



## Appeal Decision

Inquiry held on 7-10, 13 & 14 February, 2 March 2023

Site visits made on 6 & 13 February 1 & 6 March 2023

**by D Board BSc (Hons), MA, MRTPI**

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

**Decision date: 21<sup>st</sup> July 2023**

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**Appeal Ref: APP/C1950/W/22/3307844**

**Land to the North of Bradmore Way, Bradmore Way, The Brookmans Estate, Brookmans Park**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Aurora Properties (UK) Ltd against the decision of Welwyn Hatfield Borough Council.
  - The application Ref 6/2022/1097/OUTLINE, dated 11 May 2022, was refused by notice dated 5 August 2022.
  - The development proposed is Outline planning permission with all matters reserved except access, for up to 125 dwellings, a care facility for up to 60 bedrooms (Use Class C2), and a scout hut (Use Class F2).
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. The application was made in outline with access submitted for consideration. The appeal was considered on this basis.
3. It is common ground that the Councils cannot demonstrate a 5 year supply of housing sites<sup>1</sup>. However, the parties disagreed on the extent of this shortfall. It was agreed that the variation between the two parties was not a matter which was material to the decision on these appeals. There was also agreement that the tilted balance is not applicable here, being disapplied by footnote 7 of the National Planning Policy Framework (The Framework). The parties agreed at the Inquiry that the route to gaining planning permission would be very special circumstances.
4. During the Inquiry a local resident raised a query regarding a piece of land between the access point to the appeal site and the edge of the adopted highway<sup>2</sup>. The Appellant's team submitted amended site plans to reflect this<sup>3</sup>. The concerned resident had the opportunity to address the Inquiry. I am satisfied that there would be no prejudice from my taking the amended site plans into account.
5. At the time the Inquiry sat the Council's Emerging Local Plan (ELP) had reached the main modifications stage. Evidence was put to the Inquiry regarding the

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<sup>1</sup> SOCG para 8.8

<sup>2</sup> Mr Hall email dated 22 February 2023, ID18, ID22

<sup>3</sup> ID20, ID21

- ELP and its evidence base<sup>4</sup>. Nonetheless, whilst the plan is going through examination it has not been found sound. As such I attach limited weight to its policies.
6. The Appellants submitted an unsigned Section 106 (S106) to the Inquiry<sup>5</sup>. This was discussed at a round table session. The signed version is dated 9 March 2023 and was received on 16 March 2023. The agreement would provide for: Affordable Housing, Self Build Plots, Library, Education, Waste Service and Youth Contributions, Community Services Contribution, Council Contributions (indoor and outdoor sport, public open space, waste and recycling), General Medical Services Contribution, Mental Health Services Contribution, NHS Contribution, Travel Plan, Open Space, Sustainable Drainage Systems, Provision and Use of Scout Hut, Biodiversity Net Gain, Care Facility.
  7. The Council submitted a statement of compliance<sup>6</sup> with the Community Infrastructure Levy Regulations (CIL Regulations) which set out the justification for the above obligations, including identification of relevant policies in the development plan. The need for the obligations was agreed between the Council and the Appellant and was not disputed by the other parties. I have considered the obligation in light of the statutory tests contained in Regulation 122 of CIL Regulations and as set out in paragraph 56 of the Framework. These state that a planning obligation must be necessary to make the development acceptable in planning terms, directly related to the development, and fairly and reasonably related in scale and kind to the development. The obligations comply with Framework and CIL Regulations, and I have taken them into account in coming to my decision
  8. At the request of the main parties, Rule 6 groups and local residents I undertook unaccompanied site inspections on different days and at different times of day. I was given access to the site via the golf course, and I was also able to view the site from the train travelling both north and south. I also visited the site of the Colney Health appeal decision referred to me<sup>7</sup>.

### **Main Issues**

9. The Statement of Common Ground<sup>8</sup> (SOCG) identifies that the main parties worked together to address highway issues (RFR3) and flood risk and drainage (RFR5). The Council confirmed it would not be defending these reasons at the Inquiry. The Combined Objectors Group (COG), North Mymms Parish Council (NMPC) and local residents made submissions on these matters and therefore they were the subject of round table discussion.
10. The SOCG also outlined that RFR4 and RFR6 were also subject to ongoing discussion with the submission of a draft obligation to the Inquiry. The content of the obligation and CIL compliance were addressed at a round table session.
11. The appeal site is located within the Green Belt. It was agreed that in the context of the Framework that the scheme would present inappropriate development within the Green Belt, a matter that must attract substantial weight against the proposals. I concur with this view.

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<sup>4</sup> CD6 Section

<sup>5</sup> ID11

<sup>6</sup> CIL Compliance Statement WHBC.APP.C1950.W.22.3307844 & Appendices

<sup>7</sup> CD9.28

<sup>8</sup> CD13.01

12. Taking all of this into account, the main issues in the appeal are:

- the effect of the proposal on the openness of the Green Belt and its purposes;
- the effect of the scheme on the character and appearance of the area;
- and
- if the development is inappropriate, 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 within the Green Belt.

### **Reasons**

13. Policy GBSP1 is referred to in the decision notice and it is a saved policy from the Welwyn Hatfield District Plan<sup>9</sup> (LP). This policy defines the Green Belt in the Borough. The Appellant has referred at length to the ELP examination and its progress. On this particular point concern has been raised about the Green Belt boundaries being out of date and that there is a need for a consequent reduction in weight to GBSP1. The Framework is explicit that the appropriate place for Green Belt boundaries to be altered is through the preparation or updating of plans. Indeed, the intent set out is that when set they are considered so that they can endure beyond the plan period.

14. I appreciate that policy GBSP1 was adopted prior to the publication of the Framework. Nonetheless its aim and purpose remains to maintain Green Belt in Welwyn Hatfield based on the purposes of including land in the Green Belt which have not changed in substance between PPG2 and para 138 of the Framework. In this regard there would be conflict with the development plan and the Framework. I acknowledge that there remains an issue regarding the long term development needs in the Borough which I consider later in the decision under the headings for the provision of market and affordable housing. More to the point attaching weight to conflict with GBSP1 does not remove the need for me to consider whether very special circumstances exist in this case, the very point the main parties agree the case turns on. I consider it is correct to consider the 'out of date plan' arguments and 'green belt boundary' matters as other considerations.

15. It has been put to me that the harm arising from developing the site should be considered in the context of the enormous housing shortfalls, failures in plan making and the need to meet the need for future housing of different types. Again, to my mind this conflates matters that can be taken into account as other considerations into matters of harm. The Framework makes no distinction for reducing definitional harm, paragraphs 147 and 148 are clear. As such I address these matters within other considerations.

### *Green Belt Purposes & Openness*

16. It is common ground that there are both spatial and visual components to the Green Belt and that both are relevant in consideration of this scheme. The area of dispute is about the extent of the effects not whether there would be a change to openness arising should the scheme go ahead.

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<sup>9</sup> CD5.01, ID17

17. The site is currently an open field, and it is entirely free from built development. The appeal scheme would introduce built development onto the site in the form of up to 125 dwellings, care home, scout hut with associated access roads, gardens, open spaces and driveways. The precise layout and form of the scheme would be determined at reserved matters stage. The landscape masterplan<sup>10</sup> provides an illustration of landscape boundary treatment, areas of open space, play space, woodland belts and wildflower meadow areas. Nevertheless, the change from an open field to built development would lead to a reduction in openness of the site.
18. If the appeal scheme went ahead then the illustrative block plan shows that built form would be introduced across a high proportion of the appeal site. Matters of scale and appearance are reserved for future consideration. Nonetheless the Design and Access Statement<sup>11</sup> indicates that the scale of the development would be consistent with the local vernacular with dwellings up to two and two and half storeys in height. As such the scheme would have a greater scale than the existing situation adding built form to the area.
19. Therefore, in terms of spatial harm if the appeal scheme were to go ahead there would a significant amount of Green Belt lost permanently to built development. As such the openness would be lost permanently and replaced with built form and activity from residential development. On this point I agree with the Council that the presence of built form cannot be tempered by the extent of containment of the site.
20. Visually the site would be contained by dwellings on Bradmore Way and Peplins Way, Peplins Wood and to a lesser degree by the shared boundary with Brookmans Park Golf Course. From within the site the dwellings on Bradmore and Peplins Way are visible as is the railway line, which is elevated. In terms of the visual element of the loss of openness there would be a number of localised viewpoints from where this would be evident. It was demonstrated that there are a range of offsite viewpoints where the change from an open field to built form would be seen and perceived<sup>12</sup>. It is not unusual for the Green Belt to abut the built form of a settlement. As such it is inevitable that many views would be from a built up environment. However, whilst I acknowledge this and the containment from some aspects this would not reduce the change visually from an absence of built form.
21. The Council and Appellant agreed that there would be no impact on four out of the five Green Belt purposes. The disagreement related to purpose (c), namely preventing encroachment. The COG also considered that as the Green Belt in this location relates to London that purpose (a), to check unrestricted sprawl of large built up areas, should also be considered.
22. In considering this point my attention has been drawn to a number of background evidence documents including Green Belt studies<sup>13</sup>. Within the SKM Green Belt Review<sup>14</sup> the site is identified as being within an area known as parcel 45. The document identifies that parcel 45 makes limited or no contribution to checking sprawl, a partial contribution to preventing merging,

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<sup>10</sup> CD1.29

<sup>11</sup> CD1.18

<sup>12</sup> Appendices A & B Robert Browne Proof of Evidence

<sup>13</sup> CD6.16 & 6.17, CD6.38 pages 299-302, also figure 6.1 p54 of Mr Grays Proof of Evidence

<sup>14</sup> CD6.16 & CD6.17

partial contribution to safeguarding the countryside and a significant contribution to maintaining the settlement pattern.

23. The LUC Stage 3 Assessment<sup>15</sup> considers a much larger parcel of land than the appeal site (Site P66) to the northern edge of Brookmans Park. There is a division to create P66a within which the appeal site would be located. I appreciate that the description within this depicts the area as being contained by woodland to the north and east, identifies the position of the settlement to the south and the golf course to the south east. It still rates the release of this site as being 'moderate to high', albeit more limited harm than release of the whole parcel. Overall, the consequences of the appeal scheme going ahead would be the encroachment of built form into the Green Belt and it would erode its function and purpose.
24. There would be significant harm to openness arising from the appeal scheme. This, harm, in addition to the harm by inappropriateness, carries substantial weight against the proposals.

*Character and appearance*<sup>16</sup>

25. The appeal site comprises a parcel of land about 8ha in size on the edge of Brookmans Park. It is bounded by residential development to the south. The railway is visible to the west and Peplins Wood wraps around the western and north west site boundaries. Brookmans Park Golf Course is to the east before opening out into open countryside and beyond.
26. The parties agree that the site is not a valued landscape as set out in the Framework. There are not any other landscape designations applicable to the site. It is located within the Potters Bar Parkland A<sup>17</sup> where the landscape is described as, amongst other things, being a largely enclosed area, which encompasses the settlement of Brookmans Park. There are also references to relic estate architecture, landscape and planting features, extensive areas of recreation, urban edge influences, ridgelines and valleys, open views and mixed farming.
27. One of the main areas of disagreement was regarding the extent to which the site is influenced by the existing settlement edge of Brookmans Park. It is clearly a matter of fact that the site abuts the settlement, which is directly to its south edge. The railway line to the west is also close to the site and prominent due to being elevated. However, walking into the site there is a marked change with a clear transition into a rural character and an increased sense of tranquillity. Peplins wood is visible from within the site as is the housing in the Brookmans Park settlement and as part of my site visit, I was able to experience the approach from the north and south by train. In addition to this I saw the site from the adjacent golf course. This itself is an active area adjacent to the site. It clearly has some rural characteristics but by virtue of its use for leisure these are lessened. Overall, taking all of this into account, I consider that the site is transitional and not strongly influenced by harsh and urbanising factors.

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<sup>15</sup> CD6.38

<sup>16</sup> CD13.02, CD8.45, CD1.28

<sup>17</sup> Appendix A MF1, Mr Flatman Proof of Evidence

28. The Appellant submitted a Landscape and Visual Impact Assessment (LVIA)<sup>18</sup>. This refers to the site as a highly contained parcel of land which forms part of a transition zone characterised by a mix of existing housing at the settlement edge. It also refers to the containment provided by the local woodland. I agree that the woodland would serve to limit views from the north and west of the site. It would also be fair to say that overall long views would be limited, and the main visual effects would be localised<sup>19</sup>. There would be filtered views of the appeal site from the existing settlement and from the golf course. In addition, I consider it is fair to consider the effect on character that would result across the whole site.
29. The Appellant considers that the susceptibility of the appeal site is medium<sup>20</sup> and as such it has the ability to accommodate the scheme. The Appellants position focuses on the enclosure provided by the built development to the southern boundary of the site and suggests that it would impart suburban character. I cannot agree that the site itself is heavily influenced by a suburban character. This is one boundary and a singular relationship to the appeal site.
30. I appreciate that the site is contained to some extent, but the site is primarily an area of open fields which transition from the clear built edge of Brookmans Park. This undeveloped nature is true of the relationship to Peplins Wood, the open countryside to the far north and the glimpsed views from the golf course. Whilst these edges may provide some natural containment the wood and mature hedgerows provide a backdrop and form part of the wider landscape setting of the settlement. The scheme would see an agricultural field turn to residential buildings. I appreciate there would be setbacks, buffers and landscaping schemes that could be managed and enhanced, new trees and open space. However, I cannot agree with the Appellants position that this would have a slight adverse effect. For the reasons sets out if the scheme went ahead there would be an adverse effect on the character and appearance of the area.
31. I therefore conclude that the scheme would harm the character and appearance of the area. It would be in conflict with LP policies D1, D2 and RA10 which amongst other things seek to maintain, enhance or improve the character of the area.

#### *Other considerations*

32. Paragraph 143 of the Framework sets out that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 144 goes on to state 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, is clearly outweighed by other considerations. I consider the other considerations in turn.
33. I requested that evidence was presented using a common spectrum of weight for other considerations. I have used this spectrum<sup>21</sup>.

#### *Provision of Market Housing*

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<sup>18</sup> CD1.28

<sup>19</sup> Landscape SOCG Section 5

<sup>20</sup> LVIA section 5.2

<sup>21</sup> CD13.10

34. The Framework seeks to support the Governments objective of significantly boosting the supply of homes. In order to achieve this it 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.
35. It is common ground that the Council cannot 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 position, the shortfall is considerable and significant. I acknowledge that the Appellants position is that the plan, even on adoption, might not meet housing need and I have taken this into account in apportioning weight to this consideration.
36. There is no dispute that the delivery of housing represents a benefit. Even if the site is not developed within the timeframe envisaged by the Appellant, and I have no evidence that this would not be achieved, it would positively boost the supply within the Borough. I therefore afford very substantial weight, which sits at the top end of the spectrum used at the Inquiry, to the provision of market housing which would make a positive contribution to the supply of housing in the Borough.

#### *Provision of Self Build*

37. Within the overall scheme the intention is to make provision for up to 10 self build and custom house building plots in an area of deficiency of such plots. These would be secured through the planning obligation.
38. There are no policies in the adopted development plan for this provision but the ELP encourages their provision. The Government attaches great importance to the provision of this element of the supply. Paragraph 61 of the Framework identifies that planning policies should reflect the housing needs of different sectors of the community including, but not limited to people wishing to commission or build their own homes. Footnote 26 gives further explanation with reference to the requirements of the Self Build and Custom Housebuilding Act 2015 (as amended). The Planning Practice Guidance advises that local authorities should use the demand data from registers, supported by additional data from secondary sources, to understand and consider future need for this type of housing in their area. Furthermore, it goes on to note that the registers are likely to be a material consideration in decisions involving proposals for self build and custom housebuilding.
39. Therefore, whilst there is no local policy requirement, there is a national policy requirement and the Appellants provided a specific assessment<sup>22</sup> which was not disputed. The appeal scheme would make a positive contribution to the supply of self build service plots in the Borough. I attach substantial weight to this provision.

#### *Provision of affordable housing*

40. The evidence of the Appellant on affordable housing in the local authority area is not contested and it shows that the need for affordable housing in the

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<sup>22</sup> Appendix RG6

Borough is acute. It demonstrates that delivery of affordable homes is extremely low when compared to what is required<sup>23</sup>.

41. The appeal scheme would make provision for up to 56 affordable homes which would be secured by the planning obligation. This would be in accordance with the policies of the development plan<sup>24</sup>. Therefore, the delivery of 56 affordable homes would contribute to meeting the shortfall. As such I attach very substantial weight to the delivery of affordable homes in this location.

*Provision of the care home*

42. The appeal scheme would include provision of a 60 bed care home. The Council did not dispute that there is a need within the Brookman's Park locality for a care home. Indeed, the need for specialist accommodation such as a care home or sheltered housing is identified in the ELP<sup>25</sup>. Saved LP policies H9 and CLT17 also support the provision of specialist accommodation. There is disagreement about how the need for a facility has been arrived at. The Appellant's evidence is localised with a limited radius where policy applies Borough wide. However, there is no disagreement that there is a Borough wide need for a suitable quality of accommodation at an appropriate quantity. The provision of a 60 bed care home would add to the supply of specialist accommodation and would be a benefit to which I attach significant weight.

*Scale of Green Belt release, the Emerging Local Plan and Findings of the Local Plan Inspector<sup>26</sup>*

43. The Appellant made significant submissions regarding the state of the Council's existing development plan, the current local plan process and the extent to which the Council would need to meet its future housing need on Green Belt sites. There was agreement that the key element of this that had relevance to the appeal scheme was the evidence base for the ELP, which is a material consideration.
44. I was specifically referred to the comments made by the Local Plan Inspector which relate directly to the appeal site<sup>27</sup>. I have carefully considered these and heard from the witnesses on their relevance at the Inquiry. On this matter I agree with the Council that they are not binding in terms of the capacity of the site for development. They were provided within the context of a Local Plan Examination where various sites were being considered for release from the Green Belt for housing and within the requirements of the Framework for plan making where a need for a change to boundaries has been established<sup>28</sup>. As such I attached very minor weight to them.
45. The Appellant identifies that the site has been found suitable for development within a number of other documents<sup>29</sup>. I note that the site was also found to be suitable for inclusion in the ELP by the Council's officers as one of a list of sites to address the shortfall identified by the Local Plan Inspector. The fact is

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<sup>23</sup> Appellant's closings para 150 and 151

<sup>24</sup> Policy H7

<sup>25</sup> CD6.01 para 21.2

<sup>26</sup> CD6 (6.01-6.137)

<sup>27</sup> CD 6.71

<sup>28</sup> Council's closings paras 51-54

<sup>29</sup> Housing site selection background paper 2016 – CD6.112, HEELA 2019 – CD6.12, Housing and Employment Site Selection Background Paper 2019 – CD6.10, 6.10 and 6.12, 9.10, 9.11, 9.12 SOCG



that the site was not included in the list of sites taken forward within the main modifications. Therefore, this matter attracts negligible weight.

46. It was also highlighted to me that the Council has previously granted planning permissions on Green Belt land. Other decisions should be considered on their own merits and therefore they attract negligible weight.
47. It is evident from the information put to the Inquiry that to meet the Council's requirement for housing that the ELP will include land to be released from the Green Belt. However, in spite of the volume of evidence of the Appellant's view on this matter, I do not consider that it is appropriate for me to speculate on how the main modifications might progress or indeed whether that plan would be found sound and ultimately adopted. I understand the Appellant's team consider that it is highly unlikely that the plan would be adopted. Within submissions on this point the Appellant refers me back to the delays in the plan making process and the consequent impact on the supply of housing and delivery of affordable housing. However, I have already considered the contribution that the appeal scheme would make to these issues and the weight to be attributed to them so cannot do so again.
48. The ELP would include a substantial level of Green Belt release to meet the Borough's housing need. In this regard the Green Belt boundaries are out of date. However, the amount of release remains a matter for the local plan examination. Furthermore in considering the provision of market housing I have already attached very substantial weight to this benefit from the appeal scheme which is directly linked to the issue of the boundaries. As such it cannot attract further weight as this would lead to the double counting the Council was concerned about in principle.

#### *Provision of Scout Hut<sup>30</sup>*

49. The scheme would include the provision of a new scout hut as a community benefit. This would be secured through the planning obligation which would secure its provision and transfer to the Scout Group. There is no dispute that the current hut is nearing the end of its economic life and requires constant maintenance. This would be a social benefit arising directly from the scheme going ahead. It is a benefit to which I attach moderate weight.

#### *Location of the site*

50. There is no dispute across the main parties that the location of the appeal site would be a sustainable one for new development. There would be access to facilities and services. The site would be walking distance from Brookmans Park railway station and bus stops that would allow for access to a variety of modes of transport. The Council suggest that residents would still be reliant upon the private car but they would have a choice to walk, cycle or use public transport for some journeys. There would also be improvements to pedestrian facilities in Brookmans Park which would help promote active travel<sup>31</sup>. The sites location would not be a reason to resist development and there would not be conflict with the development plan on this matter. Nonetheless I agree with the Council that there is nothing out of the ordinary about the location. It is in effect a neutral factor and as such I consider that the weight attached to this would be very minor.

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<sup>30</sup> Appendix RG7 to Mr Gray proof of evidence

<sup>31</sup> CD13.03 and para 7.50 of Mr Gray's proof

### *Environmental*

51. Biodiversity net gain is addressed by the Appellant in a summary statement<sup>32</sup> and resulted in a financial offsetting secured through the planning obligation. This contribution would represent a 15% net gain in accordance with Hertfordshire and Middlesex Wildlife Trust's methodology. This approach would also accord with LP policy R11, ELP policy SADM16 and the Framework. Overall, this would attract moderate weight.

### *Economic benefits*

52. There would be economic benefits associated with the construction of the scheme and spending locally by new residents. These benefits would in part be applicable only whilst the development was being constructed. In addition, the future spending of new residents cannot be predicted or quantified. Therefore, I attach very minor weight to these matters.

*If the development is inappropriate, 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 within the Green Belt*

53. The government attaches great importance to the Green Belt as set out in the Framework. Any harm to the Green Belt is therefore given substantial weight. The starting point is that substantial weight is attached to any harm to the Green Belt by reason of inappropriateness and any other harm arising from the proposal. The appeal scheme is inappropriate development and there would be harm to openness. The development would also cause harm to the character and appearance of the area in conflict with the development plan.

54. On the other hand there is clearly a need for elderly persons accommodation which the scheme would help address along with provision of self build plots. There is also a significant shortfall in overall housing supply and a need for affordable housing to be delivered. The appeal scheme would contribute to meeting both of these. The development would produce some economic and social benefits in terms of temporary construction jobs, longer term employment opportunities and provision of a scout hut. There would also be improvements arising from pedestrian facilities that would be secured. These considerations would weigh in favour of the development.

55. The determination of whether very special circumstances exist is a matter of planning judgement based on a consideration of all relevant matters. However, very special circumstances cannot exist unless the harm to the Green Belt, and any other harm, is clearly outweighed by other considerations. Consequently, for the appeal to be allowed, the overall balance would have to favour the Appellant's case, not just marginally, but decisively.

56. Overall, I have considered the totality of the other considerations of the provision of market housing, self build, affordable housing, care home, scale of Green Belt release, ELP (including findings of the Local Plan Inspector) and there are other factors which add to this weight. Even so, the totality of the other considerations do not clearly outweigh the combined weight of the harm to the Green belt, harm to character and appearance and conflict with the development plan in this regard. Therefore, I find that the other considerations

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<sup>32</sup> Appendix RG3 Mr Gray proof of evidence

in this case do not clearly outweigh the harm that I have identified. Consequently, the very special circumstances necessary to justify the development do not exist.

### **Other Matters**

57. I have considered the effects of the scheme on flooding and highway safety. In doing so I have taken into account the written representations of local residents and the detailed oral evidence given by them, the COG and NMPC to the Inquiry<sup>33</sup>.
58. I understand that there are concerns about localised flooding and that they might be exacerbated by the appeal scheme. However, I am satisfied that appropriately worded conditions in relation to surface water drainage and the provisions of the planning obligation could address any impacts in this regard.
59. In terms of highway safety, a number of local residents have expressed concerns regarding localised congestion and parking as well as overall highway impacts. More specifically concerns were raised about peak times when the local schools were starting and finishing. At the request of local residents, I carried out site inspections at the peak times referred to at the Inquiry to observe local highways conditions. In addition to these videos were presented to the Inquiry regarding specific matters and issues.
60. The site access would be located off Bradmore Way which is in a residential area. There were no technical objections to the access point itself which would be of an adequate width for two way traffic<sup>34</sup>. Local residents NMPC and COG have also raised concerns regarding vehicles mounting the footway, the informal one way system and potential for on street parking to lead to harmful effects on highway safety if the scheme went ahead. I was able to witness peak times for myself as well as the videos and photos submitted to the Inquiry.
61. I understand that there are incidents that take place on the network at various times. However, I have no evidence that this would be a persistent problem or that the appeal scheme would directly worsen the situation. On street parking was evident along the local roads and is analysed within the highways SOCG. I understand that residents consider that the current informal measures assist in maintaining the free flow of traffic in the area. However, this is not formal control. The Appellant committed to making residents aware of this arrangement through the Travel Plan. Had I been minded to allow the appeal I consider this approach would have been proportionate and reasonable.
62. I have taken into account the likely vehicular traffic that the appeal scheme would generate. I appreciate that residents consider the road network to be sensitive and that there are acute pressures at various points of day. I have considered the supporting documents<sup>35</sup> and representations made by residents, NMPC and the COG. Nonetheless overall I consider that the appeal scheme would not lead to a severe impact on the operation of the highway network in the locality.

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<sup>33</sup> ID3, ID4, ID5, ID10, ID14, ID15, ID24, ID25

<sup>34</sup> Mr Davies rebuttal evidence

<sup>35</sup> CD1.34, 13.03

*Other appeal decisions*<sup>36</sup>

63. Within the core documents I have been referred to at least fifty other appeal decisions as part of the evidence before me in relation to this appeal. Both the Appellant and Council teams referred to this litany of appeal decisions. It is very rare for other appeal decisions to provide an exact comparison to another appeal scheme. It remains the case that each appeal should be considered on its individual merits. Having carefully considered these numerous cases I have noted that there are both similarities and differences when considered against the appeal scheme.
64. The most referred to of these was the site known as Land off Bullens Green Lane, Colney Heath<sup>37</sup> where an appeal was allowed for housing on a site in the Green Belt. As part of my site inspections, I visited this site at the request of the parties. A key submission was that the appeal site is more contained than the Colney Heath site, which gained planning permission. Documents associated with this scheme were provided to the Inquiry<sup>38</sup>. These show the locality in which that site is located. It is not directly comparable to the appeal site, there is no woodland belt or golf course, and dwellings are in differing locations relative to the site. As such I do not attach any weight to a direct comparison between these schemes.
65. It is for the decision maker in each case to consider each case on its merits and therefore I attach very limited weight to these other appeal cases.

**Conclusion**

66. Therefore, for the reasons given above, and having considered all other matters raised, the appeal is dismissed.

*D J Board*

INSPECTOR

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<sup>36</sup> CD9.01 through to CD9.50

<sup>37</sup> CD9.28

<sup>38</sup> CD12.08-12.12

**APPEARANCES**

FOR THE APPELLANT:

Christopher Young KC  
Sioned Davies

They called

Mark Flatman  
James Stacey  
Nigel Newton Taylor  
Russell Gray

Other participants at Round Table Discussions:

Ben Pycroft  
Stuart Davies  
Michael Gallimore  
Susan Deakin  
Paul Blackman  
Charlie Austin

FOR THE LOCAL PLANNING AUTHORITY:

Josef Cannon

He called

Robert Browne  
Matthew Wilson  
David Elmore

Other participants at Round Table Discussions:

Martin Hicks  
Rob Walker  
Matt Dodds  
Charlie Thompson  
Sam Tearle  
Lucy Palmer  
David Uncle  
Matthew Armstrong

**RULE 6 PARTIES:**

Combined Objectors Group  
Joe Thomas

He called

Jed Griffiths

Other participants at Round Table Discussions:

Chris Berry  
Simon Hill  
Chris Hughes

North Mymms Parish Council

represented by Cllr Mia Americanos-Molinaro

INTERESTED PARTIES:

Dr Anne Broe<sup>39</sup>  
Mrs Taylor (Welwyn Garden City Society)<sup>40</sup>  
Chris Hughes<sup>41</sup>  
Fiona Delgatto

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<sup>39</sup> ID5  
<sup>40</sup> ID6  
<sup>41</sup> ID10

## **DOCUMENTS SUBMITTED AT THE INQUIRY**

- ID1 Opening Statement Appellant
- ID2 Opening Statement Council
- ID3 Opening Statement Combined Objectors Group
- ID4 Opening Statement North Mymms Parish Council
- ID5 Residents Statement, Dr Broe
- ID6 Welwyn Garden City Society Statement
- ID7 Scott Schedule Housing Land Supply
- ID8 Amendments to Proof of Evidence Mr James Stacey
- ID9 North Mymms Parish Council Statement of Case version 2
- ID10 Mr Hughes' Statement
- ID11 Draft s106 Agreement
- ID12 Note on North Mymms Parish Plan
- ID13 Combined Objectors Group Separation Distance Note
- ID14 Video from Mr Hughes
- ID15 Video from Dr Broe
- ID16 Green Infrastructure Parameters Plan – 490\_20\_OUT\_PL1009
- ID17 Saved Policies of Welwyn Hatfield District Plan
- ID18 Appellant's Note Clarifying Title
- ID19 Appellant's Note regarding Settlement Gap
- ID20 490\_20\_OUT\_PL1000 Rev A Site Location Plan
- ID21 490\_20\_OUT\_PL1001 Rev A Existing Site Plan
- ID22 Appellant's Response to Mr T Hall's email of 22 Feb 2023
- ID23 Closing Submissions Council
- ID24 Closing Submissions Combined Objectors Groups
- ID25 Closing Submissions North Mymms Parish Council
- ID26 Closing Submissions Appellant

Core documents are available to view at - [Bradmore Way Planning Appeal Inquiry – Welwyn Hatfield Borough Council \(welhat.gov.uk\)](#)