

# DPV Consult

**Town & Country Planning Act 1990**  
**Section 78 Appeal by**  
**Castleoak Care Developments Limited**

**Land to the rear of Burston Garden Centre**  
**St Albans**  
**AL2 2DS**

**Proof of Evidence**  
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## The Core Case

1. The Appellant seeks planning permission for 124 assisted living and care homes (Use Class C2) subsequent to proposals for a much larger development that was dismissed at appeal in January 2020.
2. The current appeal was refused on 26 May 2021.
  - **Reasons for Refusal**
3. The 3 reasons for refusal are (RfR):
  - Inappropriate development in the Green Belt, cause harm to its openness and be harmful to the character and appearance of the wider area and a failure to demonstrate the very special circumstances necessary to overcome this harm (RfR 1)
  - Cause less than substantial harm to the grade II\* listed Burston Manor and grade II listed outbuildings which would not be outweighed by public benefits (RfR 2)
  - Failure to enter into planning obligations to provide the necessary infrastructure to make the development acceptable (RfR 3)
4. RfR 3 is a matter that is capable of being addressed through the completion of an appropriate legal undertaking.
  - **A change in circumstances**
5. There are 3 critical changes that have a material bearing on this Appeal since the original scheme, refused by St Albans DC on the 20 March 2019 (LPA ref. LPA ref. 5/2018/1324/LSM and the subsequent appeal dismissal on the 9 January 2020 (PINS ref. APP/B1930/W/19/3235642).
6. These are:
  - The collapse of the replacement Local Plan – ***the Council does not have an up-to-date strategic development plan***
  - The grant and resolution to grant planning permission for 2 sites in the St Albans Green Belt; namely:
    - Up to 100 dwellings allowed on appeal on land at Roundhouse Farm, Colney Heath (PINS ref. APP/B1930/W/20/3265925 and 3265926)
    - The Council has resolved to grant planning permission for up to 150 dwellings at 112-156b Harpenden Road (LPA ref. 5/2021/0423/LSM)
  - ***The Council is reliant on unallocated Green Belt sites given it does not have an up to date identified supply of housing to meet its objectively assessed need***

- The fundamental design changes to the Scheme leading to a substantial reduction in the overall scale of the development proposed – ***this is a new scheme***
7. At the same time there is a new National Planning Policy Framework, July 2021 (NPPF) with greater emphasis on:
- Design, noting that design does not form a reason for refusal – ***it is a very well-designed scheme***
  - Local support – the proposals are very strongly endorsed by the Parish Council (indeed the site was allocated for a retirement community in an early version of the St Stephen Neighbourhood Plan with the current version strongly supporting development for specialist older persons housing in recognition of the identified need), 2 resident associations and the wider community – ***from my experience it is unprecedented to have a housing proposal in the Green Belt so strongly supported locally***
  - The proposals provide significant landscape and biodiversity benefits with substantial new landscape planting resulting in on site net biodiversity gain as follows:
    - +137% habitat units
    - +7616.25% hedgerow units
    - neutral on river units**– this is very significant.**
- **The new scheme**
8. The principal changes are:
- A significant reduction in the quantum, scale and mass of development
  - A substantial reduction in built form equates to a decrease of almost 20%
  - The reduction in the density of development
  - A more dispersed and more informal arrangement of accommodation throughout the site
  - An increase in the visual permeability of the scheme
  - Greatly enhanced landscaping that will generate a very significant net gain in biodiversity
  - Softening the built form along the eastern boundary of the site and along the boundary with Burston Manor
  - The removal of the close boarded fence adjacent to the boundary with How Wood
  - The provision for enhanced pedestrian routes
9. The design changes have enabled a more informal arrangement of the remaining units with a greater focus on landscaping, green space and protecting the significance of the grade II\* listed Burston Manor and grade II listed outbuildings. More generally, the redesign has focused on addressing the reasons why the previous scheme was refused by the Council and subsequently dismissed at appeal.

10. Furthermore, if the approach to the Green Belt followed in recent decisions in St Albans, officer recommendations, notably Roundhouse Farm (PINS B1930/W/20/3265925) and Harpenden Road (LPA 5/2021/0423/LSM) is applied, it is now evident that in relation to the purposes of the Green Belt, the Appeal Site makes no contribution to purposes a) – urban sprawl and d) – setting and special character of historic towns and only limited contributions to purposes b) – neighbouring towns merging and c) – encroachment into the countryside. It has a neutral impact in assisting urban regeneration – purpose e) especially when noting that although not “previously developed land” (page 70m NPPF), the Site does contain very large buildings and extensive areas of hardstanding which spatially and visually dominate the western and southern part of the Site – whereas both the Roundhouse Farm and Harpenden sites comprise open fields.
11. The factors weighing in support of a grant of planning permission and public benefits were comprehensively set out within the previous appeal proposals and with reference to the appeal decision were well understood by the Inspector who concluded that the scheme was of considerable merit. These benefits are enhanced in the Appeal Scheme. Indeed they go further than those demonstrated at both Roundhouse Farm and Harpenden Road and weigh more heavily in favour of a grant of planning permission.
12. For the purposes of consistency, taking account of the critical changes that have taken place since the previous appeal (see paras. 5 to 9 above), I have applied the following scale of weight to my assessment of the overall benefits of the scheme:
  - Very substantial weight (the highest)
  - Substantial weight
  - Moderate weight
  - Some weight
  - Limited if any weight (the lowest)
13. The statements of public benefits have been updated as part of this Appeal to reflect the change in circumstances associated with the passage of time that has passed since the Inquiry late last year, such as on the level of housing need and associated land supply. Specifically, for the reasons I expand on below, **very substantial weight** must be attributed to the proposals given that the Council is operating in a complete policy vacuum following the withdrawal of its replacement Local Plan in November 2020.
14. At the same time, the assessment of alternative sites has been revised to address concerns of approach raised by the previous appeal inspector and in the interests of demonstrating that no new sites have since come forward. The 3 sites queried by the Inspector have been confirmed as unavailable following communication with the owners of the sites and there are no new alternative sites. The Council now accept that there are no sequentially preferable alternative sites to accommodate the scale of development proposed. **Very substantial weight** must be attached to the fact that there are no sequentially preferable sites to locate this development.
15. I say that as with the recent Roundhouse and Harpenden decisions the combined benefits, which in my view are even more substantial in the case of this Appeal scheme, generate the very special

circumstances to overcome the harm to the Green Belt and other harm including the less than substantial harm to Burston Manor and outbuildings.

16. As part of the updated statements of benefits the scheme will deliver the biodiversity net gain improvements as set out above. This is very significant in the context that most schemes struggle to deliver between 10% and 20% if any gain at all.

### **Planning policy**

17. The need to provide an adequate supply of specialist accommodation for older people is becoming increasingly important given the Country's ageing population which has brought into sharper focus by the current Covid-19 pandemic. This was underlined following the previous appeal in an open letter dated 4 May 2020 from the Minister for Care, Helen Whately MP when she stated that retirement and extra care housing developments across the country – whatever their size, or whether private or not-for-profit – are playing a vital role in protecting the most vulnerable in our country.

### **The National Planning Policy Framework (NPPF)**

18. The latest NPPF was released on 20 July 2021. It supersedes the February 2019 version which was in place at the time of the previous appeal.
19. The biggest change is the focus on the need to design for 'beautiful and safe places'. There is also greater emphasis on the need to mitigate against the effects of climate change and for growth to be directed to locations where it can be accommodated within the capacity of existing infrastructure aligned with infrastructure. The updated policy framework is also clear that applicants should work closely with those affected by their proposals to evolve designs that take account of the views of the community with applications demonstrating early, proactive and effective engagement with the community being looked on more favourably than those that cannot.
20. The appeal proposals align with all 3 of these key objectives.

### ***The St Albans District Local Plan***

21. The withdrawal of the draft replacement St Albans City and District Local Plan 2020-2036 due to fundamental legal and procedural flaws weighs **very substantially** in favour of the appeal proposals. The current development plan here - the District Local Plan Review 1994 - is hopelessly out of date and in many respects is not consistent with national planning policy.
22. There have been two attempts to adopt a new plan in St Albans since 1994. Both have failed.
23. One of the key issues raised by the inspectors following the early conclusion of the previous Local Plan Examination was that discounting potential sites in the Green Belt of less than 500 units was not the right approach. Conversely, in line with these conclusions the development of the application site would be consistent with the approach of selecting smaller sites given:

- The proposals would provide a valuable contribution to the identification of some smaller sites that would not unacceptably spread the adverse impacts of development on Green Belt purposes
  - The extent of the resultant impacts associated with the proposals would be smaller given the more limited scale of the sites (in comparison to the cumulative impact on the Green Belt purposes of developing large adjoining strategic sites)
  - The site will deliver 124 supported care homes within the next 2 to 3 years without requiring additional infrastructure and would provide choice and flexibility in the housing market and secure affordable housing more immediately in line with a clearly identified need
  - Refusing planning permission on the application site effectively rules out an important potential source of housing that will have a low impact on the purposes of the Green Belt
24. Since the St Albans plan was withdrawn last year there has still been no timetable published for a new draft plan. Consequently, I submit that:
- We still have no idea if, or when, St Albans will ever adopt another local plan
  - If sites are to come forward in St Albans to meet its very serious needs, it is inevitable that Green Belt land is required
  - It is inevitable that those needs will be addressed through the development management process, which means that permissions will need to be granted applying the balance at para. 148 of the NPPF.

***The St Stephen Neighbourhood Plan***

25. There remains considerable local support for the proposals. In my experience it is unheard of for a Green Belt scheme to so strongly be supported by local groups and this is reflected in the St Stephen Neighbourhood Plan –Submission (Regulation 16) Draft (February 2021) which was published in June 2021. The Plan recognises that there is an identified and evidenced local housing need including for older persons specialist care in St Stephen and consideration should be given to how that is to be delivered, including where any new housing might be sited. Accordingly, with due regard to the Parish Council's own evidence base the Plan supports proposals for a care home or retirement village (use class C2) within St Stephen Parish.

***Other matters***

26. As was the case with the previous appeal proposals, this application submission is accompanied by a comprehensive suite of technical documents that demonstrate that there are no overriding physical constraints that preclude the development from being built, including ground conditions, flood risk and drainage, trees, highways, archaeology and loss of agricultural land.
27. Regarding the Equality Act 2010 (EA), and as was the case with the previous appeal proposal, there are no issues in respect of this Appeal.

## Summary

28. Within the context of the foregoing, I submit that:
- The need for additional housing generally in St Albans is profound with the Inspector concluding in respect of the shortfall in Five Year Housing Land Supply in the Roundhouse Farm decision that “... **the position is a bleak one and the shortfall ... is considerable and significant**” (see para. 48 of the decision letter);
  - The local need for older peoples’ accommodation in this area is also profound. If this scheme is not permitted, then there is no evidence of any realistic prospect of these needs being met elsewhere in the St Albans area in the short to medium term;
  - There is no short-medium term prospect of these housing needs being met in a plan-led way, and, as demonstrated with reference to Roundhouse Farm and 122-156b Harpenden Way, meeting these needs will require the approval of schemes in the Green Belt through the development management process;
  - The commercial realities are such that land will come forward for general market housing and not specialist accommodation.
29. I give the following degree of weight to the benefits of the Appeal Scheme:
- **Very substantial weight** to the contribution to general housing needs
  - **Very substantial weight** to the contribution the development would make to meeting the needs for specialist housing in the area for older people
  - **Very substantial weight** to the fact that there are no suitable sequentially preferable alternative sites to accommodate the proposals
  - **Very substantial weight** to the release of under-occupied family housing
  - **Substantial weight** to the health and well-being the proposals will bring to both future residents of the scheme as well as relieving pressure on existing health services
  - **Moderate weight** to the increase in biodiversity through additional landscape and habitat creation
  - **Moderate weight** to the fact that it is a very well-designed and high-quality scheme
  - **Moderate weight** to the local support for the proposals
  - **Some weight** to the employment opportunities the scheme will deliver
  - **Some weight** to the benefits of the site access improvements that the scheme will deliver
  - **Some weight** to the site being able to be delivered now.
30. Whilst I have not specifically attributed weight to the availability of some of the communal facilities to be provided including the multi-function room and restaurant being open to the public I note from other appeal decisions, including the decision to allow an appeal in Edenbridge, Sevenoaks for a retirement community on the 2 November 2021 the Inspector gave this **limited weight** in favour of these proposals (PINS ref. APP/G2245/W/21/3271595).



31. My view is that the **overall planning balance is now weighed decisively in favour of the Appeal proposals**, given the reduction in degree of “harm” and the enhanced public benefits when combined with the policy vacuum at the District level that has arisen following the withdrawal of the replacement Local Plan and emergence of the Neighbourhood Plan.
32. The Appeal Scheme is very much needed and I ask the Inspector respectfully to grant permission to enable delivery of this scheme.

# 1. Qualifications and Experience

- **Qualifications and Experience**

- 1.1. I hold a Master of Science Degree in City and Regional Planning from the University of Wales College Cardiff. I am a Corporate Member of the Royal Town Planning Institute having been elected in 1997. I have 27 years' private sector experience in Town and Country Planning involving a number of diverse development projects.
- 1.2. As a Director of DPV Consult, a Company I founded in October 2020, and formerly of Strutt & Parker, GL Hearn and Andrew Martin Associates, I have led the planning work on a wide range of projects including a number of major schemes for regeneration, town/village expansions and new settlements, advising both public and private clients. These have included the planning of residential, commercial, retail, employment, sports/leisure and community facilities together with master planning of large sites.
- 1.3. Whilst I was at Strutt and Parker I was instructed by Castleoak Care Developments Ltd to provide Town Planning advice on the proposed part redevelopment of land to the rear of Burston Garden Centre in 2017. I have led work on the project since then, encompassing both the current and previous application and appeal stages. The Site and the relevant planning policies are very well known to me.

- **Declaration**

- 1.4. The evidence for this Appeal, referenced APP/B1930/W/21/3279463, in this Proof of Evidence is true and has been prepared and is given in accordance with the guidance of my professional institution. I confirm that the opinions expressed are my true and professional opinions. I have drawn from supporting information prepared by others to support my evidence, but only where I share the same opinions.

## 2. Introduction

2.1. This appeal by Castleoak Care Developments Ltd is made against the decision of St Albans DC on 26 May 2021 to refuse planning permission for 124 self-contained extra care apartments and associated ancillary development on the site, including the provision of incidental communal and support facilities (LPA ref: 5/20/3022) (**CD2.1 to CD2.56**).

- **The Appellant and Operator**

2.2. Castleoak Care Developments, who will develop the scheme, is a specialist development team working exclusively in the care and retirement living sector. Since 1996, Castleoak has delivered over 200 care homes and 2,000 assisted living and retirement homes. Elysian Residences will operate the retirement village. I attach Elysian's Operational Statement at Appendix **DP1**.

- **The main issues**

2.3. The main issues have been agreed, following the Case Management Conference (CMC) with the Inspector on the 14 October 2021. These are:

1. The effect of the proposed development on the openness and purposes of the Green Belt
2. The effect of the proposed development on the character and appearance of the area
3. The effect of the proposed development on the significance of the grade II\* listed Burston Manor and the grade II listed outbuildings
4. Whether the proposed development would make adequate provision for community and infrastructure needs
5. Whether harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the proposed development.

2.4. At the CMC, the parties agreed that the development would constitute inappropriate development in the Green Belt. It was also agreed that the fourth main issue relating to community and infrastructure needs may fall away subject to progress with any legal agreement. I anticipate that this will be the case.

- **Scope of evidence**

2.5. In my Proof of Evidence, I address matters of planning policy, benefits, questions of weight and conclude with my assessment of the appropriate planning balance as to whether:

- i. There are "Other considerations" which clearly outweigh the harm to the Green Belt by reason of inappropriateness and any other harm to the extent that Very Special Circumstances exist (RfR1)

- ii. The public interest benefits of the proposals outweigh the less than substantial harm to grade II\* and grade II listed heritage assets (RfR2)

2.6. Separate proofs of evidence and related reports, which I rely on in my application of the overall planning balance, are also produced with regard to the following matters:

**Formal evidence**

<b>Topic</b>	<b>Subject</b>	<b>Author</b>
Green Belt	Green Belt and character and appearance matters with specific regard to: <ul style="list-style-type: none"> <li>• The contribution of the appeal Site to the purposes and openness of the Green Belt</li> <li>• The character and appearance of the Site and its contribution to this character and appearance</li> <li>• The impact of the Appeal proposals on the openness and purposes of the Green Belt</li> <li>• The impact of the proposals on character and appearance</li> </ul>	Andrew Smith (Fabrik)
Heritage	Heritage matters with specific regard to: <ul style="list-style-type: none"> <li>• The significance of the grade II* listed Burston Manor and the grade II listed outbuildings</li> <li>• The contribution the Appeal Site makes to these assets</li> <li>• The impact of the Appeal proposals on these assets</li> </ul>	Kevin Murphy (KM Heritage)
Need	The local need for high quality care accommodation	Nigel Appleton (Contact)
Need	On the ability of specialist older persons schemes to compete with general needs housing and come forward for delivery for which there is an identified need	Richard Garside (Newsteer)

**Supporting technical reports (produced in addition to the submitted planning application)**

2.7. I also rely on the following information, contained in Appendix **DP2**, prepared by RPS in demonstrating the very significant ecological benefits the scheme will deliver.

<b>Topic</b>	<b>Subject</b>	<b>Author</b>
Ecology	Biodiversity net gain assessment and biodiversity metric	RPS

- **Structure of Evidence**

2.8. My evidence is set out as follows:

- Section 3 describes the appeal site and surroundings
- Section 4 identifies and critiques the relevant planning policy and guidance
- Section 5 sets out the decision-making process in St Albans
- Section 6 reviews the previous dismissed appeal and sets out the current proposals
- Section 7 identifies and discusses the material planning issues, as summarised above
- Section 8 considers further material considerations including matters raised by third parties, conditions and prospective legal obligations
- Section 9 my planning balance
- Section 10 summarises what has changed since the previous appeal was determined
- Section 11 sets out my summary and conclusions

### 3. The Appeal Site and Surrounding Area

- 3.1. A general description of the Appeal Site and surrounding area is contained in the Appellant's Statement of Case (**CD1.2**).
- 3.2. The site is located in the Green Belt and has the potential to affect the significance of two nearby heritage assets.
- 3.3. In terms of broad characteristics:
- Substantial parts of the Site are previously used with notable built footprint from existing buildings
  - The Site is well contained in views from the wider landscape due to extensive existing tree belts and forms a discrete parcel of land screened from public vantage points and from the two relevant heritage assets
  - The Site occupies a sustainable location with excellent road and good public transport links and within walking distance to the local shops and services of Chiswell Green.
  - There are no other overriding environmental constraints such as flooding.
- 3.4. The Site is surrounded by a post-war suburban context evidenced through, amongst other things, the noise of the busy North Orbital Road (the A405) and nearby M25, and also by the extensive background light spill which envelopes the entire nursery operation at night derived from the wider existing built development which surrounds the Site.
- 3.5. The Proof of Evidence of Andrew Smith provides a description of the character of the site, including its spatial and visual relationship with its surroundings.
- **Character and Appearance**
- 3.6. The Appeal Site comprises a parcel of previously used despoiled land of approximately 5.8ha located towards the settlement edges of both the non-historic settlements of Chiswell Green and How Wood. It is surrounded and generally contained by residential development to the north (beyond Burston Manor grade II\* and outbuildings grade II), east (beyond a wooded area (How Wood)), south (beyond woodland (Birchwood)) and west by Burston Garden Centre.
- 3.7. The North Orbital Road (running north-east to south-west and then east to west) is located approximately 100m from the western boundary of the site which intersects with the M25 motorway (running east to west) at 21A within 1km of the Site. A stretch of the St Albans Abbey to London Railway Line is located some 700m from the eastern boundary of the Appeal Site.
- 3.8. The Site is not a valued landscape under para. 174 of the NPPF and was identified as a Landscape Development and Improvement area under now revoked Policy 105 of the 1994 St Albans Local Plan. The Policy sought to promote and seek to secure landscape creation,

improvement and enhancement throughout the Green Belt countryside with priority given generally to the urban fringe and particularly in the Landscape Development Area.

- 3.9. There are no public rights of way or indeed any public rights of access to the Appeal Site. It is contained from public view. Whilst there is a bridleway abutting the eastern boundary of the Site this is little used and separated by a 2m close boarded fence.
- 3.10. I agree with Andrew Smith that the Appeal Site is characteristic of urban edge / edge of settlement with clear separation and containment from wider encroachment into the countryside beyond given the degree of enclosure, the strong influences of the major transport routes, the surrounding settlements and lack of public access.

- **Site characteristics**

- 3.11. The Site is a previously used and despoiled parcel of generally level land formerly used as a commercial rose production site (being previously used land).
- 3.12. The Agricultural Land Classification Report (**CD2.48**), which did not form part of the previous proposals, confirms that only 1.2 ha of the total 5.8 ha was capable of being described as agricultural land (ALC Grade 3b and outside of the best and most versatile land for agriculture) and concludes at para. 25 that:

***“Vehicular access to the agricultural land is only possible from the A405 dual carriageway, either passing through the garden centre car park, storage sheds and derelict glasshouses, or along the access tracks for the three residential properties to the north of the site. Agricultural management of this land would therefore involve livestock wagons or large arable equipment (tractors with cultivators, seed drill, combine harvester and grain trailer) to negotiate constricted access and enter and leave via the dual carriageway. It is simply not tenable that such a small area of fragmented Grade 3b land would be an economic addition to a commercial farm business.”***

- 3.13. The site consists of 12 built structures and part structures, (the majority being clad and roofed with asbestos bound cement sheets), polytunnels and water tanks as well as extensive hard surfaced setting out areas, irrigation and drainage systems, HGV loading bays and scrap areas.
- 3.14. The combined footprint of the 12 structures equates to 7,215sqm. The sheds, polytunnels and glass houses have maximum heights ranging from circa. 8.8m to 9.8m. The largest buildings are located adjacent to both the western (sheds and glass houses) and southern boundaries (polytunnels) of Burston Manor.
- 3.15. Although no major contamination issues have been identified the Preliminary Geoenvironmental and Geotechnical Assessment submitted at the time of the application (**CD2.45**) indicates the potential presence of asbestos containing roof tiles and wall sheeting

on a number of the 12 main structures within the north-west section of the site (see for example para. 2.2.10)

- 3.16. Overall, large buildings and extensive areas of hard standing spatially and visually dominate the western and southern part of the site. There is a pocket of degraded rough grassland occupying the north-eastern part of the site.

- **Enclosure and containment**

- 3.17. The site is heavily enclosed on the east and southern flank with mature woodland limiting any onward visibility beyond this, with canopy heights generally in the range of 17m to 25m. The western flank boundary abuts the Burston nurseries outside of the site and comprises glasshouses and planting beds. To the north is the Burston Manor House, Granary and moat. The majority of the site's northern boundary is formed with mature trees and a high hedge. Taken together with the mature trees within the private gardens of the Manor House, there is generally a high degree of screening between the curtilage of the listed buildings, the Site and the woods beyond. In the winter months, there are numerous evergreen trees that limit views to and from the Manor, albeit with the deciduous trees bereft of leaves, there is an increased degree of intervisibility and opportunities for views of the roof of the Manor from within the Site. With filtered winter views through the branches, the existing structures along the western and southern boundaries of Burston Manor are more visible, as are the glass houses of the main garden centre that are to be partially dismantled to the west.

- 3.18. To the east of the Manor House curtilage, a further belt of mature tree planting screens views in this direction from the northern reaches of the Site. As noted above a two-metre high close boarded boundary fence runs the entire length of the eastern boundary of the Site, separating the Site from a little used public bridleway which screens any public views. To the south, temporary heras fencing separates the Site from Birchwood. The Site seamlessly flows into the complex of industrial utilitarian style commercial buildings forming the Burston Garden Centre on the site's western edge.

- **Burston Manor and outbuildings**

- 3.19. In terms of setting, Burston Manor (grade II\*) and the outbuildings (grade II) are set in private, mature landscaped gardens which provide screening and enclosure, both from when looking out from the grounds, and when looking towards the Manor itself from the Appeal Site (north) and bridleway (east). Collectively, the mature tree planting within and around the Manor House gardens, much of the House and the outbuildings are screened from the Site and, correspondingly, visually divorced from the wider surrounds within sequestered, wholly domesticated grounds.



- **Summary**

- 3.20. I concur with Andrew Smith that in relation to the purposes of the Green Belt, the Appeal Site makes no contribution to purposes:
- a) – urban sprawl; and
  - d) – setting and special character of historic towns
- 3.21. It only makes limited contributions to purposes:
- b) – neighbouring towns merging; and
  - c) – encroachment into the countryside
- 3.22. It has a neutral impact in assisting urban regeneration – purpose e) especially when noting that although not “previously developed land” (page 70m NPPF), the Site does contain very large buildings and extensive areas of hardstanding which spatially and visually dominate the western and southern part of the Site.
- 3.23. Due to the characteristics of the site, including the high degree of containment Burston Manor and its outbuildings I share the view of Kevin Murphy that it is both spatially and visually separated from the site and that there is only a very limited physical relationship with the Appeal Site.

## 4. Relevant Planning Policies

4.1. Section 38 (6) of the Planning & Compulsory Purchase Act 2004 requires that, when making a determination under the Planning Acts, the determination shall be made in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan comprises the saved St Albans Local Plan (1994) (**CD3.10**).

- **Development Plan Policy**

4.2. This Local Plan was adopted some 27 years ago and in itself:

*“... recognised the need to prepare Alterations or a full Review of the District Plan, looking to 2001 or beyond, as a matter of urgency” (Para. 4).*

6.3. The following “saved” Local Plan policies are relevant in the context of this proposal:

- Policy 1 - Metropolitan Green Belt
- Policy 34 - Highways Considerations in Development Control
- Policy 35 - Highways Improvements in Association with Development
- Policy 39 - Parking Standards, General Requirements
- Policy 43 - Elderly Persons Dwellings and Residential Homes Hostels, Parking Standards
- Policy 69 - General Design and Layout
- Policy 70 - Design and Layout of New Housing
- Policy 74 - Landscaping and Tree Preservation
- Policy 84a - Drainage Infrastructure
- Policy 86 - Buildings of Special Architectural or Historic Interest
- Policy 97 - Existing Footpaths, Bridleways and Cycleways
- Policy 104 - Landscape Conservation
- Policy 106 - Nature Conservation
- Policy 111 - Archaeological Sites
- Policy 143a - Watling Chase Community Forest
- Policy 143b - Implementation
- Revised Parking Policies and Standards, January 2002.

- **Other Material Considerations**

### ***National Planning Policy Framework (2021)***

4.3. The NPPF is a material consideration in planning decisions (**CD3.1**). It sets out the Government’s planning policies for England and how they will be applied in terms of securing sustainable development. Sections of the NPPF that are of particular relevance to the appeal proposals are:

- Section 1: Introduction (paras. 1 to 6)
- Section 2: Achieving sustainable development (paras. 7 to 14)
- Section 5: Delivering a sufficient supply of homes (paras. 60 to 80)
- Section 6: Building a strong competitive economy (paras. 81 to 85)
- Section 8: Promoting healthy and safe communities (paras. 98 to 103)
- Section 9: Considering development proposals (paras. 110 to 113)
- Section 11: Making efficient use of land (paras. 119 to 125)
- Section 12: Achieving well-designed places (paras. 126 to 136)
- Section 13: Protecting Green Belt land (paras. 137 to 151)
- Section 14: Meeting the challenge of climate change, flooding and coastal change (paras. 152 to 173)
- Section 15: Conserving and enhancing the natural environment (paras. 174 to 188)
- Section 16: Conserving and enhancing the historic environment (para. 189 to 208)

4.4. The latest NPPF was released on 20 July 2021, superseding the February 2019 version which was in place at the time of the previous appeal.

4.5. The biggest change is a new focus on the need to design 'beautiful' places:

***“... fostering well-designed, beautiful and safe places, with accessible services and open spaces that reflect current and future needs and support communities’ health, social and cultural well-being.”*** (para. 8 b)

4.6. This is picked up in more detail in Chapter 12 of the NPPF. Para. 134 provides a new, significant, test for development proposals noting that:

***“Development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design”.***

4.7. There is substantial new support for tree retention and planting in para. 131 with new trees incorporated and existing protected elsewhere in developments.

4.8. Para. 132 of the updated policy framework is also clear that:

***“Design quality should be considered throughout the evolution and assessment of individual proposals. Early discussion between applicants, the local planning authority and local community about the design and style of emerging schemes is important for clarifying expectations and reconciling local and commercial interests. Applicants should work closely with those affected by their proposals to evolve designs that take account of the views of the community. Applications that can demonstrate early, proactive and effective engagement with the community should be looked on more favourably than those that cannot.”***

- 4.9. The Council has confirmed that it does not raise any design objection to the proposed development by reference to these amended paragraphs of the NPPF or on any other basis.
- 4.10. Changes have also been made to para. 11 on the presumption in favour of sustainable development. The changes include the need for growth to align with infrastructure and mitigation of climate change.
- 4.11. In line with the objectives of the Environment Bill and requirements to achieve net biodiversity gains, there is a greater emphasis, as set out in Section 15 of the NPPF, on protecting biodiversity, including public access to nature. Para. 180 seeks to focus on integrating biodiversity improvements into the design of developments from the outset.
- 4.12. Para. 180 a) states:

***“... if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused”.***

***Planning Practice Guidance (March 2014 and updated ad-hoc)***

- 4.13. The National Planning Policy Guidance (March 2014 and updated ad-hoc), relevant extracts contained at **CD3.2 to CD3.4** and places significant emphasis on the need for local authorities to meet their housing targets and clearly states that care home bedrooms (falling within Use Class C2) can contribute towards these objectives.
- 4.14. Sections of the NPPG that are of particular relevance to the appeal proposals are:

*Housing for older and disabled people*

- ID: 63-001 and 002-20190626: Planning for the housing needs of older people
- ID: 63-003-20190626: Range of needs to be addressed
- ID: 63-004-20190626: Evidence base
- ID: 63-006-20190626: Addressing specialist housing for older people needs in plans
- ID: 63-006-20190626: Monitoring the delivery of specialist housing for older people
- ID: 63-010-20190626: Types of specialist housing for older people
- ID: 63-012-20190626: Provision for specialist housing for older people
- ID: 63-013-20190626: Allocating sites for specialist housing for older people
- ID: 63-014-20190626: Use Classes Order for specialist housing for older people
- ID: 63-015-20190626: Viability for specialist housing for older people
- ID: 63-015-20190626: Viability for specialist housing for older people
- ID: 63-016-20190626: Factors to be taken into account when considering applications for specialist housing for older people

- ID 63-16a-20190626: Relationship of specialist housing for older people to general housing need

#### *Green Belt*

- ID 64-001-20190722: Factors to be taken into account when considering the Green Belt – including openness, duration of development and restoration and the degree of likely activity to be generated.

#### *Heritage*

- ID: 18a-001-20190723: The legislative framework for the historic environment
- ID: 18a-002-20190723: Conservation of the historic environment
- ID: 18a-006, 007 and 008-20190723: Significance of a heritage asset
- ID: 18a-009-20190723: Assessment of a heritage asset
- ID: 18a-013-20190723: The setting of a heritage asset
- ID: 18a-018-20190723: Assessment of harm
- ID: 18a-020-20190723: The public benefits

#### ***Emerging Planning Policy: The St Stephen Neighbourhood Plan***

- 4.15. The site falls within the St Stephen Neighbourhood Plan area, which was designated in 2014.
- 4.16. On the 5 October 2020 the St Stephen Neighbourhood Plan – Pre-Submission (Regulation 14) Consultation Draft (**CD 3.13**) was published and was formally placed on public consultation until the 27 November 2020.
- 4.17. As set out in para. 1.4:

***“The purpose of the Plan is to guide development within the Parish and provide direction to any interested parties wishing to submit planning applications. The process of producing the Plan has sought to involve the community as widely as possible and the different topic areas are reflective of matters that are of considerable importance to St Stephen, its residents, businesses and community groups”.***

- 4.18. Paras. 1.9 to 1.11 set out the extensive engagement with the community that has taken place in preparing the Plan and demonstrates the significant level of support for it.
- 4.19. At para. 4.5 the Plan recognises that:

***“There is, however, an identified and evidenced local housing need in St Stephen and consideration should be given to how that is to be delivered, including where any new housing might be sited”.***

- 4.20. At para. 4.8 reference is made to the St Stephen Neighbourhood Plan Steering Group having considered each of the most suitable potential development sites in detail and recommends that six of the nine sites no longer meet the Green Belt criteria including land at Burston Nurseries, Chiswell Green i.e. the site the subject of this pre-application submission.
- 4.21. It is considered, at para. 4.9 that it would be suitable and appropriate to amend the Green Belt boundary at Burston Nurseries and the other locations and bring these areas within the built-up area boundary.
- 4.22. Accordingly, as set out in para. 4.12 draft Policy S1 seeks to define the Built-up Area Boundaries for the neighbourhood plan.

***“POLICY S1: SPATIAL STRATEGY***

***1. In accordance with Paragraph 136 of the NPPF, it is proposed that the Green Belt boundary be amended to exclude the following six locations, as shown on the Policies Map:***

***... Land at Burston Nurseries.***

***2. The Built-up Area Boundaries within St Stephen will be extended to encompass these locations, as shown on the Policies Map.***

***3. New development in St Stephen Parish shall be focused within the Built-up Area Boundary of Bricket Wood, Chiswell Green and Park Street, identified on the Policies Map.”***

- 4.23. Policy S2 sets out the proposed housing Strategy for the neighbourhood.

***“POLICY S2: HOUSING STRATEGY***

***1. Over the period 2019 to 2032, new residential development of a minimum of 340 dwellings (including specialist care housing) will be provided in St Stephen, excluding any strategic allocations in the St Albans Local Plan, be located on five identified sites: .....***

***Land at Burstons Nurseries – approximately 200 units specialist housing.”***

- 4.24. In the event due to the withdrawal of the St Alban's Local Plan, see below, the Neighbourhood Plan had to be modified to delete all prospective development allocations, including the specialist housing proposed under Policy S2.

- 4.25. St Stephen Neighbourhood Plan –Submission (Regulation 16) Draft (February 2021) (CD3.14) was subsequently published in June 2021. Para. 8.24 states:

***“The South West Hertfordshire Strategic Housing Market Assessment (February 2016) concludes that between 2013 and 2036, there is a need for an additional 1,352 units of specialist housing for older people and 640 residential/nursing care bed spaces in St Albans District. St Albans District Council (in a report prepared on their behalf by Housing Vision, September 2016) predicts that between 2011 and 2031, the population of those aged 85 years and over will increase by 89%. This is by far the largest component of population change in the District, a trend that is reflected in the UK as a whole. This is particularly important for St Stephen as the Parish already has a disproportionately large number of older residents.”***

- 4.26. At para. 8.26:

***“The Neighbourhood Plan, therefore, seeks to provide the opportunity for a provider to deliver a suitable retirement / care facilities during the Plan period”.***

- 4.27. This is reflected in Policy S20

***“POLICY S20: RETIREMENT CARE HOME FACILITIES***

***Proposals for a care home or retirement village (use class C2) within St Stephen Parish shall be supported. This shall be subject to the proposals satisfactorily addressing all other policy criteria”.***

- 4.28. The emerging Neighbourhood Plan reflects the continued very high level of local community support for development of the nursery for specialist housing – support that has been evident since the proposals were first put forward. Once adopted the Neighbourhood Plan will form part of the statutory development plan for St Albans.

***The Withdrawn Local Plan***

- 4.29. The Council were in the process of preparing a new Local Plan to cover the period 2020 to 2036, noting the St Albans City & District Local Plan Publication Draft was submitted to the Secretary of State for examination in March 2019 (CD 3.15). However, on recommendation of 2 inspectors appointed by the Secretary of State to examine the Plan the decision was taken at the Council’s Cabinet meeting on the 19 November 2020 to withdraw the Plan. It therefore has no weight
- 4.30. Hearing sessions into the now withdrawn Plan were held between 21 and 23 January 2020. Over those three days there was discussion on legal compliance, the Duty to Cooperate (Dtc) the spatial strategy and matters relating to the Green Belt. The inspectors then wrote to the

Council on the 27 January 2020 raising their serious concerns in terms of legal compliance and soundness and confirming that they were cancelling the subsequent hearing sessions arranged for February 2020.

- 4.31. This is the second time in the last 2 years inspectors appointed by the Secretary of State have effectively directed St Albans to withdraw a draft Local Plan. The relevant recommendations from them were on the 14 April 2020 (CD3.19) and 1 September 2020 (CD3.20) respectively on the grounds of their serious concerns in terms of legal compliance and soundness. The 1 September 2020 letter sets out the basis of their conclusions in detail and states that the Council had failed in its Duty to Cooperate fundamentally rendering the Plan legally unworkable and directing that the Council withdraw it or, in the event it does not withdraw the plan, recommending that it is not adopted because of a failure to discharge the Duty to Cooperate.
- 4.32. At para. 32 (CD3.19) they set out their concerns over the failings of the Plan:

***“Whilst the Council indicated at the hearings that the 2013 Green Belt Review [see CD3.16, CD3.17 and CD3.18] was not done with any level of development need or target in mind, it was prepared around the time the Council was working on the previous SLP [Strategic Local Plan]. At that time housing requirements were 8,720 (or 436 per annum) and so much lower than the current objectively assessed need (OAN) of 14,608 homes over the plan period. However, the Green Belt Review was not re-visited in the context of the much higher scale of unmet need which could only be met by Green Belt release that was subsequently identified in the Plan.”***

- 4.33. The Inspectors continue at paragraphs 33 – 45, criticising the Council's failure to investigate the contribution smaller releases from the Green Belt could have made to meeting the plan's housing requirement, it having focused instead, entirely on a small number of the strategic scale allocations. At para. 37, they state:

***“This approach raises a number of concerns. As part of the fundamental approach stemming from 2013/14, smaller sites (less than 500 dwellings or 14ha) have been excluded from the Green Belt selection process. Paragraph 8.1.5. of GB004 is clear that the small-scale sub areas identified in that study may not be exhaustive. It also recognises that it is possible that additional potential small-scale boundary changes that would also not compromise the overall function of the Green Belt might be identified through a more detailed survey. Thus, the capacity from such smaller sites could be much higher than estimated by the Council.” (my underlining)***

- 4.34. At para. 39 they continue:



***“The withdrawn SLP identified the potential for small scale Green Belt greenfield sites to be looked at in more detailed [Sic] in the then envisaged subsequent detailed Local Plan. Thus, at that time there was an anticipation that such sites would be included in the Council’s overall housing strategy, alongside the larger sites/Broad Locations. However, in developing the Plan now being examined, it seems that that [Sic] any consideration of the potential of such smaller sites has been overlooked.”***

4.35. They add further at para. 41:

***“In looking at Green Belt releases we have concerns about the narrow focus that has been placed on only strategic sites. This has ruled out a number of sites that have already been found to impact least on the purposes of the Green Belt. It may well also have ruled out other non-strategic sites with limited significant impacts on the Green Belt which may have arisen from a finer grained Green Belt Review.” (my underlining)***

4.36. At para. 43 they state:

***“Additionally, we see no reason why the identification of some smaller sites would unacceptably spread the adverse impacts of development on Green Belt purposes. Whilst this would extend the impact of development over a wider geographic area, the extent of the resultant impacts would be likely to be smaller given the more limited scale of the sites (in comparison to the cumulative impact on the Green Belt purposes of developing large adjoining strategic sites, such as to the east of Hemel Hempstead as proposed).”***

4.37. The Inspectors also note the delivery benefits of smaller sites at para. 44, before concluding on this point at para. 45:

***“Overall, although, previously recognised as a source of housing to be identified at some stage, smaller sites have been disregarded as part of the plan making process. It is our view that this approach has ruled out an important potential source of housing that may have been found to have a lesser impact on the purposes of the Green Belt than the sites selected without sufficient justification.”***

- The material policy tests in this appeal

4.38. The NPPF states at 218 that:

***“The policies in this Framework are material considerations which should be taken into account in dealing with applications from the day of its publication. Plans may also need to be revised to reflect policy changes which this***

**replacement Framework has made. This should be progressed as quickly as possible, either through a partial revision or by preparing a new plan.”**

4.39. And at 219:

**“However, existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them according to their degree of consistency with this Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)”**

4.40. This means that in this case the policies which are most important for determining applications are out of date because the Council cannot demonstrate a 5-year supply of housing. Para. 11 d) of the NPPF is engaged accordingly:

**“For decision-taking this means:**

**c) approving development proposals that accord with an up-to-date development plan without delay; or**

**d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:**

**i. the application of policies in this Framework that protect areas or assets of particular importance [including designated Green Belt and heritage assets] and provides a clear reason for refusing the development proposed; or**

**ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole”.**

4.41. Para. 15 of the NPPF states that:

**The planning system should be genuinely plan-led. Succinct and up-to-date plans should provide a positive vision for the future of each area; a framework for addressing housing needs and other economic, social and environmental priorities; and a platform for local people to shape their surroundings.**

4.42. I demonstrate in my Section 6 with reference to Section 5, taking account of the evidence of others, that there is no effective plan-led system within the meaning of para. 15. That means that there is no framework for addressing its needs for housing including specialist housing to meet the needs of older people - which the Council itself accepts are substantial and serious.

- 4.43. For the reasons set out in my sections 5 and 6 there can be no dispute that for the Council to meet its needs for housing, the use of Green Belt land is inevitable noting that outside the urban area over 80% of St Albans district is washed over by the Green Belt (<https://www.gov.uk/government/statistics/local-authority-green-belt-statistics-for-england-2019-to-2020>).
- 4.44. I demonstrate in my Section 7 that there can be no way of knowing, if or when, the Council will ever adopt an up-to-date local plan. In consequence I submit that regarding para. 11 d) and para. 15 of the NPPF the Council must start addressing its needs now as the challenge cannot be met through the plan-led system. This means those needs must now be met through the development management process. Through planning applications just like this one. This means that Green Belt approvals will inevitably be required applying the planning balance at para 148 of NPPF:

***“When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. ‘Very special circumstances’ will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations”.***

- 4.45. There really is no other option.

#### ***The Green Belt***

- 4.46. It is common ground that the appeal scheme comprises “inappropriate development” in the Green Belt and that, as a result, the appeal needs to be determined by reference to the “very special circumstances” test set out in the NPPF, i.e. whether:

***“the ... harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations”.***

- 4.47. If the answer is “yes” then there are very special circumstances and permission should be granted. In applying the very special circumstances test it is first of all necessary to ascertain what goes into the negative side of the balance, i.e. what harm the scheme would cause.
- 4.48. This is a two-stage process.
- 4.49. First of all, whether there is harm caused “by reason of inappropriateness” i.e. the ‘in principle’ harm caused by the fact that the appeal scheme is inappropriate development in the Green Belt. Para. 147 of the NPPF confirms that inappropriate development is “by definition” harmful to the Green Belt.

4.50. Second, whether the scheme would cause “other harm”. This is both in relation to the Green Belt and also in relation to heritage assets and character and appearance. This needs to be considered under the following sub-headings.

- Harm to openness of the Green Belt (para. 137, NPPF)
- Harm to the 5 purposes of the Green Belt (para. 138, NPPF) vis a viz:
  - a) to check the unrestricted sprawl of large built-up areas
  - b) to prevent neighbouring towns merging into one another
  - c) to assist in safeguarding the countryside from encroachment
  - d) to preserve the setting and special character of historic towns
  - e) to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.
- Harm to Burston Manor (grade II\*) and its outbuildings (grade II) within the context of less than substantial harm (para. 202, NPPF)
- Harm to character and appearance

4.51. I consider these “harms” further under the following headings.

*Green Belt: openness*

4.52. It is acknowledged that any harm to the Green Belt should be given substantial weight as mandated by para. 148 of the NPPF. Before the very special circumstances balance can be undertaken it is necessary to understand the nature of the harm to the openness of the Green Belt and purposes of including land in it set out at para. 138 of the NPPF, having regard to the contribution the Site makes to those purposes in its current state. For this I rely on the evidence of Andrew Smith.

4.53. Para. 137 of the NPPF confirms that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. What is meant by the term “openness” is not defined in the NPPF.

4.54. The PPG provides some assistance (Paragraph 001 Reference ID: 64-001-20190722) (**CD3.3**), advising that:

***“Assessing the impact of a proposal on the openness of the Green Belt, where it is relevant to do so, requires a judgment based on the circumstances of the case. By way of example, the Courts have identified a number of matters which may need to be taken into account in making this assessment. There include, but are not limited to:***

- *openness is capable of having both spatial and visual aspects – in other words, the visual impact of the proposal may be relevant, as could its volume*
- *the duration of the development, and its remediability – taking into account any provisions to return land to its original state or to an equivalent (or improved) state of openness*
- *the degree of activity likely to be generated, such as traffic generation.”*

4.55. The most recent court decision of relevance is that of the Supreme Court in *R (Samuel Smith Old Brewery (Tadcaster) and others) v North Yorkshire County Council* [2020] UKSC 3 (**CD5.1**), in which Lord Carnwath states at paragraph 39:

***“..... As explained in my discussions of the authorities, the matters relevant to openness in any particular case are a matter of planning judgement, not law.”***

4.56. In *Turner v Secretary of State for Communities and Local Government and East Dorset Council* [2016] EWCA Civ 466 (**CD5.2**), which Lord Carnwath refers directly to in the above judgement, the Justices surmised on this matter:

***“14. The concept of “openness of the Green Belt” is not narrowly limited to the volumetric approach suggested by Mr Rudd. The word “openness” is open-textured and a number of factors are capable of being relevant when it comes to applying it to the particular facts of a specific case. Prominent among these will be factors relevant to how built up the Green Belt is now and how built up it would be if redevelopment occurs (in the context of which, volumetric matters may be a material concern, but are no means the only one) and factors relevant to the visual impact on the aspect of openness which the Green Belt presents.***

***15. The question of visual impact is implicitly part of the concept of “openness of the Green Belt” as a matter of the natural meaning of the language used in para. 89 [now para. 149] of the NPPF. I consider that this interpretation is also reinforced by the general guidance in paras. 79-81 [now 137 to 140] of the NPPF, which introduce section 9 on the protection of Green Belt Land, There is an important visual dimension to checking “the unrestricted sprawl of large built-up areas” and the merging of neighbouring towns, as indeed the name “Green Belt” itself implies. Greenness is a visual quality: part of the idea of the Green Belt is that the eye and spirit should be relieved from the prospect of unrelenting urban sprawl. Openness of aspect is a characteristic quality of the countryside, and “safeguarding the countryside from encroachment” includes preservation of that quality of openness. The preservation of “the setting.... of historic towns” obviously refers in a material way to their visual setting, for instance when seen from a distance across open fields...***

***16. The visual dimension of the openness of the Green Belt does not exhaust all relevant planning factors relating to visual impact when a proposal for development in the Green Belt comes up for consideration. For example, there may be harm to visual amenity for neighbouring properties arising from the proposed development which needs to be taken into account as well. But it does not follow from the fact that there may be other harms with a visual dimension apart from harm to the openness of the Green Belt that the concern of openness of the Green Belt has no visual dimension itself.***

- 4.57. This case confirms, then, that there can be a visual element to assessing openness, in addition to the spatial (footprint) or volumetric aspect. To my mind that is correct, as the extent to which a loss of openness can be appreciated logically contributes to the nature and extent of harm.
- 4.58. From both a visual and spatial perspective as set out in my Section 7 drawing on the evidence of Mr Smith it has been shown that the site is occupied by built form and hard standing, is of a poor quality and in a dilapidated state, with an appearance that is untidy and unkempt.
- 4.59. Coupled with this built form, existing mature vegetation at the southern, eastern and northern boundaries further diminishes openness at the site level and visually contains the Appeal Site and limits any perception of change.

*Green Belt: purposes*

- 4.60. There is no definitive national planning policy guidance on how to test the “harm” of application proposals against the 5 stated purposes of the Green Belt and accordingly it is a judgement to be made by the decision taker.
- 4.61. At the Local Level the Council commissioned SKM to prepare a Green Belt review as evidence to support the preparation of the now withdrawn replacement Local Plan. This comprises:
- Green Belt Review Purposes Assessment Final Report, November 2013 (SKM) (CD3.16)
  - Green Belt Review Purposes Assessment Annex 1, November 2013 (SKM) (CD3.17)
  - Green Belt Review Sites and Boundaries Study, February 2014 (SKM) (CD3.18)
- 4.62. The Site is located within Parcel GB26 as identified in the Green Belt Review Purposes Assessment for St Albans City and District Council (plus Dacorum BC and Welwyn and Hatfield BC).
- 4.63. The Parcel is described as:

***“...located to the north of Bricket Wood and the south of Chiswell Green / How Wood. The boundary to the west follows the North Orbital Road (A405) and to the***

***east follows the railway line. The parcel is very small at 156 ha and comprises a gently undulating chalk plateau rising gently to the southeast.”***

- 4.64. It concludes that the function of the land has only a partial contribution on purpose b) to prevent neighbouring towns merging into one another and performs only limited or no contribution to the remaining purposes.
- 4.65. From my perspective the appeal site at 5.8 ha makes up less than 4% of this parcel to render meaningless any attempt to place any conclusions drawn from it in relation to the function of the Appeal Site itself or assessment of its function relative to the purposes of the Green Belt.
- 4.66. Instead, as set out in my Section 7 I leave it for Mr Smith to assess the merits of the proposals in the context of “harm” to the 5 stated purposes of the Green Belt and have endorsed his conclusions that the proposals do not materially conflict with any of these purposes.
- 4.67. In terms of the application of Green Belt policy it is a matter of judgement for the decision maker to assess:
- The quality of this Green Belt site
  - The extent to which it really is making a valuable contribution to Green Belt purposes.
- 4.68. Because openness isn't just a spatial concept - it's visual too, for the reasons set out above and in my Section 7, I agree with Mr Smith that the Appeal Site has an “edge of settlement” character and is contained on all sides because of the nearby built development (i.e. a combination of built development and roads). In my opinion this mitigates any impact the proposals may or may not have on the 5 purposes of the Green Belt and the extent of harm associated with any of these purposes. Accordingly, I have weighed this in the balance of my approach to openness in my sections 7 and 9.
- 4.69. Whilst I do accept in the final balance the fact that by “definition” the proposals do constitute inappropriate development in the Green Belt, and that national policy dictates that these impacts must be given substantial weight. What really matters in a para. 148 NPPF case like this is how the final balance is struck and that from Mr Smith's evidence the site plays a diminished role in terms of openness and in serving the stated purposes of the Green Belt.

***Other harm***

- 4.70. Other harm to be assessed in the context of this appeal with reference to para. 148 of the NPPF are harms to:
- Heritage assets: Burston Manor (grade II\*) and outbuildings (grade II)
  - Harm to character and appearance

### *Heritage assets*

4.71. As set out in my Section 7 it is common ground, with reference to the Statement of Common Ground (**CD1.5**) that the scheme would cause less than substantial harm to the significance of Burston Manor and the associated outbuildings.

4.72. Para. 199 of the NPPF says that:

***“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”.***

4.73. It **does not** say that great weight should be given to harm in the planning balance – only that this harm should be weighed against the public benefits of the proposal noting para. 202 of the NPPF which states:

***“Where a development proposal will 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 .....”.***

4.74. The only issue between the parties on this matter is where the impact falls within the spectrum of less than substantial harm. For the reasons I explain in my Section 7, relying on the evidence of Mr Murphy, the impact is right at the bottom end of the scale, i.e. ***“very low of less than substantial harm”.***

4.75. Whilst, of course, great weight should be given to the conservation of the significance of a heritage asset, Mr Murphy explains that the harm to the significance of Burston Manor and its outbuildings is almost inconsequential. Further, the NPPF allows for such an impact to be weighed against any public interest benefits. If the harm to the significance of the heritage assets is outweighed by public interest benefits, then this means that the development is acceptable in national heritage planning policy terms.

### *Character and appearance*

4.76. There is only generic guidance contained in national policies or guidance on the need to respect the character and appearance of the area and directs local authorities to frame this guidance through detailed policies in local plans. Para. 28 of the NPPF (**CD3.1**) states:

***“Non-strategic policies should be used by local planning authorities and communities to set out more detailed policies for specific areas, neighbourhoods***



***or types of development. This can include allocating sites, the provision of infrastructure and community facilities at a local level, establishing design principles, conserving and enhancing the natural and historic environment and setting out other development management policies.”***

- 4.77. It is common ground that the issue between the parties is very narrow, and limited to the quantum of development, together with whether the size of the assisted living building is harmful to the character of the wider area (CD1.5).
- 4.78. With reference to my Section 7 and relying on the evidence of Mr Smith I demonstrate that this element of the Council’s case is poorly articulated in the context of the characteristics of the site itself and its edge of settlement location. I show that the Council has completely failed to recognise that the scheme is very well designed with attractive buildings set in heavily landscaped grounds contributing significantly to net biodiversity gain. The scheme will sit sympathetically in its edge of settlement environment where visual effects will be. This will be a very attractive place to live – with its tree lined routes and well-designed buildings and spaces. The importance of good landscaping and design has been sharply brought into focus following the publication of the new NPPF (paras. 131 and 134).
- 4.79. Also, the weight to be attached to the local policies it seeks to apply to reinforce its objections have to be diminished given the adopted Plan is out of date within the context of the NPPF.

#### ***Conclusion on harm***

- 4.80. In the application of the relevant planning policies to the assessment of harm in this case I submit that the question for the decision maker, is straightforward - do the scheme’s benefits clearly outweigh its harms i.e. the “very special circumstances” (para. 148, NPPF)? Of course, in determining this balance appropriate weight has to be given to both harm and benefit.
- 4.81. If the benefits do outweigh the “harms” then planning permission should be granted. In my view, this issue is determinative of whether the:
- Proposals accord with the statutory development plan, and
  - Whether the grant of permission is supported by the NPPF.

#### ***The benefits***

- 4.82. The NPPF and the NPPG is silent on what matters can provide the weight necessary to outweigh harm to the Green Belt and any other harm. That is, it is very much up to the decision maker. In my judgment it could be a single benefit or a series of benefits when weighed collectively lead to the very special circumstances test being met.
- 4.83. Whilst I accept that applications need to be determined on their own merits with regard to the Development Plan and other material considerations, the introduction of the first iteration of the

NPPF in 2012 brought about a radical shift in national planning policy in respect of focusing on meeting housing need.

4.84. This interpretation has been confirmed by the High Court in the case ***Gallagher Estates Ltd & Lioncourt Homes Ltd v Solihull Metropolitan Borough Council*** [2014] EWHC 1283 (Admin) (CD5.3).

4.85. At para. 97 Mr Justice Hickinbottom explains:

***“However, this fails to acknowledge the major policy changes in relation to housing supply brought into play by the NPPF. As I have emphasised, in terms of housing strategy, unlike its predecessor (which required a balancing exercise involving all material considerations, including need, demand and relevant policy factors), the NPPF requires plan-makers to focus on full objectively assessed need for housing, and to meet that need unless (and only to the extent that) other policy factors within the NPPF dictate otherwise. That, too, requires a balancing exercise – to see whether other policy factors significantly and demonstrably outweigh the benefits of such housing provision – but that is a very different exercise from that required pre-NPPF. The change of emphasis in the NPPF clearly identified that paragraph 47 should on occasions, yield different results from earlier policy scheme; and it is clear that it may do so.”***

4.86. At para. 98 of the judgment, he states:

***“..... because of the radical policy change in respect of housing provision effected by the NPPF.....”***

4.87. The current iteration of the NPPF reinforces the objective of “significantly boosting the supply of housing”. Para. 60 states:

***“To support the Government’s objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay.***

4.88. Para. 61 confirms that:

***“To determine the minimum number of homes needed, strategic policies should be informed by a local housing need assessment, conducted using the standard method in national planning guidance – unless exceptional circumstances justify***

***an alternative approach which also reflects current and future demographic trends and market signals....”***

- 4.89. The St Albans adopted local plan (**CD3.10**) relevant to this appeal predates even the 2012 NPPF by a considerable passage of time and are based on the housing requirements in the superseded Regional Plans, which as noted in the Gallagher vs Solihull decision referred to above, adopted a fundamentally different approach to calculating housing need.
- 4.90. Para. 74 of the NPPF retains the requirement for LPAs to identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years’ worth of housing, including a buffer of 5%, 10% or 20%, depending on the circumstances of the LPA, against their housing requirement set out against the local housing need where strategic policies are more than five years old, as is this case in St Albans.
- 4.91. It is common ground between the parties that neither LPA has a five-year supply of deliverable housing land, and the shortfall is significant. Given the colossal shortfall in the deliverable supply of housing land in St Albans, which I more fully set out in my Section 7, the weight to be given to the new homes that would be delivered as part of the appeal applications should be reflective of the hugely desperate need for new homes in the District.
- 4.92. Over the last few years, especially within the last 12 to 18 months the Secretary of State has made his view on this issue of housing need clear. This is represented in the significant number of appeal decisions which show the range of different circumstances where housing schemes pass the NPPF para. 148 balance. As the Inspector will no doubt be aware, aside from the Roundhouse Farm decision in St Albans (**CD5.12**), referenced in detail in my Section 5, a series of decisions in Green Belt authorities where the plan-led system has not delivered on time or at all.
- 4.93. These include:
- i. Kent and Surrey Golf and Country Club, Crouch House Road, Edenbridge TN8 5LQ 2 November 2021 (PINS APP/G2245/W/21/3271595) (**CD5.16**)
  - ii. 237-259 London Road, West Malling Tonbridge and Malling, 19 December 2018 (PINS APP/H2265W/18/3202040) (**CD5.10**)
  - iii. Beechmoor Garden Centre, Great Boughton, Chester, 17 July 2019 (PINS APP/A0665/W/18/3203413) (**CD5.11**)
  - iv. Land north of Asher Lane, Ruddington, Nottinghamshire, 23 May 2018 (PINS APP/P3040/W/17/3185493) (**CD5.5**)
  - v. Oxford Brookes University Wheatley Campus, South Oxfordshire, 23 April 2020 (PINS APP/Q3115/W/19/3230827) (**CD5.6**)
  - vi. 160 Stanley Road, Cheadle Hulme, Stockport, 22 April 2020 (PINS APP/C4235/W/18/3205559) (**CD5.7**)

- vii. Land to the west of Burley-in-Wharfedale at Sun Lane and Ilkley Road, Bradford, 3 March 2021 (PINS APP/W4705/V/18/3208020 (**CD5.8**))
- viii. Land south of Heath Lane, Codicote SG4 8YL, North Herts, 28 September 2021 (PINS APP/X1925/W/21/3273701) (**CD5.9**)

- 4.94. For ease of reference and to assist the Inspector in my commentary on each case I attach the Inspector's decision letter and the existing location and proposed site plans.
- 4.95. The context and evidence in the 3 specialist housing cases (i. to iii.) for only older people I now refer to are obviously unique to each other and to this appeal. However, they are very informative as to how the planning balance was struck.

### ***Crouch House Road Decision***

- 4.96. At Crouch House Road (**CD5.16**) the Inspector allowed an appeal (**CD5.16i**) with reference to the site location (**CD5.16ii**) and layout plans (**CD5.16iii**) for:

***"... replacement of existing golf clubhouse and hotel ... to create a continuing care retirement community (CCRC) for the elderly ..."***

- 4.97. The proposal is in outline form for no more than 100 individual accommodation/extra care units with all matters except access reserved.
- 4.98. It was common ground that the proposals were inappropriate development in the Green Belt (para. 6). In allowing the appeal the Inspector set out the very special circumstances that justified the proposals under the 'Other Considerations' (paras. 17 to 87) and 'The Green Belt Balance' (paras. 95 to 102) of her decision letter.
- 4.99. The Inspector described the site:

***"The appeal site lies on the western side of Crouch House Road. It comprises the clubhouse building which includes hotel accommodation and a large area of surface parking plus two of the golf course holes at the eastern end of the golf course (para. 7).***

***"... surrounded by open land, comprising the remainder of the golf course and fields and the adjacent golf driving range, with housing development on the opposite side of Crouch House Road. A railway line runs along part of its north-eastern boundary. A public right of way (PROW) crosses through the site. This limited development on the western side of the road, gives the area an open and spacious character. Its eastern boundary is adjacent to the urban confines of Edenbridge on the opposite side of Crouch House Road. The site lies entirely within the Green Belt" (para. 8).***

### **Openness of the Green Belt**

4.100. At paras. 9 to 16 the Inspector provides her assessment of the site and proposals in the context of 'Openness of the Green Belt'.

4.101. At paras. 10 to 13:

***"The indicative drawings show substantial built development extending westwards from Crouch House Road onto undeveloped land. The proposed clubhouse, hotel and hub building would be two-storeys and the largest building. It would be positioned at the far western end of the site on the edge of the retained golf course. The residential units would be arranged as short terraces and blocks of flats of between 1.5 and 3 storeys, extending in a linear pattern along two internal access roads between the hub building and Crouch House Road to the east (para. 10).***

***... The extension of the built form into open land would inevitably cause harm to openness ... (para. 11)***

***... the proposed replacement clubhouse building would have to be significantly larger than the existing in order to accommodate the range of activities proposed. It would also need to be closer to the golf course and therefore positioned away from the built up area. Moreover, a large number of residential buildings as well as access roads and parking spaces would be built on land that is currently open. Consequently, I find that the proposal would significantly reduce the spatial openness of the area (para. 12).***

***... in order to achieve a satisfactory relationship with the existing built up area, it is inevitable that much of the proposed development would need to be positioned towards the eastern side of the site, closer to Crouch House Road from which there would be open views into the site. The presence of internal roads and buildings would have a greater visual impact on the area than the existing building on the site. This would not be sufficiently screened by either the boundary vegetation or bunding within the site. It would also be visible from the railway line and a public footpath. There would therefore be a significant adverse effect on the visual openness of the site (para 13).***

4.102. At para. 14 the Inspector refers to the The Council's Green Belt Assessment 2017 assessed the District's Green Belt against the five purposes of the Green Belt. He comments that the appeal site lies within a parcel of Green Belt land of some 300 hectares with the overall parcel assessed as being strongly performing Green Belt due to its importance in preventing outward

sprawl of Edenbridge into the surrounding countryside and maintaining an essential gap between the built-up area and the villages beyond.

4.103. The Inspector goes on to state at para. 15 that:

***“The appeal site is around 8 hectares and accounts for under 3 per cent of this parcel of Green Belt. It is close to the built up area and some distance from other settlements. Development of this relatively small area would not significantly undermine its purpose in maintaining an essential gap, although it would represent encroachment into the countryside with the subsequent loss of openness”.***

4.104. On openness the Inspector concludes at her para. 16:

***“Notwithstanding that the scheme would result in the loss of a relatively small parcel of Green Belt, I conclude that the appeal proposal would result in a significant loss of openness both visually and spatially thereby causing significant harm to the Green Belt. Therefore, it would be contrary to the objectives of the Framework”.***

4.105. Having found that there was harm to the Green Belt the Inspector then went on to assess whether the benefits of the scheme outweighed the substantial weight to be attached towards the protection of the Green Belt (paras. 17 to 87).

### ***Benefits***

#### *Housing supply*

4.106. The Inspector concluded that the Council can only demonstrate a 2.6 year supply of deliverable housing sites (paras. 18 to 27) and whilst:

***“... I accept that on its own, the provision of general housing would not be sufficient to outweigh the harm to the Green Belt. I do nevertheless find that the contribution to housing supply including the freeing up of housing stock, are factors that together carry substantial weight in the balance”*** (para. 27)

#### *Housing needs of older people*

4.107. The Council has a substantial need, that can not be met in the short term, to address the needs of housing older people (paras. 28 to 63) and:

***“Consequently, I conclude that the proposed development would make a significant contribution to meeting the overall need for specialist housing within***

***the District for which the current development plan does not make adequate provision for and for which the emerging local plan, whilst supportive, would be unlikely to deliver for some time yet” (para. 63).***

*Health and well-being benefits*

- 4.108. The Inspector accepted that the proposals would have overall benefits to health and well-being (paras. 69 to 73) associated with greater independence as well as alleviating pressure on public health budgets. However, she only gave this moderate weight because the scheme was some distance from off-site local services and facilities.

*Economic benefits*

- 4.109. As set out in paras. 80 to 83 the Inspector confirmed that the additional employment and a number of associated economic benefits were positive benefits to which she afforded moderate weight (para. 83)

*Open Space and Public footpath*

- 4.110. The scheme’s introduction of open space and upgrades to an existing PROW within both the appeal site and wider site were given very limited weight by the Inspector – concluding that this upgrade was largely necessary to accommodate the increased use of the PROW (paras. 84 and 85).

*New pedestrian crossing*

- 4.111. The Inspector also gave moderate weight to a new pedestrian crossing which would benefit the wider community as well as prospective future residents (para. 86)

*Facilities for the wider community*

- 4.112. The Inspector gave very limited weight to a small public benefit of having some of the communal facilities to be provided to be available for the wider community albeit recognising that these would mostly benefit the prospective future residents of the scheme (para. 87).
- 4.113. The Inspector in allowing the appeal, when assessing the overall benefits of the scheme as I summarise above, says:

***“I have concluded above that, for this appeal, very special circumstances exist to justify inappropriate development in the Green Belt. My findings on other matters do not lead me to reach a different conclusion. Consequently, I conclude overall that the proposal would comply with the relevant provisions of the Framework and the development plan when considered as a whole. For the reasons given***

***above, and having considered all other matters raised, I conclude that the appeal should be allowed” (para. 112).***

### ***London Road Decision***

4.114. At West Malling, Tonbridge and Malling (**CD5.10**) the Inspector allowed an appeal (**CD5.10i**) with reference to the site location (**CD5.10ii**) and layout plans (**CD5.10iii**) for the Inspector allowed an appeal for:

***“... for an extra care development of 79 units (comprising of apartments and cottages) all within Use Class C2) ...”***

4.115. The Inspector’s reasons for allowing the appeal are clearly set out in paras. 10 to 59 of the decision letter. In the case of general housing supply, paras. 18 to 25, he concluded that the overall shortfall in housing supply is one significant factor to be weighed in the planning balance. Further with reference to meeting the particular housing needs of older people, paras. 26 to 40, the Inspector established there was a clear need for residential accommodation of this type and tenure. Further he concluded the current and emerging development plan does not make adequate provision and that development of the appeal Site would make a significant contribution towards meeting such needs.

4.116. On freeing up general housing, he concluded at para. 42, that the provision of specialist housing more suited to the needs of older persons is likely to encourage them move and would make a valuable contribution to overall housing needs which should be weighed in the balance.

4.117. At para. 44 the Inspector concluded that there are likely to be overall benefits to health and well-being to be weighed in the balance.

4.118. At the time the emerging Tonbridge and Malling Local had not reached examination stage Plan (in the present case St Albans has no up to date plan at all and no emerging plan at a similar stage). Accordingly, the Inspector stated at para. 3 of the West Malling decision that only limited weight may be accorded to it as there have been relevant objections to the draft plan and the policies may change before the Plan is adopted as part of the development plan. What is particularly pertinent to note is para. 38 of the West Malling appeal decision were the Inspector’s observations on the Council’s argument that extra care housing of unspecified tenure could be addressed by development on Sites to be allocated for general housing in the emerging Local Plan or as windfall development. However, for the reasons set out by Mr Garside in his evidence such an approach is simply not viable at will not deliver the specialist housing required to meet need.

4.119. What is clear from para. 39 is that the Inspector rejected this as a legitimate approach to accommodating the future needs of the elderly:



***“... the retirement village concept requires a minimum number of units and site area in order to support the viable provision of shared-site facilities for residents. That of itself would limit the choice of suitable sites, particularly in a Borough with extensive Green belt. Neither is there any evidence before me of the successful development of retirement villages as the result of development allocations ...”***

4.120. Within this context the Inspector at West Malling concluded at para. 40 that:

***“... the current and emerging development plan does not make adequate provision and that the development would make a significant contribution towards meeting such needs”.***

### ***Great Boughton Decision***

4.121. At Great Boughton (CD5.11) the Inspector allowed an appeal (CD5.11i) with reference to the site location (CD5.11ii) and layout plans (CD5.11iii) for:

***“... demolition of the existing garden centre buildings and redevelopment of the site to provide a total of 110 care apartments and bungalows ...”.***

4.122. It was common ground that the proposals were inappropriate development in the Green Belt and accordingly very special circumstances would need to be demonstrated to justify development within the Green Belt. In allowing the appeal the Inspector set out the very special circumstances that justified the proposals under the ‘Other Considerations’ (paras. 38 to 46) and ‘Planning Balance and very special circumstances’ (paras. 49 to 54) of his decision letter.

4.123. At para. 49 the Inspector stated that there would also be some additional harm resulting from the failure to provide affordable housing noting that there was a Development Plan policy in place requiring an affordable housing contribution for use class C2 development.

4.124. In summary the Inspector concluded:

- Despite being able to demonstrate a 5-year supply of housing land (7.56 years as set out in para. 45) the Inspector concluded that there was a need for specialist provision for the elderly and that in line with NPPG the need to provide housing for the elderly was critical (para. 38)
- The soon to be adopted Development Plan does not include a specific requirement for housing for older people, and the Council expects all needs to be catered for within the general housing requirement (para. 38). However, the Inspector disagreed and stated that

it was unlikely to be the case that other forms of housing would necessarily meet the demand for specialist assisted living accommodation for the elderly para. 39)

- In the context of the above the fact the development would make a sizeable contribution to help meeting these demands is something to which he attributed very substantial weight (para. 40)
- That substantial weight should also be afforded to the associated socio-economic benefits described elsewhere in this Statement

### **General Housing Decisions**

4.125. The following general housing cases I now refer to (iv to vii) are similarly informative as to how the planning balance was struck

4.126. In allowing the called in application at Burley-in-Wharfedale (**CD5.8**) the Secretary of State agreed with the Inspector (**CD5.8i**) with reference to the site location (**CD5.8ii**) and layout plans (**CD5.8 iii**) for:

4.127. the Secretary of State and the Inspector both gave a very substantial amount of weight to the provision of housing generally, noting also the significant shortfall that exists in the area.

4.128. In the planning balance section of the Inspector's Report, at para. 657:

***“In view of the fact that the Council’s housing situation was described by the SoS in 2016 as “acute” “persistent” and “chronic”, and has worsened since that time, with the Council only able to demonstrate a current supply of deliverable housing land of less than 2.06 years [201, 221], I give very substantial weight to the provision of 500 new houses in the current proposal, which would accord with LPCS Policy HO3. I also give very substantial weight to the proposed delivery of 30% affordable housing on this site, for reasons set out earlier.” (my underlining)***

4.129. At para. 24 of the decision letter, the Secretary of State supported this assessment, stating:

***“For reasons given in IR530-534, the Secretary of State agrees with the Inspector that the proposed development would make a significant contribution towards addressing market and affordable housing need, and that it would be able to provide a wide range of high-quality housing (IR534). He concludes that this carries very substantial weight. As such, he considers that the proposal would accord with the requirements of the Framework in this regard, and with LPCS Policies HO8, HO9 and HO11, as well as Policy BW5 of the NP.” (my underlining)***

4.130. He goes on to add at para 44:

**“The proposal would deliver a substantial number of homes which attracts very substantial weight, given the poor housing land supply position.” (my underlining)**

- 4.131. I note specifically the correlation the Secretary of State makes between the land supply position and the weight he affords the contribution the site makes to the provision of new homes.
- 4.132. Similarly, Inspector Fagan, in allowing an appeal for a greenfield site in the Green Belt at Asher Lane, Ruddington (CD5.5) granted planning permission (CD5.5i) with reference to the site location (CD5.5ii) and layout plans (CD5.5 iii) where there was only 3.1 years housing supply and gave the provision of housing considerable weight, noting also the limited harm the development would have through loss of openness and incursion in the countryside in that case in weighing up the very special circumstances balance.
- 4.133. Finally, an Inspector allowed an appeal at Codicote, North Herts (CD5.9) with reference to the site location (CD5.9ii) and layout plans (CD5.9iii) in which he concluded that as the Council is unable to demonstrate a 5 year housing land supply the tilted balance of paragraph 11d) is engaged. He concluded that very substantial weight should be attributed to the delivery of housing and significant weight to other collective benefits of the development, including net biodiversity gain. As such, the less than substantial harm to the heritage assets and harm to the Green Belt and any other harm would not significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole. The scheme therefore benefits from the presumption in favour of sustainable development and which is a further material consideration.

### **Summary**

- 4.134. With full regard to the foregoing, I set out fully, in my Section 7, an explanation to the benefits and the weight I attribute to each in respect of this Appeal. I have given:
- **Very substantial weight** to the contribution to general housing needs
  - **Very substantial weight** to the contribution the development would make to meeting the needs for specialist housing in the area for older people
  - **Very substantial weight** to the fact that there are no suitable sequentially preferable alternative sites to accommodate the proposals
  - **Very substantial weight** to the release of under-occupied family housing
  - **Substantial weight** to the health and well-being the proposals will bring to both future residents of the scheme as well as relieving pressure on existing health services
  - **Moderate weight** to the increase in biodiversity through additional landscape and habitat creation
  - **Moderate weight** to the fact that it is a very well-designed and high-quality scheme
  - **Moderate weight** to the local support for the proposals

- **Some weight** to the employment opportunities the scheme will deliver
- **Some weight** to the benefits of the site access improvements that the scheme will deliver
- **Some weight** to the site being able to be delivered now.

4.135. Whilst I have not specifically attributed weight to the availability of some of the communal facilities to be provided including the multi-function room and restaurant being open to the public I note from other appeal decisions, including the decision to allow an appeal in Edenbridge, Sevenoaks for a retirement community on the 2 November 2021 the Inspector gave this limited weight in favour of these proposals (PINS ref. APP/G2245/W/21/3271595) **(CD5.16)**

4.136. I say these decisively outweigh the Appeal Scheme's:

- Limited impact on the Green Belt
- Very low-level impact on the heritage significance of the Burston Manor and its outbuildings.

4.137. I say this, drawing from my Section 7 because:

- The need for additional housing generally in St Albans is profound.
- The local need for older peoples' accommodation in this area is also profound.
- Meeting those needs inevitably require the release of Green Belt land.
- There is no short-medium term prospect of those needs being met in a plan-led way.
- Meeting those needs will require the approval of schemes in the Green Belt through the development management process.
- There is no evidence that any other site is likely to come forward to meet these needs – we have to address the disaggregation and availability issues
- Commercial realities are such that land will come forward for general market housing and not specialist accommodation
- If this scheme is not permitted, then there is no evidence of any realistic prospect of needs being met elsewhere in St Albans district area
- Meeting need for older people accommodation on this site is supported locally
- Meeting the needs of local people will then result in the freeing up of local housing stock.

4.138. Within the context of the appropriate planning framework especially in the context of para. 148 of the NPPF, I demonstrate in my Section 7 that in taking to account the appropriate planning policy assessment, the tilted balance of paragraph 11d) of the NPPF is engaged as the Council cannot demonstrate a deliverable 5-year supply of housing. The collective benefits of the development as described in my Section 7 with the evidence of Mr Appleton and Mr Garside are extensive. As such, as I also demonstrate in my Section 7 with the evidence of Mr Smith and Mr Murphy any possible adverse impacts of granting planning permission would not significantly and demonstrably outweigh the benefits, when assessed against the policies in the

NPPF taken as a whole. The scheme therefore benefits from the presumption in favour of sustainable development which is a further material consideration.

4.139. To conclude the Council does not have an up-to-date Local Plan and there is no evidence of when, or indeed if, it will ever adopt another Local Plan. Faced with such a chronic shortfall, with no strategic plan to deliver housing sites to meet its very serious needs, it is inevitable that Green Belt land is required; and so it is inevitable that those needs will have to be addressed through the development management process, which means that permissions will need to be granted applying the balance at para. 148 of the NPPF.

4.140. This is the accepted position in St Albans for the reasons I explain in my next Section.

## 5. Decision-Making in St Albans

- 5.1. For the reasons I describe in my Section 4, with reference to my Section 7, the Council is operating in a planning policy vacuum. It does not have an up-to-date Local Plan and it is common ground that it does not have a deliverable 5-year supply of housing to either meet general housing needs or the specialist needs of older people. Furthermore, it is accepted that the shortfall is profound (**CD1.5**).
- 5.2. As I concluded in my Section 5, drawing on my Section 7, it is inevitable that Green Belt land is required and that those needs will be addressed through the development management process, which means that permissions will need to be granted applying the balance at para. 148 of the NPPF.
- 5.3. With reference to sites at Roundhouse Farm and 112-156b Harpenden Road this is not a hypothetical situation. This is the reality.
- Roundhouse Farm, Land off Bullens Green Lane, Colney Heath 14 June 2021 (PINS APP/B1930/W/20/3265925 and 3265926) (**CD5.12**)
  - 112-156b Harpenden Road St Albans Hertfordshire resolution to grant 26 July 2021 with Secretary of State decision not to call the application in on the 13 August 2021 (5/2021/0423/LSM) (**CD5.13**)
- 5.4. I deal with each in turn.
- **Roundhouse Farm**
- 5.5. The recent appeal decision at Roundhouse Farm (**CD5.12i**) with reference to the site location (**CD5.12ii**) and layout plans (**CD5.12iii**), within the administrative boundaries of both St Albans and Welwyn and Hatfield, provides the perfect example of the necessity to meet housing need through the development management process. In this case the Inspector allowed an appeal for up to 100 dwellings.
- 5.6. I submit there are very closely linked parallels between Roundhouse Farm and the appeal site in that the main issues, with the exception of accessibility (an issue at Roundhouse Farm) (para. 10) were the same.
- 5.7. Before dealing with the main issues I note that the Inspector was highly critical of the Green Belt evidence prepared by SKM Consultants in 2013 to support the Local Plan, which included an assessment of Green Belt in St Albans and entirely endorses the views expressed by the inspectors appointed to examine the now withdrawn Plan, as I have referred to earlier. As with this appeal site the Roundhouse Lane was similarly assessed as part of a parcel (Parcel 34) stretching over a very large area and accordingly, the inspector concluded at his para. 24 that:

***“... These characteristics bear little or no relationship to the appeal site, and given the sheer size and scale of the land identified within the report when compared to the appeal site, I place only very limited correlation between the conclusions drawn here in relation to the function of the land or assessment of its function relative to the purposes of the Green Belt when compared to the appeal site.”***

5.8. These conclusions are reflective of the conclusions set out by Mr Smith in respect of the Appeal Site.

5.9. The concerns raised by the St Albans Local Plan inspectors over this part of the evidence base forming the now withdrawn Local Plan is reflective of the Roundhouse appeal Inspector's overall conclusion, which for the reasons set out in Section 7, with reference to my Section 4, are the same as mine, in that the Council are reliant on making planning decisions without a credible development plan and accordingly no weight can be attached to the withdrawn Plan or any of the evidence base supporting it – including the 2013 Green Belt review.

5.10. He states at para.61 that:

***“The Council ..... argued that the site is not a suitable location for housing as it does not form part of the emerging policy context for .... SADC .... Whilst I acknowledge this to be the case, this in itself is not a reason that the appeals should fail .... neither SADC .... is there an emerging policy position to which any significant weight can be attached. The SADC Local Plan Review was adopted in 1994, some 27 years ago. The most recent replacement plan was withdrawn. As a result, there is currently no up-to-date strategic housing land requirement assessment which has been subject to any rigorous soundness assessment through the local plan examination process.”***

5.11. I now turn to the main issues:

- *The effect of the proposal on the character and appearance of the area*

5.12. At Roundhouse the Inspector accepted that the proposals would:

***“... cause limited harm to the character and appearance of the area and attached moderate weight to this factor .... Proposals should as a minimum maintain and where possible should enhance or improve the character of the existing area (para. 18) (my underlining)***

5.13. I say with reference to the evidence of Mr Andrew Smith that the proposals in the case of this Appeal will materially improve elements of the character and appearance of the area.

- *The effect of the proposal on the openness of the Green Belt and the purposes of including land within it*

5.14. The Inspector at Roundhouse confirmed at para. 22 that:

***“The Framework and in particular paragraph 133 [now 137] makes it clear that the Government attaches great importance to the Green Belt and the protection of its essential characteristics. It was common ground between the parties that the proposals represent inappropriate development as identified by the Framework. In terms of the five purposes of the Green Belt identified at paragraph 134 [now 138] of the Framework, it was also common ground that the key tests in the context of these appeals are the effect on openness, encroachment and urban regeneration...” (my underlining)***

5.15. In the case of the appeal proposals, it is also common ground that the proposals represent inappropriate development.

5.16. On openness, at para. 23:

***“Even taking into account the potential for boundary treatment and landscaping which could include open green space and play space and could be integral to the layout of the residential development proposed, this would have the effect of a considerable reduction in the openness of the site. The proposals would lead to conflict with policy 1 of the St Albans District Council Local Plan, 1994. This policy identifies the extent of Green Belt within the Borough, and outlines the developments which would be permitted which broadly align with the development identified by the Framework. This, harm, in addition to the harm by inappropriateness, carries substantial weight against the proposals...” (my underlining)***

5.17. On safeguarding the countryside from encroachment the Inspector concluded at para. 26 that the proposals:

***“I have already set out in my assessment of character and appearance above that the appeal site has an urban edge/ edge of settlement character. I have made a clear distinction between the appeal site and its separation from the countryside beyond to the south and east of the appeal site. In this way, the appeal site is influenced by the surrounding residential development. As a result of these locational characteristics and influences, the consequences of the development at the appeal site would mean that the proposals would have only a localised effect on the Green Belt. The broad thrust of, function and purpose of the Green Belt in this location would remain and there would be no significant***



**encroachment into the countryside. I therefore conclude that the appeal proposal would not result in harm in term of the encroachment of the Green Belt in this location. This is a neutral factor which weighs neither in favour nor against the appeal proposals (my underlining)**

5.18. Mr Smith comes to similar conclusions on impact of the proposal on encroachment into the countryside in his assessment of the Appeal proposals. There would only be localised effect on the Green Belt and the broad thrust of, function and purpose of the Green Belt in this location would remain without significant encroachment into the countryside.

5.19. On assisting in urban regeneration, by encouraging the recycling of derelict and other urban land the Inspector concluded at para. 27:

***“.... I have no substantive evidence to suggest that the development at this site would disincentivise the urban regeneration of sites elsewhere. Given the scale of development proposed ... I do not consider that the proposals would be likely to adversely impact on the regeneration of urban redevelopment sites elsewhere. There would as a result be no conflict with this purpose. Again, this is a neutral factor which weighs neither in favour nor against the appeal proposals (my underlining)*”**

5.20. It is already common ground that there are no sequentially preferable alternative sites to accommodate the appeal proposals (CD1.5). Furthermore, it is also pertinent to reiterate that whilst the appeal site does not technically fall within the definition of “previously developed land” it is despoiled land with large areas of hardstanding and substantial buildings. I submit that unlike Roundhouse which is a large field and a truly ‘greenfield’ site the appeal site has the characteristics more akin to a dilapidated industrial site and the proposals therefore closely align with the spirit of recycling a derelict site notwithstanding the significant net biodiversity gain the scheme will deliver.

- *The effect of the proposed development on the setting of a listed building*

5.21. The Inspector noted at para. 35 of the Roundhouse appeal decision that the parties agreed that

***“.... the significance of the designated heritage asset would be less than substantial. It is also common ground that the public benefits of the scheme outweigh the less than substantial harm .... even the appellants assessment at the very lowest end of the broad spectrum of less than substantial harm overstates the schemes likely effect in this context.” (my underlining)*”**

5.22. In the case of this Appeal, I accept that there are material differences in the assessment of harm to Burston Manor with the Council maintaining that the level of harm within the range of

less than substantial harm compared to Mr Kevin Murphy. I also accept that the previous Inspector concluded that those proposals would be at the moderate end of the less than substantial harm spectrum. Given the significant changes to the proposals compared to the previous scheme, and should the Inspector agree with Mr Murphy's assessment of harm at the very lowest end of the broad spectrum, as was the case at the Roundhouse appeal I submit that the public benefits of the appeal scheme outweighs this less than substantial harm. Accordingly, in heritage policy terms, the proposed development is acceptable. I note that the previous Appeal Inspector reached no separate conclusion on this.

- *Whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.*

5.23. It is common ground between the parties that the provision of specialist housing to meet the needs of older people counts towards the provision of general needs housing. The significant scale of this need and the associated economic difficulties of delivering such development on traditional general needs housing sites has been clearly established in the evidence of Mr Appleton and Mr Garside. The ability to deliver 124 specialist homes for older people in my opinion clearly resonates with the conclusions of the Roundhouse Farm Inspector, and the very substantial weight he attributed to the delivery of homes.

5.24. He states:

***“Paragraph 59 of the Framework seeks to support the Governments objective of significantly boosting the supply of homes. In order to achieve this, the Framework notes that it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay. (para. 46)***

***47. I am aware of the Written Ministerial Statement of December 2015 which indicates that unmet need is unlikely to clearly outweigh harm to Green Belt and any other harm so as to establish very special circumstances. However, in common with the appeal decision<sup>2</sup> referred to, I note that this provision has not been incorporated within the Framework which has subsequently been updated and similar guidance within the Planning Practice Guidance has been removed. I can therefore see no reason to give this anything other than little weight as a material consideration. (para. 47)***

***It is common ground that .... SADC .... can demonstrate a five year supply of deliverable homes. Whilst there is disagreement between the parties regarding the extent of this shortfall, the parties also agreed that this is not a matter upon***

*which the appeals would turn. I agree with this position. Even taking the Councils supply positions of ..... SADC at 2.4 years, the position is a bleak one and the shortfall in both local authorities is considerable and significant.* (para. 48)

*49. There is therefore no dispute that given the existing position .... the delivery of housing represents a benefit. Even if the site is not developed within the timeframe envisaged by the appellant, and I can see no compelling reason this would not be achieved, it would nevertheless, when delivered, positively boost the supply within both local authority areas. From the evidence presented in relation to the emerging planning policy position ..... this is not a position on which I would envisage there would be any marked improvement on in the short to medium term. I afford very substantial weight to the provision of .... housing which would make a positive contribution to the supply of .... housing ....”* (para. 49)

5.25. In granting planning permission the Inspector did so in the face of very strong objections to the proposals as set out in Section 5 of the Officers Report (CD5.12ii). This is a completely different position to the very strong local support in respect of the Appeal proposals.

- **112-156b Harpenden Road**

5.26. The Harpenden Road Officers' Report (CD5.13i), the subsequent Secretary of State's determination not to call the application in (CD5.13ii) with reference to the site location (CD5.13ii) and layout plans (CD5.13iv) is the Council recognising the difficult position it finds itself in, and reinforced by the recent appeal decision at Roundhouse, as well as others in the Country including those I report on in my Section 4. Accordingly, the Council resolved to grant planning permission for up to 150 dwellings.

5.27. The reasons for officers commending the application to Committee were:

*“The proposed site was one of the broad locations identified in the recently failed strategic local plan and is in the green belt. NPPF's presumption in favour of sustainable development renders the local plan policies for housing out of date under the MHCLG 2020 Housing delivery test announced on the 20th January 2021. This states that;*

*(1) 55 local authorities delivered less than three-quarters of their housing need, and are therefore subject to the presumption in favour of sustainable development.*

*(2) Of these, 40 have a local plan that is more than five years old.*

*(3) Both of the above points (1 & 2) apply to St Albans District Council's area”.*

(para. 1.2.1)

- 5.28. Section 8 of the Officers Report sets out the officer's justification for recommending the application for approval and, given the relevance to this appeal, it is highly pertinent to draw heavily from those elements where I conclude there are close synergies between this application and my clients appeal proposals, notably:
- 5.29. Matters of principle are discussed in Section 8.1 (8.1.1 to 8.1.14) with officers concluding that the principle of development is acceptable given the already well-rehearsed position on its dire 5-year housing land supply position and failure to have a strategic plan.
- 5.30. Green Belt harm is discussed at Section 8.2 (paras. 8.2.1 to 8.2.24). Openness is specifically discussed at paras. 8.2.3 and 8.2.4.

***"8.2.3. The NPPG states:***

***"Assessing the impact of a proposal on the openness of the Green Belt, where it is relevant to do so, requires a judgment based on the circumstances of the case. By way of example, the courts have identified a number of matters which may need to be taken into account in making this assessment. These include, but are not limited to:***

- openness is capable of having both spatial and visual aspects – in other words, the visual impact of the proposal may be relevant, as could its volume;***
- the duration of the development, and its remediability – taking into account any provisions to return land to its original state or to an equivalent (or improved) state of openness; and***
- the degree of activity likely to be generated, such as traffic generation."***

***Paragraph: 001 Reference ID: 64-001-20190722***

***8.2.4. It is clear that the loss of open Green Belt land would be permanent. The application site is presently completely open, containing no buildings and comprising grass land. This is the spatial element of openness. In visual terms, regard must be had to the LVIA submitted with the application, in so far as it relates to the impact of the development on the openness of the Green Belt. Officers are of the view that the LVIA demonstrates a low level of impact on the perception of open Green Belt countryside to the north and east. This means that whilst there is spatial harm to openness as a result of the proposals, there is no additional harm to openness as a result of the limited visual impact on the openness of the Green Belt"***

- 5.31. The following conclusions are made with regard to purposes:

- a) **Unrestricted sprawl:** Whilst the site is open to countryside on one side officers are satisfied in their assessment that the mitigating landscape buffer would not lead to unrestricted sprawl (paras. 8.2.12 to 8.2.15)
- b) **Neighbouring towns and merging:** Officers concluded that the integrity of the gap between St Albans and Harpenden and St Albans and Sandridge, would be maintained and therefore the proposals would not contribute to the merging of towns (para. 8.2.16)
- c) **Encroachment:** Officers whilst noting that only 3 of the 4 boundaries were surrounded by development, the fact that the eastern boundary is open to countryside did not deter them from concluding that because the site has an urban edge it would only have a localised effect on compromising this Green Belt purpose (paras. 8.2.17 to 8.2.20)
- d) **Setting and specialist character of historic towns:** Officers concluded that the proposals have no impact in terms of compromising this Green Belt purpose (para. 8.2.21)
- e) **Assisting in urban regeneration:** Officers concluded that as the Council does not have any significant urban sites available then the proposals have no impact in terms of compromising this Green Belt purpose (para. 8.2.22)

5.32. In their final analysis of Green Belt harm they conclude:

***“In conclusion on Green belt harm, this ultimately is a matter of planning judgement. It is considered that there is substantial harm to the Green Belt by definition, as well as significant harm to openness, and low to moderate harm in relation to encroachment into the countryside and restricting urban sprawl. In line with the NPPF, substantial weight must be afforded to these harms” (para. 8.2.23)***

5.33. In terms of character despite the site being an open field and one side of the site facing onto open countryside officers conclude that because it is surrounded by development on 3 sides it is characteristic of an urban edge, as oppose to rural in character (Section 8.3 (paras. 8.3.1 to 8.3.8)).

5.34. The positive case presented amounted to the following 2 benefits:

- Provision of housing including self-build and affordable housing is discussed at Section 8.7 (paras. 8.7.1 to 8.7.4) with a commitment to deliver 150 new homes of which 40% would be affordable homes and 5 of the market units being made available for self-build housing.
- Ecology and biodiversity benefits are assessed at Section 8.12 (paras. 8.12.1 to 8.12.4) with a commitment to deliver 10% biodiversity net gain

5.35. The sustainability of the location is considered at Section 8.10 (paras. 8.10.1 to 8.10.2) concluding that the site is in close proximity to shops and services by means other than the private car.

5.36. At 8.15.3 and 8.15.4 officers refer to recent Green Belt appeal decisions for housing concluding that

***“These can be material considerations, and weight has been applied to them as appropriate ....” (para. 8.15.4).***

5.37. Finally, I turn to the officers’ assessment of the planning balance as set out in Section 8.18 (paras. 8.18.1 to 8.18.13).

***“8.18. Planning Balance***

***8.18.1. An assessment of the planning balance, in the context of paragraphs 11 and 144 of the NPPF is not a mathematical exercise. Rather, it is a series of planning judgements based on the merits or otherwise of each individual case.***

***8.18.2. Taking the development plan first, compliance with the most important policies of the St Albans Local Plan Review 1994 needs to be considered.***

***8.18.3. Policy 1, Green belt, requires that very special circumstances are demonstrated for inappropriate development to proceed, mirroring the NPPF. This requires the harms and benefits of a scheme to be weighed up, and this is dealt with below.***

***8.18.4. Policy 2, Settlement Strategy, seeks to direct development to the main towns, and seeks to protect and enhance the essential character of existing settlements. In accordance with the analysis set out in this report, the impacts of the development must be seen in the context of this site having an “urban edge” character, and in the context of those impacts being considered to be localised. There is not considered to be a significant impact on the essential character of St Albans as a result of this development, albeit officers do not considered there***

*is evidence to show its character will be enhanced by the development. There is therefore some minor conflict with Policy 2.*

*8.18.5. As noted above, the requirements of Policy 34, Highways Considerations in Development Control, have been complied with.*

*8.18.6. Policies 69, 70 and 74 deal with matters that have been reserved as part of this outline application. The submission of parameter plans provide comfort that the requirements of those policies can be met at reserved matters stage.*

*8.18.7. In terms of other material considerations, the NPPF is highly material*

*8.18.8. Paragraph 144 advises:*

*When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.*

*8.18.9. This report has identified significant harm, to the Green Belt by definition of inappropriate development, significant harm in relation to openness and low to moderate harm in relation to encroachment into the countryside and restricting urban sprawl. This harm carries substantial weight in line with paragraph 144 of the NPPF.*

*8.18.10. In terms of other harms, there is limited harm to character and appearance as noted in this report. Aside from this, there is not considered to be any additional material harm arising from the proposals. All technical issues have been resolved and there are no objections from statutory consultees that cannot be resolved by way of planning conditions, s106 Agreements or which are for the reserved matters stage. The development is in a sustainable location for housing. The submitted parameter plans ensure that the detailed reserved matters will be in keeping with a masterplan approach which has previously been considered acceptable by officers. There will potentially be some harm to amenity during construction, these can be mitigated via the construction traffic management plan and are not considered in themselves to warrant a reason for refusal. There is some minor conflict with Policy 2 of the Local Plan 1994 as noted above.*

*8.18.11. Turning to the "other considerations" which weigh in favour of the proposals, as this report has indicated, the delivery of market and affordable*

*housing are both afforded very substantial positive weight. The provision of self-build is given substantial positive weight. The commitment from the applicant to deliver 10% biodiversity net gain on the site is afforded moderate positive weight. The site is located in a highly sustainable location, and this benefit is given moderate positive weight. The accordance with the masterplanning process is given limited positive weight.*

*8.18.12. In addition to the above, the applicant has stated that the age of the local plan and the need for green belt releases to include the application site as very special circumstances. In response:*

*a) the fact the plan is out of date is covered by the NPPF and the triggering of paragraph 11. One of the consequences of the age of the local plan is the lack of a 5 year housing land supply, which is taken into account in the weight attached to the delivery of housing. To apply additional weight to the age of the local plan in itself would be double counting. No additional weight is applied to this factor.*

*b) as noted earlier in this report, no weight can be attached to the emerging Local Plan and it would be wrong to seek to prejudge the outcome of evidence being prepared to support that emerging plan. No weight is therefore attached to the suggested need for green belt releases to include the application site.*

*c) The applicant cites economic benefits and investment in infrastructure as additional benefits of the development. The infrastructure comprises the off-site cycle lane, which is considered necessary to make the development acceptable in planning terms rather than being an added benefit. The economic benefits would apply to any scheme of this scale and are not considered to constitute a particular benefit of this proposed development.*

*8.18.13. Each application for planning permission is unique and must be treated on its own merits. In this particular case, it is considered that as a matter of planning judgement, the “other considerations” set out above do clearly outweigh the harm to the Green Belt and any other harm. In accordance with paragraph 144 of the NPPF, it follows that very special circumstances exist. As such, although there is some minor conflict with Policy 2 of the St Albans District Local Plan Review 1994, the proposal would accord with the National Planning Policy Framework 2019 and planning permission should be granted.”*

- 5.38. The Council clearly recognises that, in the policy vacuum within which it finds itself, it has to consider favourably non allocated sites in the Green Belt and in applying the planning balance accepted the officer recommendation at para. 10.1:



***“The site is situated in the Metropolitan Green Belt (Local Plan Review Policy 1). The proposed development comprises inappropriate development, for which permission can only be granted in very special circumstances, these being if the harm to the green belt and any other harm is clearly outweighed by other considerations (paragraph 144 NPPF 2019). In this case, the harm relates to harm to the green belt, limited harm to character and appearance, and some harm to amenity during construction. There is limited conflict with the most important policies of the development plan (St Albans Local Plan Review 1994). The benefits include the provision of housing, self build housing and affordable housing, and the commitment to 10% biodiversity net gain. These other considerations are considered to clearly outweigh the harm to the Green Belt in this particular case. There are no technical objections to the application. The access is considered safe and appropriate. The impacts of the development can be appropriately mitigated by way of planning conditions and obligations in a s106 Agreement.”***

5.39. In resolving to grant planning permission the Council did so in the face of very strong objections to the proposals as set out in Section 5 of the Officers Report including from the Parish Council, local interest groups and local residents. As with Roundhouse Farm, the decision to support the application is therefore completely different to the position in respect of eth Appeal Scheme which garners the very strong local support of local people and parish councils.

- **Observations and implications for appeal proposals**

5.40. Both decisions demonstrate that, in the absence of an up-to-date and deliverable 5-year land supply, development has to be delivered on previously unallocated Green Belt sites through the development process. Para. 11 d) of the NPPF clearly has to be engaged on any site in the Green Belt where harm to the Green Belt and any other harm is outweighed by the substantive benefits of a proposal.

5.41. In both Roundhouse and 112 to 156b Harpenden Road harm to the Green Belt was identified and that substantial weight was applied to the definitional harm that that the proposals would cause. In the case of Roundhouse the Inspector concluded that there would be no harm to the relevant heritage assets despite the appellant’s accepting that there would be less than substantial harm at the lowest end of the scale within this harm.

5.42. In his evidence Mr Smith has undertaken a comparative assessment between these sites and the appeal site to understand the degree of harms that the respective proposals would have on:

- Openness: both spatial and visual; and
- The 5 purposes of placing land within the Green Belt.

- 5.43. Mr Smith concludes that the Appeal site has a less significant role within the Green Belt than the sites considered within the Roundhouse and Harpenden schemes. For instance, at the most basic of levels, the Appeal site is already built on with large structures present and influencing the site in a manner which already has a significant impact on the Green Belt both in spatial and visual terms. Any change, even one involving the introduction of more development, whilst having some impact, is considerably less than if building on open fields which is the case at Roundhouse and Harpenden.
- 5.44. Furthermore, the Appeal Site's high level of visual containment and small size, ensures that the associated change in openness will be less and only perceived from a very small number of receptors within the immediate setting only. Mr Smith concludes that this position contrasts materially with both the Roundhouse and the Harpenden Road sites, both of which are openly apparent from adjacent highways, PROW and houses.
- 5.45. It is also clear, with reference to Section 7 of my Proof below, that the Appeal proposals introduce even greater benefits than was the case for both Roundhouse and Harpenden schemes. With less harm and greater benefits, there should be no doubt that the Appeal proposals demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole. The scheme therefore benefits from the presumption in favour of sustainable development, and which is a further material consideration.
- 5.46. Finally, for the record I refer to the Chelford House appeal decision. Whilst not within the Green Belt, an inspector in applying the presumption in favour of sustainable development, allowed an appeal for a 63-bed care home (C2 Use Class) (**CD5.14**). In this appeal the agreed position on housing supply was 2.4 years which the inspector confirmed was well below the requisite five-year supply and the latest Housing Delivery Test Result 2020 (published January 2021) at just 63% with a proven need for residential care (para. 32).
- 5.47. The 3 decisions reflect St Albans bleak position in meeting both its general housing and specialist older persons care need and confirm that the shortfall is considerable and significant. I submit that the greater the shortfall then the greater the weight must be attributed to allowing proposals which seek to address this shortfall and the consequent need to determine applications through the development management process in the absence of a local plan.

## 6. The Previous Appeal and Current Proposals

6.1. Apart from the recently dismissed appeal (PINS ref. APP/B1930/W/19/3235642) (**CD2.56**) there is no directly relevant planning history relating to the Appeal Site itself. A summary of the relevant planning history of the Site is contained within the Agreed Statement of Common Ground (**CD1.5**).

6.2. This Section of my evidence outlines the key issues identified by the inspector in her determination of the previous planning appeal, and critically how these revised proposals have been framed to respond to the matters she raised. Where appropriate I also raise points of detail in my analysis of the previous Inspector's interpretation of both Green Belt and heritage policy as summarised in my Section 4.

- **The previous appeal**

6.3. Turning to the dismissed appeal the Inspector gave:

- **Very significant weight** to the contribution the development would make to meeting the needs for specialist housing in the area for older people, to the contribution to general housing needs and freeing up existing housing stock (paras. 68 to 72)
- **Substantial weight** to the health and well-being the proposals will bring to both future residents of the scheme as well as relieving pressure on existing health services (para. 80 to 81)
- **Moderate weight** to the employment opportunities the scheme will deliver (paras. 82 to 83)
- **Some weight** to the benefits of the site access improvements that the scheme will deliver
- **Some weight** to the site being able to be delivered now
- **Limited weight** to the fact that there are no suitable sequentially preferable alternative sites to accommodate the proposals due to inconsistencies in the evidence base (paras. 73 to 79)

6.4. In terms of harm to the Green Belt and any other harm she attributed:

- **Substantial weight** to conflict and the harm arising to the Green Belt and its openness and purposes by virtue of the development's inappropriateness and the effect of openness (para. 39)
- **Moderate harm** to the impact on the character and appearance of the area in the vicinity of the site (para. 49)
- **Great weight** to the less than substantial harm to the significance of the grade II\* and grade II listed buildings forming the Burston Manor group.

- 6.5. Therefore, with regard to harm to the Green Belt, designated heritage assets and character and appearance, the Inspector concluded that the very special circumstances necessary referred to in my para. 4.2 to justify the proposed development had not been demonstrated (para. 99).
- 6.6. In my view there are strong grounds to reach different conclusions in the present Appeal.

***Green Belt, openness and purposes***

- 6.7. The Inspector gave substantial weight to her assessment (paras. 22 to 40)) that the scheme would impact on openness and its conflict with three of the Green Belt purposes which meant that the scheme would conflict with the NPPF (para. 138) and the objectives of local planning policy (Policy 1); namely:
- a) to check the unrestricted sprawl of large built-up areas
  - b) to prevent neighbouring towns merging into one another
  - c) to assist in safeguarding the countryside from encroachment
- 6.8. I rely on Mr Smith's evidence, as referenced in my Section 5, to demonstrate that based on a more rigorous analysis of the characteristics of the Site in the context of the Green Belt and the approach adopted in more recent decisions, officer recommendations, notably Roundhouse Farm (**CD5.12**) and Harpenden Road (**CD5.13**) it is now evident that there is less conflict to these purposes than either of the Roundhouse Farm or Harpenden Road proposals. Indeed, the Appeal scheme provides a positive response to the purpose e) through recycling of derelict land. Furthermore, the Site contains built form namely the large utilitarian structures present. It is therefore far less open – both spatially and visually - when compared to the green fields at Roundhouse Farm and Harpenden.

***Character and appearance***

- 6.9. The Inspector concluded that overall (paras. 41 to 49) despite the visual containment at the site, and the positive aspects of the development relating to legibility, design and landscaping, the resultant effect would be of an urbanised site which would be out of step with its wider surroundings. This would therefore give rise to a moderately harmful impact on the character and appearance of the area in the vicinity of the site. This would be in conflict with Local Plan Policies 69 and 70 which require high standards of design, having regard to setting and character, and massing and siting.
- 6.10. Further analysis by Andrew Smith demonstrates, with reference to my Section 5, that the site currently is an urban edge / edge of settlement location being contained on all sides by built form and surrounded by major road and rail infrastructure. These factors, coupled with the presence of built form on site, make this site significantly less sensitive than at Roundhouse Farm and Harpenden Road.

### ***Designated heritage assets***

6.11. The Inspector also concluded that the proposals would give rise to a moderate level of harm within the spectrum of less than substantial harm in relation to the significance of heritage assets. The focus of her concerns was her assessment of the effect of the proposal on the significance of the grade II\* listed Burston Manor and grade II listed outbuilding (Designated Heritage Assets (paras. 50 to 66)), as derived from their setting. These specifically included (para. 61):

- The presence of the proposed care home in the north-eastern quarter of the site that, due to its scale, would have a large and dominating effect in the setting of the heritage asset; and
- The quantum of development would cause a limited separation between the proposed built form and the boundaries to the grounds of Burston Manor (the importance of the site's northern boundary was noted by the previous appeal inspector).

### ***Inspector's final assessment***

6.12. Having found that the development would harm the Green Belt due to inappropriateness, loss of openness and conflict with the Green Belt purposes and would also cause heritage harm the Inspector then weighed this harm against the public benefits the proposals would provide (see paras. 90 to 98) and concluded:

***"... despite the considerable merits of the development, the inherent conflict with the development plan and national policy with regard to harm to the Green Belt, designated heritage assets and character and appearance, lead me to conclude that the very special circumstances necessary to justify the proposed development have not been demonstrated (para. 98).***

6.13. I have comprehensively set out in my Section 4 the approach to decision making where a council cannot demonstrate a 5-year supply of land for housing with no strategic plan in place to allocate sites – and the position now is far worse than at the time of the previous decision as evidenced by the Roundhouse Farm and Harpenden decisions fully detailed in my Section 5.

6.14. This clearly demonstrates that the policies which are most important for determining the application are out of date, and paragraph 11 d) of the NPPF is engaged.

6.15. To recap para. 11 of the NPPF states that there is a presumption in favour of sustainable development:

***"For decision-taking this means:***

***c) approving development proposals that accord with an up-to-date development plan without delay; or***

***d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission ....***

- 6.16. I accept that given the Site is Green Belt and in close proximity to the listed Burston Manor and its outbuilding that under para. 11 d) i. the application of policies in the NPPF that seek to protect these assets provides a clear reason for refusing development proposed; or ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF or taken as a whole.
- 6.17. In essence, setting aside for a moment the implications of paras. 11 d) i and 11 d) ii any other policies that seek to prevent the delivery of housing in St Albans are in conflict with the NPPF and significantly reduced weight should be applied to these accordingly.
- 6.18. There is no dispute between the parties that this Appeal is a NPPF para. 148 case insofar as substantial weight is to be given to any harm to the openness of the Green Belt. “Very special circumstances” will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm including the less than substantial harm to the heritage asset resulting from the proposal - is clearly outweighed by other considerations.
- 6.19. As I set out in my Section 4, para. 199 of the NPPF says that great weight should be given to the conservation of the significance of a heritage asset. To be clear that is not the same as saying that great weight should be given to harm in the planning balance. Where the para. 202, NPPF balance results in a conclusion that benefits outweigh harm (whilst giving great weight to the assets conservation) then the statutory objectives for conservation are fulfilled.
- 6.20. Put simply, if the Inspector agrees with the Appellant that the very substantive benefits put before the Inquiry outweigh any harm to the Green Belt and other harm including the less than substantial harm to the heritage asset then the tilted balance within the context of para. 11 d) must apply.
- 6.21. This means that in the para. 148 balancing exercise, whilst harm to the significance of heritage assets needs to be taken into account, the weight to be ascribed should have regard to the acceptability of the impact of the proposed development on the significance of the heritage assets in policy terms in terms of the NPPF paragraph 202 balance.

- **The current proposals**

- 6.22. The Appellant seeks full planning permission for:

***“Demolition of all existing buildings, structures and hardstanding and redevelopment of the site to provide a new retirement community comprising***

***80 assisted living apartments with community facilities and 44 bungalows together with associated access, bridleway extension, landscaping, amenity space, car parking and associated and ancillary works”***

- 6.23. Within the assisted living building will be dedicated elements providing care and communal facilities including reception area, multi-function room, guest suite, lounge, restaurant, café/bar, library, gym, treatment/therapy room and cinema. The restaurant will be open to the public with the multi-function room available for members of the public to hire for a few hours in a typical week.
- 6.24. As with the previous scheme the existing site access junction of the Burston Garden Centre and the A405 North Orbital Road is to be replaced with a new junction arrangement, being an improvement over the scheme permitted in 2015, details of which were supported by Hertfordshire County Council as Highways Authority under the previous appeal.
- 6.25. The application submission was accompanied by a full suite of plans and subject reports that informed the proposals. These form **CD2.1** to **CD2.56**.
- 6.26. To further support this appeal RPS ecology were instructed to undertake a net biodiversity gain assessment comparing the proposals with the current baseline. RPS have concluded the proposals will result in on site net biodiversity gain as follows:
- +137% habitat units
  - +7616.25% hedgerow units
  - neutral on river units
- 6.27. The assessment report is attached at Appendix **DP2**.
- **Changes to the appeal scheme**
- 6.28. The principal changes are:
- The reduction in the quantum as well as the scale and mass of development, with the removal of the 64-bedroom, 3,518 sqm, 2-storey care home which was located on the north east portion of the site, to the benefit of the setting of Burston Manor
  - The overall reduction in built form equates to a decrease of almost 20% of the overall floor area proposed, down from 19,449 sqm to 15,807 sqm
  - The reduction in the density of development by utilising the space freed up by the removal of the care home to increase the separation of the bungalows and to enable an increase in the space between bungalows as well as their distance from the curtilage of Burston Manor and to increase the landscaping provision across the site

- A more dispersed and more informal arrangement of accommodation throughout the site including the re-orientation of the bungalows towards the northern boundary of the site so that none of the properties are no longer positioned “gable-end” towards Burston Manor
  - The increase in the visual permeability of the scheme, with more open views throughout the site and from the northeast and southeast towards the village green
  - Significantly enhanced landscaping that will generate a very significant net gain in biodiversity habitat creation
  - Softening the built form along the eastern boundary of the site and along the boundary with Burston Manor to facilitate a more sensitive edge with How Wood also with the emphasis on introducing more informal tree planting of native species to complement Burston Manor
  - The removal of the close boarded fence adjacent to the boundary with How Wood to open the bridleway with the introduction of new woodland planting and the introduction of a low-level estate post and rail fence (subject to discussions with rights of way)
  - The provision for enhanced pedestrian routes both through and around the perimeter of the site, including access to Burston Garden Centre and improved connectivity to the local shops and facilities in How Wood, whilst at the same time respecting the principles of “defensible space”
- **Articulation of design response to previous appeal scheme**

6.29. With reference to my Section 7 it is my opinion, taking into consideration the evidence of Mr Smith and Mr Murphy the design changes have enabled a more informal arrangement of the remaining units with a greater focus on landscaping, green space and mitigating potential effects upon the significance of the Heritage Assets.

***Defined harm to the Green Belt: openness***

6.30. I acknowledge that the scheme would cause some harm the openness of the Green Belt. However, my view, with reference to my Section 7 and relying on the evidence of Mr Smith and Mr Murphy, is that the harm would be limited given the enclosed nature of the site, and the impact would be mitigated by the proposed planting within and around the edges of the site and the openness afforded by public access through the scheme and in particular to the new green central space within the site.

6.31. The level of harm to openness and the purposes of the Green Belt has also been materially reduced from that of the previous appeal scheme with reference to a significant reduction in built form and considerable remodelling of the proposals and enhanced landscape treatment as summarised above.

6.32. In summary the revised proposals have directly responded to the previous appeal Inspector’s conclusions on openness, as set out in paras. 22 to 30 for the following reasons.



- 6.33. The revised proposals have been framed to significantly reduce what the Inspector previously described as a:

***“... substantial amount of built form spread across the site at 1, 2 and 3 storeys in height. The scheme would thus far exceed the height, volume and site coverage of the existing structures. The development would therefore result in a substantial loss of openness in spatial terms”*** (para. 26).

- 6.34. The quantum and spread of development is now considered to be considerably less than previously proposed noting the significant reduction in the difference between the height, volume and site coverage of the proposed development when compared to the existing structures.

- 6.35. As is the case with the appeal proposals the proposals will remain contained within the site noting that the Inspector accepted that:

***“Due to the location of the site behind Burston Manor and the BGC and its relative containment by How Wood and Birchwood, I agree that the new buildings would have limited zones of visibility from outside of the site. Such visibility would be largely confined to short or medium range views from the bridleway ....”*** (para. 28).

- 6.36. The reduction in the nature, scale and distribution of built form, with the introduction of more informal elements of the arrangement of buildings, hardstanding and landscape means that there has been a significant reduction in mass and formality of development when compared to the previous proposals. In combination these measures will help reduce the perception of openness by users of the surrounding public rights of way and prospective future residents, staff and visitors to the proposed retirement community and directly address the concerns of the Inspector that:

***“... the loss of openness would be clearly perceived by users of the public right of way.”*** (para. 28) ***and***

***“In addition, the scale of the built development and associated parking areas and reduction in openness would also be very apparent to the many residents, staff and visitors to the development. Moreover, in introducing a new public access through the site and along the perimeter of Birchwood through the development of a new public bridleway, I consider that the mitigation itself would increase the visual effects experienced from the loss of openness.”*** (para. 29).

- 6.37. With all due respect to the previous Inspector, I struggle to understand, given that the existing 2m high fence screens views into the site, how users of the bridleway would experience a perceived loss of openness arising from the proposals. There is no current access through the site and no experience of openness. Those who walk the boundaries should the development

be allowed will experience the Site for the first time and they will see a high-quality place. The previous Inspector recognised that the fence in itself was a discordant feature. In my opinion its removal would enhance perceived openness given the quality of landscaping and open space that would be created.

- 6.38. The revised proposals have been framed to significantly reduce what the Inspector previously described as proposals that would result in:

***“... spatial and visual harm to openness would therefore constitute significant harm to the Green Belt in addition to inappropriateness.”*** (para. 30).

***Harm to the Green Belt: Purposes***

- 6.39. The previous Inspector stated that:

***“The appeal site would abut How Wood and would effectively enclose the woodland by development. How Wood itself is not of a significant depth nor is it so dense as to provide a definitive edge to How Wood Village in this location. As I saw on site, which was in winter when the trees are not in leaf, filtered views of the rear of properties along Walnut Close and Spruce Way were visible through the woods....”*** (para. 33).

- 6.40. The Inspector then went onto observe that:

***“... The development would therefore be visible from these properties, although there would be larger amounts of landscaping included within the site and along the boundary. (para. 33).***

- 6.41. The Inspector accepted that:

***“There would not be direct coalescence as a result of the proposal between How Wood Village and Chiswell Green ...”*** (para. 34).

- 6.42. However, she went onto conclude that:

***“... it would form a perceptible adjunct to How Wood Village and would diminish the gap and erode the open nature of the Green Belt in this location between these villages. Accordingly, there would be a degree of sprawl and merger of these and harm to the perception of the settlements.”*** (para. 34).

- 6.43. With reference to my Section 7 and relying on the evidence of Mr Smith and Mr Murphy, taking all these points together softening the built form and further enhancing the landscape treatment along the eastern boundary of the site, as described above, facilitates a much more sensitive edge with How Wood and sympathetic relationship with the rear properties along Walnut Close

and Spruce Way. This will be to the extent that there will be no material visibility to these properties from the application site even during the winter months.

- 6.44. Whilst the inspector, stated that the proposals by introducing residential form, would have an **“... urbanising effect in this location...”** (para. 35) the current appeal proposals result in a materially reduced form to that previously proposed and will generate a level of harm that is considerably towards the lower end of this harm than that associated with the previous appeal proposals.

#### ***Harm to heritage assets***

- 6.45. Both the Council and the Inspector, with reference to paras. 50 to 66 of the previous appeal decision (**CD2.56**), accepted that the previous scheme would cause less than substantial harm to the significance of Burston Manor and the associated Granary. The only issue between the parties was where the harm falls in the spectrum of less than substantial harm (The NPPG requires that the extent of the harm within the range should be identified and clearly articulated: 18a-018-20190723). At the time of the previous appeal, the Appellant's position was that the impact is at the bottom end of the scale – i.e. “no more than minor harm at the lower end of the spectrum”.
- 6.46. In the event the previous inspector disagreed, placing a moderate level of harm within the spectrum of less than substantial harm. The focus of her concerns was on her assessment of the effect of the proposal on the significance of the grade II\* listed Burston Manor and grade II listed outbuilding, as derived from their setting which the Inspector summarised as follows:

***“... the appeal site with its low level polytunnels, along with the planting beds and grasslands to the eastern and southern parts helps maintain a semblance of the open and agricultural character, albeit diminished. As historic early 19th Century woodland groups Birchwood and How Wood form a positive part of the historic evolution of the wider environs of Burston Manor. Today, the appeal site does allow for the appreciation of these woodlands from the grounds of Burston Manor and vice-versa. This helps to maintain a sense of the historic relationship here, particularly with How Wood due to the open grasslands to the north-eastern nib of the site. I saw that this relationship is more visible in the winter when the deciduous boundary trees within the grounds of Burston Manor are not in leaf.”*** (para. 58).

- 6.47. Furthermore:

***“... while it is unkempt [the appeal site] and not in any way pristine, I consider that it does represent the last legible remnant of its historic landscape setting.”*** (para. 59).

6.48. In considering whether additional change would further detract from, or enhance the significance of the assets the Inspector concluded that there would be a significant change:

***“... and the Burston Manor grouping would effectively be contained by urban development. I agree with the Council that this would amount to the severing of the last tangible link between the assets and their original setting. The historic relationship between the Burston Manor grouping and How Wood and Birchwood would be all but lost.”*** (para. 60).

6.49. Additionally:

***“There would be significant landscaping and planting at the site, but as I have stated above, built elements of the proposed development would take up a large proportion of the site and thus would dominate in this regard. Effort has been made to restrict the building heights across the appeal site including locating the bungalows to the south of the boundary with Burston Manor. However, due to the amount of development at the site, there would be limited separation between the built form and the boundaries of Burston Manor.”*** (para. 61).

6.50. Furthermore:

***“The proposed care home in particular would be of a significant built scale and massing in the open north eastern nib of the site. The s106 agreement would secure offsite planting, including between the eastern boundary of Burston Manor and would have a significant screening effect of the care home, but this would do little to overcome the urbanisation. Instead it would further serve to divorce the assets from their wider surroundings and would add to the containment of the heritage assets.”*** (para. 62).

6.51. The Inspector noted that the negative impacts would be most profound during the winter months, noting that while:

***“... there are some evergreen trees providing screening, my site visit in the winter months revealed a much greater level of visibility from Burston Manor, from both within the grounds and as viewed from the upper floors. The severing effect I have identified from the proposed development would be more perceptible and while the additional landscaping would aid this, the effects would still be experienced from the assets.”*** (para. 63).

6.52. In forming her conclusions, the Inspector was:

***“mindful that grade II\* listed buildings represent the top 7% of England’s most significant designated heritage assets. In combination with the grade II listed building and the moat and archaeological potential, the development would be***

***firmly within the realms of ‘less than substantial harm’. I am of the clear view that this would be to a moderate degree when applying the spectrum or scale put to me at the Inquiry, as opposed to the limited harm attested by the appellant. The lack of comment from Historic England does not alter my conclusions in respect of the harm I have found.”*** (para. 65).

6.53. For the reasons described above and in the evidence of Mr Murphy, the current proposals fully respond to these concerns when compared to the appeal proposals.

6.54. Overall, and taking into consideration the scope for these further mitigation measures, with the benefit of Mr Murphy’s evidence, it is considered that the Appeal proposals will give rise to a very low level of less than substantial harm to the significance of Burston Manor and the outbuildings. This is lower than the level of harm identified by the Inspector for the previous appeal scheme.

#### ***Character and appearance***

6.55. Paras. 41 to 49 of the previous appeal Inspector’s decision provided her assessment of the previous proposals on character and appearance where she came to the conclusion that:

***“Overall, despite the visual containment at the site, and the positive aspects of the development relating to legibility, design and landscaping, the resultant effect would be of an urbanised site which would be out of step with its wider surroundings. This would therefore give rise to a moderately harmful impact on the character and appearance of the area in the vicinity of the site”.*** (para. 49).

6.56. In coming to this conclusion, she observed that the:

***“... formality of the layout would not be out of place with the general layout of the built form in the wider area. In some regard, the footprint of the linked apartment blocks and the care home buildings would not be out of place with the large footprints of the buildings at the BGC site. They would, however, be markedly different in their general scale, massing and form to the BGC buildings. There would also be marked differences between the scale and density of properties in How Wood Village and to properties to the north of the appeal site.”*** (para. 45).

***“In combination with the bungalows and parking, the built elements of the proposed development would take up a large proportion of the site. This would give a distinctly urban form which would contrast with both the character and appearance of BGC and the general built form of the dwellings of the surrounding areas”.*** (para. 46).

***“The close boarded fence along the eastern boundary of the site with the bridleway is a visually discordant feature which would be removed by the proposed development. As per the amended landscape masterplan this area and the removal of the access track would give way to additional landscape planting along its periphery.”*** (para. 47).

***“However, as stated above, the development would be seen behind properties at Walnut Close and Spruce Way and would effectively enclose How Wood. In particular, the proposed care home would be built on land which is currently open and due to its scale, it would have a large and dominating effect, in spite of the additional peripheral landscaping here.”*** (para. 48).

6.57. There is no need to rehearse a detailed response again here as these matters have been covered earlier in this Section.

6.58. Overall, for the reasons I explain further in my Section 7 drawing from the evidence of Mr Smith and Mr Murphy, the revised scheme would have only very localised landscape and visual impacts, resulting from the introduction of the new built form as described above with reference to the submitted plans and Design and Access Statement. The scheme is very well designed, the LPA and the previous appeal Inspector recognised this regarding the previous proposals, with attractive buildings set in sensitively landscaped grounds and the considerable net biodiversity gains the enhanced landscape measures this scheme will deliver. The scheme will sit sympathetically in its urban edge / edge of settlement environment where visual effects will be negligible, and within the context of Burston Manor and its curtilage. This will be a very attractive place to live – with its tree lined routes and well-designed buildings and spaces.

- **Other matters**

- **Community Engagement**

6.59. A Statement of Community Involvement, contained at Appendix D of the Planning Statement prepared by DPV Consult (**CD2.35**), was submitted with the Planning Application.

- **Statutory and Consultees and Third Parties**

6.60. I respond specifically to statutory consultee and third party matters in my Section 8.

- **The Decision**

6.61. Despite the fundamental changes to the previous appeal scheme officers recommended that the application be refused for the reasons set out below (**CD2.54**).

- 6.62. The proposals were very strongly supported by the local community with 22 individual letters of support with both St Stephen Parish Council and Bricket Wood and Park Street and District resident associations submitting very strong representations in support of the proposals
- 6.63. Given the strength of local support, as outlined in paras. 1.1 to 1.3 of the Officers Report (CD2.54):

***“The application has been called-in to committee in the event that officers are minded to recommend that planning permission be refused for the following reason:***

***1.2. Redevelopment of the site in accordance with this application would contribute to meeting requirements for assisted living accommodation in St Stephen that were identified as part of the St Stephen Neighbourhood Plan process. Local feeling is that meeting these requirements would, on balance, constitute very special circumstances that would justify the redevelopment of this site in the Green Belt***

***1.3. This call-in was received by Cllr Yates who, prior to the recent elections, was a District Councillor.***

- 6.64. In the event and contrary to the express wishes of the local community members of the Council’s Planning Referrals Committee determined to refuse the application on 24 May 2021.
- 6.65. The decision notice dated 26 May 2021 (CD2.55) sets out the Council’s 4 reasons for refusing planning permission (RfR); namely:

***“1. The proposed development would comprise inappropriate development in the Green Belt which would cause in principle and actual harm to the openness of the Green Belt. The proposed development by reason of the quantum of development, together with the size of the assisted living building would be harmful to the character of the wider area. The case made for very special circumstances, together with the contribution towards the provision of housing is not considered to overcome this harm. As such the proposal is contrary to the NPPF 2019 [subsequently superseded by NPPF 2021] and to Policies 1, 69 and 70 of the St Albans District Local Plan Review 1994.***

***2. The development would cause less than substantial harm to the grade II\* listed Burston Manor and the grade II listed outbuildings. The urbanisation of the application site would sever the last tangible link between the Manor groups and its historic landscape setting. This would cause harm to its significance. The creation of the houses along the southern boundary of the Manor group, with the 3 storey blocks visible beyond together with the amount and scale of built form,***

*would result in the complete reduction in Burston Manor's visual prominence in the surrounding land from the south and east. This would result in the complete loss of the perception that the Grade II\* listed Manor house is a historic and important house, set in a wider agricultural setting. The formality of the proposed landscaping would completely erode the designed juxtaposition between the gardens around the Manor Group and the farmland around the site. The development would result in the severing of the last tangible link between the assets and their original setting. The historic relationship between the Burston Manor grouping and How Wood and Birchwood would be all but lost. The proposed screening in itself would be a harmful addition as this further blocks the long range views from and to the Manor group, in particular those between the Manor group and How Wood and Birch Wood. The proposed screening would fully visually contain the designated heritage assets and substantially reduce the appreciable link between the Manor group and the land which it is associated with. Overall the proposals would result in less than substantial harm to the significance of the grade II\* and grade II listed buildings forming the Burston Manor group which is not outweighed by public benefits, including the provision of additional dwellings. In accordance with the Framework and the statutory obligation imposed, great weight is given to this harm. As a result, the development would conflict with Local Plan Policy 86 and the NPPF 2019 [subsequently superseded by NPPF 2021].*

*3. In the absence of a legal agreement to secure contributions towards; Community facilities, Travel Plan, bridleway improvements, footpath improvements, NHS Services, Highway projects, affordable housing, occupancy limitation, first marketing limitation the development fails to adequately mitigate its effect upon local services and infrastructure and secure the identified 'very special circumstances'. As such the development fails to comply with Policies 1 and I43B of the Local Plan and the NPPF 2019 [subsequently superseded by NPPF 2021]."*

- **Planning Obligations**

- 6.66. It is anticipated that a draft Section 106 agreement under the Town and Country Planning Act 1990 (as amended) will be agreed between the appellant and the LPA and Hertfordshire County Council during the course of this Inquiry. This will adequately mitigate the Appeal proposals effect upon local services and infrastructure specifically through secured contributions to towards Community Facilities, Travel Plan, bridleway improvements, footpath improvements, NHS Services and Highway projects.



6.67. A first draft Section 106 agreement under the Town and Country Planning Act 1990 (as amended) has been prepared by the Appellant and has been sent to both the LPA and Hertfordshire County Council for their review and agreement. The Agreement will commit the developer and subsequent operator of the retirement community to the following:

- A Clinical Commissioning Group contribution
- Highways contribution
- Library contribution
- Bridleway improvements
- Travel plan
- Communal facilities provision
- A commitment to the provision of an elderly care package

6.68. The Appellant on taking further legal advice no longer proposes to make provision for affordable housing or agree to occupancy and first marketing restrictions. It is anticipated that the Council will not challenge this. In essence, the view is that a requirement for a contribution towards affordable housing is not necessary to make the development acceptable in planning terms since the Development Plan does not require Use Class C2 developments to make such a contribution.

## 7. Material Considerations

7.1. This section of the Appeal Statement outlines the key issues in respect of the determination of this planning appeal having regard to national planning policy, the development plan and other material considerations.

7.2. In this section I accept that the appeal proposals represent inappropriate development and that there is other harm to the Green Belt and less than substantial harm to designated heritage assets, albeit very limited in extent. I then proceed to consider whether or not there are very special circumstances / public benefits that outweigh the harm to the Green Belt by reason of inappropriateness and any other harm such that the appeal proposals are acceptable in planning policy terms.

- **The Material Planning Issues**

7.3. From the reasons for refusal recited in Section 6 of my evidence I consider the key issue is whether there are very special circumstances to justify the grant of planning permission, i.e. whether the harm caused by the scheme's inappropriateness, and any other harm the scheme would cause (including the less than substantial heritage harm it would cause) would be clearly outweighed by the scheme's public benefits.

7.4. In my assessment of harm to the Green Belt, I have also considered harm to designated heritage assets within the category of other harm.

7.5. I now address these material planning considerations under the following headings.

***The need for an up-to-date Development Plan***

7.6. The NPPF 2021 (**CD3.1**) includes numerous policies that are directly relevant to the determination of these appeals, including in respect of the weight to be attached to policies in both existing and emerging development plans (and the correlating weight to be given to any conflict with them), which I discussed in the previous section, the need for development plans to be kept up to date, the need to meet housing need of different types, heritage, Green Belt and the planning balance.

7.7. National policy in the NPPF and PPG is very clear on the need to keep local plans up-to-date. Para. 33 states:

***“Policies in local plans and spatial development strategies should be reviewed to assess whether they need updating at least once every five years, and should***

**then be updated as necessary. Reviews should be completed no later than five years from the adoption date of a plan, and should take into account changes in national policy. Relevant strategic policies will need updating at least once every five years if their applicable local housing need figure has changed significantly; and they will require earlier review if local housing need is expected to change significantly in the near future” (my underlining).**

7.8. This point is amplified in the PPG (Reference ID: 61-062-20190315) which states:

**“To be effective plans need to be kept up-to-date. The National Planning Policy Framework states policies in local plans and spatial development strategies, should be reviewed to assess whether they need updating at least once every 5 years, and should then be updated as necessary.**

**Under regulation 10A of The Town and Country Planning (Local Planning England) Regulations 2012 (as amended) local planning authorities must review local plans, and Statement of Community Involvement at least once every 5 years from their adoption date to ensure that policies remain relevant and effectively address the need of the local community. Most plans are likely to require updating in whole or in part at least every 5 years. Reviews should be proportionate to the issues in hand. Plans may be found sound conditional upon a plan update in whole or in part within 5 years of the date of adoption. Where a review was undertaken prior to publication of the Framework (27 July 2018) but within the last 5 years, then that plan will constitute the up-to-date plan policies unless there have been significant changes as outlined below.**

**There will be occasions where there are significant changes in circumstances which may mean it is necessary to review the relevant strategic policies earlier than the statutory minimum of 5 years, for example where new cross-boundary matters arise. Local housing need will be considered to have changed significantly where a plan has been adopted prior to the standard method being implemented, on the basis of a number that is significantly below the number generated using the standard method, or has been subject to a cap where the plan has been adopted using the standard method. This is to ensure that all housing need is planned for as quickly as reasonably possible.” (my underlining)**

7.9. The Minister of State for Housing, Christopher Pincher, recently issued a Ministerial Statement (19th January 2021) (CD3.6) in response to a number of LPAs having evidently slowed or stopped altogether their plan-making work as a consequence of the Government’s publication of the planning white paper ‘Planning for the Future’ which outlines a potential overhaul of the development plan system. In this he states:

***“The country needs more, better and greener homes in the right places.***

***This Government’s ambition is to deliver 300,000 homes per year by the mid 2020s and one million homes over this Parliament. Increasing the number of up-to-date Local Plans across England is central to achieving that goal. Local Plans not only unlock land for development and ensure that the right number of homes are being built in the right places, they also provide local communities with an opportunity to have their say on how their local areas will change over the coming years, and how the local environment can be protected and enhanced.***

***91% of local planning authorities have now adopted a Local Plan, but we know that many of them are not being kept up to date. In March 2020, the Government set a clear deadline of December 2023 for all authorities to have up-to-date Local Plans in place.***

***It is critical that work should continue to advance Local Plans through to adoption by the end of 2023 to help ensure that the economy can rebound strongly from the COVID-19 pandemic. Completing Local Plans will help to ensure that we can build back better and continue to deliver the homes that are needed across England.....” (my underlining)***

*The status of the Development Plan*

- 7.10. The St Albans Local Plan was adopted in 1994 (**CD3.10**), some 27 years ago, making it the oldest local plan in England adopted since the Town and Country Planning Act 1990 (The City of York Local Plan 1954 predates the 1990 Act). It predates even the first iteration of the NPPF, by some 18 years in fact.
- 7.11. Para. 4 states:

***“Most of the District Plan policies do not have a particular timescale, but some policies relate to 1981 – 96, as this is the period covered by the 1986 Structure Plan. However, as a result of the Local Plan Inspector’s recommendations and the Council’s modifications, the District Plan has now to a large extent taken account of the Structure Plan Alterations, Indeed, the County Council has confirmed that the District Plan is in general conformity with the Structure Plan Alterations apart from the different time horizon. Nevertheless, the District Council recognises that there is a need to prepare Alterations or a full Review of the District, looking to 2001 or beyond as a matter of urgency (See Policy Intention 35 in Chapter 21).” (underlining represents emphasis added)***

- 7.12. Paras 1.16 to 1.18 set out further context to the Plan’s preparation:

***“1.16 The County Structure Plan Review was prepared in the context of the 1986 version of the Secretary of State’s Regional Guidance which proposed 28,500 dwellings in Hertfordshire (1991 – 2001). By the time the Structure Plan was approved in 1988, it appeared that the dwelling figure would have to be increased to reflect new estimates of future household numbers. In approving the Plan, the Secretary of State decided that any new housing requirement should be considered by the County Council in the next review of the Structure Plan.***

***1.17 In the light of the increased estimates of household growth, the Secretary of State issued revised regional guidance which proposed 34,500 dwellings in Hertfordshire over the 1991-2001 period (see paragraphs 1.8 and 1.9). The Structure Plan Alterations 1991, covering the period to 2001, takes account of the revised Regional Guidance housing figure for Hertfordshire. The Secretary of State for the Environment approved the Alterations in June 1992.***

***1.18 Preparatory work on the District Plan Review was well advanced before the Structure Plan Alterations were finalised. Consequently the District Plan Review was prepared against the background of the County Structure Plan 1986 Review, rather than the Alterations 1991. The District Council recognises that there is a need to alter or review the District Plan as a matter of urgency (see Preface paragraph 4 and Policy Intention 35).”*** (underlining represents emphasis added)

7.13. Limb iii) of Policy 35 states that the Council will:

***“(iii) prepare, as a matter of urgency, alterations or a full review of the Plan, taking account of the County Structure Plan Approved Alterations 1991 and looking to 2001 or beyond”.***

7.14. That urgent need to review the 1994 Plan has not translated into a successful outcome.

7.15. In the 27 years since there have been two unsuccessful attempts to replace the adopted Plan, with both having failed to meet the Duty to Cooperate, resulting in their subsequent withdrawal.

7.16. In respect of housing requirement, para. 1.20 notes that the main differences between the Structure Plan 1986 Review and the Alterations 1991 is a dwelling increase of 57,000 across Hertfordshire for the 1986-2001 period, of which 7,200 were to be provided in St Albans.

7.17. Para. 1.22 confirms that the plan seeks to make housing provision for a 1981-96 dwelling increase of 6,400 and a 1986-2001 dwelling increase of 7,200. Policy 3, which is not saved, incorporated that requirement in a policy.

- 7.18. This tells us that the housing requirement the Plan was prepared to deliver time expired some 20 years ago. Therefore, for 2 decades there has been no strategy in place for meeting housing need in the District, a point I discuss further in the following section of this proof.
- 7.19. I submit the policies in the Plan that are “most important” for determining the appeal are deemed out-of-date as a consequence of footnote 7 of the NPPF. The Council cannot demonstrate a five-year supply of deliverable housing sites (with the appropriate buffer) even by their own figures. The Appellant suspects the position to be far worse (**CD6.1**) but has chosen not to go into detail given that the Council’s stated position of 2.4 years is so very bleak. Furthermore, the Housing Delivery Test results 2021 (**CD3.7**) confirm that the delivery of housing has been substantially less than the housing requirement over the previous three years, which continues a worrying trend of under delivery of both market and affordable housing in this part of Hertfordshire. I discuss this in greater detail in the following sections of this proof.
- 7.20. A judgement needs to be made as to the weight to be given to the relevant policies, including those that are most important for the determination of this appeal (and any conflict with them), in accordance with para. 219 of the NPPF.
- 7.21. Since the first iteration of the NPPF was published in 2012, The Council has had two failed attempts at bringing forward an up-to-date development plan, those being, the Strategic
- 7.22. Local Plan 2011-2031 and the Local Plan 2020-2036. Both draft Local Plans were withdrawn following the examining Inspectors’ conclusions the Council had failed to meet the ‘Duty to Cooperate’ in preparing them, with significant soundness concerns also raised.
- 7.23. The persistent failure of St Albans to put in place an up-to-date Local Plan led to it being included in a list of 15 Councils identified by then Secretary of State for the Ministry of Housing Communities and Local Government, The Rt Hon Sajid Javid MP, threatened with intervention in plan-making (See letters dated 16 November 2017 and 23 March 2018 at **CD3.8** and **CD3.9**). I noted that the Council’s most recent Local Plan failure post-dates this correspondence.

#### Conclusions on plan-making

- 7.24. I submit that appropriate plan-making is non-existent in St Albans and unable to meet the challenge of delivering sufficient homes to meet the desperate need, with the direct consequence a dire housing supply.
- 7.25. I say this because:

- The need for additional housing generally in St Albans is profound
- The local need for older peoples' accommodation in this area is also profound
- Meeting those needs inevitably require the release of Green Belt land
- There is no short-medium term prospect of those needs being met in a plan-led way
- Meeting those needs will require the approval of schemes in the Green Belt through the development management process
- There is no evidence that any other site is likely to come forward to meet these needs
- Commercial realities are such that land will come forward for general market housing and not specialist accommodation
- If this scheme is not permitted, then there is no evidence of any realistic prospect of needs being met elsewhere in St Albans district area
- Meeting need for older people accommodation on this Site is supported locally
- Meeting the needs of local people will then result in the freeing up of local housing stock.

*Compliance with and weight to be given to Development Plan policies*

7.26. My Section 4 sets out at para. 6.3 the policies in the Plan that are considered relevant to this appeal. The most pertinent of which being the 5 policies listed within the 3 RfR; namely:

*Policy 1 - Metropolitan Green Belt (RfR1)*

7.27. In applying the tilted balance as set out in para. 11 d) of the NPPF for the reasons I set out in my Section 4, I give this policy reduced weight. I also note the policy is not entirely consistent with that in Section 13 of the NPPF on Green Belt, including the list of exceptions to the general presumption against development, reflecting the date in which the policy was written. That said I accept the general thrust is in keeping, referring to very special circumstances being required for development other than that listed at a) – e). The policy also requires new development within the Green Belt to integrate with landscaping and provide new landscaping, whilst also avoiding significant harm to the ecological value of the countryside.

7.28. Later in this Section I undertake the very special circumstances balance and set out my position that this supports the granting of planning permission for the development. If the Inspector agrees with this position on very special circumstances, then I am of the view there is no conflict with Policy 1 of the Local Plan.

*Policy 69 - General Design and Layout (RfR1)*

7.29. In applying the tilted balance as set out in para. 11 d) of the NPPF for the reasons I set out in my Section 4, I give this policy significantly reduced weight. Notwithstanding, this is a generic design policy, requiring all development to have an 'adequately high standard of design' taking account of factors of i) context and ii) materials, along with iii) other policies within the plan.

That in itself is not inconsistent with the aims of the NPPF in respect of the design and I agree it can be given full weight as a result.

- 7.30. I rely on Mr Smith's evidence taking into consideration the plans and documents forming the planning application (**CD2.1 to CD2.53**) to conclude that the development would not be out of character with the context of the site.
- 7.31. For the above reasons, I am of the view that the development is capable of complying with the requirements of this policy and does not conflict with it.

*Policy 70 - Design and Layout of New Housing (RfR1)*

- 7.32. In applying the tilted balance as set out in para. 11 d) of the NPPF for the reasons I set out in my Section 4, I give this policy significantly reduced weight. This is a policy, requiring all development to have regard to its setting and the character of its surroundings taking account of factors of i) design and layout, ii) dwelling mix, iii) roads and footpaths, iv) parking and garaging, v) landscape, vi) privacy between dwellings, vii) privacy between dwelling and rear boundary, viii) orientation, ix) amenity space around dwellings, x) defensible space, xi) open space and xii) materials.
- 7.33. It is somewhat surprising that the Council have sought to rely on this Policy in RfR1. The Council has not sought to raise any objection to any of the elements in the 12-criterion referenced above. In conclusion I submit that there is in any event no conflict with Policy 70 given the detailed plans (**CD2.2 to 2.23** and Design and Access Statement (**CD2.36**) prepared by PRP and the Transport Assessment prepared by PEP (**CD2.46**) which demonstrate:
- That the massing and siting of the buildings create safe, attractive spaces of human scale
  - That the assisted living units and bungalows cater for the specific needs of the elderly
  - That the roads and footpaths have been designed in a manner that minimises pedestrian/ vehicular conflict
  - That the Highways Authority has raised no objection to the proposed levels of parking
  - That landscape design is acceptable specifically noting the Council has not sought to raise objection to the landscape proposals given Policy 74 Landscaping and Tree Preservation does not form any part of the reasons for refusal
  - A high level of privacy between dwellings is achieved
  - A high level of privacy between the homes with no overlooking to existing dwellings
  - That the bungalows and assisted living units are orientated to ensure that sunlight and daylight requirements set out in the current BRE guidance are exceeded
  - That there is a good level of amenity space around the homes
  - A good level of defensible space to provide a high degree of security and privacy for prospective future residents



- That given the nature of the proposals there is no policy requirement to provide children's play space notwithstanding the proposals provide high quality open space in any event
- That the materials proposed will be durable and compatible with the location

*Policy 86 - Buildings of Special Architectural or Historic Interest (RfR2)*

7.34. In applying the tilted balance as set out in para. 11 d) of the NPPF for the reasons I set out in my Section 4, I give this policy reduced weight. Policy 86 sets out a number of criteria that apply to an application for listed building consent and for applications for planning permission for development which affects a listed building or its setting. Criteria (i) specifies that:

***“... the Council will have special regard to the desirability of preserving the building or its setting or any features of architectural or historic interest which it possesses”.***

7.35. This wording essentially replicates the thrust of the duty in S66(1) of the Planning (Listed Buildings and Conservations Area) Act 1990. What it does not do is guide the decision-maker on what to do in a particular circumstance, e.g. where there is a set level of harm, it simply requires that special regard is given to the desirability of preserving listed buildings at their settings. With due regard to Mr Murphy's evidence the appeal achieves this.

7.36. I conclude that criteria (ii) is not relevant, as it relates to demolition of listed buildings, which is not applicable here.

7.37. Reference is made in criteria (iii) to the guidance in Appendix iv of the Department of the Environment Circular 8/87 (or successive Government advice).

7.38. Section 16 of the Framework goes further than Policy 86 by providing the decision-maker with a clear direction in both the scenarios where development would lead to substantial harm (para 201), which is not the case here and where development would lead to less than substantial harm (para. 202), which is the case here. Whilst Policy 86 does not take the same approach, its requirement to have special regard to the desirability of preserving listed buildings and their settings, does not conflict with the NPPF's more prescriptive guidance, and I therefore take the view it can still be given some, albeit reduced weight due to the conflict with para. 11 d) of the NPPF.

7.39. The Proof of Evidence of Kevin Murphy addresses heritage matters and specifically the potential harm to the significance of Burston Manor and associated outbuildings that lie immediately adjacent, and backs onto, the northern boundary of the appeal site, through change to its wider setting that would lead to damage or a loss of significance.

7.40. Mr Murphy concludes that, having assessed the appeal proposals against the relevant policy, guidance and legislation, there would be a very small loss of significance from the listed

building. He assesses that this would constitute the very lowest end of the broad spectrum of 'less than substantial harm'.

7.41. In such circumstances, para. 202 of the NPPF states that:

***“Where a development proposal will 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.”***

7.42. RfR2 suggests that the development would cause 'less than substantial' harm to the significance of Burston Manor and its curtilage adjoining the site and that the public benefits of the proposal would not outweigh this harm. With reference to the evidence of Mr Murphy I disagree.

7.43. As noted above, given all that Policy 86 requires, is that special regard be given to the desirability of preserving the setting of listed buildings, I see no conflict from the appeal proposal, which does that through the inclusion of the Heritage Assessment fully referencing the evidence of Mr Murphy.

*Policy 143b – Implementation (RfR3)*

7.44. In applying the tilted balance as set out in para. 11 d) of the NPPF for the reasons I set out in my Section 4, I give this policy reduced weight. Notwithstanding, the Statement of Common Ground notes that a Section 106 Legal Undertaking is to be agreed between the parties to provide the required obligations. This will address the requirements of this policy and RfR3 and it is anticipated that the Council will no longer be inviting the Inspector to refuse permission on this ground.

*Conclusion on the relevant policies*

7.45. I have evidenced that the appeal proposals comply with all of the relevant policies and the Plan, read as a whole, subject to the very special circumstances balance required by para. 148 of the NPPF and referred to in Policy 1. I undertake that exercise later in this Section.

***Whether the proposals amount to inappropriate development in the Green Belt and what impact it would have on the Green Belt openness and purposes, character and appearance and heritage assets.***

7.46. Section 4 and the preceding paragraphs of this Section of my evidence identifies the appropriate planning policy context in which the proposals need to be judged as to whether they amount to inappropriate development in the Green Belt and what impact they have on the Green Belt and heritage assets.

### Inappropriate development

- 7.47. For the reasons I set out in my Section 4 I accept that the proposal as a matter of “definition” would be harmful, to which substantial weight must be forwarded. I also accept that for the proposal to be acceptable this harm as well as any harm to both the openness and purposes of the Green Belt and other identified harm including to heritage assets and character and appearance has to be outweighed by “very special circumstances” to satisfy the para. 148 test.
- 7.48. I start with the “harms”.

### Harm to heritage assets

- 7.49. As I set out in my Section 4 para. 199 of the NPPF says that great weight should be given to a heritage assets conservation. As I have previously set out in my earlier sections that is not the same as saying that great weight should be given to harm in the planning balance. Where the para. 202 NPPF balance results in a conclusion that benefits outweigh harm (whilst giving great weight to the assets conservation) then the statutory objectives for conservation are fulfilled.
- 7.50. Put simply if the Inspector agrees with the Appellant that the very substantive benefits put before the Inquiry outweigh any harm to the Green Belt and other harm including the less than substantial harm to the heritage asset then the tilted balance within the context of para. 11 d) applies.
- 7.51. This means that in the para. 148 balancing exercise, whilst harm to the significance of heritage assets needs to be taken into account, the weight to be ascribed should have regard to the acceptability of the impact on heritage assets in national planning policy terms.
- 7.52. I rely on the evidence of Kevin Murphy who has assessed the harm to the grade II\* listed Burston Manor House and the grade II listed former Granary and Dovecote. In his assessment he concludes that the level of harm is at the ‘lowest end of the scale’ of the less than substantial harm category (the lowest category of harm in itself). Accordingly, I accept that the proposals will result in less than substantial harm to heritage assets at the lowest end of the scale and I attach considerable importance and weight to this very low level of identified harm.

### Harm to Green Belt

#### *Harm to the Green Belt: openness*

- 7.53. I acknowledge that the scheme would harm the openness of the Green Belt. However, my position, accepting the evidence of Mr Smith, is that the harm would be limited for the reasons I set out more fully in Section 2 of my evidence also noting for the reasons set out in my Section 5 that the site is less open both spatially and visually to those sites at Roundhouse Farm and Harpenden Road where development on these undeveloped greenfield Green Belt sites has

been accepted. These 2 sites contrast starkly from the fully enclosed nature of the Appeal site, with the presence of substantial existing built form.

- 7.54. I also accept Mr Smith's evidence that the level of harm has also been positively reduced from that of the previous appeal scheme. This is because of the significant reduction in built form and the considerable remodelling of the proposals and enhanced landscape treatment as summarised in my Section 6.
- 7.55. I conclude that the revised proposals have directly responded to the previous appeal Inspector's conclusions on openness, as set out in paras. 22 to 30 of her decision notice (**CD2.56**) for the reasons I set out in my Section 6. In summary the reduction in built form, with the introduction of more informal elements of the arrangement of buildings, hardstanding and landscape as leads me to conclude that there has been a significant reduction in mass and formality of development when compared to the previous proposals.
- 7.56. I conclude on Green Belt openness by saying that the proposals have been framed to significantly reduce what the Inspector previously described as proposals that would result in:

***"... spatial and visual harm to openness would therefore constitute significant harm to the Green Belt in addition to inappropriateness."*** (para. 30).

*Harm to the Green Belt: Purposes*

- 7.57. As set out in my Section 4, para. 138 of the NPPF explains that the Green Belt serves five purposes. The question here is whether the application scheme would harm any of these purposes.
- 7.58. With reference to paras. 31 to 38 of the previous Inspector's appeal decision, as set out in my Section 6, she concluded that the appeal proposals would harm three of the five purposes of the Green Belt is a viz a) sprawl, b) merging of towns and c) encroachment.
- 7.59. From my perspective softening the built form and further enhancing the landscape treatment along the eastern boundary of the site, as referenced in my Section 6, facilitates a much more sensitive edge with How Wood and sympathetic relationship with the rear properties along Walnut Close and Spruce Way. In my opinion this will be to the extent that there will be no material visibility to these properties from the appeal site even during the winter months.
- 7.60. Further analysis by Andrew Smith and my sections 5 and 6 demonstrate that the site is an urban edge / edge of settlement location, contained on all sides by built form and surrounded by major road and rail infrastructure. These factors, coupled with the presence of built form on site, make this site significantly less sensitive than at Roundhouse Farm and Harpenden Road.

- 7.61. Whilst I accept that by definition, the proposals by introducing residential form, will to an extent have an “... **urbanising effect in this location...**”, as noted by the previous appeal Inspector (para. 35) it is a significantly reduced form to that previously proposed. Accordingly, given the proposed changes summarised in my Section 6 the revised proposals will generate a level of harm that is considerably towards the lower end of this harm than that associated with the previous appeal proposals.
- 7.62. Pausing there, I accept that substantial weight must be given to any harm caused to the Green Belt (para. 148, NPPF).

Harm to character and appearance

- 7.63. I agree with Mr Andrew Smith’s evidence that the revised scheme would have only very localised landscape and visual impacts, with the only public view from the little used PROW adjacent to the eastern boundary of the site, resulting from the introduction of the new built form. As described in Section 6, I conclude that the scheme is very well designed. The Council and the previous appeal Inspector recognised this in regard to the previous proposals, with attractive buildings set in sensitively landscaped grounds. The position is only improved upon given the changes in the scheme now proposed. With reference to Mr Smith’s evidence the proposals will sit sympathetically in its edge of settlement environment where visual effects will be very small to negligible, and within the context of the grade II\* listed Burston Manor and grade II listed outbuildings. This will be a very attractive place to live – with its high-quality landscaping and well-designed buildings and spaces.
- 7.64. Having given appropriate weight to the limited extent of defined harm arising from the inappropriate development in the Green Belt and the ‘lowest end of the spectrum’ of the less than substantial harm to designated heritage assets I now consider the other considerations and public benefits that arise from the development.

***Whether the harm by reason of inappropriateness, and any other harm including to heritage assets, would be clearly outweighed by other considerations. If so, would this amount to the very special circumstances required to justify the proposal?***

- 7.65. Section 6 and the preceding paragraphs of this Section of my evidence identify the appropriate planning policy context in which the proposals need to be judged as to whether any harm to the Green Belt would be clearly outweighed by other considerations.
- 7.66. The “very special circumstances” and public benefits specific to this scheme and this Site are outlined in detail below.
- 7.67. Given the age of the Local Plan I apply the Green Belt policy tests of the NPPF in assessing the scheme. The NPPF sets out a presumption against the grant of planning permission for “inappropriate development” in the Green Belt and that that inappropriate development will only

be permitted in the Green Belt in “very special circumstances” (para. 147). Very special circumstances will only arise if the harm that the development causes (i.e. harm to the Green Belt plus any other harm) is clearly outweighed by other material planning considerations (para. 148).

Local need for high quality care accommodation

- 7.68. As I have rehearsed earlier in this section St Albans has failed for many years to provide the housing its residents need: this is an area of sustained market failure. This is in large part because of the absence of an up-to-date local plan.
- 7.69. There are therefore no allocated sites – which is common ground. This means that the Council is entirely dependent on windfall sites; it also means that the Council has no policy basis for requiring C2 provision as part of any housing schemes that do come forward. In short, the stark reality is that the Council has literally no idea where its next C2 unit is coming from.
- 7.70. During the course of the previous appeal Inquiry there was considerable disagreement between the Appellant and the Council on the precise extent of need for older people’s accommodation in the area with the Applicant citing a much greater need than the Council identified. The Inspector concluded in her decision that it was not necessary to reach a precise conclusion on the need and supply of this type of housing. This is because, even using the Council’s more modest figures of 150 private extra care units, there is an immediate unmet and growing need which would not be met in the short term – noting in relation to Extra Care delivery the average has been under 27 units per annum from 2012-2018, meaning that (ignoring zero delivery in 2019) it would take nearly 6 years to make up even the LPA’s existing shortfall of 150 private extra care units. The Inspector agreed that windfall provision is also not likely to address this (para. 70).
- 7.71. In light of the current shortfall in C2 accommodation, the Inspector concluded that there can be no doubt that the development could make a very significant contribution towards meeting such local needs and based on the evidence supplied, this would be likely to be achieved within the next 5 years. Related to this point, the occupation of such housing by local people would be likely to free up existing housing stock, thereby assisting the wider market. She thus considered the benefits relating to general and C2 housing need to be very significant which weighs substantially in favour of the development (paras. 72 and 92).
- 7.72. Given the scale of the differences Mr Appleton’s evidence provides a definitive update of the need for specialist housing for older people. His evidence confirms that the need remains compelling.
- 7.73. As acknowledged by the previous appeal Inspector the appropriate forum for determining the precise position on quantifying need, and planning to meet these needs, is as part of the

development plan process (para. 70). However, in the absence of an emerging Plan, and there is no evidence to suggest that a credible new Plan will happen anytime soon, all the evidence points to a very substantial and growing need which is going to remain unmet for many years.

- 7.74. Aside from the quantitative needs assessment outlined above, it is also important to consider the proposal in respect of its quality-of-life input. The provision of a care community of this nature has significant social and welfare implications in providing greater independence for older people and reducing social isolation. The range of facilities and activities offered within the scheme will encourage social integration and dramatically improve the quality of life for residents with impaired mobility or confidence. In turn, the provision of on-site care and support services reduces the pressures on hospital and GP services in the locality (as considered in future detail below).

#### Viability of development

- 7.75. The wider viability issues related to providing specialist housing that meets the established needs of older people as demonstrated by Mr Appleton is considered by Richard Garside in his evidence. His evidence demonstrates why such developments very often fail to achieve the same value as a policy compliant general needs residential development and therefore such sites struggle to come forward for delivery of this product for which there is an identifiable need as evidenced by others. This is particularly the case where the Council relies on extra care operators competing on traditional housing sites within Use Class C3 to deliver such schemes.
- 7.76. Taking both Mr Appleton's and Mr Garside's evidence into account I submit that the delivery of new C2 units should continue to be given very significant weight as part of an overall assessment of very special circumstances / public benefits – and arguably within a higher spectrum of very significant weight than when the Inspector was determining the previous appeal at the start of last year.

#### General housing need

- 7.77. The Council's stated 5-year housing supply position is 2.4 years (2020 AMR) (**CD3.21**). Whilst I am not formally challenging this position, this is likely to be a significant underestimate (**CD6.1**). The Council accepted at the time of the appeal, and continue to accept, that it will not be able to demonstrate a 5-year housing land supply until it has an adopted new Local Plan in place, i.e. until some unknown point in the future. The Inspector duly gave substantial weight to the previous appeal proposals ability to deliver a scheme that would contribute to meeting the Council's general housing needs (para. 68) (**CD2.56**).
- 7.78. Results from the 2020 Housing Delivery Test for St Alban's (published in January 2021) (**CD3.7**) indicated a HDT measurement of 63%. This result was calculated for the period 2017-18 to

2019-20, with 1,1397 net homes delivered against the HDT housing requirement of 2,219 dwellings.

7.79. It follows that unless the Council suddenly finds some new sites that it is not currently aware of then the 5-year supply will fall yet further as sites that are currently in the 5-year supply are built out. In other words, the Council is running out of land. The appeal scheme's contribution of 124 homes to the LPA's 5-year supply of housing is a very significant material benefit which should be given substantial weight and arguably within a higher spectrum of substantial weight than when the Inspector was determining the appeal at the start of 2020 – given firstly the further reduction in supply and secondly the increased weight to the matter following the introduction of the Housing Delivery Test.

Lack of alternative sites

7.80. In considering the previous appeal proposals the Inspector took into account evidence from the Appellant that there are no alternative sites which could accommodate the appeal proposals, which was challenged by the Council on two points relating to availability and disaggregation.

7.81. In terms of the latter, the previous Inspector accepted (**CD2.56**) the Appellant's evidence on the evolving nature of housing for older people and the care village concept, with its associated demonstrable benefits and that a size of site criteria of between 1 ha and 4 ha (the application site being around 3.8 ha) was appropriate, i.e. down to 25% of the size necessary to deliver the appeal site. Within this regard, the Inspector considered the methodology of approach to be robust for the purposes of assessing alternatives, including disaggregation (paras. 73 to 75).

7.82. However, the previous Inspector did share the Council's concerns regarding the application of the criteria of sites which were assessed on the basis of their availability, suitability and achievability when applied to 3 sites; namely:

- Pioneer Youth Club, Harpenden Road, St Albans, AL3 5AY
- Ariston playing field, Sandridge Road, St Albans, AL3 5HX
- Ridgeview, Barnet Road, London Colney, AL2 1BP

7.83. She was critical that none of the 3 sites were identified as being available as they were not being actively marketed and, in her view, this was a fundamental flaw of what was otherwise a robust exercise.

7.84. Accordingly, the weight she attached to the lack of alternative sites was moderated on this basis (paras. 76 and 93).

7.85. Forming part of this application the Sequential Assessment of Alternative Sites report has been updated by Carterwood (**CD2.38**), to reflect the current position, but also to specifically respond



to these concerns from the appeal Inspector on the robustness of evidence concerning the Pioneer Youth Club, Ariston playing field, and Ridgeview sites.

- 7.86. In order to robustly check the availability of these 3 sites, Carterwood corresponded directly with the pertinent land owners, the details of which are contained within the Alternative Assessment of Sites report. The respective landowning parties have responded as follows:
- Hertfordshire County Council have confirmed that the Pioneer Youth Club site is not available, as it is the subject of an option to buy in favour of the County Council's joint venture vehicle, Chalkdene Developments LLP, who are currently working up proposals for general needs housing and it is unlikely that this will become available in the open market.
  - Hertfordshire County Council have confirmed that the Ariston playing field site is not available as it is held by the Council in anticipation of a school being located there and there is no early prospect of it becoming available in the open market.
  - Sainsbury's have confirmed that Ridgeview is not available from their point of view, as it is held on a long lease from them by St Albans City and District Council. The Council have stated that they do not have any sites available and have announced that it is to bring the building back into use itself as temporary accommodation and private flats. Ridgeview is therefore also not available.
- 7.87. Aside from the quantitative needs' assessment outlined above, it is also important to consider the proposal in respect of its quality of life input. The provision of a care community of this nature has significant social and welfare implications in providing greater independence for older people and reducing social isolation. The range of facilities and activities offered within the scheme will encourage social integration and dramatically improve the quality of life for residents with impaired mobility or confidence. In turn, the provision of on-site care and support services reduces the pressures on hospital and GP services in the locality (as considered in future detail below).
- 7.88. In conclusion the updated report in my view demonstrates beyond any doubt that there are still no alternative sites available, including the 3 sites the subject of the Inspector's concerns. Accordingly, I submit that **very substantial weight** should be attached to the fact that there are no suitable sequentially preferable alternative sites to accommodate the proposals.
- 7.89. Thus, the Appeal Scheme represents the only scheme to contribute to meeting C2 extra care and assisted living needs which is likely to come forward in the short to medium term in this area. Development for C2 extra care and assisted living on other sites is highly unlikely to come forward as a result of the commercial realities explained by Mr Garside – general market housing will always outbid a C2 extra care and assisted living specialist housing provider. There are no other sites which are suitable, available or viable to meet needs.

7.90. If planning permission is refused, then the substantial need for C2 extra care and assisted living provision identified will not be met. It is the recognition of that substantial need which has caused local people to support the proposed development notwithstanding that it is proposed within the Green Belt. These are matters which must be given **very substantial weight** in the planning balance.

#### **Health and wellbeing benefits**

7.91. I submit there is clear evidence that investment in the type of specialist care accommodation for the elderly of the type proposed in this appeal provides substantive benefits to the health and well-being of older people. Carterwood refer in the Needs Assessment – Qualitative Assessment section of their submitted Planning Needs Assessment (**CD37**) to the tangible benefits for:

- The NHS and the wider community
- To prospective future residents themselves

7.92. Further evidence of the health and well-being benefits of new retirement communities is set out in the following published research documents:

- The Affordability of Retirement Housing, All Party Parliamentary Group on Housing and Care for Older People report, 2014 (**CD6.2**);
- Collaborative Research between Aston Research Centre for Healthy Ageing (ARCHA) and the ExtraCare Charitable Trust, April 2015 (**CD6.3**);
- Evaluating Extra Care – Valuing what Really Matters. The Case for Taking Relationships Seriously (Case Study 129), Lacey & Moody, Housing LIN December 2016 (**CD6.4**);
- Establishing the Extra in Extra Care, Dylan Kneale, International Longevity Centre UK (ILC UK), 2011 (**CD6.5**); and
- Village Life – Independence, Loneliness and Quality of Life in Retirement Villages with Extra Care, August 2015 (**CD6.6**).

7.93. The previous appeal Inspector (**CD2.56**), with reference to the PPG (ID: 63-001-20190626), particularly referenced the care village concept (para. 80), with the provision of its own dedicated services and facilities, the care package, including offers for different care needs, would benefit older people residing at the site. Such benefits she concluded attract **substantial weight** into the balance.

7.94. The research serves to demonstrate significant benefits to health and well-being for the following reasons.

7.95. Firstly, significant cost savings to the national social care budget noting conclusions of the Lacey & Moody report (referring to a Housing LIN Case Study) (**CD6.4**). Set out on pages 1 and 2 are 6 key cost and well-being benefits associated with the provision of extra care housing.

The findings are based on evaluating the benefits associated with a new extra care development known as Strand Court in North East Lincolnshire (July 1015).

7.96. The key benefits found were:

***“1. Care package costs to the Local Authority for residents were reduced significantly 1. following taking up residence, although they increased slightly in the following 7-9 months, but were still 16% below pre-admission levels for people with complex needs and 18% below for people with non-complex needs. This compares with increases of 23% and 14% respectively amongst the control group.***

***2. Ten of the new residents had previously been in a care home, and whilst 3 returned there 2. over the first 7-9 months there were no ‘new’ admissions to a care home from the other 46 new residents – amongst the control group 63 were at home at the start of the evaluation period and 6 were admitted to a care home over the same period.***

***3. An estimate of savings to the Local Authority of home care or care home services compared ..... are £260k pa, which is an average of c£4,600 per person.***

***4. The death rate amongst residents has been lower than in the control group, despite similar age profiles and initial levels of need.***

***5. The number of episodes reflecting mental health needs has been significantly lower for 5. people in Strand Court when compared with the control group, and the number of new dementia diagnoses has been higher.***

***6. The number of contacts to the local ‘single point of access’ amongst those with complex needs ..... has reduced very significantly, by c60%, compared with the year prior to admission.***

***These findings continue to demonstrate a strong case for ‘housing with care’ solutions as part of a local economy. Work is ongoing to provide a broader perspective, including the potential to work with a linked dataset to obtain a clearer picture of the impact on health resources. Initial indications from this work do not currently suggest a reduction in hospital admissions on a before and after basis, or in comparison with the control group, although this is being kept under review.”***

7.97. If the cost savings associated with 3 above were applied to the Appeal proposal i.e. an annual saving of £4,600 per person, the development of 124 units assuming a population of around 1.25 people per unit would generate £713,000 of savings per year on this basis.

- 7.98. The positive impact of extra care on health and well-being benefits is further explored in the Establishing the Extra in Extra Care report (**CD6.5**) in which the ILC UK provided some empirical evidence setting out key benefits
- 7.99. Key findings are summarised in the Executive Summary of the report as follows:

***“1. Extra care housing is a home for life***

***About 8 per cent of residents in extra care housing in this study enter institutional accommodation from extra care housing after five years of residence. Compared to those living in the community in receipt of domiciliary care, those in extra care housing are less likely to enter institutional accommodation. Among a matched population aged 80+ we would expect about 19 per cent of those living in the community in receipt of domiciliary care to enter institutional accommodation, compared to just 10 per cent of those in extra care housing. This highlights the efficacy of extra care in supporting people with a diverse range of support needs. Furthermore, this can represent substantial savings in social care budgets.***

***2. Extra care is a healthy home for life***

***About a quarter of residents who enter extra care housing with additional social care needs, or who develop additional social care needs within extra care housing, later go on to experience an improvement; for example, moving from a high intensity social care package to a low intensity social care package. In addition, many more experience stability in care needs and do not exhibit the diminution in abilities that usually necessitates higher levels of social care.***

***3. Extra care housing is associated with a lower uptake of inpatient hospital beds***

***Residence in extra care housing is associated with a lower likelihood of admittance to hospital for an overnight stay compared to a matched sample living in the community. However, among those admitted, extra care housing residents were likely to stay longer. This finding seems to demonstrate an overall tendency for extra care residents to be less reliant on hospital inpatient beds for minor procedures, and for extra care housing residents to utilise inpatient services only in times of crisis. Nevertheless, overall those in extra care housing had a lower incidence of overnight hospitalisation than a matched group living in the community. For example, we would expect an average person aged 80 and above in receipt of domiciliary care in the community to spend around 6 nights of the year in hospital, while a resident in extra care housing with similar demographic characteristics would spend around 5 nights. These findings***

*suggest a substantial fiscal benefit to residence in extra care housing in terms of hospital expenditure and also in terms of residents' quality of life. In addition, we also present the argument that our estimates may overstate the case of longer stays in hospital for extra care housing, and we therefore would simply emphasise that those in extra care housing have a lower probability of entering hospital than a matched sample in the community.*

#### **4. Extra care housing translates into fewer falls**

*A lower than expected number of falls was recorded in a small sample of extra care housing residents than in a matched comparison group living in the community. This can translate into substantial budgetary savings by lowering reliance on health services as it also potentially demonstrates that extra care residents exhibit a lower likelihood of moving to institutional care.*

#### **5. Extra care housing supports some of the oldest and frailest members of society**

*The average age of extra care residents is in the very late 70s and early 80s across all three providers included in this research (Audley Retirement, Extra Care Charitable Trust and Retirement Security Limited). Not only were extra care residents older, but other factors also suggested that extra care residents had higher support needs than would be expected among a population of similar age living in the community. The number of people living with dementia, the aftermath of a stroke or Parkinson's disease was higher in extra care residents than in the general population. Residents of one extra care housing provider included in this study were also more likely to be claiming Attendance Allowance, a benefit reflective of personal care needs, than those in the population.*

#### **6. The benefits of residence in extra care housing could translate into substantial cost savings, particularly in the long-term**

*Assessing the costs of different models of care is challenging. In this research we speculatively outline that there is likely to be a higher individual and societal cost to delaying movement into specialist retirement housing for some older people. This is due to the higher transition rates into institutional accommodation than those in community settings are likely encounter. Furthermore, we also highlight that there are fiscal benefits to be observed from the lower rate of hospitalisation, the lower rate of falls and decreases in social care packages received. These benefits are also likely to signal benefits to the quality of life of older people.*

**7. Expansion of the extra care housing sector, as part of the retirement housing sector more generally, could help to alleviate housing challenges facing people of all ages**

**Older people are now more likely than ever to be resident in housing that may not best fit their needs. Part of the reason for this may be due to the lack of adequate housing available, and the lack of information on the available options. Expanding the extra care housing sector, as part of an effort to grow and diversify the older people's housing market, could help alleviate the housing shortage facing young people and families through freeing up family sized housing." (pp. 4 and 5).**

7.100. Thirdly, the Village Life report (CDX):

**"identified that extra care housing residents were far less likely to enter institutional accommodation than a comparable sample of people in the community receiving home care services, so even if some residents must inevitably transition into another institutional setting at some point, extra care housing does appear to be a promising option for helping older people remain living independently in their own homes for longer under these schemes" (pp. 8)**

7.101. The Village Life report goes on to then also note that:

**"... Part of the innovation inherent to extra care housing is how it offers a compromise or third way between residential care and staying in one's previous home. This type of housing offers an alternative to traditional forms of institutional care settings, such as care homes, where concerns related to social care funding have also been increasing, and there is evidence that extra care housing is in fact more cost-effective than care homes, at least for some older people. At the same time, extra care housing serves as an alternative to remaining in one's previous home – 'staying put'– which can be detrimental for people as they age when the housing is ill-suited to their needs (e.g. impaired mobility and several stairs), care service provision can be disjointed and inadequate, or the residence contributes to social isolation." (pp. 8)**

7.102. In light of this analysis, and the conclusions of the previous appeal Inspector (paras. 81 and 90) I submit the proposals will deliver substantive health and well-being benefits. This is a matter that must be afforded **substantial weight** in favour of the proposals as part of the overall assessment of very special circumstances / public benefits.

Release of under-occupied family housing

7.103. I submit that a further significant benefit of the proposal is that it has the potential to free up other sectors of the housing market, by releasing much needed family housing accommodation.

7.104. Residents moving into assisted living accommodation often 'downsize' from larger dwellings and the proposal therefore helps to ensure a knock-on housing benefit. This in turn will help to reduce pressure on other sites in the area, including other possible greenfield sites.

7.105. The recognition that older people will look to downsize is consistent with guidance in the PPG which states that:

***“In decision-taking, evidence that development proposals for accessible manageable homes, especially for older people will free up under-occupied local housing for other population groups is likely to demonstrate a market need that supports the approval of such homes” (Paragraph 037 Reference ID: 3-3037-20150320).”***

7.106. The Later Life in the United Kingdom publication by Age Concern, Updated May 2019 (CD6.7) indicates that there are over 6.5 million households comprising over 65's in the country (ONS 2018j), a majority of which are deemed to be under-occupied. Providing these households with a realistic and desirable alternative housing option to 'downsize' in accordance with their needs would typically release larger family housing.

7.107. In their report Last Time Buyers, Legal and General (L&G), April 2019 (CD6.8), L&G found in conjunction with the Centre of Economics and Business Research found that:

***“Of all the households with homeowners aged 55 and over with at least two unoccupied rooms (5.7 million), over half would consider downsizing (3.1 million), and among all homeowners aged 55 and over, the proportion looking at downsizing has grown from under a third (32%) in 2014 to 39% today. But far fewer have actually done so – just 13% – suggesting that the impetus is there, but the housing stock is not.” (pp. 5).***

7.108. Alongside the benefits of 'down-sizing', the importance of providing the right type of housing for older people has wider social and welfare benefits in respect of providing greater independence and greater social interaction for the reasons I explained above.

7.109. In light of this analysis I consider that the proposals will free up general needs housing to serve future generations. This is a matter that should be afforded significant weight in favour of the proposals as part of an overall assessment of very special circumstances / public benefits.

#### Employment benefits

7.110. The Need Assessment – Local Market Quantitative Assessment section of Carterwood's Planning Need Assessment report (CD3.37) provides analysis on the employment and economic benefits of the proposals.

7.111. The Assessment confirms that the appeal scheme will provide full-time and part-time roles in order to fulfil its obligations to residents and cover care and support requirements. Below is a breakdown of Carterwood's estimated roles/occupations and long-term job creation. This is based upon data collected by Worcester Research in 2016 on the Bishopstoke Park retirement village in Hampshire, operated by Anchor Hanover and over 160 units in size.

7.112. In addition to directly employing a local workforce, the Carterwood report states that schemes also employ the services of a wide range of local companies in the provision of services in order to service a scheme of this size. Data quoted in the Housing for Later Life report in 2011 estimated an average 40-unit extra care apartment scheme provides investment of approximately £5m into older people's housing and the local economy (in 2020 costs this would be significantly higher having been subject to 10 years' inflation). The report also found that around 50 people were needed for construction.

7.113. The Worcester Research group applied the above construction cost and utilised other research of their own as part of a resident survey and identified the following economic contribution for a typical 150-unit village:

- £15m in initial investment in capital asset (we estimate this to be greater and more likely to be in the region of £20 to £30m for a large 150-unit village)
- Approximately 187 jobs during the construction phase
- £1.7m in on-going salary to local workers
- At least £160,000 per annum in additional business to local suppliers
- Around £1.3m expenditure in the local economy from residents (including multiplier effects)
- Between £152,000 and £190,000 in additional council tax to support local service provision.

7.114. In light of this analysis, I submit that the substantive employment benefits arising from the appeal proposals is a matter that must be afforded substantial weight in favour of the proposals, noting the Inspector (**CD2.56**) gave the employment benefits significant weight (albeit moderated due to St Albans relative economic health at that time) in the determination of the previous appeal (paras. 82 and 94).

#### Ecology improvements

7.115. The Net Biodiversity Gain Assessment prepared by RPS Ecology, appended at my **DP2**, demonstrates that the scheme will result in on site net biodiversity gain as follows:

- +137% habitat units
- +7616.25% hedgerow units
- neutral on river units



7.116. I consider that this net gain constitutes very significant ecological improvement and I afford this **moderate** weight in the context that most schemes struggle to deliver between 10% and 20% if any gain at all.

Site access improvements

7.117. The delivery of the proposed care facility will facilitate the implementation of the revised access arrangements, delivering significant improvements, costing approximately £1 million, to local safety conditions for through traffic, existing garden centre users and future development traffic as set out in the Transport Assessment.

7.118. In light of this analysis I consider that the highway benefits arising from the proposals is a matter that must be afforded some weight in favour of the proposals as part of an overall assessment of very special circumstances / public benefits.

Site availability and achievability

7.119. The Site is capable of being delivered in the short-term as a means of meeting economic, and housing benefits outline above and will introduce a high-quality new development on what is currently an under-utilised and vacant Site.

7.120. This planning appeal has been submitted by Castleoak, who have an agreement to purchase the land and to deliver the care scheme at the very earliest opportunity. As set out in my section 1 the scheme is being prepared for Elysian Residences and with whom the applicant has agreed terms.

7.121. In light of this analysis I consider that the ability to deliver the scheme immediately, is a matter that must be afforded some weight in favour of the proposals as part of an overall assessment of very special circumstances / public benefits.

• **Planning Balance and Very Special Circumstances / Public Benefits**

7.122. I accept that the development would cause harm to the Green Belt by virtue of it being an inappropriate form of development and insofar as it would have a detrimental, albeit minimal, impact on the openness of the Green Belt.

7.123. I further accept there is less than substantial harm to designated heritage assets albeit this harm being at the lowest end of the spectrum of less than substantial harm.

7.124. I have given substantial weight to the harm caused to the Green Belt and any other harm in this respect. In my opinion there would be no other additional harm resulting from the proposals.

7.125. I have balanced the weight I have given to this harm against the special circumstances and public benefits of the scheme and concluded that both individually and collectively these amount to very substantive social and economic benefits. I have attached:

- **Very substantial weight** to the contribution to general housing needs
- **Very substantial weight** to the contribution the development would make to meeting the needs for specialist housing in the area for older people
- **Very substantial weight** to the fact that there are no suitable sequentially preferable alternative sites to accommodate the proposals
- **Very substantial weight** to the release of under-occupied family housing
- **Substantial weight** to the health and well-being the proposals will bring to both future residents of the scheme as well as relieving pressure on existing health services
- **Moderate weight** to the increase in biodiversity through additional landscape and habitat creation
- **Moderate weight** to the fact that it is a very well-designed and high-quality scheme
- **Moderate weight** to the local support for the proposals
- **Some weight** to the employment opportunities the scheme will deliver
- **Some weight** to the benefits of the site access improvements that the scheme will deliver
- **Some weight** to the site being able to be delivered now.

7.126. Whilst I have not specifically attributed weight to the availability of some of the communal facilities to be provided including the multi-function room and restaurant being open to the public I note from other appeal decisions, including the decision to allow an appeal in Edenbridge, Sevenoaks for a retirement community on the 2 November 2021 the Inspector gave this limited weight in favour of these proposals (PINS ref. APP/G2245/W/21/3271595) (**CD5.16**)

7.127. Having weighed all the factors carefully, I find that the other considerations in this case clearly outweigh the harm that I have identified. Looking at the case as a whole, I therefore consider that very special circumstances exist which justify the grant of planning permission. The proposal therefore accords with the Development Plan and NPPF Green Belt Policy.

## 8. Other Considerations

- **Technical Matters**

8.1. Section 8 of the Officers' Report (**CD2.54**) confirms that on all technical matters officers concluded that the proposals were acceptable, with specific reference to:

- Design and layout (8.6 – 8.6.1 to 8.6.15 (except where alleged impact on the character and appearance of the area reference 8.6.8, 8.6.9, 8.6.12 and 8.6.15))
- Amenities (paras. 8.8 – 8.8.1 to 8.9.2)
- Ecology (paras. 8.10 – 8.10.1 – 8.10.1 to 8.10.5)
- Contamination land (paras. 8.11 – 8.11.1 to 8.11.4)
- Car parking and highway safety and rights of way (8.12 – 8.12.1 to 8.12.27)
- Archaeology (8.13 – 8.13.1 to 8.13.5)
- Drainage (8.14 – 8.14.1 to 8.14.3)
- Infrastructure contributions (8.15 – 8.15.1 to 8.15.9)

- **Statutory Consultation**

8.2. Sections 5 (Representations) and 6 (Consultations) of the Officers' Report (CDX) reports on internal and statutory consultation responses from:

- Herts Wildlife Trust (5.2.3 to 5.2.13)
- Hertfordshire and North Middlesex Ramblers Association (5.2.14 to 5.2.20)
- St Albans and District Footpaths Society (5.2.21 to 5.2.23)
- St Stephen Parish Council (5.5)
- Environmental Compliance (6.1 - 6.1.1)
- Housing Officer (6.2 – 6.2.1 to 6.2.2)
- Contamination Officer (6.3 – 6.3.1 to 6.3.15)
- Highways England (6.4 – 6.4.1 to 6.4.2)
- Hertfordshire Highways (6.5 – 6.5.1)
- Historic England (6.6 – 6.6.1 to 6.2.23)
- Local Lead Flood Authority (6.7 – 6.7)
- Hertfordshire Valley Clinical Commissioning Group (6.8 – 6.8.1 to 6.8.8)
- Hertfordshire Constabulary Crime Prevention Design Advisor (6.9 – 6.9.1 to 6.9.4)
- Green Spaces Officer (6.10 – 6.10.1)
- Waste Officer (6.11 – 6.11.1 – 6.11.5)
- Thames Water (6.12 – 6.12.1 to 6.12.2)
- Affinity Water (6.13 – 6.13.1 to 6.13.2)
- Archaeology (6.14.1)

8.3. Out of these responses only Hertfordshire Wildlife Trust and Historic England have objected to the proposals.

8.4. Herts Wildlife Trust object due to the appellant's failure to demonstrate a 'measurable' net gain to biodiversity and proceeds to say how such an assessment should be undertaken. Notwithstanding that there is no Development Plan policy requiring this as set out in proceeding sections of my evidence the appellant has undertaken the assessment in accordance with best practice (**Appendix DP2**) and demonstrates that the scheme will result in on site net biodiversity gain as follows:

- +137% habitat units
- +7616.25% hedgerow units
- neutral on river units

8.5. This as I have stated is very significant and accordingly, I have attached **moderate** weight to this in my planning balance exercise.

8.6. I do not comment further on Historic England's objection here given this is fully addressed by Kevin Murphy.

8.7. The remaining respondents either raise no objection to the proposals or raise no objection subject to the imposition of conditions or seeking commitments from the appellant to make financial contributions to social infrastructure which they claim are necessary to make the

- **Third Party Representations**

*Local Support*

8.8. There remains considerable local support for the proposals – 22 letters supporting the planning application were registered with the Council, including from the Parish Council and 2 resident associations at application stage. The Ramblers Association support the scheme given the substantive improvements to public rights of way and access to the countryside the scheme will deliver.

8.9. In my experience it is unheard of for a Green Belt scheme to so strongly be supported by local groups and this is reflected in the St Stephen Neighbourhood Plan – Submission (Regulation 16) Draft (February 2021) which was published in June 2021. The Plan recognises that there is an identified and evidenced local housing need including for older persons specialist care in St Stephen and consideration should be given to how that is to be delivered, including where any new housing might be sited. Accordingly, with due regard to the Parish Council's own evidence base the Plan supports proposals for a care home or retirement village (use class C2) within St Stephen Parish (**CD3.13 and CD3.14**).

8.10. The considerable support for the proposals is summarised in para. 5.4 of the Officers' Report (**CD2.54**).

*Local Objections*

*Planning Application stage*

- 8.11. 7 letters objecting to the planning application were registered with the Council. I consider that none of these objections raise any material additional points to those matters already covered in the application submission (**CD2.1 to CD2.53**).

*Planning Appeal stage*

- 8.12. At the time of drafting my evidence I am not aware of further representations on the proposals
- 8.13. I submit that none of these other considerations has any material bearing on this appeal.

• **Planning conditions and obligations**

- 8.14. The proposed conditions and basis for the legal agreement are set out in Section 8 of the Agreed Statement of Common Ground.

## 9. Planning Balance

9.1. Section 38 (6) of the Planning & Compulsory Purchase Act 2004 requires that, when making a determination under the Planning Acts, the determination shall be made in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan comprises the saved St Albans Local Plan (1994) which is over 27 years old and not fit for purpose because:

- The need for additional housing generally in St Albans is profound with the Inspector concluding in respect of Roundhouse Farm that "... the position is a bleak one and the shortfall ... is considerable and significant" (para. 48 of the decision letter)
- The local need for older peoples' accommodation in this area is also profound. If this scheme is not permitted, then there is no evidence of any realistic prospect of these needs being met elsewhere in the St Albans area
- There is no short-medium term prospect of these housing needs being met in a plan-led way, and as demonstrated with reference to Roundhouse Farm and 122-156b Harpenden Way meeting these needs will require the approval of schemes in the Green Belt through the development management process
- Commercial realities are such that land will come forward for general market housing and not specialist accommodation

9.2. This clearly demonstrates that the policies which are most important for determining the appeal are out of date, and para. 11 d) of the NPPF is engaged.

9.3. Para. 11 of the NPPF states that there is a presumption in favour of sustainable development:

***"For decision-taking this means:***

***c) approving development proposals that accord with an up-to-date development plan without delay; or***

***d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission ...."***

9.4. I accept that given the Site is Green Belt and in close proximity to the listed Burston Manor and its outbuilding that under para. 11 d) i. the application of policies in the NPPF that seek to protect these assets provides a clear reason for refusing development proposed; or ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF or taken as a whole.

- 9.5. In essence, setting aside for a moment the implications of paras. 11 d) i and 11 d) ii any other policies that seek to prevent the delivery of housing in St Albans are in conflict with the NPPF and significantly reduced weight should be applied to these accordingly.
- 9.6. There is no dispute between the parties that this Appeal is a NPPF para. 148 case insofar as substantial weight is given to any harm to the Green Belt. “very special circumstances” will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm including the less than substantial harm to the heritage asset resulting from the proposal - is clearly outweighed by other considerations.
- 9.7. Para. 199 of the NPPF says that great weight should be given to a heritage assets conservation. To be clear that is not the same as saying that great weight should be given to harm in the planning balance. Where the para. 202, NPPF balance results in a conclusion that benefits outweigh harm (whilst giving great weight to the assets conservation) then the statutory objectives for conservation are fulfilled.
- 9.8. Put simply if the Inspector agrees with the Appellant that the very substantial benefits put before the Inquiry outweigh any harm to the Green Belt and other harm including the less than substantial harm to the heritage asset then the tilted balance within the context of para. 11 d).
- 9.9. This means that in the para. 148 balancing exercise, whilst harm to the significance of heritage assets needs to be taken into account, the weight to be ascribed should have regard to the acceptability of the impact on heritage assets in policy terms.

- **Heritage Balance**

- 9.10. It is common ground that the Appeal proposal would cause less than substantial harm to the significance of the grade II\* listed Burston Manor and grade II listed outbuildings due to a change to its wider setting, although the parties disagree on where on that spectrum the harm actually sits.
- 9.11. Para. 202 of the NPPF states that:
- “Where a development proposal will 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.”***
- 9.12. The Proof of Evidence of Kevin Murphy addresses this matter for the Appellant. He concludes that, having assessed the appeal proposals against the relevant policy, guidance and legislation, there would be a very small loss of significance from the listed building. He assesses that this would constitute the very lowest end of the broad spectrum of ‘less than substantial harm’.

9.13. RfR2 suggest that the development would cause ‘less than substantial’ harm to the grade II\* listed Burston Manor and the grade II listed outbuildings and that the public benefits of the proposal would not outweigh this harm. The Council’s Statement of Case says that within the scale of less than substantial harm the Council will show that the level of harm will be moderate. However, I am more persuaded by Kevin Murphy’s assessment of harm and concur with him that the harm is lower, and in fact, at the very lowest end of the spectrum.

9.14. The public benefits of the scheme, including the provision of much needed housing to meet the specialist need of older people set out in my Section 7 demonstrably outweigh the very limited harm to the significance of this heritage asset and the para. 202 balance is passed.

- **Very Special Circumstances Balance**

9.15. It is common ground that the appeal proposal constitutes inappropriate development in the Green Belt, which is by definition harmful. It therefore needs to be assessed using the very special circumstances balance at para. 148 of the NPPF.

9.16. This states:

***“When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. ‘Very special circumstances’ will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations”.***

9.17. Andrew Smith’s evidence referenced in my Section 7 demonstrates that the appeal site only makes a limited contribution to Green Belt purposes and its openness.

9.18. The Council accepts the appeal makes no contribution to Green Belt purposes d) to preserve the setting of historic towns and e) to assist in urban regeneration by encouraging the recycling of derelict and other urban land. That is also my position. However, I fully endorse Andrew Smith’s conclusion that there is also no conflict with purpose a) to check the unrestricted sprawl of large built-up areas and only very limited to neutral conflict in terms of purposes b) to prevent neighbouring towns merging into one another and c) neutral encroachment into the countryside – albeit despoiled previously used countryside.

9.19. I rely on Mr Smith’s evidence to set out that the harm in terms of the loss of openness from development at the Site, both in a visual sense and spatially. Mr Smith concludes that there is no effect on openness at the wider Green Belt level. This is as a consequence of the Site already comprising built form and also because of its relationship with the existing Garden Centre, the North Orbital Road and urban development adjacent to How Wood and Birchwood, with this and the extent of existing landscaping, giving the site a sense of containment and separating it from the wider open countryside beyond.



9.20. Therefore, whilst substantial harm must be given to “inappropriate development” in the Green Belt, I submit, relying on the evidence of Mr Smith, that harm in this case is limited by the particular characteristics of the site and its relationship with the existing settlement pattern.

9.21. In coming to my conclusion on overall balance I have also had regard to Mr Smith’s evidence that the Appeal site contributes significantly less to either the openness or the purposes of the Green Belt than the proposals approved at Roundhouse Farm and Harpenden Road.

9.22. To this harm then needs to be added any other harm resulting from the appeal proposal. I have acknowledged above, that there would be ‘less than substantial harm’ to the significance of a heritage asset and Mr Murphy’s evidence demonstrates that this harm is at the very bottom end of that spectrum.

9.23. In my view, this harm is clearly outweighed by other considerations in this case, which have been set out in detail in my preceding sections leading me to conclude that the public benefits when combined deliver the very special circumstances to outweigh the harm to the:

- The grade II\* listed Burston Manor and grade II listed outbuildings, which I say in any event is at the very lowest end of the broad spectrum of less than substantial harm
- Green Belt

9.24. These benefits are:

- **Very substantial weight** to the contribution the development would make to general needs housing
- **Very substantial weight** to the contribution the development would make to meeting the needs for specialist housing in the area for older people
- **Very substantial weight** to the fact that there are no suitable sequentially preferable alternative sites to accommodate the proposals
- **Very substantial weight** to the release of under-occupied family housing
- **Substantial weight** to the health and well-being the proposals will bring to both future residents of the scheme as well as relieving pressure on existing health services
- **Moderate weight** to the increase in biodiversity through additional landscape and habitat creation
- **Moderate weight** to the fact that it is a very well-designed and high-quality scheme
- **Moderate weight** to the local support for the proposals
- **Some weight** to the employment opportunities the scheme will deliver
- **Some weight** to the benefits of the site access improvements that the scheme will deliver
- **Some weight** to the site being able to be delivered now.

- 9.25. Whilst I have not specifically attributed weight to the availability of some of the communal facilities to be provided including the multi-function room and restaurant being open to the public I note from other appeal decisions, including the decision to allow an appeal in Edenbridge, Sevenoaks for a retirement community on the 2 November 2021 the Inspector gave this limited weight in favour of these proposals (PINS ref. APP/G2245/W/21/3271595) **(CD5.16)**
- 9.26. Furthermore, when weighed in the overall planning balance I submit that these amount to substantially more benefits than those at Roundhouse and Harpenden. In both these cases the respective decision makers agreed that the provision of general needs and affordable housing merited on their own the very special circumstances to justify the proposals. A further factor in support of Harpenden was the commitment to deliver 10% net biodiversity gain compared to the Appeal scheme being able to deliver the following biodiversity net gain:
- +137% habitat units
  - +7616.25% hedgerow units
  - neutral on river units
- 9.27. Also worthy of note is that both Roundhouse Farm and Harpenden Lane were the subject of considerable objections compared to the significant local support the Appeal scheme has.

## 10. Changes Since the Previous Appeal

10.1. There are 3 critical changes that have a material bearing on this Appeal since the original scheme, refused by St Albans DC on the 20 March 2019 (LPA ref. LPA ref. 5/2018/1324/LSM and the subsequent appeal dismissal on the 9 January 2020 (PINS ref. APP/B1930/W/19/3235642).

10.2. These are:

- The collapse of the replacement Local Plan

***The Council does not have an up-to-date strategic development plan***

- The grant and resolution to grant planning permission for 2 sites in the St Albans Green Belt; namely:
  - Up to 100 dwellings allowed on appeal on land at Roundhouse Farm, Colney Heath (PINS ref. APP/B1930/W/20/3265925 and 3265926)
  - The Council has resolved to grant planning permission for up to 150 dwellings at 112-156b Harpenden Road (LPA ref. 5/2021/0423/LSM)

***The Council is reliant on unallocated Green Belt sites given it does not have an up to date identified supply of housing to meet its objectively assessed need***

- The fundamental design changes to the Scheme leading to a substantial reduction in the overall scale of the development proposed

***This is a new scheme***

10.3. At the same time there is a new National Planning Policy Framework, July 2021 (NPPF) with greater emphasis on:

- Design: noting that design does not form a reason for refusal

***It is a very well-designed scheme***

- Local support: the proposals are very strongly endorsed by the Parish Council (indeed the site was allocated for a retirement community in an early version of the St Stephen Neighbourhood Plan with the current version strongly supporting development for specialist older persons housing in recognition of the identified need), 2 resident associations and the wider community

***From my experience it is unprecedented to have a housing proposal in the Green Belt so strongly supported locally***

10.4. The proposals provide significant landscape and biodiversity benefits with substantial new landscape planting resulting in the following biodiversity net gain:

- +137% habitat units
- +7616.25% hedgerow units
- neutral on river units

***This is very significant.***

- **The new scheme**

10.5. The principal changes are:

- A significant reduction in the quantum, scale and mass of development
- A substantial reduction in built form equates to a decrease of almost 20%
- The reduction in the density of development
- A more dispersed and more informal arrangement of accommodation throughout the site
- An increase in the visual permeability of the scheme
- Greatly enhanced landscaping that will generate a very significant net gain in biodiversity
- Softening the built form along the eastern boundary of the site and along the boundary with Burston Manor
- The removal of the close boarded fence adjacent to the boundary with How Wood
- The provision for enhanced pedestrian routes

10.6. The design changes have enabled a more informal arrangement of the remaining units with a greater focus on landscaping, green space and protecting the grade II\* listed Burston Manor and grade II listed outbuildings. More generally, the redesign has focused on addressing the reasons why the previous scheme was refused by the Council and subsequently dismissed at appeal.

10.7. Furthermore, through more rigorous analysis of the Green Belt and recent decisions in St Albans, officer recommendations, notably Roundhouse Farm (PINS B1930/W/20/3265925) and Harpenden Road (LPA 5/2021/0423/LSM) it is now evident that in relation to the purposes of the Green Belt, the Appeal Site makes no contribution to purposes a) – urban sprawl and d) – setting and special character of historic towns and only limited contributions to purposes b) – neighbouring towns merging and c) – encroachment into the countryside. It has a neutral impact in assisting urban regeneration – purpose e) especially when noting that although not

“previously developed land” (page 70m NPPF), the Site does contain very large buildings and extensive areas of hardstanding which spatially and visually dominate the western and southern part of the Site – whereas both the Roundhouse Farm and Harpenden sites comprise open fields.

- 10.8. The “very special circumstances” and public benefits were comprehensively set out within the previous appeal proposals and with reference to the appeal decision were well understood by the Inspector who concluded that the scheme was of considerable merit. Indeed these “benefits” go further than those demonstrated at both Roundhouse Farm and Harpenden Road.

## 11. Conclusions

- 11.1. The need for additional housing generally in St Albans is profound. The local need for older peoples' accommodation in this area is also profound. As the Inspector in the "Roundhouse" decision explained ***"the position is a bleak one and the shortfall ... is considerable and significant"***.
- 11.2. The Council has failed to deliver any plan to ensure the areas needs are met since 1994. That is a total failure of planning in this area. It is a disgrace.
- 11.3. There is no short-medium term prospect of general or specialist housing needs being met in a plan-led way. There is also no prospect of meeting needs without building on land within the Green Belt, as the defunct Local Plan recognised. Meeting needs will then require the approval of schemes in the Green Belt through the development management process.
- 11.4. The Appeal Scheme is for a form of development which is desperately needed. That form of development will not come forward on any other site because the commercial reality is that market housing developers will almost certainly always outbid a specialist developer for a site. There are no alternative sites which are suitable, available or viable.
- 11.5. There is a policy vacuum at the local level, with the Emerging Local Plan now withdrawn on the recommendation of the Local Plan inspectors appointed to examine it and hence no immediate prospect of a policy basis for the delivery of specialist housing to meet the identified need. Crucially, whilst there is focus on the 'number of units' of care accommodation required, it is beholden on everyone to fully appreciate that these represent real people in need of care now.
- 11.6. As set out above, there are "harms" here and crucially these have been significantly reduced from the previous appeal proposals through considered amendments to the scheme. But there are also the very important benefits – not least in meeting the local need, starkest amongst which is the Council's ongoing failure to address the existing and growing care needs of its older residents. The growing population will bring with it a rise in the number of people experiencing functional difficulties or declining health status. Meeting those needs is critical (para 63-001-20190626 NPPG) and this requires a positive response now. Windfalls, even if they come forward at historic levels, will not keep pace with the growing needs. Whether and when a new Local Plan will deliver any specialist care units for the elderly is anyone's guess. Meanwhile people remain in need of care now.
- 11.7. The reduction in "harms" to the previous appeal and the introduction of very significant additional benefits means that the overall planning balance is now weighed decisively in favour of the application proposals.
- 11.8. From my experience it is unheard of for a Green Belt scheme to so strongly be supported by local groups. The previous appeal inquiry heard from separate residents' associations who

spoke strongly in support the scheme. The ward member for St Stephen supports the scheme. Although the emerging Neighbourhood Plan does not carry material weight at this stage it is instructive to see that the intention of the Plan's authors is that the site should be developed for specialist care accommodation.

- 11.9. This proposal is both wanted and much needed and I ask the inspector respectfully to grant permission to enable delivery of this scheme.

## **Appendices (attached separately)**

Appendices (attached separately)

- DP1: Elysian Operational Statement, Elysian
- DP2: Burston Garden Centre Net Biodiversity Gain Assessment and Biodiversity Metric, RPS (5 November 2021)