

CD 2.5

# Summary Proof of Evidence - Planning Balance Brian Parker BA MSc MRTPI

Bricket Wood Sports and Country Club, Paintball Site and Bricket Lodge, Lye Lane, St Albans AL2 3TF

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Outline application (access sought) for the demolition of existing buildings, the construction of up to 115 dwellings, the creation of a new access and associated highways improvements.

SADC Ref: 5/2022/2443

PINS Ref: APP/B1930/W/24/3338501

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1.0 **PERSONAL BACKGROUND AND INTRODUCTION**

1.1 My name is Brian Parker. I hold a BA (Hons) degree in Geography and an MSc in Urban and Rural Planning from the University of the West of England and I am a Chartered Member of the Royal Town Planning Institute. I have 15 years’ experience in Town Planning and act for a variety of clients, predominantly in St Albans District where I lived since 1990.

1.2 The evidence I have submitted to this Appeal Inquiry on behalf of the Appellant, is to the best of my knowledge true and is given in accordance with the guidance of my professional the RTPI. I can confirm that the opinions expressed are my genuine professional opinions.

2.0 **THE APPEAL SITE AND PROPOSAL**

**The Appeal Site**

2.1 The Appeal Site is in the Green Belt, located on the eastern side of Lye Lane, Bricket Wood, immediately to the north of Blackgreen Wood, see Fig. 1 below (CD 1.28). As will be readily apparent from the Site Visit, the Appeal Site is Previously Developed Land or “brownfield land”.



Fig. 1 Site Location Map, Rev A (CD 1.28)

- 2.2 The Appeal Site is heavily-screened from external views by mature trees on three sides. Effectively it can only really be seen from a small stretch of Lye Lane just north of the M25.
- 2.3 The Site is close to Bricket Wood, a large village with a wide range of local amenities including a food store, a pharmacy, public houses, a GP surgery, a library and schools. Accordingly, once connected to the junction of Lye Lane and West Riding by a suitable footpath, the Appeal Site is a very sustainable location for new homes.

### **The Appeal Proposal**

- 2.4 The Appeal Proposal is in Outline, with access sought. Permission is sought to demolish all the existing buildings and structures on the Appeal Site, including the existing dwellings, and build up to 115 new dwellings in a District with a chronic and worsening housing crisis, particularly with regard to affordable housing.
- 2.5 The precise quantum (up to 115 dwellings) and mix of houses is subject to future discussions with the Council at the Reserved Matters Stage.

### **Access and Off-Site Highways Works**

- 2.6 Access is a matter for approval. Following concerns raised by Hertfordshire County Council in respect of a proposed footpath along Lye Lane, additional collaborative work has led to a design which strikes the most appropriate balance between:
- a) Delivering a safer walking option for existing and future residents;
  - b) Avoiding any harm to trees on the adjoining Ancient Woodland/Local Wildlife Site;
  - c) Minimising harm to trees on the western side of Lye Lane;
  - d) Minimising ecological harm; and
  - e) Maintaining the character of the southern part of Lye Lane.
- 2.7 The footpath design is considered in detail in the Proof of Evidence of Nick Ferguson and will inform the Highways Statement of Common Ground.

### 3.0 **THE DEVELOPMENT PLAN**

3.1 The relevant elements of the Development Plan for St Albans are:

- a) The saved policies of the 1994 Local Plan Review (CD 4.1); and
- b) The St Stephens Neighbourhood Plan (2022) (CD 4.2).

#### **The Local Plan**

3.2 The extant Local Plan is approaching 30 years of age and its Housing Land Supply policies expired in 2001. All attempts to replace this Plan with the following have all ended in failure.

3.3 By far the most important policy is Policy 1 Metropolitan Green Belt. However, because it fails to recognise the full extent of exceptions to inappropriate development in paragraph 154, it is inconsistent with the NPPF. Only if the Appeal Proposal is considered “*inappropriate*”, can Policy 1 be considered consistent with national policy because of its requirement for Very Special Circumstances.

#### **Emerging Local Plans**

3.4 The Council has accepted that because the latest emerging Local Plan is at such an early stage (CD 3.1 [8.25-8.26]):

- a) It is to be afforded little weight in accordance with paragraph 48 of the NPPF; and
- b) It cannot be argued that the application is premature because the criteria set out in paragraph 49 of the NPPF are not satisfied.

#### **The St Stephen’s Neighbourhood Plan (“The SSNP”)**

3.5 The SSNP (CD 4.2) was made on 20<sup>th</sup> July 2022 and is, therefore, a material consideration in decision-making. However, it must be noted that any perceived conflict with it is unlikely to significantly and demonstrably outweigh the benefits because, as set out in paragraph 14(b) of the NPPF, the SSNP does not contain policies and allocations to meet its identified housing requirement.

#### 4.0 **NATIONAL PLANNING POLICY**

4.1 The current National Planning Policy Framework (“the NPPF”), was published in December 2023 and “... *is a material consideration in planning decisions*”.

#### 5.0 **DEVELOPMENT IN THE GREEN BELT**

5.1 Because of the absence of an up-to-date plan, the chronic shortfalls in terms of both market and affordable housing can only be met through decision-makers accepting housing development in the Green Belt on either of the following bases:

- a) Because the proposal falls within one of the exceptions to new buildings being “inappropriate” in the Green Belt, as provided for in paragraph 154 of the NPPF; or
- b) Because Very Special Circumstances exist as a result of “*other considerations*” clearly outweighing the harm to the Green Belt and any other harm, as set out in paragraphs 152 and 153 of the NPPF.

##### **1. Appropriate Development**

5.2 The Appellant’s principal case is that the Appeal Proposal represents appropriate development in accordance with paragraph 154 (g) of the NPPF. This allows for the complete redevelopment of PDL providing the harm to the openness of the Green Belt is not substantial and the development meets an identified need for affordable housing.

5.3 The Appellant’s case is that the Proposal meets an identified affordable housing need and will cause less than “*substantial harm*” to the openness of the Green Belt. Consequently, it is “*appropriate*” development in the Green Belt which does not require Very Special Circumstances but does benefit from the “*tilted balance*” in favour of sustainable development.

##### **2. Very Special Circumstances**

5.4 If, contrary to the Appellant’s primary case, the “*high bar*” of “*substantial harm*” to the openness of the Green Belt is considered to be reached, Very Special Circumstances must exist in which the substantial harm to the Green Belt and any other harm is clearly outweighed by other considerations.

#### 6.0 **THE PLANNING BALANCE**

### **The Planning Balance for Appropriate Development**

6.1 If it is determined that the Appeal Proposal is appropriate Green Belt development, there is no footnote 7 policy which provides a clear reason for refusal because, clearly, the NPPF does not seek to refuse appropriate development. Consequently, permission must be granted:

*“... unless 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”<sup>1</sup>.*

6.2 In this regard, I have concluded that:

- a) The harm to the Green Belt is less than substantial which, nevertheless, carries **substantial weight**;
- b) There is **no harm** to purposes of the Green Belt;
- c) At this Outline stage, there is **no harm** to Site layout/design, open space provision and noise impacts on future occupiers;
- d) There is **very limited harm** to Landscape impacts, including visual amenity and impact on protected landscape features;
- e) There is **no harm** to highways safety;
- f) There is **no harm** to flood risk; and
- g) There is **no harm** to SSSIs.

6.3 Set against these low levels of harm, I have also concluded that:

- a) The benefit of meeting unmet housing need carries **very substantial weight**;

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<sup>1</sup> See: ***Monkhill Ltd –v- The Secretary of State for Housing, Communities & Local Government and Anr*** [2019] EWHC 1993 (Admin), at [39]and [45], as approved by Court of Appeal at [2021] EWCA Civ 74. (CD 6.11)

- b) The benefit of affordable housing carries **very substantial weight**;
- c) The benefit of self-build plots carries **very substantial weight**;
- d) The economic benefits carry **substantial weight**;
- e) The provision of the footpath carries **substantial weight**;
- f) The redevelopment of a brownfield site in the Green Belt instead of a greenfield one, carries **moderate weight**; and
- g) The removal of buildings and activity from the Ancient Woodland / Local Wildlife Site carries **limited weight**.

6.4 In my judgement therefore, the adverse harm caused by the Appeal Scheme would not significantly and demonstrably outweigh the benefits. Consequently, the Appeal should be Allowed.

#### **The Planning Balance for Inappropriate Development**

6.5 In considering whether Very Special Circumstances exist, I have concluded:

- a) There is **substantial harm** due to inappropriateness which carries **substantial weight**<sup>2</sup>;
- b) There is **substantial harm** to openness which carries **substantial weight**<sup>3</sup>;
- c) There is **no harm** to purposes of the Green Belt;
- d) There is **no harm** to Site layout/design, open space provision or noise impacts on future households;

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<sup>2</sup> Whilst highlighting that this harm is inevitable if housing needs in St Albans are going to be met.

<sup>3</sup> *Ditto*.

- e) There is **very limited harm** to Landscape impacts, including visual amenity and impact on protected landscape features;
- f) There is **no harm** to highways safety;
- g) There is **no harm** to flood risk; and
- h) There is **no harm** to SSSIs.

6.6 Set against this, I have also concluded that:

- a) The contribution to meeting unmet housing is a **very substantial benefit**;
- b) The contribution to affordable housing is a **very substantial benefit**;
- c) The contribution to self-build plots is a **substantial benefit**;
- d) The economic gains are a **substantial benefit**;
- e) The provision of the footpath is a **substantial benefit**;
- f) The redevelopment of a brownfield site in the Green Belt instead of a greenfield one, is a **moderate benefit**; and
- g) The removal of buildings and activity from the Ancient Woodland / Local Wildlife Site is a **limited benefit**.

6.7 In my judgement therefore, the substantial benefits of the Appeal Proposals clearly outweigh the harm to the Green Belt and any other harm in this case. Consequently, Very Special Circumstances exist and the Appeal should be Allowed.

## 7.0 **CONCLUSION**

7.1 Whether viewed as appropriate development benefitting from the tilted balance in favour of new housing, or inappropriate development benefitting from the presence of Very Special Circumstances, the Appeal Scheme can clearly be seen as a reasonable example of sustainable development, benefitting from a presumption in its favour.