

BRICKET WOOD SPORT & COUNTRY CLUB / PAINTBALL SITE

LYE LANE, BRICKET WOOD, AL2 3TF

Planning Inspectorate Ref: APP/B1930/W/24/3338501

LPA Ref: 5/2022/2443

OPENING SUBMISSIONS ON BEHALF OF THE APPELLANT

1. St Albans is in a planning crisis. It is not only failing to deliver the right homes for the right people and in the right places, but failing even to deliver an up-to-date Local Plan in what is meant to be a genuinely Plan-led system. When Local Plans are required to be reviewed every 5 Years, none of St Albans' policies have been reviewed since they were adopted in 1994.
2. And the direct consequence of having no up-to-date housing target, and no up-to-date housing allocations, is that St Albans is in a housing crisis also. For more than a decade, the Council has been unable to demonstrate the 5-year housing land supply ordinarily required by the NPPF; and, currently, its supply is just 1.7 years - the worst housing land supply position since the Local Plan was adopted all those years ago.
3. Moreover, alongside a massive undersupply of market housing comes a massive shortfall in affordable housing too, and an additional crisis in that regard. The facts are agreed and they are alarming:
 - a. The 2016 SHMA identified an objectively assessed annual need of 617 affordable homes (CD 2.6 [4.41]) and, more recently, the 2020 LHNA increased this to 828 (CD 2.6 [4.42]).

- b. However, against these annual needs of between 600 and 800 plus affordable homes, in the ten-year period since the start of the 2016 SHMA period in 2013/14, there has been a net delivery in St Albans of *just 56* affordable dwellings per annum (CD 2.6 [5.7]).
4. The consequential failure to meet the affordable housing needs of those who are most vulnerable is truly frightening:
 - a. A staggering shortfall of 5,615 affordable homes against the needs identified in the 2016 SHMA (CD 2.6 [5.8]); and
 - b. A further shortfall of 2,201 in the first three years of the 2020 LHNA period (CD 2.6 [5.12]).
5. There is not just an “identified need” for affordable housing in St Albans, in the words of the paragraph 154(g) of the NPPF, but an “urgent need”, and for a substantial number of affordable homes, as Ms Gingell explained (CD 2.6 [5.8]). That is absolutely undeniable, which is why the Council will call no housing evidence at this Inquiry and has already agreed every word that Ms Gingell wrote in her very troubling Proof.
6. And these planning and housing crises have important consequences for decision-makers on housing proposals in St Albans, as you will readily appreciate:
 - a. Firstly, they mean that paragraph 11(d) of the NPPF is engaged, so that unless (in our case) Green Belt policies provide a “*clear reason*” to refuse permission, the “tilted balance” in favour of development must be applied and planning permission granted¹; and

¹ See: *Monkhill Ltd v Secretary of State for Housing, Communities and Local Government & Anor* [2019] EWHC 1993 (Admin), per Holgate J., (CD 6.11 [39]; [45]).

- b. Second, when considering whether Green Belt policies do provide a clear reason to refuse, they also mean that, until March 2026 at the earliest (when the Emerging Local Plan might be adopted), the shortfalls in both market and affordable housing can only be met in the Green Belt.
7. As you will know, there are two routes by which that much-need housing can properly be approved in the Green Belt and, as we will explain, both apply in this particular case:
- a. Firstly, this Appeal Proposal is “appropriate” Green Belt development, falling within one of the exceptions set out in NPPF paragraph 154; and
 - b. Second, and in any event, there are “very special circumstances” sufficient clearly to outweigh the potential harm to the Green Belt and all other harm, as provided for by paragraphs 152 and 153 of the NPPF.

Paragraph 154 of the NPPF

8. As for the first of the above routes, it is accepted by the Council that the second part of NPPF paragraph 154(g) applies in this case:
- a. The Appeal site is previously developed land;
 - b. There is an identified affordable housing need; and
 - c. The development proposes 35% affordable housing to meet that need, fully in accordance with the Council’s Affordable Housing Supplementary Planning Guidance (CD 4.4 [7.13]).
9. Accordingly, the test to be applied is whether the proposed redevelopment of the Appeal Site would cause “substantial harm” to the openness of the Green Belt. And

in these regards it has recently been stated as follows by a fellow Inspector in the Maitland Lodge decision letter (CD 5.6) [17]):

"It is important to note that the threshold for the proposal to be considered as inappropriate development is substantial harm. This is a high bar ..."

10. As you will hear from Mr Parker and Ms Williams, that "high bar" is not remotely reached in this case:
 - a. Firstly, the Appeal Site is visually enclosed on three sides by mature woodland and not open at all – it can only be seen from Lye Lane itself, and when you are standing pretty much directly in front of it; and
 - b. Second, as Ms Williams will prove (CD 2.15 [1.4]-[1.19]), when you are standing directly in front of the Appeal Site, and with the proposed dwellings carefully set back from Lye Lane and landscaped, the impact on openness as against the current situation on site will not be substantially harmful at all.

11. Accordingly, when the correct Maitland Lodge approach is applied to the Appeal Proposal, the same conclusion must be reached - the Appeal Proposal is appropriate Green Belt development; "very special circumstances" are not therefore required; and the Appeal Proposal conforms with national Green Belt policy and, accordingly, with the Green Belt policies of the Local Plan and Neighbourhood Plan also.

Very Special Circumstances

12. However if, contrary to the Appellant's primary case, you were to consider that the "high bar" of "substantial harm" to openness was reached in this case, the requisite "very special circumstances" exist in any event, just as the Secretary of State himself decided only three months ago, when granting permission for 721 homes in the Green Belt at Chiswell Green because the housing situation in St Albans is so "dire" (CD 5.2 [IR588]; [DL29]).

13. Indeed, if there were “very special circumstances” in Chiswell Green, here the very special circumstances are on steroids. For, on top of the very substantial weight that you must give to the contributions towards meeting both market and affordable housing needs, all of the following add to the “very special circumstances” for this Appeal Proposal:

- a. Firstly, whereas in Chiswell Green the Appeal Sites were open fields, this Appeal Site is previously developed land, where development is always to be sequentially preferred, as the NPPF makes very clear, very often², and especially in the Green Belt³;
- b. Second, far from contributing to the “the intrinsic character and beauty of the countryside”, in the words of NPPF paragraph 180(b), this Appeal Site is an eye-sore and its development for much-needed housing will actually improve the character and appearance of the Green Belt⁴;
- c. Third, the paintballing activities in Ancient Woodland, against which the Council previously attempted to enforce, will cease; and
- d. Fourth, an environmentally sensitive and carefully designed footpath will be delivered along Lye Lane to the facilities and services in nearby Bricket Wood, sustainably and safely serving not just the future residents of the proposed development, but extant residents on Lye Lane who, currently, have to risk walking along an unlit road or choose to get in the car.

² NPPF paragraph 65; NPPF paragraph 89; NPPF paragraph 123; NPPF paragraph 124(c); NPPF paragraph 146(a); NPPF paragraph 147; NPPF footnote 27; and NPPF paragraph 154(g).

³ NPPF paragraph 142.

⁴ CD 1.11 [7.3]; CD 2.9 [4.10].

Conclusions

14. For all of these reasons, and others, I shall in due course respectfully ask for this appeal to be allowed, and planning permission granted, so that much-needed, well-designed, properly landscaped, housing can be delivered where, currently, there are dilapidated buildings and straightforward ugliness.

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11th June 2024