existing adjoining woodland, limiting any effects on the wider Green Belt beyond the Site, as also noted in the Council's Stage 2 assessment. The development would also form a clear extension to the existing settlement to the south. Development at the Site in line with the proposed masterplan, will result in limited harm to this purpose of the Green Belt.'*

The PPG notes in relation to Green Belt (Paragraph: 005 Reference ID: 64-005-20250225), that *'Assessment areas that contribute strongly are likely to be free of existing development, and lack physical feature(s) in reasonable proximity that could restrict and contain development.*

*They are also likely to include all of the following features:*

- *be adjacent or near to a large built up area*
- *if developed, result in an incongruous pattern of development (such as an extended "finger" of development into the Green Belt).'*

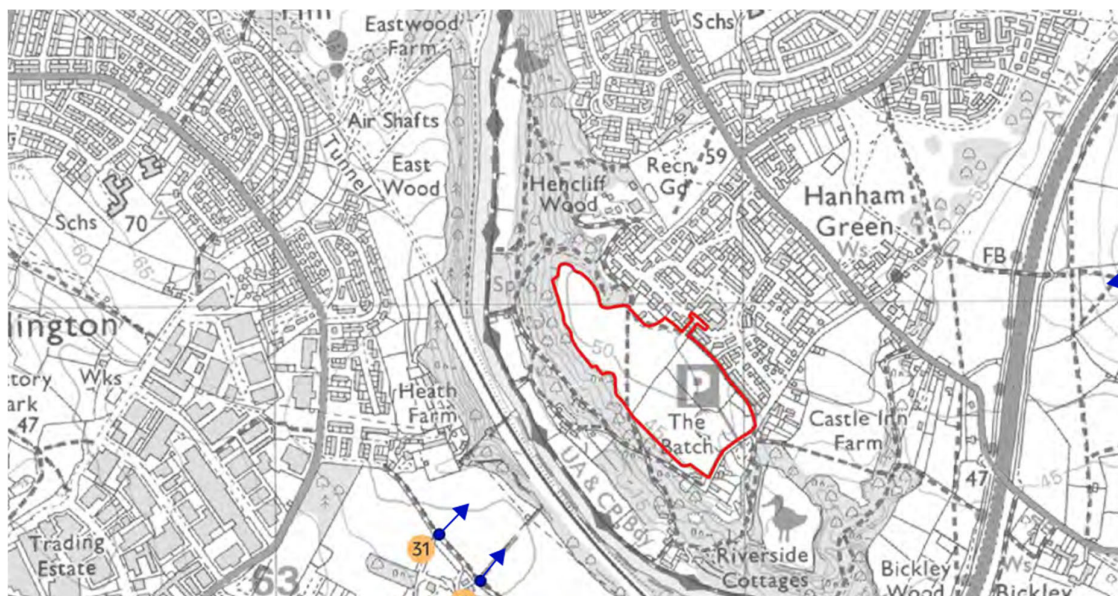
The Site is free from existing development, however, it benefits from very strongly and clearly defined physical features adjoining it, i.e. the Ancient Woodland, which would restrict and contain development. In relation to this part of the PPG, the Site does therefore **not strongly contribute**, as it does not 'lack' physical features which could contain development. The second part of the illustrative features set out within the PPG, is therefore not of relevance, as the Site's characteristic means it already falls below the threshold to be considered to 'strongly' contribute.

Nevertheless, the second part of the illustrative features notes that assessment areas are also likely to include *'all of the following features...'*. We note that the Site is located adjacent to a large built up area. However, we conclude that development at the Site would not result in an incongruous patterns of development. The development would not, for example, form an extended 'finger' of development into the Green Belt. Instead, the development would form a logical extension, continuing the current north eastern extent of Croxley Green northwards, towards very clearly defined, and permanent, new settlement edges.

To illustrate the fact that the proposed development will not appear as an extended 'finger' of development, nor incongruous in relation to the existing development pattern, we have produced a Figure Ground Plan, included in **Appendix A1**, which shows the proposed development alongside the existing settlement pattern. The second plan shows the containment offered by the Ancient Woodland.

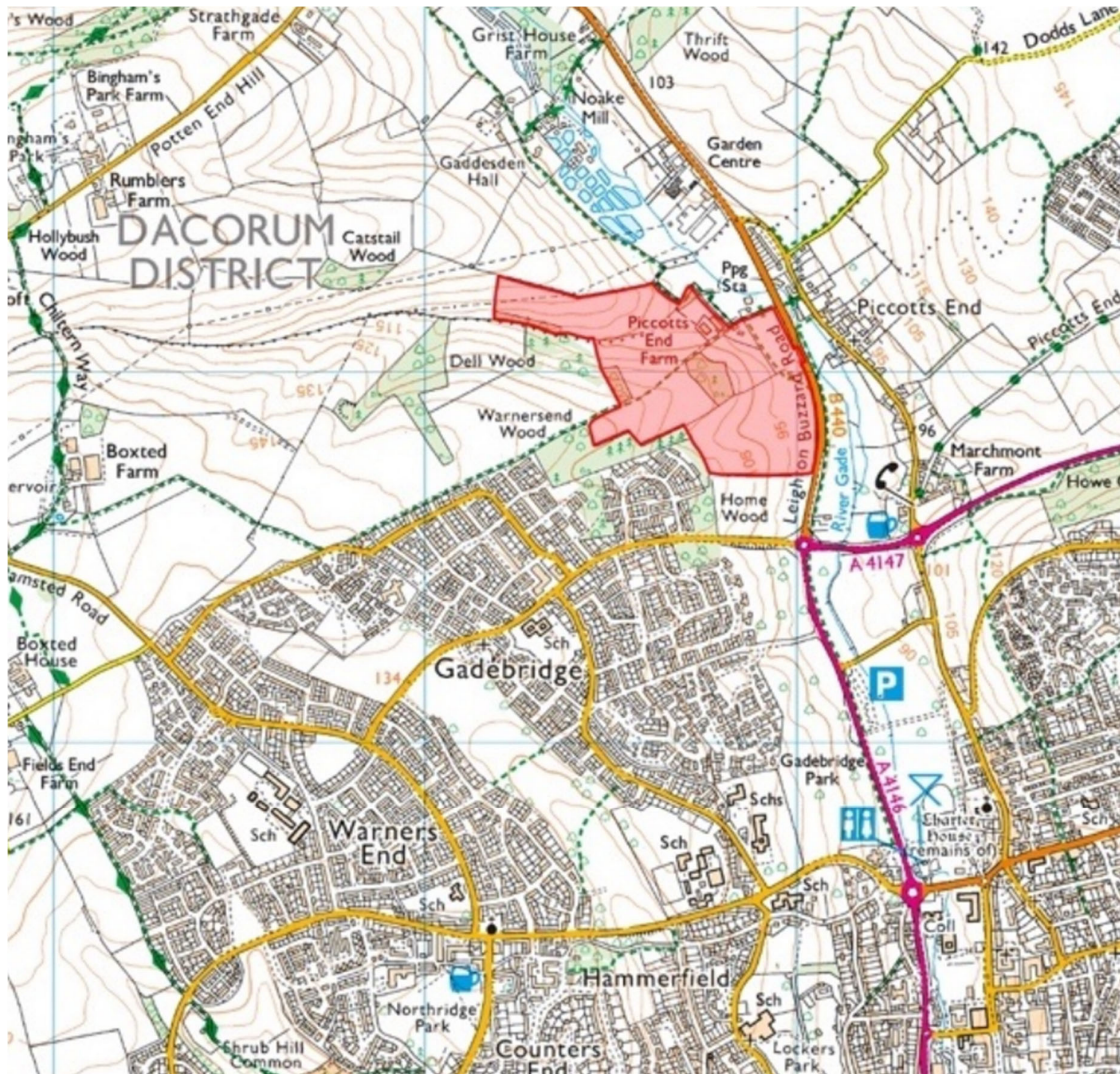
Recent appeal decisions have confirmed that development can extend beyond the existing settlement edge, and still be considered to conform with the settlement pattern, provided the site does not lack physical features which could contain development.

In the Appeal Decision for Land south of Hencliffe Way and west of Castle Farm Road, Hanham (included in **Appendix A2**), the Inspector noted in paragraph 17: *'In this case, although the appeal site is free of existing development, it does possess physical features that could restrict and contain development – in particular ancient woodland to the west and south, and Castle Farm Road to the east. To the north east is the adjacent built-up area of Hanham, which forms part of the east fringe of the urban area of Bristol. The proposal would not result in an extended 'finger' of development, nor would it result in an incongruous, or obtrusive pattern of development. Rather, it would simply shift the edge of residential development further to the southwest.'* The plan below shows the site in relation to the existing settlement.



Location of Hanham site in relation the settlement

In a further recent Appeal Decision in Dacorum Borough Council in relation to Land west of Leighton Buzzard Road, Hemel Hempstead, the Inspector concluded that the site was grey belt. They noted in relation to purpose a in paragraphs 147 and 151 of the Decision (contained in Appendix A3): *'Paragraph 143 of the Framework confirms that purpose (a) of Green Belt seeks to check the unrestricted sprawl of large built up areas. The appeal site is well-defined and well-contained by the Scheduled Monument, Leighton Buzzard Road, the existing built form of Gadebridge and a range of planted and topographical features. The submitted plans demonstrate that the site can be developed in a manner that would be consistent with the prevailing settlement pattern of the area which comprises pockets of development along the valley. Furthermore, the appeal site does not contribute towards constraining the unrestricted sprawl of Hemel Hempstead and would not cause Piccotts End to be submerged by urban sprawl... Consequently, the appeal site is located in the Green Belt but comprises land that does not strongly contribute to relevant purposes (a), (b) or (d).'*' The plan below shows that site in relation to the existing settlement.



Location of Hemel Hempstead site in relation the settlement

In conclusion, our assessment finds that the Site does not strongly contribute to purpose a of the Green Belt.

**APPENDIX A1**

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CLIENT  
Richborough

PROJECT  
Land North of Little Green Lane, Croxley Green

TITLE  
Figure Ground Plan

|             |         |             |             |
|-------------|---------|-------------|-------------|
| DRAWN BY    | SG      | CHECKED BY  | SG          |
| SCALE @ A4  | NTS     | DATE        | AUGUST_2025 |
| PROJECT NO. | I000010 | DRAWING NO. | DL08        |
|             |         | REV.        | -           |

iceni Projects accept no responsibility for any unauthorised amendments to this drawing. Only figured dimensions are to be worked to.



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CLIENT

Richborough

PROJECT

Land North of Little Green Lane, Croyley Green

TITLE

Figure Ground Plan, showing physical features which  
would contain development (i.e. Ancient Woodland)

|             |         |             |             |
|-------------|---------|-------------|-------------|
| DRAWN BY    | SG      | CHECKED BY  | SG          |
| SCALE @ A4  | NTS     | DATE        | AUGUST_2025 |
| PROJECT NO. | I000010 | DRAWING NO. | DL09        |
|             |         | REV.        | -           |

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## APPENDIX A2

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## Appeal Decision

Inquiry opened on 7 May 2025

Accompanied site visit made on 15 May 2025

**by Matthew Nunn BA BPI LLB LLM BCL MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 4<sup>th</sup> July 2025

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**Appeal Ref: APP/P0119/W/24/3357956**

**Land south of Hencliffe Way and west of Castle Farm Road, Hanham**

- 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 Ashfield Land Ltd and Redrow Homes Ltd against the decision of South Gloucestershire Council.
  - The application Ref: P/23/01330/O, dated 12 April 2023, was refused by notice dated 16 August 2024.
  - The development proposed is 'outline planning application for the demolition of 1 dwelling and the erection of up to 140 dwellings, provision of public open space, landscaping and planting, drainage and ancillary works, with all matters reserved except for means of site access'.
- 

### Decision

1. **The appeal is allowed** and outline planning permission granted for the demolition of 1 dwelling and the erection of up to 140 dwellings, provision of public open space, landscaping and planting, drainage and ancillary works, with all matters reserved except for means of site access on land south of Hencliffe Way and west of Castle Farm Road, Hanham, in accordance with the terms of the application Ref: P23/01330/O, dated 12 April 2023, subject to the conditions in the attached schedule.

### Preliminary Matters

2. The planning application is made in outline with all matters apart from access reserved for subsequent determination. The planning application form specifies 'up to 149 dwellings', but this was reduced to 'up to 140' before the application was determined by the Council. The planning application form incorrectly refers to land 'east' rather than 'west' of Castle Farm Road, although it is clear from the submitted plans where the site is located. The correct description is recorded in the header above, and I have dealt with the appeal on this basis.
3. The Inquiry sat from 7-9, 13-15, and 20 May 2025, with closing submissions made virtually. In addition to my accompanied site visit on 15 May 2025, I made other unaccompanied visits. I held a Case Management Conference on 12 March 2025 to discuss the ongoing management of the Inquiry, the likely main issues, including the best method for hearing the evidence, to ensure the efficient and effective running of the Inquiry.
4. The Council's fifth reason for refusal (RfR) relates to the failure to make adequate provision for necessary on-site and off-site infrastructure, including:

affordable housing, travel plan measures, nursery and secondary education, on and off site public open space, drainage management and maintenance, provision of health care facilities, woodland recreational access management, and library and community provision. A planning obligation has now been completed, dated 4 June 2025, between the Council, Ashfield Land Ltd, the landowners, and Redrow Homes Ltd. This resolves the matters identified in the fifth RfR which is no longer being pursued by the Council. I deal with the provisions of the planning obligation in the body of my decision.

5. The Secretary of State has considered the planning application in terms of the Environmental Impact Assessment (EIA) Regulations 2017 and has concluded it does not constitute EIA development.
6. The site falls within the Green Belt. The context for assessing such sites has significantly changed since the planning application was determined by the Council in August 2024. The Council refused the appeal proposal for reasons which included that it would represent inappropriate development and that very special circumstances needed to justify such development had not been demonstrated. However, the concept of 'Grey Belt' was introduced by the Government in the December 2024 National Planning Policy Framework ('the Framework'). An issue between the parties is whether the appeal site can be considered Grey Belt.

## **Main Issues**

7. The main issues are:
  - (i) whether the proposal would be inappropriate development in the Green Belt, having regard to the Framework;
  - (ii) the effect on the character and appearance of the area, including the landscape;
  - (iii) the effect on living conditions at No 62 and No 66 Hencliffe Way, in terms of general disturbance;
  - (iv) the effect on heritage assets; and
  - (v) the overall planning balance.

## **Reasons**

### *Planning Policy Context*

8. The statutory development plan comprises the South Gloucestershire Core Strategy: 2006-2027 ('the Core Strategy'), adopted in 2013; and the Policies, Sites and Places Plan ('PSPP'), adopted in 2017. Various policies from both documents are cited in the RfRs.
9. It is agreed that the Council cannot, at the present time, demonstrate a 5 year supply of housing. The Council states it can demonstrate a 4.38 year supply, whereas the Appellant says it is 3.87 years<sup>1</sup>. This is a material change in situation since the Council determined the planning application. At that time, it

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<sup>1</sup> CD 7.1, Main Statement of Common Ground, Page 21

concluded that there was a demonstrable 5 year supply<sup>2</sup>. The Framework is clear that where a local authority cannot demonstrate a five year supply of deliverable sites, policies which are 'most important for determining the application' are deemed out of date<sup>3</sup>. That said, the Framework does not change the statutory basis of the development plan for decision making, and the fact that policies are 'out of date' does not mean they should carry no weight or be ignored.

10. Policy CS5 relating to the location of new development states, amongst other things, that 'most new development will take place within the communities of the North and East Fringes of Bristol urban area'. Although the appeal site is located adjacent to the settlement area of Hanham, it lies outside the settlement boundary. It therefore falls outside the area where development is envisaged and would be contrary to that policy.
11. Policy CS15 establishes a minimum of 28,355 homes to be provided up to 2027, indicating phasing capacity, including for the North and East Fringes of Bristol Urban Area. It is common ground that there is a shortfall in delivery against the minimum requirement of Policy CS15<sup>4</sup>. It is also the case that the housing requirement figure does not take into account any unmet housing need arising in the City of Bristol. Policy PSP40 sets out acceptable forms of residential development in the open countryside, outside settlement boundaries. The appeal scheme does not fall within any of the acceptable categories.
12. Because the Council cannot demonstrate a five year supply of housing, it is agreed that the settlement boundary policies in the Core Strategy and PSPP are out of date, including Policies CS5, CS15, and PSP40<sup>5</sup>. These policies are also out of date because the Core Strategy was based on a strategic housing market assessment that was prepared before the 2012 version of the Framework. Although the Core Strategy was found sound by the Examining Inspector, this was on the basis that an early review of the plan would be undertaken by 2018. This has not been done. In these circumstances, the housing requirement in the Core Strategy and the associated settlement boundaries are not compliant with the Framework. This diminishes the weight that can be attached to any conflict with these policies<sup>6</sup>. Therefore, the fact the proposed development lies outside the settlement boundaries cannot be determinative in this case, particularly as the Council acknowledges it cannot meet current housing needs without breaching them.

### **Whether inappropriate development within the Green Belt**

13. The Framework makes clear that the Government attaches great importance to Green Belts, and that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open<sup>7</sup>. Following changes to the Framework in December 2024, and after the application was refused permission, the new concept of 'Grey Belt' was introduced by the Government. This is defined as land in the Green Belt comprising previously developed land

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<sup>2</sup> CD 4.1, Officer Report, Paragraph 5.32

<sup>3</sup> Paragraph 11(d), Footnote 8

<sup>4</sup> CD 7.1, Main Statement of Common Ground, Page 21; CD 7.2 Housing Statement of Common Ground, Para 2.8

<sup>5</sup> CD 7.1, Main Statement of Common Ground, Page 21

<sup>6</sup> This approach has been followed in a number of recent appeals: CD 9.17 (Appeal Ref: 3303905); CD 9.16 (Appeal Ref: 3288019); CD 11.2 (Appeal Ref: 3323836)

<sup>7</sup> Paragraph 142

and / or any other land that, in either case, does not *strongly* contribute to any of the purposes (a), (b), or (d) in Paragraph 143 of the Framework<sup>8</sup>. Paragraph 143 identifies that purpose (a) is to check the unrestricted sprawl of large built-up areas; purpose (b) is to prevent neighbouring towns merging into one another; and purpose (d) is to preserve the setting and special character of historic towns.

14. In this case, it is agreed between the parties that the appeal site makes a limited contribution to purpose (b): preventing neighbouring towns merging; and no contribution to purpose (d): preserving the setting and special character of historic towns<sup>9</sup>. I see no reason to disagree. A key issue remaining in dispute, therefore, is whether the site *strongly* contributes to purpose (a): checking the unrestricted sprawl of large built-up areas. The large built-up area in question is Bristol urban area, the eastern fringe of which includes Hanham<sup>10</sup>.
15. The Planning Practice Guidance (PPG) on Green Belts provides guidance on how to assess the strength of contribution to purpose (a), along with the other purposes. The PPG advises that areas that contribute *strongly* 'are likely to be free from existing development, and lack physical features in reasonable proximity that could restrict and contain development'. The PPG continues that 'they are also likely to include all of the following features: be adjacent or near to a large built-up area; if developed, result in an incongruous pattern of development (such as an extended 'finger' of development into the Green Belt)'<sup>11</sup>.
16. In interpreting the PPG, a degree of judgement is required in assessing the strength of contribution to Green Belt purposes. Any assessment should not be a mechanical exercise, and there may be some overlap between categories, such that it may not always be clear cut. I acknowledge that mention of a site likely being 'free from existing development' is unique to the 'strong' category of contribution. But the PPG makes clear that is not the only relevant consideration. The presence of development is one example of a feature that potentially weakens the land's contribution to purpose (a). Also, and importantly, the definition of Grey Belt in the Framework does not assume that the land in question is necessarily previously developed<sup>12</sup>.
17. In this case, although the appeal site is free of existing development, it does possess physical features that could restrict and contain development - in particular ancient woodland to the west and south, and Castle Farm Road to the east. To the north east is the adjacent built-up area of Hanham, which forms part of the east fringe of the urban area of Bristol. The proposal would not result in an extended 'finger' of development, nor would it result in an incongruous, or obtrusive pattern of development. Rather, it would simply shift the edge of residential development further to the southwest.
18. Of particular relevance are Green Belt studies produced as part of the preparation of the emerging Local Plan. A Stage 1 Review was produced in

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<sup>8</sup> Framework, Glossary, Page 73

<sup>9</sup> CD 7.1, Main Statement of Common Ground, Page 21

<sup>10</sup> CD 1.1, Paragraph 13.1. For administrative purposes Hanham falls within South Gloucestershire Council, rather than Bristol City Council.

<sup>11</sup> Paragraph: 005 Reference ID 64-005-20250225

<sup>12</sup> Glossary, Page 73

September 2022<sup>13</sup> and a Stage 2 Review in January 2025. In those studies, consideration was given to the contribution the appeal site makes to purpose (a). The Stage 1 Green Belt Review considered the appeal site as part of a much wider area designated as 'Parcel P76' which extended east of the A4174 and concluded it made a 'significant' contribution to purpose (a). However, the Stage 2 Review considered the appeal site on its own. Referred to as 'SG032 Land at Castle Farm Road, Hanham', that Review concluded that the surrounding ancient woodland formed part of a defensible boundary and that the site made a 'moderate' contribution to purpose (a)<sup>14</sup>, the mid-point of the scale<sup>15</sup>.

19. Crucially, that Review noted that the site, although free of existing sprawl, was 'physically connected' to the large built-up area along the north eastern boundary, with the outer boundary defined by the edge of ancient woodland, forming a boundary to the south west and north west, with a section of the boundary consisting of Castle Farm Road, along with residential curtilages to the north and south. It concluded that the outer boundary of the site was 'mixed' but 'on the whole consists of a defensible boundary which would prevent unrestricted sprawl'. This is a comprehensive and robust assessment, and it accords with my own assessment.
20. Notably, that Review informed the decision to promote the appeal site as a housing allocation in the emerging Local Plan<sup>16</sup>. I acknowledge that the Stage 2 Review (and Stage 1 Review) pre-dated the concept of 'Grey Belt'. However, the revised Framework did not change Green Belt purposes, and so both the Reviews' conclusions remain valid. Indeed, the Stage 2 Review specifically notes that although prepared in accordance with the earlier 2023 Framework, with the consequence 'Grey Belt' is not identified, the study's 'findings still hold weight' against the new Framework<sup>17</sup>.
21. Significantly, the Officer's Report for the planning application also concluded that the appeal site made a 'moderate' contribution to purpose (a)<sup>18</sup>. However, at the Inquiry, the Council disputed that the ancient woodland around the site constituted a physical feature capable of restricting development, or that it formed a defensible boundary. This was on the basis that there was no clear or well defined consistent line on the ground. It was also argued that in assessing the boundary, it is unclear whether it would be the tree canopy, root protection zone or trunks that form the edge.
22. From my observations on site, I found that the woodland area to be a clearly discernible physical feature that could restrict and contain development of the site, not least because of the topography of the wooded area. The ground falls away steeply between the site and the River Avon. I accept the Council's point that the ground levels vary, but this does not diminish the enclosure of the site. There are also legal and policy restrictions that constrain the wooded area's development such as to ensure its permanence as a physical boundary<sup>19</sup>.

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<sup>13</sup> CD 3.5, Green Belt Assessment Stage 1

<sup>14</sup> CD 3.4, South Gloucestershire Stage 2 Green Belt Review, January 2025, E-14

<sup>15</sup> The other categories were 'significant' and 'limited'

<sup>16</sup> The allocation proposes 125 dwellings rather than the 140 proposed in this appeal

<sup>17</sup> CD 3.4, Page 5

<sup>18</sup> CD 4.1, Officer's Report, Paragraph 5.19 – 5.21

<sup>19</sup> ID 13, Joint Note showing Protections applicable to Ancient Woodland around the site

23. On balance, having regard to the Green Belt studies undertaken, and advice in the PPG, I find that the site fits the 'moderate' contribution category more satisfactorily. This category in the PPG states that areas are likely to be adjacent or near a large built-up area but include *one or more* features that weaken the land's contribution to purpose (a). The site meets the following criteria: it has 'physical features in reasonable proximity that restrict and contain development'; it is 'partially enclosed by existing development such that it would not result in an incongruous pattern of development'; and it is 'subject to other urbanising influences'. Importantly, the PPG does not require all the listed features in that category to be present. So, whilst the site does not 'contain existing development', that is not determinative of itself. The PPG does not assume that a site which makes a 'moderate' contribution to purpose (a) must necessarily contain existing development. It is merely one relevant factor in making an assessment as to whether the contribution is 'strong' or 'moderate'.
24. To sum up, I find that the site makes only a moderate contribution to purpose (a). As above, it is already accepted that with regards to purpose (b) the contribution would be limited, and in relation to purpose (d) there would be no contribution. Therefore, in accordance with the Framework's definition, the appeal site does not make a strong contribution to purposes (a), (b) or (d) and can be regarded as 'Grey Belt'. However, for the proposal to be considered as 'not inappropriate' development, it must satisfy all of the criteria, (a) to (d) listed in Paragraph 155 of the Framework.
25. Criterion (a) of Paragraph 155 requires that the development would utilise grey belt and not fundamentally undermine the purposes (taken together) of the remaining Green Belt across the area of the plan. I take this to mean an assessment of the proposal against all five purposes of the Green Belt. Purposes (a), (b) and (d) have already been considered above. It is common ground that the contribution to purpose (e) - assisting in urban regeneration is limited<sup>20</sup>. That leaves purpose (c) - assisting in safeguarding the countryside from encroachment.
26. Clearly, the development of the appeal site would run counter to the aim of safeguarding the countryside from encroachment. Currently the site comprises undeveloped agricultural land and has a rural character, and its development would undermine that aim. However, whilst there would be some encroachment of the countryside, the site's location at the edge of the urban area, its enclosure by defensible boundaries, including woodland, the comparatively limited site area (around 8.2 hectares) and the scale of the scheme means that the effect of the proposal would be limited in the wider context. Indeed, its effect would be localised: the site cannot be said to have a strategic role in the functioning of the Green Belt, meaning its development would not undermine any strategic role.
27. It is notable that the Stage 2 Assessment found that although the site made a 'significant contribution' to safeguarding the countryside from encroachment, it nonetheless found that 'the overall level of contribution is considered to be lower', because of the lower contributions in respect of other Green Belt purposes. Consequently, the Assessment judged overall that the site made a 'moderate' contribution to Green Belt purposes. The Assessment also

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<sup>20</sup> CD 7.1, Main Statement of Common Ground, page 22

considered the cumulative effect of allocating other nearby sites and found that, notwithstanding the slightly larger incursion into undeveloped countryside, the remaining Green Belt would still perform its functions<sup>21</sup>. I see no reason to take a different view on these matters. Overall, I find that the scheme would not fundamentally undermine the purposes (taken together) of the remaining Green Belt across the area of the plan. As such, Criterion (a) of Paragraph 155 of the Framework would be met.

28. Criterion (b) of Paragraph 155 requires that there is a demonstrable need for the type of development proposed. As noted, the Council is unable to demonstrate a 5 year supply of housing, and in the light of the shortfall, whether 4.38 years or 3.87 years, new housing development is needed, both market and affordable. This is common ground between the parties. As such, Criterion (b) of Paragraph 155 of the Framework would be met.
29. Criterion (c) of Paragraph 155 requires that the development be in a sustainable location. Again, it is uncontroversial that the proposal would be in such a location, adjacent to the urban area of Hanham, with opportunities for travel other than the private car. It would be close to a parade of shops in Memorial Road, including a supermarket. Off-site highway improvements to enhance accessibility are also proposed as part of the scheme. These include, amongst other things, improved crossing points with dropped kerbs, tactile paving, upgrading of an existing bus stop to provide a shelter, lighting and 'real time' information, and an improved footway along Castle Farm Road<sup>22</sup>. The requirement of Criterion (c) of Paragraph 155 of the Framework would be met.
30. Criterion (d) requires that the development would meet the 'Golden Rules' set out in Paragraphs 156-157 of the Framework. In this regard, the scheme would deliver 50% affordable housing. It would deliver improvements to local infrastructure, secured through a planning obligation which I deal with later. It would secure new or improvements to existing green spaces that are accessible to the public. In fact, the proposal would provide ample green space, with around 45% of the site remaining undeveloped. Both the Council and Appellant agree that the proposal would meet the 'Golden Rules'<sup>23</sup>.
31. For the above reasons, the proposal would not be inappropriate development in the Green Belt in terms of the Framework. As such, it is unnecessary to consider whether the harm by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations such as to amount to 'very special circumstances' necessary to justify the proposal. Nor is it necessary to consider the test of impacts to openness in the Green Belt<sup>24</sup>. Paragraph 158 of the Framework states that a development which complies with the 'Golden Rules' should be given significant weight in favour of granting permission. The scheme would also comply with Policy CS5(6)(c) to the extent that the proposal would comply with the provisions of the Framework<sup>25</sup>.

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<sup>21</sup> CD 3.4, pdf page 59; sites are: land south of Abbots Road (SG760) & land at Castle Farm Road (SG779)

<sup>22</sup> CD 6.6, Transport Assessment (Rev B), Figures 5.4 & 5.5

<sup>23</sup> Council's Closing Submissions, Paragraph 48

<sup>24</sup> PPG Paragraph: 014 Reference ID: 64-014-20250225

<sup>25</sup> Accepted by Mr Burman in XX

## Effect on character and appearance, including landscape

32. The site comprises a series of irregularly shaped agricultural fields to the southwest of Hanham. At a national level, the appeal site falls within National Character Area 118 – Bristol, Avon Valley and Ridges, which encompasses an extensive area<sup>26</sup>. At a more detailed local level, the site is identified as within the 'Avon Valley' Landscape Character Area (LCA) 16. Key characteristics include: 'steep sided, densely wooded slopes' enclosing the River Avon; 'linear broadleaved woodlands' including 'large areas of ancient woodland'; and 'gentle upper slopes' including 'medium sized pasture and arable fields, defined by the urban edge to the north'. The appeal site and its wider surroundings exhibit a number of these characteristics, including woodland areas and gently sloping arable fields.
33. Whatever character label is attached, I consider the appeal site can be regarded as forming part of an attractive landscape that remains largely intact and unspoilt in this locality. It has a pleasing character. The site comprises undulating arable fields, punctuated by hedgerows and intermittent trees, and is enclosed by dense ancient woodland to the south west and north west, and bounded by residential properties to the north east. Further south west is the River Avon, and beyond that is a railway line also located in the valley, screened from the site by the woodland. There are public rights of way across the site and in the locality, including Water Lane that follows the northern boundary of the site (PHA 7), lined by trees and vegetation; and a footpath that diagonally traverses the site through the westernmost field (PHA 6) from Common Road to Hencliffe Wood. This gives open views across the site, and longer distance views to the countryside beyond.
34. Whilst there is some agreement between the Council and Appellant regarding visual and landscape impacts, there are also differences. These are summarised in the Landscape Statement of Common Ground<sup>27</sup>. In particular, the Council is of the view that in terms of landscape character impacts on the site itself, the development would have a 'high adverse' effect after 15 years, whereas the Appellant claims it would be 'moderate adverse'. On the wider Avon Valley LCA after 15 years, the Appellant contends 'minor adverse' against the Council's 'moderate adverse'. In terms of visual impacts, again after 15 years, the Council says that effects on Footpath PHA 7 would be 'high adverse' whereas the Appellant says 'moderate adverse'. Other differences relate to the impacts on highway users of Castle Farm Road and properties on that road, with the Appellant contending a lesser impact than the Council. However, the parties agree that the impact on Footpath PHA 6 diagonally traversing the site would be 'high adverse'.
35. I consider that, to some extent, the site currently serves as a gateway from the built-up environs of Hanham to the wider countryside: walking away from Hencliffe Road along the narrow footpath between No 64 and No 66, one is aware of entering an attractive rural landscape, of which the appeal site forms part. Similarly, progressing southwards along Castle Farm Road, one is aware of leaving a predominantly suburban setting and entering a more rural area. Development of the site would change its character from a rural to a more suburban one.

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<sup>26</sup> CD 10.1, National Character Area 118: Bristol, Avon Valley & Ridges

<sup>27</sup> CD 7.3, Landscape Statement of Common Ground, Tables L1, L2, L3 & L4

36. The site provides an attractive setting for a number of the public footpaths. I understand these are popular with local walkers, providing a recreational resource. The scheme proposes a realignment of the public footpath (PHA 6) that diagonally crosses the northernmost field within the appeal site. Without doubt, the proposed coverage of a significant part of the existing fields with new housing would mean that views of the rural countryside from this footpath would be seriously compromised. The construction of urban built form would fundamentally alter users' experiences of this section of the footpath. Rather than walking through an open field and rural countryside, it would effectively become a walk past a suburban housing estate. Most users are likely to find their experience and enjoyment of the footpath considerably reduced by such changes to the landscape. There would also be similar adverse impacts on the northern section of footpath PHA 7 which currently has an attractive open aspect across the fields towards the woodland and wider landscape.
37. All that said, the site is not subject of any national landscape designations, and it is agreed it does not comprise a 'valued landscape' in terms of Paragraph 187(a) of the Framework<sup>28</sup>. That is not to say that it is not valued by local people. Whilst pleasantly and attractively rural, the appeal land is relatively nondescript, exhibiting fairly ordinary characteristics. It contains no rare landscape features. It cannot be regarded as truly 'tranquil' as one can hear the trains that run regularly on the railway line located in the Avon Valley.
38. From within the site, the urban edge of Hanham comprising the houses along Hencliffe Way is clearly visible and so the site does not have a feeling of remoteness. It is perceived in the suburban context of the existing settlement edge. The proposals would extend the urban boundary further to the south west across an area of agricultural land that is already influenced by the existing built-up boundary. The site is also visually enclosed to an extent by the dense surrounding woodland, meaning it is not conspicuous in the wider landscape. There are some longer range views of the site, including from Hanham Hills. However, from this vantage point, the site is seen at a distance within the context of a much larger panorama which includes built development, such that the proposal would not be dominant.
39. The 'Concept Masterplan' shows how the appeal proposals would provide significant additional landscaping, including the planting of native species of trees and additional hedgerows. An area of woodland is also proposed, a community orchard, allotments, as well as areas of public open space across the site. The landscaping would provide a high quality setting to the new development, and around 45% of the site would be undeveloped, and given over to 'green' and 'blue' infrastructure. There would be a 10% net gain in biodiversity. A series of additional footpaths would be created across and around the appeal site. A 15 metre buffer to the ancient woodland is also proposed to accord with Natural England guidance. Development would also be set well back, around 70 metres, from Castle Farm Road, with open space, water attenuation ponds, retained woodland, together with additional planting providing a buffer and softening views into the site.
40. The development would inevitably result in the loss of open agricultural land and some degree of urbanisation of the countryside. It would also result in the loss of a 'green buffer' between the built-up area and ancient woodland. The

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<sup>28</sup> CD 7.3, Landscape Statement of Common Ground, Paragraph 2.1(iv)

landscape and visual effects would clearly be greater in the early years of the development but would significantly reduce over time as the landscaping matures and the built form becomes more assimilated into the local context. Whilst the proposal would advance built form into this part of the countryside, the effects would ultimately be relatively localised and the impact within the wider landscape would not be that significant.

41. As mentioned above, the site is proposed for residential development in the emerging plan as draft allocation HA1. This was following an internal assessment by the Council's 'specialist officers including landscape, archaeology, and transport'<sup>29</sup>. Despite various impacts, it was nevertheless concluded that the site should come forward for development, albeit for 125 dwellings - 15 fewer dwellings than the appeal proposal. I appreciate that the emerging local plan is still at a relatively early stage, is still subject to outstanding objections, and has yet to be examined by the Secretary of State. In that context, it can only be given limited weight in this appeal. It is the case though that in terms of its plan-making function, the Council's current position is that, in principle, the allocation would be acceptable. It logically follows, therefore, that were the site to be developed as per the draft allocation, there would be a permanent loss of rural character and openness, and a reduction in the amenity of public footpaths near and across the site.
42. Regarding the effect on the character and appearance of Hencliffe Way itself, in terms of the access, the removal of a single detached house along a row of other detached properties would have no serious visual impact on the street scene. The access would appear little different to other road junctions in the locality, and not untypical. The proposal would create a modern housing estate, adjacent to the existing 1970s /1980s residential development. I see no reason why the scheme should appear incongruous in this context, or conflict with Policy CS1, in terms of achieving high quality design.
43. Overall, in terms of the landscape, there would be conflict with certain policies, including CS1(3), CS2(5), CS9(3) insofar as they seek to safeguard and conserve the landscape. There would also be some conflict with Policy PSP2. That policy states that development proposals will be acceptable where they conserve and enhance the quality, amenity, distinctiveness and special character of the landscape. However, and importantly, Policy PSP2 also states that where development would harm the landscape, it must be clearly demonstrated that the benefits outweigh the harm, and that any harm to the landscape be minimised and mitigated. Thus, this policy does contemplate that the benefits of a proposal can outweigh harms, subject to minimisation and mitigation.

## **Effect on living conditions**

### ***New access between No 62 and No 66***

44. The Council is concerned that the proposed new access from Hencliffe Way, achieved by the demolition of No 64, would harm living conditions at No 62 and No 66 Hencliffe Way, citing 'general disturbance' and 'overbearing impact'<sup>30</sup>. Serious concerns are also raised by the occupiers of those properties. I accept that the penetration of vehicle activity into the appeal site between both

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<sup>29</sup> CD 3.9, Paragraph 49, Housing & Economic Land Availability Assessment & Site Selection Methodologies

<sup>30</sup> RfR 4

houses would undoubtedly create some additional noise and disturbance through the coming and going of vehicles and the presence of headlights. The new access arrangement could have some potential to diminish the quiet enjoyment of those houses and gardens, particularly in the summer months when gardens are used for relaxation and windows left open to improve ventilation. The question, however, is whether the effects on living conditions would be unacceptable.

45. It is estimated that the proposals will generate 57 vehicles per hour (VPH) in the weekday morning peak, and 69 VPH in the afternoon peak<sup>31</sup>. This equates to approximately one vehicle per minute during peak periods, with less at other times<sup>32</sup>. These figures are based on the originally envisaged 149 dwellings rather than the 140 now proposed, so the vehicle numbers would be marginally less. Furthermore, the proposed Travel Plan aims to minimise journeys made by car, promote sustainable and active travel, as well as reduce single occupancy vehicle travel. This would potentially reduce the number of vehicular trips. With around one vehicle per minute during peak periods, I do not consider the impact to be particularly significant. Moreover, any associated noise would only be of short duration whilst the vehicle passes.
46. The Parameters Plan<sup>33</sup> shows that the developed area of housing within the site would be set well away from the rear boundaries of the properties in Hencliffe Way, such that there would be no vehicle movements directly to the rear of these properties. An annotated drawing indicating the distances between the existing adjacent houses and the proposed access road has been provided by the Appellant<sup>34</sup>. This shows that the distance between the side wall of No 62 and the footway to be 4.24m, and to the carriageway edge 6.26m; and for No 66, the distance to the footway would be 4.83m and carriageway edge 6.83m respectively. These dimensions were not disputed by the Council. I consider this would provide a reasonable degree of separation between the existing houses and the proposed road. A condition is also proposed requiring a scheme to be approved by the Council to mitigate any noise, including new and enhanced perimeter walls and fencing along the new site access.
47. In terms of vehicle headlights, it must be appreciated that opposite Nos 62-66 Hencliffe Way is a parking area for Knightstone Place, with an access on to the road that faces those properties. The headlights of exiting vehicles face directly towards those properties on Hencliffe Way. By contrast, the angle of vehicle headlights turning into the proposed site access would be different such that they are unlikely to directly shine into the windows of No 62 and No 66. In addition, as mentioned above, the new road would be screened by new boundary fences, with associated planting, thereby protecting the properties from passing headlights. Overall, I do not consider there would be a significant impact from vehicular headlights.
48. It is important to note that the Council's Environmental Health Officers have raised no technical objections to the scheme, including in terms of noise. A Noise Impact Assessment concluded that levels would fall generally within the 'lowest observed adverse effect level' (LOAEL) band. It concluded that whilst

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<sup>31</sup> Technical Note on Vehicle Movements at Principal Access Point, Craig Rawlinson, appended to Dr Rocke's Proof of Evidence; and Appellant's Closing Submissions, Paragraph 163

<sup>32</sup> The Council accepts that it over-estimated the number of vehicle movements in its Proof of Evidence and Officer's Report

<sup>33</sup> CD 6.2

<sup>34</sup> ID 9

vehicle movements would be audible, they would not be intrusive or result in any significant loss of amenity<sup>35</sup>. On that basis, the Assessment noted that there were no reasons why permission could not be granted. Based on the Noise Impact Assessment's findings, the Council's Officer's Report noted that there would not be a significant harmful effect in terms of traffic noise, subject to mitigation measures, including boundary fencing<sup>36</sup>.

49. I visited both No 62 and No 66, including internally. No 62 includes a side extension adjacent to the new access road, with a conservatory opening on to the rear garden. This extension is a main living area, and there is a subsidiary window in the side elevation. There are also flank windows in No 66. I fully appreciate the concerns of the residents at these properties. The introduction of a new access would be a significant and no doubt very unwelcome change. However, carefully assessing the evidence as a whole, I do not consider there would be an unacceptable effect. The enhanced screening and boundary fences, together with the distances from the road carriageway edge would also significantly reduce the perception of passing vehicles.
50. Although clearly resulting in changed circumstances, the presence of a road flanking properties is a common arrangement in residential areas. In this case, a new road running along the side of existing properties is not, of itself, a reason for the appeal to fail. I do not doubt there may be some disruption during the construction phase, and this should not be downplayed. That said, it would be temporary and is inevitable with any new development. A condition controlling the hours of construction, and enforcing other restrictions and requirements, can be imposed to minimise disturbance to local residents.
51. The Yarm decision is relied on by the Council where the Inspector found a new access between properties unacceptable. I do not have full details of that scheme, but it is distinguishable in that the dwellings were single storey, there were differences in ground level between the properties, and there were direct views in from passers-by on foot<sup>37</sup>.
52. Overall, I find that there would not be an unacceptable effect on No 62 and No 66 Hencliffe Way, nor any conflict with Policy PSP8. This states development proposals will be acceptable provided they do not create unacceptable living conditions, or an unacceptable impact on residential amenity, with respect to, amongst other things, noise and disturbance.

### ***Effect on outlook from properties in Hencliffe Way***

53. Clearly the development of the appeal site would fundamentally alter the outlook from a number of properties backing on to the site. As part of my site visit, I viewed the appeal land from the upstairs rooms of No 66. At present, there are pleasing open and expansive rural views of countryside comprising arable fields, delineated by mature hedgerows, with the woodland beyond. The impression one has when looking out of the windows, especially at first floor level, is of being surrounded by an attractive rural landscape, with an absence of built form. Quite understandably, this open aspect is highly valued by property owners overlooking the appeal site.

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<sup>35</sup> CD 6.3, Noise Impact Assessment, Paragraph 5.2.6

<sup>36</sup> CD 4.1, Paragraph 5.52

<sup>37</sup> CD 11.5, APP/H0738/W/22/3296940

54. The proposed scheme would create a more suburban outlook. This again would be a significant and no doubt unwelcome change for occupiers of the properties with views on to the appeal site. Importantly, however, the Council has not raised any 'in principle' objections on this basis<sup>38</sup>. The various plans submitted<sup>39</sup> indicate separation distances between existing and proposed dwellings appear to be acceptable, and any detailed assessment regarding potential impacts on neighbouring properties in terms of privacy and outlook, daylight and sunlight would need to be considered at reserved matters stage. Therefore, no conflict would arise with Policy PSP8.

### **Effect on Heritage Assets**

55. Although not a refusal ground, I nonetheless have a statutory duty to consider the effect on heritage assets. There are no designated heritage assets within the site itself, although there are two Grade II listed buildings nearby. These include West Hanham House, and the adjacent Castle Inn Farmhouse, both buildings located on the east side of Castle Farm Road. The former is an early 19<sup>th</sup> century rendered three storey building with a pantile roof, with sash windows set in stone architraves, with central arched windows above a central door. Castle Inn Farmhouse is an 18<sup>th</sup> century two storey building with rendered rubble walling, with sash windows, and a central panelled door with a stone doorcase with a pedimented entablature on columns.
56. The special interest and significance of these statutorily listed buildings derives primarily from their architectural and historic interest, including the survival of historic built fabric and period architectural features. Their significance also derives from their prominent role in the street scene and their semi-rural setting, notwithstanding the encroachment of modern residential development close by.
57. In addition, there is Stone Cottage, not statutorily but locally listed, located further south along Castle Farm Road. This is a late 18<sup>th</sup> century / early 19<sup>th</sup> century building set back from Castle Farm Road behind a stone wall and hedge. It is constructed of stone and has a pantile roof, with modern windows on the front elevation. Its significance is both architectural and historic.
58. The development will not directly affect the fabric of any of these heritage assets. The appeal site makes a contribution to their setting, forming part of their semi-rural backdrop. This will be altered by the development, and the buildings will be perceived in a more suburban setting. However, the change would be relatively limited. The Concept Masterplan and Parameters Plan indicate a 'green buffer' along Castle Farm Road, comprising public open space, retained woodland, 'SUDS' features and a community orchard. The new residential development would therefore be at some distance and separated from these heritage assets.
59. The relevant legislation requires that when considering whether to grant permission for development that affects a listed building or its setting, special regard shall be had to the desirability of preserving the building or its setting<sup>40</sup>. Having regard to the legislation, the proposal would not preserve the setting of the listed buildings. The Framework advises that when considering the impact

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<sup>38</sup> CD 4.1 Officer's Report, Paragraphs 5.45-5.48

<sup>39</sup> Development Parameters, Concept Masterplan, and Placemaking Plan

<sup>40</sup> S66(1) Planning (Listed Building and Conservation Areas) Act 1990

of development on the significance of designated heritage assets, great weight should be given to the asset's conservation<sup>41</sup>. Both the Council and Appellant agree that the scheme would result in 'less than substantial harm' at the lowest end of the spectrum<sup>42</sup>. I see no reason to take a different view. In my judgement, the proposal would not fundamentally harm the setting of the listed buildings, nor undermine the ability to appreciate and understand the significance of these heritage assets. In accordance with the Framework, the 'less than substantial harm' needs to be weighed against the public benefits of the proposal<sup>43</sup>.

## Other matters

60. Local residents have raised safety concerns about the site access arrangements, and the ability of Hencliffe Way to accommodate additional traffic, including the number of bends and width of the carriageway, and potential traffic congestion caused by the scheme. Evidence has been presented by the Appellant to address those concerns, which has not been challenged by the Council. This includes that the bends were originally designed to slow down traffic, and the road is of sufficient width and capacity to accommodate the proposal. The access arrangement from Hencliffe Way was the preferred option agreed by the Council, with an emergency access from Castle Farm Road. The likely number of vehicle movements has been discussed above in relation to living conditions.
61. Overall, there is no objective evidence to suggest that there would be an unacceptable impact on highway safety, or that the residual cumulative traffic impacts would be 'severe' in terms of the Framework<sup>44</sup>. No objections have been raised by the Highway Authority, subject to the imposition of planning conditions and a planning obligation. I see no reason to take a different view on highway matters.
62. Concerns have been raised by residents in relation to wildlife and ecology, including badger setts. The plans incorporate the recommended 15 metre buffer zone to the ancient woodland, which is proposed to be planted with native species, with boundary fencing erected. Ecological mitigation measures to protect badgers, bats, birds and reptiles are addressed through the planning conditions and the planning obligation. Whilst the Avon Valley (Water Lane Field) SNCI and Local Nature Reserve includes the northwestern part of the site, it was designated primarily for its grassland and scrub which were lost over a decade ago. The Council has not objected on ecological grounds to the scheme<sup>45</sup>, and I see no reason to take a different view.
63. Concerns have been raised by some objectors regarding flooding and potential run-off from the development. The issue of drainage has been comprehensively considered, and no objections have been raised from the lead local flood authority or Wessex Water subject to suitable conditions being imposed.
64. Concerns have also been raised by residents regarding pressures on local infrastructure, including education and health facilities. The planning obligation

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<sup>41</sup> Paragraph 212

<sup>42</sup> CD 7.1, Main Statement of Common Ground, Page 24

<sup>43</sup> Paragraph 215

<sup>44</sup> Paragraph 116

<sup>45</sup> CD 4.1, Paragraph 5.109

provides for, amongst other things, contributions towards education and NHS services. As noted, the various matters identified in the fifth RfR relating to infrastructure is no longer being pursued by the Council, because appropriate provisions have now been secured through the planning obligation. I deal with these below.

65. The proposal would result in the loss of the 'best and most versatile' agricultural land, which would be contrary to Policy CS9(9) which expects new development to avoid such land. This matter was not raised as a reason for refusal by the Council, although some limited harm would arise because of the policy conflict.

### **Planning Obligation**

66. A planning obligation has been completed by Ashfield Land Ltd, Redrow Homes Ltd, the owners, and the Council, dated 4 June 2025<sup>46</sup>. This will secure 50% affordable housing on site, 72% of which would be social rented housing, and 22% would be shared ownership. The sizes of the units are specified in the obligation, and 8% of the affordable dwellings will be wheelchair units for social rent. The affordable dwellings will be transferred to a registered provider. The planning obligation also provides for not less than 7 custom build houses.
67. The planning obligation includes provision for: various forms of local open space, including relevant inspection fees, open space specification and measures for its future maintenance; for a travel plan contribution at a rate of £405 per dwelling, inclusive of the £150 sustainable travel voucher to be used to purchase items that encourage sustainable travel choices, including but not limited to bus and rail tickets, waterproofs and bicycles. The travel plan contribution is for the Council to act as travel plan coordinator, including producing, implementing and monitoring a site travel plan (based on the Framework Travel Plan).
68. The planning obligation includes a woodland access management contribution of £250 per dwelling. This is towards the cost of improvements to public rights of way signage, maintenance, rectification of deterioration or damage to Hencliffe Wood, in accordance with the Woodland Access Management Plan. The obligation includes an education contribution of £896,965 towards nursery education (£181,046) and secondary school education (£715,919). The obligation also includes an outdoor sports contribution, to be paid in accordance with an agreed formula, for off-site sports provision and / or the enhancement of outdoor sports facilities at various local locations.
69. The planning obligation includes a local library contribution (£2,849.28) and a library stock contribution (£2,805). It also includes a community centre contribution (£248,145.88) towards the cost of enhancing community centre provision at Hanham Community Centre. The planning obligation includes a contribution to NHS services (£1,326.17 per dwelling) towards the cost of primary care provision comprising a new GP surgery.
70. I have no reason to believe that the formulas and charges used by the Council to calculate the provisions of the planning obligation are other than soundly based. The Council has provided a Community Infrastructure Levy (CIL) Compliance Statement<sup>47</sup> which sets out the methodology for calculating the

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<sup>46</sup> ID 17

<sup>47</sup> ID 6

contributions, why they are necessary, and how they would be spent. I am satisfied that the provisions of the obligation are necessary to make the development acceptable in planning terms, that they directly relate to the development, and fairly and reasonably relate in scale and kind to the development, thereby meeting the relevant tests in the Framework<sup>48</sup> and CIL Regulations<sup>49</sup>. I have taken the planning obligation into account in my deliberations.

## Planning Balance and Overall Conclusion

71. The relevant legislation requires that the appeal be determined in accordance with the statutory development plan unless material considerations indicate otherwise<sup>50</sup>. Where Councils are unable to demonstrate a five year supply of housing, Paragraph 11 of the Framework states that the most important policies for determining the application are out of date, and permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. Alternatively, specific policies in the Framework that protect areas or assets of importance may provide a strong reason for refusing the development, and the so called 'tilted balance' in favour of granting permission does not apply. Policies relating to the Green Belt and designated heritage assets fall within that category.
72. The appeal proposal would conflict with the development plan's spatial strategy because it would involve development on a greenfield site within the countryside outside the defined limits of development. However, the Council has less than 5 years of deliverable sites to meet its housing needs, and the housing requirement in the Core Strategy and associated settlement boundaries are not compliant with the Framework. It is accepted that a strictly policy-led solution to housing needs cannot be achieved, and that the new housing required cannot all be accommodated within the confines of the settlement boundaries. It is also accepted that the settlement boundary policies are out of date. The conflict with Policies CS5, CS15 and PSP40 is therefore a matter of diminished weight.
73. On the harm side, the development would encroach on to attractive rural countryside, although the harmful effects would diminish over time as the landscaping becomes more established. Nonetheless, this harm attracts substantial weight. There would also be some harm to living conditions, specifically at No 62 and No 66 Hencliffe Way because of the new access, although I have found that this harm would not be at an unacceptable level. This harm attracts limited weight. There would be a loss of the best and most versatile agricultural land which again attracts limited weight. There would be some heritage harm, albeit at a low level. The Framework directs that great weight should be given to heritage assets' conservation.
74. In terms of public benefits, the scheme would secure a high quality housing development for which there is a clear and urgent need, in a sustainable location. The proposal would provide much needed private and affordable housing for local people. Up to 140 dwellings are proposed, 50% of which

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<sup>48</sup> Paragraph 58

<sup>49</sup> Regulation 122

<sup>50</sup> Section 38(6) of the Planning and Compulsory Purchase Act 2004 & Section 70(2) of the Town and Country Planning Act 1990

would be affordable. Such provision would be a very weighty benefit for the area where increasing the supply of market and affordable homes is an urgent issue. The provision of market and affordable housing both attract substantial weight in the planning balance. The scheme would also provide for 5% custom build housing for which there is a need in South Gloucestershire. This attracts moderate weight.

75. The scheme would generate economic benefits, both short term during the construction phase, and during the lifetime of the development. It would create investment in the locality and increase spending in local shops and services. The Framework advises that significant weight should be placed on the need to support economic growth and productivity<sup>51</sup>. Such benefits should not be downplayed, and they attract significant weight in favour of the proposals.
76. The scheme would deliver environmental benefits, including public open space, amounting to 45% of the site. This is a substantial area of open space that would be available to new and existing residents. Although the site is currently undeveloped, it is privately owned farmland and the only legal rights of access across the land are public footpaths. The proposal would include recreation and children's play areas, allotments, a community orchard, ecological areas, walking and cycling routes. In this way, the proposal would enhance opportunities for recreation, enabling and supporting healthy lifestyles in accordance with the Framework<sup>52</sup>. The proposals would also achieve a 10% biodiversity net gain. All these benefits attract moderate weight. A series of highway improvements are proposed as part of the scheme, including the provision of a bus shelter, dropped kerbs and tactile paving. These improvements would benefit everyone locally, not just new residents of the scheme, and attract limited weight in favour of the proposal.
77. I have found that the appeal site meets the definition of 'grey belt' and complies with the requirements of Paragraph 155 of the Framework, as well as the 'Golden Rules'. Consequently, it would not be inappropriate development in the Green Belt. This means that Green Belt policies in the Framework cannot provide a strong reason for refusing the development, and the so-called 'tilted balance' would not be displaced on this basis. In accordance with Paragraph 158 of the Framework, the scheme's compliance with the 'Golden Rules' attracts significant weight in favour of the grant of permission<sup>53</sup>.
78. There would be a low level of 'less than substantial harm' to heritage assets which must be weighed against the public benefits of the scheme. However, the harm to heritage assets, even giving great weight to their conservation<sup>54</sup>, would be outweighed by the scheme's considerable public benefits. Therefore, the adverse impacts do not provide a strong reason for refusing the development. Accordingly, the so called 'tilted balance' of Paragraph 11 would not be displaced on heritage grounds.
79. Overall, applying the so-called 'tilted balance', I find the substantial benefits of the scheme, comprising the provision of market and affordable housing, the various economic, environmental and social benefits, and the accessibility to

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<sup>51</sup> Paragraph 85

<sup>52</sup> Paragraph 96

<sup>53</sup> Accepted by Mr Burman in XX

<sup>54</sup> Paragraph 212

shops and services, all taken together, clearly outweigh any harms arising. Therefore, I find the adverse effects of the development would not significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. In terms of the development plan, the scheme would comply with certain policies but breach others. However, the Framework points strongly in favour of granting planning permission, and that is a sufficiently powerful material consideration for the purposes of the relevant legislation<sup>55</sup> to justify allowing the appeal despite any non-accordance with the development plan.

80. Accordingly, I conclude the appeal should be allowed subject to conditions. I deal with these below.

81. In reaching my decision, I have carefully considered the concerns raised by large numbers of local residents and others, including Hanham Abbots Parish Council. The strength of public feeling against the proposals was very clear. In this case, I have judged that the balance falls in favour of granting permission, because weighty material considerations outweigh any conflict with the development plan. That judgement is specific to these proposals and would not necessarily be the same if applied to other cases.

### Conditions

82. I have reviewed the suggested conditions in the light of the discussion at the Inquiry and the advice in the PPG. An agreed amended schedule was provided following the discussion<sup>56</sup>. The Framework is clear that conditions should only be imposed where they are necessary, relevant to planning, and the development to be permitted, enforceable, precise and reasonable in all other respects<sup>57</sup>. Where necessary I have reworded the conditions for simplicity and consistency. The numbers in brackets relate to the conditions in the schedule.

83. Commencement conditions, including for reserved matters, are required to comply with the relevant legislation (1, 2, 3). A condition requiring reserved matters to be in accordance with the approved plans (Location Plan and Site Access Plan) is necessary for certainty (4). A condition requiring reserved matters in relation to scale, appearance, layout and landscaping to be broadly in accordance with the Parameters Plan, Concept Masterplan, and Placemaking Plan is necessary for certainty, and to ensure a high quality development (5).

84. A condition requiring compliance with the Arboricultural Impact Assessment, Arboricultural Method Statement and Tree Protection Plan is necessary to protect the health of the trees and hedgerows on the site (6). A condition is required to ensure the affordable units meet the necessary accessibility standards (7). A condition requiring further clarification in respect of the Design Principles Framework is necessary to ensure a high quality development, and to protect the adjacent ancient woodland and badger setts (8). A condition requiring details including in relation to highway design, footpaths, cycle ways, parking, traffic calming measures, emergency access, vehicle charging, street lighting, and custom build housing is necessary to ensure these matters are properly dealt with (9).

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<sup>55</sup> Section 38(6) of the Planning and Compulsory Purchase Act 2004

<sup>56</sup> Dated 21 May 2025

<sup>57</sup> Paragraph 57

85. A condition requiring an updated Energy Statement, including sustainable forms of energy, is necessary to ensure energy efficiency and address climate change (10). A condition requiring a scheme for public art is necessary as part of an achievement of a high quality scheme (11). A condition requiring a Construction Management Plan is necessary to ensure highway safety and efficient traffic flow, to protect the environment and ecology of the site, and to minimise noise and disturbance to local residents during construction (12). A condition relating to the provision of the vehicular access from Hencliffe Way into the site is required in the interests of highway safety (13).
86. Conditions relating to surface and foul water drainage are necessary to prevent flooding and pollution of the water environment (14, 15, 16). A condition in respect of reptiles is necessary to achieve biodiversity and to safeguard protected species (17). A condition requiring a Landscape and Ecological Management Plan is necessary for biodiversity and habitat provision, including ongoing management (18). A condition requiring a scheme to mitigate noise, including new and/or enhanced perimeter fencing along the site access adjacent to No 62 and No 66 Hencliffe Way is necessary to avoid adverse noise effects and to ensure adequate living conditions for the occupiers of those residential dwellings (19).
87. Conditions relating to potential site contamination are necessary to protect the health of future occupiers, and ensure no pollution is caused to the environment (20, 21, 22). A condition is required to ensure highways and footways with appropriate street lighting are provided before the dwellings are occupied is necessary on highway safety grounds (23). A condition relating to the provision of car and cycle parking is necessary in the interests of highway safety and sustainability (24). A condition requiring off site highway improvement works, improved footways, as well as the provision of a bus shelter with real time information and lighting is necessary to enhance accessibility and encourage sustainable transport (25).
88. A condition relating to the provision of signage, showing distances and destinations, and specifying permitted users, is necessary to manage and mitigate the impacts on the adjacent woodland potentially arising from additional population (26). A condition relating to archaeology is necessary to evaluate and protect any archaeological remains within the site (27).
89. A number of these conditions relate to pre-commencement activities. In each case, the requirement is fundamental to make the scheme acceptable in planning terms. Subject to the imposition of these conditions, I conclude that the appeal should be allowed.

*Matthew Nunn*

INSPECTOR

## APPENDIX A3

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## Appeal Decision

Inquiry held between 5 February 2025 and 6 March 2025

Site visits made on 5 and 7 March 2025

**by C Dillon BA (Hons) MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 5<sup>th</sup> August 2025

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### **Appeal Ref: APP/A1910/W/24/3345435**

#### **Land west of Leighton Buzzard Road, Hemel Hempstead HP1 3LP**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
  - The appeal is made by Fairfax Strategic Land (Hemel) Ltd against the decision of Dacorum Borough Council.
  - The application Ref is 21/04508/MOA.
  - The development proposed is the erection of up to 390 dwellings (C3 Use), including up to 50% affordable housing and 5% self-build, a residential care home for up to 70-beds (C2 use), along with associated landscaping and open space with access from Leighton Buzzard Road.
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### **Decision**

1. The appeal is allowed, and outline planning permission is granted for the erection of up to 390 dwellings (Use Class C3), including up to 50% affordable housing and 5% self-build, a residential care home for up to 70-beds (Use Class C2), along with associated landscaping and open space with access from Leighton Buzzard Road at land west of Leighton Buzzard Road, Hemel Hempstead HP1 3LP in accordance with the terms of the application, Ref 21/04508/MOA, subject to the conditions in the attached schedule.

### **Applications for costs**

2. The appellant has sought a partial award of costs against Dacorum Borough Council (the Borough Council) and Hertfordshire County Council on separate matters. Furthermore, the County Council has sought a partial award of costs against the appellant. These are the subject of separate decisions.

### **Preliminary Matters**

3. The Gade Valley Communities Coalition, a combined objectors group (the Group) was granted Rule 6 status under the Inquiry Procedure Rules and participated in the Inquiry.
4. The planning application to which this appeal relates was made in outline, with all matters, except for access, reserved for future consideration. The submitted Master Plan is illustrative, whereas the Parameters Plan (Ref: 2037/PL03M) and highways plans (Refs: SK21611-04 Rev A and SK21611-05 Rev B) form part of the submitted details to be determined through this appeal.
5. An amendment to the description of the proposed development has been agreed between the Borough Council and appellant to reflect an uplift in the affordable

housing provision from 40% to 50%. As interested parties have had an opportunity to respond to that change in advance of the Inquiry sessions, I am satisfied that no prejudice would be caused by my acceptance of the revised description as the basis on which to determine this appeal.

6. An executed bilateral planning agreement and unilateral undertaking containing planning obligations relating to borough and county matters have been provided.
7. All documents submitted during the course of the Inquiry are listed in the attached Inquiry Document Schedule. I am satisfied that no one has been prejudiced by their acceptance as they are directly relevant and necessary for my Decision and the main parties have been given the opportunity to comment upon them.
8. The Borough Council has submitted a new Local Plan for examination since the Inquiry sessions concluded. The appeal site does not feature within that Plan. However, the new Plan has not yet reached a stage which can be afforded anything more than limited weight.
9. Since the appeal was lodged there have been revisions to the Framework and the PPG. The main parties have had opportunity to review and revise their evidence in response to this, including in respect to Green Belt matters, and the appeal is determined against that current national policy context.
10. It is common ground that the current housing land supply position stood at a maximum supply of 1.03 years at the base date of 1 April 2024 (Ref: CD4.11). This equates to a shortfall of 6,457 dwellings and is agreed by the main parties as representing a 'chronic undersupply of both market and affordable housing'. As such, the Borough Council is not able currently to demonstrate a five year supply of deliverable housing land for the period 1st April 2024 to 31st March 2029.

## **Main Issues**

11. The Borough Council's decision notice cites 9 reasons for refusal. However the areas of dispute between the main parties were not static and were supplemented by a further reason for refusal relating to landscape. Therefore, the main issues for this appeal are:
  - the effect on landscape character and appearance, including the natural beauty, wildlife and cultural heritage of the Chilterns National Landscape;
  - the effect on the ecological interests within the appeal site, neighbouring land and the Chilterns Beechwoods Special Area of Conservation;
  - whether the appeal site is a justified and suitable location for residential development, having regard to flood risk, the sequential test and mitigation;
  - whether the appeal proposal would secure accessibility by a choice of sustainable modes and highway safety;
  - whether or not adequate provision of community infrastructure would be secured to meet the requirements of the future residents of the appeal proposal;
  - the effect of the proposed development on the significance of Gadebridge Roman Villa Scheduled Monument (List Entry No 1015577); nearby Listed

Buildings<sup>1</sup>; and the Piccotts End Conservation Area, with particular regard to their respective settings; and

- whether the appeal proposal is inappropriate development in the Green Belt, with particular regard to whether it meets both the definition of 'Grey Belt' land and the 'Golden Rules' set out in national policy, so as not to require very special circumstances to be demonstrated.

## Reasons

### Landscape Character and Appearance

12. The appeal site is mainly a collection of undeveloped grassed fields and woodland blocks which sits on one side of the Gade Valley, just beyond the built form of Hemel Hempstead New Town and the historic rural village of Piccotts End. It extends from the valley floor up one of its sides. In terms of its landscape character and appearance, the appeal site presents as countryside.
13. The appeal site sits within the periphery of the much wider Gade Valley Landscape Character Area (the LCA) and falls within the setting of the Chilterns National Landscape. It is not subject to any national or local landscape designations. The concept of a green 'wedge', 'corridor', 'buffer' or 'entrance' referred to during the Inquiry was demonstrated as having no policy status. Furthermore, I concur with the common ground reached that the appeal site does not comprise a valued landscape for the purposes of interpreting paragraph 187(a) of the Framework.
14. The existing character of the appeal site is very much influenced by surrounding built form of both the neighbouring town and village, the Leighton Buzzard Road and the more sporadic development further up the valley which straddles that route. The sensitivity of this landscape decreases as one moves down the valley towards Hemel Hempstead and past the site. As such, the appeal site is very much a transitioning area.
15. In terms of impact, the appeal scheme would introduce housing components and associated infrastructure where none currently exists. As with the development of any previously undeveloped site, there would be a considerable change to character and appearance at a site level.
16. The appeal proposal would be visible from the valley bottom on approach out of and towards Hemel Hempstead along Leighton Buzzard Road. Close up views of parts of the proposed development would also be captured from along a stretch of public footpath running through the north of the appeal site between Halsey Field and Leighton Buzzard Road, including at and around agreed viewpoints 07 and 08. The proposal would also be visible from medium to long range views from both Piccotts End and the valley's opposing slopes which are traversed by a network of Public Rights of Way.

<sup>1</sup> Listed Buildings: 'Piccott's End Mill House' (List Entry Number: 1251041); '138 Piccott's End' (List Entry Number: 1078040); '140 Piccott's End' (List Entry Number: 1051084); '142-148 Piccott's End' (List Entry Number: 1078041); '150 Piccott's End' (List Entry Number: 1051085); '130-136 Piccott's End' (List Entry Number: 1342208); 'Piccott's End Farmhouse' (List Entry Number: 1251040); 'Piccott's End House' (List Entry Number: 1078039); 'Gade Spring, Piccott's End' (List Entry Number: 1262990); '92 Piccott's End' (List Entry Number: 1342207); '94, 96 and 104 Piccott's End' (List Entry Number: 1049075); '95 and 97 Piccott's End' (List Entry Number: 1262989); '99 Piccott's End' (List Entry Number: 1251025); '101-105 Piccott's End' (List Entry Number: 1251026); 'Little Marchmont Marchmont House' (List Entry Number: 1078042); 'Outbuilding (former stables) to the north east of Little Marchmont' (List Entry Number: 1078043); 'Gate piers at Marchmont House' (List Entry Number: 1051053); 'Gaddesden Place' (List Entry Number: 1101253); 'Gaddesdon Hall' (List Entry Number: 1101228); and 'Grist House Farm complex' (List Entry Number: 1101227).

17. However, the submitted plans demonstrate that the appeal site could be developed in a manner that would give over half of it to green infrastructure provision. This would be a significant level that is in excess of the policy requirement and would incorporate planting and other landscaping measures as mitigation.
18. In terms of the extent of harm, the relationship of the parts of the appeal site to be developed relative to the topography and tree cover to be retained mean that similar to Hemel Hempstead, the developed components of the appeal proposal would not be visible as a whole, rather there would be glimpses and partial views of it.
19. The assessment of this appeal in landscape terms is in no way a beauty contest with the other development sites that have been drawn to my attention, including those referred to as 'North Hemel', 'Polehanger Lane', 'West Hemel' and 'Marchmont Farm'. However, it was demonstrated through cross-examination that the landscape objections had not been adequately contextualised in terms of how the landscape is likely to be in the future, as required by GLVIA (Ref CD 6.1).
20. Overall, the longer term effects of the glimpsed and partial landscape changes proposed would be successfully absorbed into the landscape. This is because the sensitivity of the landscape decreases as the Gade Valley approaches the appeal site and Hemel Hempstead beyond and becomes more enclosed. The juxtaposition between the appeal site and the neighbouring settlements is such that it would read as an extension to the Gadebridge part of Hemel Hempstead.
21. Furthermore, from my site observations, I do not concur with the Council's assessment of landscape harm post mitigation stage at Year 15. I observed that the effect on landscape character would initially be moderate adverse, lessening as landscaping matures to minor adverse by Year 15. There would be landscape benefits and enhancements from the reinforcement of existing boundaries through planting along the public footpaths that cross the site. Overall, the adverse effects would be both limited and localised in their degree and extent, principally along those public footpaths.
22. The appeal proposal would be located within a swathe of countryside which leads to and from Hemel Hempstead. However, a swathe, albeit narrower would be retained along the valley bottom in the form of a substantial green buffer. This approach mirrors the vision of Sir Geoffrey Jellicoe to the New Town development which sought to ensure that this Valley and the River Gade act as connecting features in terms of settlement morphology and support his 'city in a park' concept. The appeal proposal would reflect the character and appearance of the much wider mixed landscape context. They would provide some support to the qualities of the LCA and the setting of the National Landscape. I am satisfied that an appropriate balance has been struck in terms of landscape effects, such that an awareness of the wider landscape character and appearance would remain.
23. In terms of exercising my duty to seek to further the statutory purpose of conserving and enhancing the natural beauty, wildlife and cultural heritage of the Chilterns National Landscape, I am satisfied that the development of this part of its setting in the manner proposed would leave those specified characteristics of that National Landscape unharmed and would provide some support to its qualities.
24. In conclusion to this main issue, the appeal proposal would cause minor adverse harm to the landscape character and appearance of the area. However, this would

not transpose as harm to the natural beauty, wildlife and cultural heritage of the Chilterns National Landscape.

25. Policy CS25 of the Dacorum Core Strategy (2013) seeks to conserve and improve landscape quality, character and condition. In view of my findings, the appeal proposal conflicts with that policy. However, given my findings in respect to the National Landscape there is no conflict with saved Policy 97 of the Dacorum Local Plan (2004) or Policy CS24 of the Core Strategy.

### Ecological Interests

- Habitats and species

26. The appeal site includes fields of pasture, woodland parcels and scrub habitat comprising neutral and modified grasslands; semi natural mixed and broadleaved woodlands; buildings, dense and continuous scrub, scattered trees and hedgerows. It falls within the geographic scope of habitats serving protected and unprotected species found both within and close to the appeal site<sup>2</sup>.
27. Known protected species associated with land within and next to the appeal site have been identified through the Preliminary Ecological Appraisal and Phase 2 surveys as extending to a variety of foraging and roosting Bats, Badgers, Roman Snails and a small number of breeding bird species.
28. Whilst ecologically based concerns were raised by the Group, it was demonstrated through the round table discussion that the current features and value of the area have been adequately assessed and understood. The Presence/Likely Absence Surveys for reptiles and dormice *Muscardinus Avellanarius* do not identify any evidence that those species are found in this locality.
29. The submitted Habitat Creation and Management Plan provides specific details on the protection of retained habitats, as well as habitat and protected species enhancement measures. The potential for harm to the future water quality of the River Gade chalk stream from the site's outfall was also clarified. Should the proposed development be found to be acceptable overall, compliance with Condition No 14 would satisfactorily address that concern.
30. From what I have read and heard during the Inquiry, I am satisfied that the landscaping proposals for the final scheme would be appropriate and capable of including new or bolstered habitats within the appeal site through the likes of planted buffer zones, wildflower areas, waterbody, tree and hedgerow planting and the retention and enhancement of the chalk grassland in the north of the site.
31. The Group's concerns about the level of biodiversity net-gain were explored during the Inquiry. The planning application to which this appeal relates was submitted in advance of the mandatory biodiversity net-gain requirement coming into force. Nonetheless, a significant gain in natural habitat, including through new hedgerows would be secured. In qualitative terms the value of these new hedgerows would increase as they become established and there are measures proposed to ensure that this would be maintained in perpetuity. Based on the evidence presented, I find that the hedgerow trading rules have been met.

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<sup>2</sup> Chilterns Beechwoods Special Area of Conservation (Ashridge Commons and Woods Site Of Special Scientific Interest and Tring Woodlands Site of Special Scientific Interest); Halsey Field Local Wildlife Site; Warner's End Wood Local Wildlife Site; and Meadow by the River Gade Local Wildlife Site.

32. Furthermore, there are no grounds to reduce the estimated biodiversity net-gain on the basis of the attenuation basins. The modified grassland and swales have the same core values, and both habitats are possible given the management of these within the attenuation basins would be the same as the surrounding grassland, such that they are interchangeable. The proposed biodiversity net-gain and its monitoring would be secured through the submitted legal agreement.
33. Whilst some disturbance to ecological interests of the appeal site and its surroundings could arise from the proposed changes in the short term, these would be localised. The appellant and Borough Council now agree that these can be mitigated to an extent that would be acceptable, subject to proposed planning obligations and conditions. The statutory consultees have not provided a counter view to this stance. The necessary ecological mitigation measures to address the potential for unacceptable negative ecological impacts can be front-loaded as part of the required phasing plan for the proposed development.
34. Should the appeal proposal be found to be acceptable overall, I am content that Condition Nos 7 and 8 would secure the implementation of an agreed site-wide Landscape and Ecological Management Plan. This would ensure that ecology and biodiversity needs are appropriately incorporated as part of the development and managed appropriately thereafter.
35. Condition No 15 would also ensure that the design of the proposed scheme does not include the root protection areas of trees T138 and T139. Furthermore, the proposed 20 metre buffer to be afforded to the ancient woodland that borders the site exceeds the requirements set out in the PPG. The details required by condition No 20 and 23 would control lighting treatment within the site and along the improved footpaths. Furthermore, buffers around sensitive parts of the site can be secured through condition. This would all avoid conflicts with wildlife.
36. The current challenges relating to the irresponsible use of neighbouring Halsey Fields Local Wildlife Site (LWS) by some of the existing community are understood. However, the direct effects of any further recreational pressure on that and the other nearby LWSs arising from the appeal proposal itself could be avoided through the provision of attractive accessible greenspace within the appeal site itself, as well as local signage, fencing, footpath improvement and maintenance. These mitigation measures could be secured as part of the implementation of the required Local Wildlife Site Improvement Plan, pursuant to condition No 20.
37. No compelling reasons were put before me to justify a departure from the conclusions of either the technical expertise of the Council or statutory consultees. Moreover, the appellant's ecological witness satisfactorily addressed the Group's concerns about fauna and flora through the written evidence, extensive round table discussion and subsequent technical notes (Refs: ID15 and ID26).
38. The evidence before this Inquiry demonstrates that overall the appeal proposal would provide net-gains for local biodiversity, including protected species, and establish coherent ecological networks which would be resilient to current and future pressures.
39. As the competent authority, having first applied the mitigation hierarchy, I am satisfied that the appeal scheme would not conflict with the provisions of the Wildlife and Countryside Act (1981).

- Chilterns Beechwoods SAC

40. The appeal site is located approximately 3.8km south-east of the Chilterns Beechwoods SAC at its closest point. The qualifying features for this SAC comprise Asperulo-Fagetum beech forests, including the rare coralroot *Cardamine Bulbifera*; semi-natural dry grasslands and scrubland facies on calcareous substrates; and the *Lucanus Cervus* stag beetle.
41. The Conservation Objectives for this SAC are to ensure that the integrity of the site is maintained or restored as appropriate. They also seek to ensure that the site contributes to achieving the Favourable Conservation Status of its Qualifying Features by maintaining or restoring the extent and distribution of qualifying natural habitats and habitats of qualifying species; the structure and function (including typical species) of qualifying natural habitats and species; the supporting processes on which qualifying natural habitats, and the habitats of qualifying species rely; the populations of qualifying species; and the distribution of qualifying species within the site.
42. The development proposals are not directly connected to, or necessary for the management of this European designated site. A number of the key threats and pressures listed within Natural England's Site Improvement Plan relate to site management issues. These are not related to potential impact pathways from the proposed development. Furthermore, the appeal site falls beyond the zone of influence relating to the impact of dust emissions, water pollution, lighting, vibration and site personnel/residents and habitat loss. There is an absence of recorded threat to the designated site from wastewater and an absence of connectivity to the designated site in terms of surface water/drainage and habitat loss.
43. However, the submitted evidence confirms that the appeal proposal would generate increased air pollution through atmospheric nitrogen deposition at the operational phase of the proposed development. Nonetheless, the nearby B440, a transport route that a proportion of residents are likely to take on a regular basis, is approximately 780 metres at its nearest point from Ashridge Commons and Woods SSSI component of the SAC. Therefore, air pollution in relation to the proposed development is considered unlikely to be significant either alone or in combination in relation to this route. This road is therefore scoped out from my assessment.
44. With regard to the A41, in view of the size of the area of the SAC within 200 metres of the road relative to the total area, and in view of the conclusions of other HRA assessments for neighbouring Local Plans, no likely significant effects are anticipated in relation to the Trings Woodlands SSSI component of the SAC, either alone or in combination.
45. The B4506 transport route also runs within close proximity to the Ashridge Commons and Woods SSSI. Current baseline data for air pollution in relation to the Borough Council's emerging local plan states that the area of the SAC that lies within 200 metres of the B4506 measures approximately 14.1% of the SSSI area and approximately 6.9% of the total SAC area. The submitted evidence demonstrates that the habitat within 200 metres of that route comprises lowland broadleaved, mixed and yew woodland. The available evidence also confirms that background pollution levels currently exceed the critical load. Any further reduction in air quality may therefore limit the ability of the SAC to maintain or restore its integrity, as set out in its Conservation Objectives.

46. However, apart from one unit of the SSSI, the remaining units falling within 200 metres of the B4506 are stated as being in favourable condition. One unit adjacent to the road, Tom's Hill, is categorised as unfavourable, recovering. The available evidence indicates that the nitrogen deposition trends relevant to this SAC are decreasing. Furthermore, the habitat falling within 200 metres of the B4506 is minimal in terms of overall habitat area.
47. For all of these reasons, I conclude that there would be no likely significant effects alone or in combination from any increase in air pollution arising from the appeal proposal.
48. In terms of the potential for recreational pressures, there is no basis to dispute the buffer of 7.5 kilometres as an appropriate zone of influence when considering the potential for significant effects to be caused by visitors to the SAC. This means around a half of the Ashridge Commons and Woods SSSI component of the Chiltern Beechwoods SAC lies within this zone of influence.
49. Nonetheless, around 40% of the appeal site area, equating to approximately 12 hectares, would be left as accessible green space that can be used by residents for recreational purposes. There are also a number of other sites<sup>3</sup> within close proximity that could be used as alternative green space by future residents. I concur with the appellant's assessment of the likely impact on these. The 70 units within the care home are unlikely to create a significant increased footfall in the SAC given the age and reduced mobility of the residents. Moreover, from the evidence before me, the appeal proposal would contribute to an increase in visitors of less than 1%. The appellant's HRA evidence is consistent with the findings of the Borough Council's Topic paper supporting the emerging new local plan, which in turn is supported by Natural England.
50. However, without further mitigation there is still likely to be some recreational pressure from residents of the appeal proposal by virtue of the proximity of the appeal site to the SAC. In particular, increased public access poses a threat of disturbance to the dead wood associated with the Stag Beetle; and visitor trampling, disturbance and soil compaction that can directly harm the qualifying habitats. Other adverse impacts may arise from damage caused by visitor parking, dog fouling and nutrient enrichment, mountain biking, removal and disturbance of deadwood habitats, footpath widening by people, horses and bikes and associated loss of marginal/ride vegetation.
51. As the appeal proposal is not a proposed residential allocation within the Local Plan, it has not been accounted for as part of any HRA that supports that plan. The application of the policies in the development plan may contribute to limiting recreational pressure associated with new development. However, as the SAC is sensitive to recreational pressures this could increase as a consequence of the appeal proposal in combination with other plans and projects. Therefore, when assessed in combination with other plans and projects, without mitigation I cannot rule out likely significant effects of the appeal proposal on the Conservation Objectives, integrity and the favourable conservation status of the qualifying features of the Chilterns Beechwoods SAC at the Ashridge Commons and Woods

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<sup>3</sup> Shrubhill Common Local Nature Reserve; The Meadow by the Gade; Halsey Playing Field East; Water End Moor; Water End Meadows (Great Gaddesden); Heizzins Wood; disused railway line- Hemel Hempstead; Highpark Wood; and Brown's Spring and Hollybush Wood.

SSSI. Effective mitigation would therefore be required to avoid these harms and to ensure biosecurity.

52. The appellant and Borough Council agree that following the implementation of mitigation in the form of a suitable alternative open greenspace (SANG) contribution, there would be no significant residual effects on the integrity of the SAC; its conservation objectives; and the favourable conservation status of its qualifying features.
53. The size of the SANG has been calculated and agreed. The precise location of the SANG is yet to be secured. However, the options that are open to the appellant are contained in the submitted bilateral agreement with the Borough Council. That agreement also proposes a financial contribution towards Strategic Access Management and Monitoring (SAMM) measures. I am satisfied with the effectiveness of these mitigation proposals overall, and that the legal agreement as drafted would be effective in securing them.
54. In conclusion to my Appropriate Assessment, the likely significant effects on the Chilterns Beechwoods SAC can be effectively mitigated in a timely manner through the provision of the specific mitigation and monitoring proposals contained in the submitted legal agreement. Overall, there would be no residual harmful effects on the integrity of the designated SAC; its Conservation Objectives; and the favourable conservation status of its qualifying features in combination with effects associated with other plans and projects.
55. I am therefore satisfied that appropriate mitigation would be secured which would eliminate all reasonable scientific doubt that the appeal proposal would likely have significant effects which would adversely affect the integrity of this SAC during the construction or occupation phases. Therefore, the requirements of the Habitat Regulations (2017) are met.
  - Summary of ecological findings
56. In overall conclusion to this main issue, the appeal proposal would not harm the ecological interests within the appeal site, neighbouring land and the Chilterns Beechwoods SAC. Furthermore, the requirements of the Wildlife and Countryside Act (1981) and the Habitats Regulations 2017 are met.
57. Policy CS26 of the Core Strategy requires that development and management action would contribute towards the conservation and restoration of habitats and species; the strengthening of biodiversity corridors; the creation of better public access and links through green space; and a greater range of uses in urban green spaces. Saved Policy NP1 and Policies CS10 and CS29 of the Core Strategy seek to ensure that development proposals improve the environment, have regard environmental assets, preserve and enhance green gateways and wildlife corridors and minimise impacts on biodiversity whilst incorporating positive measures to support wildlife. Saved Policy 99 seeks to preserve trees, hedgerows and woodlands. Saved Policy 103 sets out the approach to sites of importance to nature and saved Policy 102 seeks to manage sites of nature conservation.
58. In view of my findings, given the proposed mitigation the appeal proposal does not conflict with any of those policies.

## Flood Risk

59. In line with the Framework, the proposed development must be safe throughout its lifetime and not lead to increased flood risk elsewhere.
60. Subsequent to the appeal being lodged, common ground was reached in respect to flood risk and drainage matters (Ref: CD 4.7).
61. It has been evidenced that a very small part of the appeal site is at risk of flooding. Furthermore, my attention was drawn to the potential for flows to adversely impact on the integrity of the River Gade.
62. In terms of satisfying the sequential test in line with the Framework and PPG, the remaining dispute between the Borough Council and appellant essentially rests on the performance of 3 other sites in terms of whether they are 'reasonably available'.
63. My attention has been drawn to the Mead Realisations decision<sup>4</sup>. That decision makes it clear that there is a need for realism and flexibility on all sides when applying the sequential test. Furthermore, it confirms that the weight to be given to any failure to satisfy the sequential test can, and, in circumstances like those before me, should be reduced if the extent of the Borough Council's unmet housing needs means that land which is less sequentially preferable than the appeal site would inevitably be required (Ref: CD7.25).
64. The agreed capacity of the 3 remaining sites amounts to 32 dwellings against a shortfall in the area over the next 5 years of 6,547 dwellings per annum. So, even if I were to accept the Borough Council's interpretation and approach, many more lower ranking sites, akin to the appeal site would be required to meet future housing needs in the Borough. In any event, the evidence provided to this Inquiry confirms that there are no sequentially preferable drier sites free from surface water on this occasion.
65. Following the round table discussion, which included advice from a representative of the Lead Local Flood Authority, I am satisfied that the flood risk associated with the appeal site could be reduced through mitigation to a tolerable level and managed effectively through compliance with the conditions, suggested by the relevant parties. These would secure appropriate arrangements for flood storage, a drainage network and existing flow paths; and their management during the construction and occupation phases of the proposed development.
66. I am also satisfied that the integrity of the River Gade could be protected through the implementation of a suitable Construction Phase Surface Water Management Plan for the appeal site.
67. Therefore, the outcome of this sequential test is not a determinative exercise leading to a strong reason for refusal; rather, any risk of harm in the particular circumstances is a matter for the planning balance.
68. In conclusion to this main issue, having regard to the Framework, the appeal site is a justified, suitable location for the proposed development, on the basis that the proposed mitigation measures would be secured. There is no conflict with Policy 124 of the Local Plan, which predates the current national approach to flood risk.

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<sup>4</sup> R (Mead Realisations Ltd. & Redrow Homes Ltd.) v. Secretary of State for Levelling Up, Housing and Communities [2024] EWHC 279 (Admin).

### Accessibility and Highway Safety

69. The appellant has provided appropriate technical highway assessments and evidence which supports the appeal proposal in highway and accessibility terms. Consequently, the Local Highway Authority and Borough Council agree that the raft of traffic, transport and accessibility matters along with the methodology and outputs contained in the submitted Transport Assessment are acceptable.
70. Whilst the Group has concerns about the potential for increased congestion in and around Piccotts End, the Borough Council has not cited a highway capacity or safety reason for refusal.
71. Evidence of existing parking and traffic congestion including delays along Leighton Buzzard Road was provided by the Group. The Group did not call a highways expert or take the opportunity to cross-examine the appellant's highway witness. By the close of the Inquiry they had accepted that this matter does not amount to a free-standing reason for refusal.
72. The proposed access arrangements have been deemed safe by the Local Highway Authority and the submitted evidence does not demonstrate that the appeal scheme would exacerbate the existing situation to a level that would be unacceptable in terms of highway safety or the functioning of the local highway network.
73. The appeal proposal would address some of the existing concerns identified with the existing road network, particularly in terms of vulnerable users, which would also benefit existing residents in the area. Benefits include extensive pedestrian and cycle enhancements from the appeal site back into Hemel Hempstead; travel planning measures for occupants of the appeal proposal; agreed and costed bus service enhancements; and a new crossing point on Leighton Buzzard Road. These would be of benefit to both occupants of the appeal proposal and existing local residents.
74. Should the proposed development be found to be acceptable overall, these measures would be secured by a combination of planning obligations and conditions and would adequately mitigate the potential for the existing problems facing residents to be exacerbated by the appeal proposal.
75. The appeal proposal would secure adequate provision for alternative non-car methods through conditions and planning obligations. Coupled with its relationship with Hemel Hempstead, the appeal proposal would provide a genuine choice of transport modes and a well-connected and accessible transport system. Furthermore, safe and suitable access to the appeal site could be achieved for all users. It has not been demonstrated that there would be an unacceptable impact on highway safety, or that the residual cumulative impacts on the road network, following mitigation, would be severe, taking into account all reasonable future scenarios. The appeal proposal is therefore consistent with the Framework in highway and accessibility terms.
76. In conclusion, the appeal proposal would secure an appropriate level of accessibility by a choice of sustainable modes and would not pose a risk to highway safety. As such, it does not conflict with Policies 51, 54 and CS8 of the development plan in these regards.

### Community Infrastructure

77. Collectively, the submitted bilateral agreement and unilateral undertaking contain planning obligations to provide open space and play areas; off-site sports facilities; NHS healthcare; primary school and special educational needs and disabilities provision; and the monitoring of all of these obligations.
78. Concerns have been strongly expressed by the Group and other interested parties in respect to the potential for further pressures to be placed on local healthcare and educational provision. In particular, parties shared their knowledge and experiences to date on what was portrayed to me as very stretched local health service provision.
79. Those experiences involve real people and are highly regrettable. However, they have occurred within an existing complex healthcare funding and provision context which the appeal scheme cannot reasonably be expected to solve or be penalised for. The current baseline position of local healthcare provision is a strategic matter to be grappled with, where necessary, outside of this appeal.
80. The financial sums that have been identified to support local healthcare and educational provision have been appraised and agreed by the Borough Council and County Council as being commensurate to the additional demand that can reasonably be expected to be generated from the future occupants of the appeal proposal. I have also borne in mind scheme viability and delivery along with the relevant authorities' responsibility and decision taking governing the future delivery of provision in the area.
81. Overall, the level of contributions for each of these health and educational related obligations is not disputed by the Borough Council or County Council. From the evidence before me, I have no cause to dispute the levels and sums for these obligations as calculated.
82. The obligations relating to educational and healthcare provision are of a level that seeks to support any net increase in demand arising from the appeal proposal. I address their conformity with the prescribed tests for planning obligations later.
83. However, in terms of weighting, as the proposed contributions to educational and health provision have been calculated to support demand from the appeal proposal, they are of neutral consequence to my assessment.
84. The proposed sport, recreation and play facilities could serve both the new residents and existing community. Therefore those obligations would be of wider public benefit and, as such, carry moderate favourable weight in my assessment.
85. In conclusion to this main issue, subject to the proposed planning obligations meeting the prescribed tests, adequate provision of community infrastructure would be secured to support the future residents of the appeal proposal.
86. In view of my findings the appeal proposal does not conflict with Policies 12, 13, 76, CS23 and CS35 of the development plan.

### Heritage Assets

87. The appeal site immediately bounds the Gadebridge Roman Villa Scheduled Monument. It also falls just beyond part of the edge of Piccotts End Conservation

Area, whose focus is the village located on the other side of the Gade Valley to the appeal site. The appeal proposal also falls within the setting of a high concentration of listed buildings located within that Conservation Area.

88. Although the appeal scheme would not fall within the scheduled area, the submitted evidence indicates that there is potential for associated below ground archaeological deposits and features to exist within the appeal site. Otherwise, I am satisfied that the heritage effects of the appeal proposal are limited to the respective settings of these designated heritage assets.
89. There is much commonality in the setting of these designated heritage assets. This setting has undergone significant change over time as its surroundings have evolved, particularly in respect to the construction and continued development of Hemel Hempstead, the laying of the neighbouring link road and the evolutionary changes to historic field patterns. Consequently, the wider landscape setting of these assets is a mix of countryside and urban features, the prevalence of which varies according to the vantage point taken.
90. The significance of a heritage asset is derived from the value of that asset to existing and future generations because of its heritage interest. The glossary of the Framework states that interest may be archaeological, architectural, artistic and/ or historic. Significance derives not only from a heritage asset's physical presence, but also from its setting. Elements of a setting may make a positive or negative contribution to the significance of an asset; may affect the ability to appreciate that significance; or may be of neutral effect.

- Setting of Scheduled Monument

91. The Scheduled Area contains the remains of a Roman Villa and associated structures, including a Roman bath second in size to that located in the city of Bath. The Area extends into the adjacent Leighton Buzzard Road. All that remains of this heritage asset of the utmost national importance is buried below ground. In the absence of any interpretation facilities, its subterranean nature means it is hidden from view. As such, the Monument now presents as a grassed field situated between the contemporary built up edge of Hemel Hempstead and the historic village of Piccotts End. The submitted evidence confirms that the construction of the Leighton Buzzard Road provided opportunity to both understand and disturb this asset.
92. The common boundary between the Scheduled Monument and the appeal site is delineated by mature trees and hedgerow. Consistent with my site observations, the appeal scheme clearly falls within the immediate setting of this Monument by virtue of their immediate proximity to one another.
93. The two sites enjoy a common wider setting given their mutual intervisibility from medium and longer distance vantage points, particularly along Leighton Buzzard Road, Piccotts End and the network of public rights of way on higher ground along the other side of the Gade Valley. Moreover, the evidence before me confirms that the appeal site and other surrounding land within which the Monument is experienced would have played a role in accommodating the agricultural activities that supported this important heritage asset, including its likely former use as a Roman spa resort. Despite the evolutionary changes within its setting, the Monument's connection to the River Gade, other known local Roman sites and the surrounding countryside still endure. These features continue to make a positive

- contribution to understanding, appreciating and experiencing the historic interest of this important designated heritage asset, including the rationale for its location.
94. The historic archaeological significance of this Monument is mainly derived from its evidential and cultural interest. As it has not been fully excavated, it has potential to provide new information about the history and construction of the site and the people who used it. The Scheduled Monument is a heritage designation of the highest national importance.
95. Parts of the appeal site are elevated well above the Scheduled Monument. In terms of outward views up the Gade Valley, the undeveloped component of its setting would be reduced. Looking down and across the Gade Valley, views towards the Monument would continue to be experienced within a mixed urban and rural context. At no point would the entire proposed development be visible in view of the sloping topography and wooded blocks in and around the appeal site.
96. The submitted Parameter Plan and illustrative Master Plan demonstrate that a reasonable stand-off distance between the proposed built form and the scheduled area would be secured. Intervening vegetation could be bolstered through a carefully considered landscape scheme, the details of which would fall within the Borough Council's control. The ability to retain an undeveloped foreground along the valley bottom, albeit narrower than that which currently exists, has been demonstrated. Should this appeal be allowed, the reserved matters stage would manage the careful placement of the built form, public open space and sustainable urban drainage features.
97. The appeal scheme would not diminish the historic connection of the Scheduled Monument with the River Gade. Nonetheless, the extent to which this asset can be experienced, understood and appreciated within its remaining undeveloped countryside setting, which forms part of the rationale for its location, would be reduced. This further erosion of the Monument's remaining countryside context would not preserve its setting.
98. Such change would cause harm to the significance of the Scheduled Monument. However, crucially the existing setting is heavily influenced by urbanising development associated with the growth of Hemel Hempstead and the construction of Leighton Buzzard Road, as well as the loss of historic field patterns dating back to the occupation of the Villa. Although this Scheduled Monument is no longer legible above ground level, the ability to experience, appreciate and understand its significance through its setting would be reduced, although such harm would be of a very low level.
99. It has been demonstrated that appropriate mitigation can be secured through a suitably worded condition to adequately combat harm to the underground archaeological potential within the appeal site, including any relating to this Scheduled Roman Villa.
100. Nonetheless, in Framework terms, noting that such heritage assets are regarded as being of the highest significance, the appeal proposal would cause a very low level of less than substantial harm to significance.

- Setting of listed buildings

101. The Planning (Listed Buildings and Conservation Areas) Act (1990) (the Act) imposes a duty on me as the decision maker to give considerable importance and weight to the statutory duty to have special regard to the desirability of preserving a listed building or its setting; or any features of special architectural or historic interest which it possesses, when considering whether to grant planning permission for development which affects a listed building or its setting.
102. The significance of Grade II listed '138 Piccott's End'; '140 Piccott's End'; '142-148 Piccott's End'; and '150 Piccott's End' includes their historic and architectural interests as 18<sup>th</sup> to mid-19<sup>th</sup> century buildings which contribute to the understanding and appreciation of the historical development of the village. Each of these heritage assets is linked historically and visually to the wider rural agricultural landscape setting of which the appeal site forms part. The open and green character of the appeal site contributes to the significance of these listed buildings and grouping as a legible part of the historically dominant rural, agricultural economy and society for this area.
103. However, the level of that contribution is limited by the screening effects of the mature planting and intervening field boundaries, and also the later village expansion with the now relative visual prominence of the modern properties along the riverbank. I return to the impact of the appeal proposal on the significance of these designated heritage assets later.
104. The significance of Grade I listed '130-136 Piccott's End' includes its architectural and historic interest as a good and largely intact example of a vernacular range of timber framed cottages. Further historic interest of these buildings is derived from the interior wall paintings which demonstrate the political and religious motives of 16<sup>th</sup> century England. They also has an historical association with royal surgeon Sir Astley Paston Cooper. The immediate setting of these listed buildings is now closely confined to their domestic curtilage, however, in the past there would have been stronger functional and ownership links between the cottage and the wider working agricultural landscape, within which the appeal site sits. Their significance is now best appreciated from within its curtilage and its street frontage from Piccotts End Road.
105. Again, the open and green character of the appeal site contributes to the significance of these listed buildings as a legible part of the historically dominant rural, agricultural economy and society for this area. Nonetheless, the level of contribution that the appeal site makes to the significance of their setting is moderated by the sequential screening and filtering effects of intervening mature vegetation according to the seasons, and also the later expansion of the village with more modern housing nearby. I return to the impact of the appeal proposal on the significance of these designated heritage assets later.
106. Despite its subsequent alteration, the significance of Grade II listed 'Piccott's End Farmhouse' includes its historic and architectural interest as a timber framed farmhouse dating back to the 17<sup>th</sup> century. Its original function as a farmhouse and role as the principal domestic building of a modest holding reflect the predominantly agricultural economy and society of this area. Its setting has been altered by the erosion of ownership links with the wider working agricultural landscape of fields, the construction of Leighton Buzzard Road, and also the more modern domestic

buildings opposite. This heritage asset is best appreciated from Piccotts End Road and within its immediate curtilage.

107. The open green character of the wider countryside, including the appeal site, makes a positive contribution to the understanding and appreciation of the significance of the former farm complex given its former use and greater isolation has ceased. However, the extent of this contribution is limited by the changes in the use of this farmhouse and nearby later built development. Furthermore, the well-established field boundaries and tree groups also have a sequential screening effect that reduces the extent and number of public views between the farmhouse and the appeal proposal. I return to the impact of the appeal proposal on the significance of this designated heritage asset later.
108. The significance of Grade II listed 'Piccott's End House' includes its architectural interest as a late Georgian/ early Victorian villa which, despite its more suburban character, illustrates the relative wealth and importance of its owners. Despite its tall garden wall, the more extensively open and green landscape to both the west and east of the village contributes positively to the significance of this property. This heritage asset is linked historically and visually to the wider rural agricultural landscape setting of which the appeal site forms part.
109. However, it is the open green character of the remaining garden area as opposed to the wider countryside which is the key element of the setting of this heritage asset. I return to the impact of the appeal proposal on the significance of this designated heritage asset later.
110. The significance of Grade II listed 'Gade Spring, Piccott's End' includes its architectural interest as a good and largely intact example of a late Georgian / early Victorian 'polite' villa set within a countryside location. The Classical style of the house, and use of materials and detailing, is characteristic of the fashions of this period and also the type and status of this building. Historically, its presence and architectural confidence also illustrates the relative wealth, importance and taste of its owners. The private gardens and closer views from this area and the principal frontage along Piccotts End Road are key elements of its setting in heritage terms. The open and green character of the appeal site contributes to the significance of this listed building as a legible part of the historically dominant rural, agricultural economy and society context. This is reinforced by intervisibility enabled by the existing topography and particular orientation of the house relative to the appeal site.
111. However, the well-established intervening field boundaries and tree groups have a sequential screening or filtering effect on this intervisibility. I return to the impact of the appeal proposal on the significance of this designated heritage asset later.
112. The significance of Grade II listed '92 Piccott's End'; '94, 96 and 104 Piccott's End'; '95 and 97 Piccott's End'; '99 Piccott's End'; and '101-105 Piccott's End' includes their historic and architectural interest as houses dating from the 17<sup>th</sup> to mid-19<sup>th</sup> century which illustrate the growth of the southern part of the village. The houses are orientated to Piccotts End Road with their primary street frontages seen on the approach to and from the village core. This is the key aspect of their immediate settings that contributes to their significance. Their secondary rear elevations overlook former gardens and towards a well treed boundary. Their existing wider green landscape context remains largely open and allows for views

from the rear. There is a narrower approach along Piccotts End Road to appreciate their architecture. Those rural views contribute to the appreciation of their significance historically and aesthetically.

113. However, the main tree belt along the nearby common which records the historic west boundary of these properties, and the village also provides a relatively high degree of screening to views to and from these houses and the wider countryside to the west. Furthermore, the landscape to their west is compromised historically due to the modern period construction of the busy thoroughfare of Leighton Buzzard Road. I return to the impact of the appeal proposal on the significance of these designated heritage assets later.
114. 'Little Marchmont Marchmont House' enjoys Grade II\* status, whereas the former stables and gate piers are Grade II listed. The significance of this closely associated grouping around the principal gentry house includes the architectural interests of the house itself, being a very high quality and largely intact example of a late 18<sup>th</sup> century small Neo-Classical traditional English country house, with some original interiors.
115. Their historic interest includes the direct association as the home of the 3<sup>rd</sup> Earl of Marchmont, and they illustrate the wealth, status and taste of the first owner and commissioner. The primary significance of the listed outbuilding and gate piers is derived from their association with the impressive Marchmont House with which they share group value. Due to its grand role, Marchmont House may have controlled a larger estate or extensive grounds. However, the close garden setting and views within contributes most strongly and positively to the appreciation of the significance of these assets. Beyond the historic boundaries of the grounds of the main house, which is now relatively well screened by established planting, the wider setting is largely characterised by an open and green rural landscape. This extended landscape, including the appeal site, contributes to the significance of these listed buildings as part of the largely rural countryside context that still remains from the time of its construction. This is appreciated in some reciprocal views between house and landscape.
116. The appeal site therefore contributes to the significance of these designated heritage assets as a modest remnant part of their wider open green landscape setting with links to the history and aesthetic appreciation of Marchmont House. This is reinforced by the degree of intervisibility. However, the contribution made by the appeal site to this particular setting is limited by the layered effect of a series of planted field boundaries which reduces the extent and number of views between main house and wider countryside; the particular orientation of the listed building grouping relative to the appeal site; and also the intervention of Leighton Buzzard Road and modern residential development of nearby Hemel Hempstead. I address the impact of the appeal proposal on the significance of these designated heritage assets below.
117. In terms of the heritage impact of the appeal proposal on of each of these designated historic assets, I find that the existing undeveloped green countryside character and appearance of the appeal site contributes to their respective significance as it is a legible part of the historically once dominant rural, agricultural economy and society for this area. As the appeal proposal would erode the countryside context of each of these designated assets, it would not preserve their respective settings. Nonetheless, the circumstances of each as set out earlier

mean that the proposed alteration to their wider setting would result in a very low level of harm to the contribution the agrarian landscape makes to their respective significance. In each instance, that harm would constitute a very low level of less than substantial harm.

118. Consequently, the appeal proposal would not preserving the setting of these particular buildings in line with the Act.

119. From my site observations and in line with the assessment of the Borough Council and appellant, I am satisfied that in line with the Act the appeal proposal would however preserve the setting of Grade II\* Gaddesden Hall, Grade II\* Gaddesden Place and Grade II Grist House Farm complex by virtue of the separation distances, topography and existing tree cover which would endure. As such, there would be no effect on their respective significance.

120. Finally, the significance of Grade II listed 'Piccott's End Mill House' includes its architectural interest as a polite example of the late 18<sup>th</sup> century architectural style. This building also has historical interest being the core of the once active Mill site and by virtue of its historic use, having strong connections with the River Gade. It also contributes to understanding the character of the village which is influenced by its historic role within a working agricultural landscape. This heritage asset is linked historically and visually to the wider rural agricultural landscape setting of which the appeal site forms part. However, the immediate setting of the Mill House has been significantly altered by development that has subsequently occurred immediately to the west and east which has further contributed to its sense of visual enclosure. Hence, the contribution of the appeal site to setting is presently limited and in line with the Act would not be harmed by the appeal proposal.

- Setting of Conservation Area

121. Key characteristics of the Piccotts End Conservation Area which contribute to its significance include the high concentration and interrelationship of buildings of historic and architectural interest; the linear settlement form which has grown organically along the River Gade Valley bottom; and its historic association with this river.

122. These features make a valuable positive contribution to its historic and architectural interests which define its character, appearance and the understanding and appreciation of the significance of the Conservation Area as a historic rural village.

123. As the appeal site forms a verdant undeveloped part of the wider mixed rural and urban setting of the Conservation Area, it contributes to the significance of that heritage asset as an element of its wider countryside setting. However, the extent to which it does so is limited given the size of the appeal site relative to the wider setting, distance from Piccotts End and the intervening topography, including the screening and filtering effects from established woodland and tree belts.

124. There are strong concerns that the proposal would have an urbanising effect on the rural character of this historic village and impact on the agricultural landscape and understanding of the local heritage assets. Indeed, the appeal proposal would result in the loss of part of that countryside component of the setting of this designated heritage asset. With the exception of where existing tree cover and undulating topography prohibit, views of the Conservation Area can be captured

from within the appeal site. Views from within the Conservation Area towards the appeal site are evident between buildings and from facing elevations and garden areas of properties. Views encompassing both the appeal site and Conservation Area are evident from within the valley bottom, including on approach along Leighton Buzzard Road and also from higher up the valley slopes.

125. However, from my site observations, the submitted Parameter Plan, illustrative Master Plan and landscape visualisations, the appellant has clearly demonstrated that the built components of the proposal would not be visible in their totality. Furthermore, an awareness of the development from within the Conservation Area, or against the backdrop of that asset would be of a similar vein to that of the sporadic pattern of buildings and tree cover that is characteristic of neighbouring Hemel Hempstead. Therefore any harm would be moderated by the nature of the proposals.
126. Despite changes in levels across the site, the design, appearance and materials of those parts of the development which would be on more exposed parts of the appeal site relative to the Conservation Area could be managed to assist with their sensitive assimilation at the reserved matters stage. Landscaping details and the treatment of the undeveloped areas could also be managed through the imposition of conditions and through the reserved matters applications to ensure that a sense of separation is maintained, and so that these areas do not have an overly manicured character and appearance.
127. I have found that the appeal scheme is a modest part of the rural setting of the Conservation Area. Overall, the rurality and agricultural connection of the Piccotts End Conservation Area with this wider setting would continue to support an appreciation of its significance as an historic settlement. Nonetheless, there would be some modest and low level erosion of its agrarian qualities although these would continue to be experienced, appreciated and understood.
128. Therefore, I find that the proposed reduction in the countryside setting would result in a very low level of harm to the experience, appreciation and understanding of the significance of the Conservation Area. Consequently, the appeal proposal would not preserve the setting of the Conservation Area. This change would cause a very low level of less than substantial harm to its significance.
- Heritage conclusions and balance
129. In overall summary, the appeal proposal would cause a very low level of less than substantial harm to the significance of Gadebridge Roman Villa Scheduled Monument; neighbouring Listed Buildings cited in footnote 1 of this decision (excluding Gaddesden Hall, Gaddesden Place and Grist House Farm complex); and the Piccotts End Conservation Area. The Borough Council has asserted that the concentration of all of these heritage assets elevates the weight that should be afforded to the identified less than substantial harm which they agree would arise. However, the Local Plan nor the Framework prescribe that I should do so.
130. Saved Policy 118 of the Local Plan deals with important archaeological remains. Saved Policy 119 seeks to manage development affecting Listed Buildings. Saved Policy 120 of that Plan addresses development in Conservation Areas. Policy CS27 of the Core Strategy seeks to protect, conserve and, where appropriate enhance setting of heritage assets. In view of my findings on this main issue, the appeal scheme conflicts with each of these policies.

131. Paragraph 212 of the Framework states when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation, and the more important the asset, the greater the weight should be. This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. Any harm to, or loss of, significance of a designated heritage asset should require clear and convincing justification. As such, paragraph 215 of the Framework directs that where a development proposal would lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.
132. As I have found less than substantial harm to the settings of various listed buildings and the Conservation Area, it is appropriate that I also assess the public benefits that would result from the proposed development.
133. By the close of the Inquiry there was common ground between the main parties that the contributions that the appeal proposal would make to the supply of market and affordable housing each carry very substantial weight, noting the evidenced historic chronic undersupply which exists. It is also common ground that the provision of care home accommodation is a benefit that carries substantial weight. It would meet the growing quantitative and qualitative needs of the ageing population and free up existing stock which could be suitable for families. I am satisfied that the submitted planning obligations would secure these benefits, and they carry significant favourable weight accordingly.
134. It is common ground that the economic benefits including job creation and local expenditure also carry significant weight. Furthermore, it is agreed that the public open space, play and sports provision and enhanced connectivity through footpath and crossing point improvements, cycle links and bus service enhancements are public benefits that each weigh moderately in favour of the appeal scheme. There is also a consensus that the implementation of the proposed Heritage Outreach Strategy is a public benefit of moderate weight that would enhance the community's understanding of the Scheduled Monument. Indeed, the Framework states that proposals that better reveal the significance of a heritage asset should be treated favourably.
135. The written and oral evidence that has been presented to me on those beneficial matters is compelling, and so there is no basis to disagree with any of those planning judgements reached.
136. The level of weight that should be attributed to the benefit of providing serviced self-build and custom build plots is disputed and rests between substantial and significant. There are no adopted policies to secure such provision.
137. The appellant has clearly demonstrated that the demand calculated by the Borough Council significantly under-represents true demand for this housing product. On the supply side, I concur that Community Infrastructure Levy (CIL) self-build exemption applications are not a reliable proxy for the actual level of the supply of this housing product. This is because the Borough Council's duty applies to the grant of development permission and the CIL Regulations provide a different definition of this housing product for their own distinct purpose.

138. The Borough Council has not clearly demonstrated that it had interrogated each permission against the definition in the Self-build and Custom Housebuilding Act (2015)<sup>5</sup>, whereas the appellant has. Furthermore, there is evidence of double counting across the base periods. Consequently, there is a substantial shortfall in supply the order of 156 units for the relevant accounting periods.
139. Overall, I am satisfied that the submitted planning obligation would secure this housing component of the appeal proposal which is a public benefit carrying substantial favourable weight here.
140. The planning application was submitted before the mandatory biodiversity net-gain requirement came into force. In view of my earlier findings the proposed level has been robustly calculated and exceeds that requirement. It is therefore a public benefit which weighs significantly in favour of the appeal proposal.
141. Consistent with paragraph 212 of the Framework I attach great weight to the conservation of the Gadebridge Roman Villa site commensurate to its primary status as a Scheduled Monument. However, the very low level of less than substantial harm to the significance of this important heritage asset is outweighed by the identified public benefits.
142. In line with the Act, I attribute considerable importance and weight to the preservation of each of the listed buildings assessed earlier. In line with paragraph 212 of the Framework, I attach great weight to the conservation of each of the assets, commensurate to the respective level of importance reflected in their listing status. However, the nature and level of all of the identified public benefits are of such that the very low level of less than substantial heritage harm to each asset is outweighed.
143. Furthermore, the very low level of less than substantial harm to the significance of Piccotts End Conservation Area is outweighed by the weight that I have attributed to the identified public benefits.
144. Overall, I find that all of those heritage harms are justified in line with the national policy approach to heritage. Consequently, there are no heritage matters which provide a strong reason for refusing the development proposed for the purposes of interpreting paragraph 11(d) i) of the Framework.

### Green Belt

145. The appeal site falls wholly within the designated Metropolitan Green Belt around London. That general Green Belt washing over land in Dacorum is a small part of the Green Belt designation as a whole, and the appeal site constitutes a very small part of that located within the Borough. Furthermore, it does not have the effect of allocating or designating particular areas for particular spatial purposes. It has been demonstrated that despite falling within the Green Belt, the concept of a green 'wedge', 'corridor', 'buffer' or 'entrance' relied upon by the opposing parties has no bearing on the interpretation of current national Green Belt policy.
146. The Borough Council's Green Belt evidence base does not reflect current national policy and the PPG on Green Belt. Furthermore, it has been demonstrated that the findings of the Stage 2 Assessment (CD5.29) cannot be transposed across the

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<sup>5</sup> Definition inserted by section 10 of the Housing and Planning Act (2016) and amended by the Levelling-up and Regeneration Act (2023).

appeal site. This is because there would be no impact on the quality of the Chilterns National Landscape, either directly or in terms of its setting. In addition, the matters relied upon by the Borough Council in the Site Assessment Study (CD5.33) for discounting the appeal site have been demonstrated to be either incorrect or, with the exception of heritage and landscape matters, are common ground. Therefore, I give very limited weight to the Borough Council's reliance on the appeal site not featuring in the preferred sites allocations being advanced through the plan making process.

- Performance against purposes of Green Belt

147. Paragraph 143 of the Framework confirms that purpose (a) of Green Belt seeks to check the unrestricted sprawl of large built up areas. The appeal site is well-defined and well-contained by the Scheduled Monument, Leighton Buzzard Road, the existing built form of Gadebridge and a range of planted and topographical features. The submitted plans demonstrate that the site can be developed in a manner that would be consistent with the prevailing settlement pattern of the area which comprises pockets of development along the valley. Furthermore, the appeal site does not contribute towards constraining the unrestricted sprawl of Hemel Hempstead and would not cause Piccotts End to be submerged by urban sprawl.

148. Contrary to the Group's stance, this particular purpose does not extend to the matter of coalescence, which is dealt with by purpose (b). In any event, common ground has been reached that the appeal proposal would not conflict with Purpose (b) of Green Belt which seeks to prevent neighbouring 'towns' from merging into one another. As this would clearly not be the case here, I concur with that common stance.

149. I agree with the main parties that purpose (c) of Green Belt, which seeks to assist in safeguarding the countryside from encroachment is engaged here, as the appeal site is undeveloped countryside beyond any defined settlement boundaries. The changes within the site would have an influence on a relatively small area of countryside which from my site observations constitutes moderate harm in terms of its nature and extent.

150. The Group has maintained that purpose (d) is engaged to preserve the setting and special character of historic towns. However, whilst Hemel Hempstead is a town with a conservation area, it has developed as a New Town and the appeal site does not fall within the setting of that heritage asset. Moreover, Piccotts End is a historic village, not a town or part of one. As such, purpose (d) is not relevant to my determination. As the appeal site is not previously developed or other urban land, neither is purpose (e) of relevance.

151. Consequently, the appeal site is located in the Green Belt but comprises land that does not strongly contribute to relevant purposes (a), (b) or (d).

- Whether inappropriate development

152. For the purposes of plan-making and decision-making, the Framework defines 'Grey Belt' as land in the Green Belt comprising previously developed land and/or any other land that, in either case, does not strongly contribute to any of purposes (a), (b), or (d) of paragraph 143. Grey Belt excludes land where the application of the policies relating to the areas or assets in footnote 7 of the Framework (other

than Green Belt) would provide a strong reason for refusing or restricting development.

153. I have found that the appeal site comprises other land that does not strongly contribute to purposes (a), (b), or (d). Even though there is moderate harm to purpose (c), the evidence before this Inquiry does not indicate that the appeal site has a wider strategic role in the functioning of the Borough's Green Belt as a whole. Therefore, in utilising 'Grey Belt' land, the appeal proposal would not fundamentally undermine the purposes (taken together) of the remaining Green Belt across the area of the Borough's development plan. This is in line with paragraph 155 (a) of the Framework.
154. Consistent with paragraph 155 (b) of the Framework, the undisputed housing land supply position and the mismatch in supply and demand for market homes, care homes, self-build and custom-build plots and affordable housing provision clearly evidence that there is a demonstrable unmet need for the type of development proposed.
155. In line with paragraph 155 (c) of the Framework, the appeal scheme would enjoy a sustainable location; whose accessibility credentials would be further improved through the proposed public transport, pedestrian and cycle enhancements which would be secured through planning conditions and planning obligations.
156. In terms of the performance of the appeal proposal against the 'Golden Rules' required by paragraph 155 (d) and defined in paragraphs 156 and 157 of the Framework, the appeal proposal would provide 50% affordable housing which would be secured through a planning obligation. The appeal scheme would deliver necessary improvements to local infrastructure through planning obligations. Furthermore, there would be new green spaces that would be accessible to the public, and new residents would be able to access good quality green spaces within a short walk of their home through on site provision and access to offsite spaces.
157. Consequently, in view of these findings the appeal proposal is a Grey Belt site which would meet the Framework's 'Golden Rules'. As such, it is not inappropriate development in Green Belt terms. Therefore, its location in the Green Belt does not provide a strong reason for refusing the development proposed for the purposes of interpreting paragraph 11 (d) (i) of the Framework.
158. In overall conclusion to this main issue, the appeal proposal is not inappropriate development. The very special circumstances required to justify Green Belt harm do not, therefore need to be demonstrated.
159. Policy CS5 of the Core Strategy sets out the types of development that would be permitted in line with previous versions of the Framework. As the appeal proposal falls beyond the scope of these, there is conflict with this policy.

### **Planning Obligations**

160. The appellant has proposed a suite of planning obligations which the Borough Council is in agreement with. In addition to education and health provision, these cover the provision and management of open spaces, landscaping, play areas; a sustainable transport hub; and the monitoring of all of obligations proposed. The

submitted bilateral legal agreement and unilateral undertaking are the legal means to secure the proposed planning obligations.

161. However, the County Council raised concerns about the approach taken by the appellant in respect to liability in the drafting of the initially proposed trilateral legal agreement with the Borough Council and the appellant. As the County Council declined to enter into that original agreement, the appellant converted the content into a bilateral agreement with the Borough Council and a unilateral undertaking for obligations relating to the County Council's functions. A consensus between the appellant and the County Council on this matter could not be secured in the lead up to the Inquiry sessions.
162. The unilateral undertaking includes 'Option A' at Clause 6.2, which is the appellant's preference and is consistent with the approach taken by the Borough Council in respect to the bilateral agreement; and 'Option B' at Clause 6.3, which is that preferred by the County Council. A 'blue pencil' clause has been inserted at Clause 3.1.3 of the undertaking to enable me to adjudicate on this matter. This disputed matter was a source of discussion at the round table discussion on planning obligations. It remained unresolved by the close of the Inquiry and has generated applications for costs from both the appellant and the County Council against one another.
163. Regardless of my adjudication on this particular disputed matter, the appellant's actions are a reasonable means to ensure that they have been able to provide legal documents capable of securing the necessary planning obligations to support their proposals and so address the Borough Council's earlier reasons for refusal associated with them.
164. The County Council's approach has the effect of placing liability on individual property owners of the appeal scheme should the developer fail to comply with any of the obligations contained within the unilateral undertaking. The County Council have advised that this is to ensure that the public purse is not burdened by any non-compliance. This could amount to a considerable sum for those occupants, depending on the extent of any non-compliance. However, during the round table discussion the County Council stated that it would be highly unlikely that they would ever initiate that clause against property owners. Whereas the appellant stood very firm that there are other remedial courses of action open to the County Council should that scenario ever arise. They believe that the County Council's approach could have far reaching consequences on delivery from the outset in terms of securing grant funding opportunities to assist in the delivery of affordable housing and also the ability of prospective purchasers to secure mortgages.
165. Both the appellant and the Borough Council do not follow the approach of the County Council in respect to liability for the planning obligations contained within the bilateral agreement. I find that the County Council's preferred wording is not appropriate here because the references to limiting and restricting occupation of dwellings against individuals means that the County Council could in theory enforce against individuals.
166. Significantly, during the Inquiry my attention was drawn to the Chiswell Green Decision<sup>6</sup> involving the County Council where their approach was clearly rejected by both the Inspector and the Secretary of State. In that case the County Council's

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<sup>6</sup> Document Ref: CD 8.28.

approach was found to be disproportionate, unreasonable and unrealistic. Crucially, the evidence before me, including costs submissions made by the County Council after the close of the Inquiry, does not lead me to justify an alternative stance to the Chiswell Green Decision.

167. Therefore, Clause 6.2.1 of the submitted unilateral undertaking, which does not place liability on the individual property owners, is that which shall take force for the purposes of implementing the submitted unilateral undertaking and ensuring future compliance with it.
168. The scope, nature and level of each planning obligation to be secured through the submitted legal agreements do not conflict with the local and national planning policy frameworks. I am satisfied that the Borough Council's submitted Compliance Statement demonstrates that each planning obligation is necessary to make the development acceptable in planning terms; is directly related to the development and; is fairly related in scale and kind to the development.
169. As such, each proposed planning obligation accords with the provisions of Regulation 122(2) of the Community Infrastructure Levy Regulations (2010) and the tests for planning obligations set out in the Framework and Planning Practice Guidance (PPG). Therefore, I have taken them into account in my assessment.

## Conditions

170. A schedule of planning conditions was agreed between the main parties during the Inquiry. I agree that following some extensive redrafting by the parties these now meet the prescribed tests set out in the Framework and PPG. These include several pre-commencement conditions which are unavoidable in view of the matters in question and the outline nature of the scheme and its individual components. The appellant has confirmed their acceptance of all of these conditions.
171. Condition Nos 1, 2 and 3 are necessary to define the scope of the planning permission and timescales which would assist in accelerating its delivery. Condition Nos 4, 5 and 6 are necessary in order to secure the agreement and implementation thereafter of an Archaeological Written Scheme of Investigation; the associated site investigation and post investigation assessments; and mitigation. Condition Nos 7 and 8 are necessary to ensure that a coordinated approach to the various interdependencies between the different components of the approved scheme is secured at the reserved matters stage. Condition Nos 9, 10, 11, 12 and 13 are necessary to ensure that site specific design, landscaping, layout and appearance matters are addressed as part of the reserved matters applications.
172. Condition No 10 is also necessary to ensure that an appropriate waste and construction management plan is implemented throughout the course of the development phase to safeguard the interests of local residents and environmental assets. Condition Nos 14, 15, 16, 18, 27, 28, 31 and 32 set out technical drainage requirements, management arrangements, mitigation and verification for each phase of development and are necessary in the interests of avoiding flood risk within the site and off site, including on the public highway.
173. Condition No 17 necessarily seeks to secure improvements to the local public rights of way network to encourage active travel and mitigate against the potential effects of increased footfall.

174. Condition No 20 necessarily seeks to secure mitigation measures in respect to any increased usage of neighbouring Halsey Field Local Wildlife Site, in line with the approved phasing plan timescales and as part of the implementation of the required Local Wildlife Site Improvement Plan. It is both necessary and reasonable that this Plan is approved by the Borough Council before the proposed development can commence. Furthermore, it is necessary and reasonable for this condition to acknowledge the importance of community engagement in devising this mitigation, including with the Friends of Halsey Field, as custodians of these important habitats.
175. Condition Nos 19, 21, 22 and 31 are necessary to ensure that the potential for contamination, including in respect to ground water and waterbodies, is avoided. These conditions adequately addresses concerns from interested parties about the future quality of their private water supply. Condition No 23 necessarily requires the implementation and retention thereafter of an agreed lighting strategy in the interests of safeguarding the habitat of local biodiversity interests and landscape character.
176. Condition No 24 requires the implementation of an agreed Construction Traffic Management Plan throughout the construction phase. This is necessary in the interest of highway safety and the living conditions of local residents. Condition Nos 25, 26 and 29 necessarily secure the implementation of an agreed detailed scheme for offsite highway improvement works and site accesses in accordance with the approved phasing plan in the interests of highway safety. Condition No 30 necessarily secures an appropriate visibility splay in the interest of highway safety, paying regard to the continued integrity of Tree ref: T139.
177. Condition No 33 is necessary to ensure that agreed tree protection measures are implemented during the development phases. Condition No 34 necessarily seeks to ensure that the approved landscaping scheme is managed until it is satisfactorily established, in the interests of local biodiversity and the character and appearance of the area.

### **Presumption in favour of sustainable development**

178. The development plan policies which are most important for determining this appeal are listed in the Planning Statement of Common Ground (Ref: CD4.1). The Borough Council has accepted that of these most important policies, Policies 118, 119, 120 and CS27 should be deemed to be out of date as they do not reflect the current national heritage policy approach set out in the Framework and PPG. In addition, Policies CS25 and CS5 of the Core Strategy are not fully consistent with the approach of the Framework to landscape and Green Belt matters.
179. As such, I give limited unfavourable weight to the conflict with Policies CS25, CS27, 118, 119 and 120 of the development plan in terms of landscape and heritage matters. The conflict with the local Green Belt policy CS5 carries no weight as the appeal proposal has been found to be 'appropriate development' and so is justified in more recent Framework terms.
180. Moreover, those policies which manage the location of new housing should be deemed out of date by virtue of the current chronic shortfall in the housing land supply for the Borough. This means that 'the presumption in favour of sustainable development' set out in paragraph 11(d) of the Framework is engaged.

181. From my earlier findings on the relevant matters to this appeal listed in footnote 7 of the Framework, I am satisfied that the application of its policies that protect areas or assets of particular importance do not provide a strong reason for refusing this appeal proposal.
182. In terms of the adverse impacts of the appeal proposal, I have found a very low level of harm to the significance of the Scheduled Monument, the significance of some nearby listed buildings and the setting of the Piccotts End Conservation Area. I attribute a low level of weight to each of those harms.
183. Given the level of flood risk post mitigation and the inability of the Borough Council to demonstrate that it can meet the future housing needs of the area on sequentially preferable sites, this matter amounts to a very low level of harm to which I attribute a low level of unfavourable weight.
184. I have also found that landscape harm would be minor in its level and extent. That harm carries a very low level of unfavourable weight.
185. I also attribute very low unfavourable weight to the Borough Council's reliance on the appeal site not featuring in the preferred sites allocations being advanced through the new plan making process.
186. Furthermore, there is common ground between the main parties that the appeal proposal would cause limited harm from the loss of Best and Most Versatile Land. In view of the degree of loss set against the Framework's approach to this matter, there is no basis to disagree with that assessment. I attach a low level of weight to that harm.
187. In terms of benefits, I have found that the appeal proposal would make a very substantial contribution to the future supply of market and affordable housing in an area with a chronic and ongoing shortfall, the continued duration for which is unclear. These benefits each carry substantial weight in favour of the appeal proposal.
188. There would be substantial qualitative and quantitative beneficial contributions to the supply of care home accommodation and to the provision of serviced self-build and custom-build plots in a context of an ongoing undersupply which I attribute substantial weight to in favour of the appeal proposal.
189. Furthermore, significant economic benefits would arise during and post construction phases. There would also be significant benefit arising from the proposed biodiversity net-gain. These each carry significant favourable weight.
190. There would be a moderate wider public benefit from the outcome of the proposed Heritage Outreach Strategy; the measures which would encourage sustainable modes of transport; and also from the proposed provision of public open space, play and sports provision. I attribute moderate favourable weight to each of these benefits.
191. I now turn to the performance of the appeal proposal against the relevant key policies in the Framework in line with footnote 9 of that national policy. The appeal scheme accords with paragraph 66 which states that where major development involving the provision of housing is proposed, decisions should expect that the mix of affordable housing required meets identified local needs, across Social Rent, other affordable housing for rent and affordable home ownership tenures. The

counter stance advanced about the affordability of units is not a matter pursued by the Borough Council and a deviation from their position has not been substantiated.

192. In addition, as the appeal site is not isolated, it is consistent with paragraph 84 of the Framework in locational terms. The site's good accessibility credentials and the nature of the transport related components of the appeal scheme could facilitate journeys by alternative means to the motor car. As such, the appeal proposal is consistent with paragraphs 110 and 115 of the Framework which seek to actively manage patterns of growth to promote sustainable transport; limit the need to travel; offer a genuine choice of transport modes; provide safe and suitable access for all; and mitigate any significant impacts on the transport network.
193. Paragraph 91 of the Framework is not relevant to this appeal. However, the appeal proposal is also consistent with paragraph 129 of the Framework in making efficient use of land by taking account of the identified need for different types of housing and other forms of development; the availability of land to accommodate it; the availability and capacity of infrastructure and services; limiting future car use and securing well-designed, attractive healthy places.
194. Furthermore, the Parameters Plan, highways plans and illustrative Master Plan demonstrate that the appeal proposal would function well through its lifetime. Through the reserved matters stage the Borough Council has scope to ensure that it adds to the quality of the area; is visually attractive in terms of architecture, layout and landscaping; is sympathetic to local character; establishes a strong sense of place; and accommodates and sustains an appropriate amount and mix of development and supports local facilities and transport networks. It also provides scope through the reserved matters to secure the creation of a safe place which is inclusive and accessible; promotes health and well-being and a high standard of amenity; and where the quality of life, community cohesion and resilience are not undermined by crime and disorder. Consequently, the appeal proposal is consistent with paragraphs 135 and 139 of the Framework.
195. Overall, I find that the adverse impacts of allowing this appeal would not significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination.
196. As such, the appeal proposal meets the 'presumption in favour of sustainable development' as set out in paragraph 11(d) of the Framework, to which I attach substantial favourable weight.

## **Planning Balance**

197. As the starting point for my determination, section 38(6) of the Planning and Compulsory Purchase Act (2004) requires that my decision must be made in accordance with the development plan unless material considerations indicate otherwise.
198. However, the weight which I attribute to the identified conflicts with the relevant development plan policies is reduced to the extent that they are consistent with the Framework. I have found that notwithstanding the conflict with the development

plan provisions, the presumption in favour of sustainable development set out in paragraph 11(d) of the Framework is met. Furthermore, paragraph 158 of the Framework states that development which complies with the Golden Rules, as is the case here, should be given significant weight in favour of the grant of permission.

199. These findings outweigh the conflict with the development plan in this particular instance. Consequently, I conclude that a decision taken contrary to the development plan for the Borough is clearly justified.

### **Conclusion**

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

*C Dillon*

INSPECTOR