

MADDOX PLANNING

**FULL STATEMENT
OF CASE**

**LAND BETWEEN CARAVAN SITE AND WATLING
STREET, PARK STREET, ST ALBANS**

08.05.24 FINAL

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1.0 Introduction

- 1.1 This Full Statement of Case ('the Statement') has been prepared by Maddox Planning on behalf of M Scott Properties Limited ('the Appellant') to support an appeal made under Section 78(1)(a) of the Town and Country Planning Act 1990 against St Albans City & District Council's ('the LPA's') decision to refuse a planning application, contrary to the advice of its Planning Officers for outline planning permission with all matters reserved except access for the erection of up to 95 dwellings, including 40% affordable dwellings and 5% self-build and custom build dwellings, public open space, landscaping and associated infrastructure ('the Proposed Development') at Land Between Caravan Site and Watling Street, Park Street, St Albans, Hertfordshire ('the Site') (planning application reference number: 5/22/0267/LSM).
- 1.2 This Statement provides the Appellant's Full Statement of Case giving full particulars and copies of documents it refers to and any other evidence at the time of making the appeal. This Statement has been prepared in accordance with the Procedural Guide: Planning Appeals (England) (updated 11 December 2023) ('the Guide').
- 1.3 Within this Statement various references are made to the draft SOCG as lodged with the appeal relating to matters that the Appellant considers should be common ground with the LPA. These are not repeated here for brevity. However, if any such matters are not ultimately agreed with the LPA the Appellant reserves the right to address all such matters in evidence.
- 1.4 There is one reason for refusal. As stated on the decision notice this is as follows:
1. The proposed development comprises inappropriate development, for which permission can only be granted in very special circumstances. There is harm to the Green Belt (harm in principle) and other harm to coalescence which is not clearly outweighed by other considerations (paragraphs 142, 152 and 153 of the National Planning Policy Framework 2023). We do not consider that the benefits outweigh the harm caused by this proposed development due to the harm to the Green Belt openness, coalescence and merging of towns, lack of social housing and a failure to demonstrate that the proposal would not exceed the capacity within the highway network. The proposal is therefore contrary to the National Planning Policy Framework 2023 and Policy 1 and 8 of the St Albans District Local Plan Review 1994.
- 1.5 The Appellant considers that a planning inquiry is the most appropriate procedure in which to determine the appeal. A justification for this request is set out in section 10 in accordance with the Guide.

2.0 Site and surroundings

2.1 A full description of the Site and its surroundings is included in the draft SOCG in section 2, which is also set out in the Committee Report.

3.0 The application process

- 3.1 Full details of the pre-application discussions, formal submission and the application process are included in the draft SOCG in section 5.

4.0 The proposed development

- 4.1 A description of the proposed development in the planning application and appeal are included in the draft SOCG in section 6.

5.0 The development plan

- 5.1 To the extent that development plan policies are material to an application for planning permission the decision must be taken in accordance with the development plan unless there are material considerations that indicate otherwise (section 38(6) of the Planning and Compulsory Purchase Act 2004). These provisions also apply to appeals.
- 5.2 The weight to be attached to all material policies within the statutory development plan and other material considerations will be dealt with in evidence.
- 5.3 St Albans has recently consulted on a Regulation 18 draft of the emerging Local Plan and according to the Council's LDS is due to undertake the next stage of consultation (Regulation 19) between October and December 2024. The appeal site is identified for allocation within the Regulation 18 draft of the Local Plan, and this is set out further within the draft SOCG at section 3.

The development plan

- 5.4 The development plan comprises:
1. City and District of St Albans District Local Plan Review 1994 ('Local Plan'); and
 2. St Stephen Parish Neighbourhood Plan 2022
- 5.5 In this section of the Statement, the Appellant sets out the development plan policies that are particularly material to the Proposed Development. The material policies assessed in this Statement include, but are not limited to, policies identified in the reasons for refusal.
- 5.6 The policies that are material to this appeal and assessed in this Statement, in the following order, are:
1. Local Plan Policy 1 Metropolitan Green Belt
 2. Local Plan Policy 8 Affordable Housing in the Metropolitan Green Belt
 3. Local Plan Policy 34 Highway Considerations in Development Control
 4. Local Plan Policy 35 Highway Improvements in Association with Development

Green Belt Policies

- 5.7 Policy 1 is consistent with the fundamental policy within the NPPF (paragraphs 152 and 153) for proposals within the Green Belt. Policy 1 acknowledges and requires demonstration of very special circumstances for inappropriate development in the Green Belt.
- 5.8 As will be demonstrated within proceeding sections, the proposal would deliver several benefits that weigh in favour of the development proposals, to adequately justify that "the potential harm to the Green Belt by reason of appropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations" in line with paragraph 153 of the NPPF.

Affordable Housing Policies

- 5.9 The Proposed Development is in accordance with Policy 8, as a more than policy compliant affordable housing offer of 40% is proposed (exceeding the 35% adopted policy requirement set out within the Affordable Housing SPG (2004)) that will meet an identified need for low-cost housing, which is not being met in non-Green Belt locations.

Highways Policies

- 5.10 The Proposed Development accords with policy 34, as it is acceptable in terms of its highways impacts, subject to conditions, informatives and planning obligations. As acknowledged within the Officer's Report, it

has been evidenced that the site is in a sustainable location in proximity to local facilities, services, and public transport links. The Local Highways Authority has accepted that the proposal would have no detrimental impact on existing highway safety, the proposed vehicular access is acceptable, and the junction can adequately accommodate the increase in traffic flows associated with the development and therefore have no objections to the proposal.

- 5.11 Off-site mitigation works in the form of a toucan crossing; upgrading of footway on the eastern side of Watling Street; upgrading of the footway on the western side of Watling Street; and upgrading of the bus stops on both sides of Watling Street; is proposed, to adhere with policy 35 in respect of delivering appropriate highway improvements as part of the application.

Conclusion

- 5.12 In conclusion, the Proposed Development is in accordance with the development plan when read as a whole including the LPA's key objectives and principles of the Local Plan.

6.0 Other material considerations

6.1 In this section, the Appellant sets out whether there are any other material planning considerations that are relevant to making the planning decision in question.

6.2 Other material planning considerations to this appeal are:

1. National Planning Policy Framework ('NPPF')
2. National Planning Practice Guidance – Local Finance Considerations
3. Draft Local Plan 2041 Regulation 18 Public Consultation (July 2023)
4. Main benefits of the proposal

NPPF

6.3 The latest version of the NPPF was published in December 2023 and so it is the most up to date policy document to be published. This means that whilst existing policies in development plans should not be considered out of date simply because they were adopted or made prior to the publication of the NPPF, due weight should be given to them according to their degree of consistency with the NPPF (paragraph 225). Consequently, the policies in the NPPF are material considerations that carry significant weight in dealing with planning applications.

6.4 At the heart of the NPPF is a presumption of sustainable development (paragraph 11). For decision taking this means, approving development proposals that accord with an up-to-date development plan without delay. In this case, the development plan is considered to be out of date, with the exception of the Green Belt policies (Policy 1), which reflect the position of paragraphs 152-153 of the NPPF.

6.5 The policy test for Green Belt proposals is set out within paragraphs 152 and 153 of the NPPF, with paragraph 152 setting out that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 153 outlines that "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."

6.6 The assessment of harm to the Green Belt should be set in the context of the five Green Belt Purposes, as set out in paragraph 143 of the NPPF:

- 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; and*
- e) to assist in urban regeneration, by encouraging the recycling of derelict and other urban land."*

6.7 Taking the above into account, a planning judgement on the harm to Green Belt purposes of the proposed development is provided below.

- a) to check the unrestricted sprawl of large built-up areas*

6.8 As agreed with by Officers within paragraph 8.3.17 of the August 2023 and upheld within the January 2024 Committee Report, the proposals comprise the 'rounding-off' of the settlement at Park Street, and the Arup Green Belt Review 2023 Annex Proforma Report (APR) indicates that the sub-area does not meet this purpose.

- b) to prevent neighbouring towns merging into one another*

6.9 As noted above, the development of this site would essentially ‘round-off’ the settlement of Park Street and does not result in new development being closer to St Albans than existing forms of development. It is not considered therefore that the development of this site would result in coalescence, and there is not considered to be any harm to this Green Belt purpose. Indeed, against this criterion, it is noted that the Arup Green Belt Review 2023 APR identifies that the removal of the sub-area (SA-108) from the Green Belt “would not result in physical or perceptual merging between neighbouring built-up areas” (page 499).

c) to assist in safeguarding the countryside from encroachment

6.10 The development would result in the loss of an existing arable field, and therefore in this context there would be some encroachment into the countryside. However, the site is contained within the urban edge of Park Street, and the development will not extend beyond existing built development limits nearby as confirmed within paragraph 8.3.17 (e) of the August Committee Report and effectively repeated within the January Report.

d) to preserve the setting and special character of historic towns

6.11 The Appellant supports the judgment of Officers that development of this site would not have any impact on the setting and special character of the historic core of St Albans. No harm is identified in relation to this purpose. Indeed, the Arup Green Belt Review 2023 Annex Proforma Report explains the sub-area does not abut an identified historic place or provide views to a historic place and does not meet this purpose.

e) to assist in urban regeneration, by encouraging the recycling of derelict and other urban land

6.12 Given the nature of the development site, as accepted by Officers, this purpose should not apply. Within paragraph 8.3.17 of the August Committee Report and effectively repeated within the January Report, Officers confirm that “the Council does not have any significant urban sites allocated for development”.

6.13 In accordance with paragraphs 152 and 153 of the NPPF, inappropriate development is, by definition, harmful to the Green Belt and when considering a planning application, authorities should ensure that substantial weight is given to any harm to the Green Belt. However as set out above and during the application, the Appellant considers that the site offers little contribution towards the purposes of the Green Belt set out at paragraph 143 of the NPPF. Development of the site would have little impact on the visual component of openness, the wider integrity of the Green Belt parcel and the perception of openness beyond the site itself.

6.14 The benefits in this instance (as outlined within Section 10 of this SoC) are considered to clearly outweigh the harm to the Green Belt, and this will be demonstrated through the scope of evidence, where weight will be attributed to the relevant considerations.

Draft Local Plan 2041 Regulation 18 Public Consultation (July 2023)

6.15 The site was included within the Regulation 18 Consultation Draft (July 2023) of the Draft Local Plan under reference ‘L2- West of Watling Street, Park Street, AL2 2PZ’. The site was assessed as having an indicative capacity for 104 residential units.

6.16 As outlined within the August 2023 Committee Report, whilst ‘only limited weight at most could be afforded to the draft allocation at this time... Officers consider that significant weight can be afforded to the evidence base underpinning the preparation of the new Local Plan, including the new Green Belt Review considered above. The Committee Report considers that significant weight can be afforded to the new evidence base as it represents the most recent and comprehensive assessment of the Green Belt carried out by an independent consultancy under a recognised methodology.’

Main benefits of the proposal

6.17 The main benefits of the Proposed Development include:

1. Provision of new homes

2. Provision of Affordable Housing
3. Provision of self-build and custom Plots
4. Public Open Space and Children's play space
5. Biodiversity Net Gain
6. Sustainable site location
7. Economic benefits
8. Community benefits

1. Provision of new homes

- 6.18 As confirmed in the Chiswell Green decision (ref: 3312277), the Council's current 1.7-year housing land supply is significantly below the required provision, and the recently published HDT figure is now 55% as of April-May 2023. With limited opportunities for this situation to improve within the short to medium term, as noted within the Colney Heath appeal decision (ref: 3323099), the delivery of 95 dwellings within the next five years will provide a significant contribution towards the shortfall.

2. Provision of Affordable Housing

- 6.19 The proposed development includes the provision of 40% affordable housing compared to the 35% required by current policy. There is a clear and pressing need for affordable housing within the district, with the Chiswell Green Appeal decision (appeal ref: 3312277) noting serious shortcomings in the past delivery of affordable housing, identifying a delivery shortfall of around 4,360 dwellings between 2017/2018 – 2021/22, with a requirement for 1,101 dwellings per annum to be addressed within the next five years.

3. Provision of self-build and custom Plots

- 6.20 The proposal includes 5% self-build plots. The Government attaches great importance to the provision of this element of the supply. Notably, paragraph 63 of the NPPF 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. The demand data from the register in the area demonstrates that there is demand for self-build in the district, with 799 being on the register as of 30 October 2023. The 2023 Authority Monitoring Report shows a total of 189 applications for self-build / custom build have been approved. As such, the Council has failed to meet its statutory duty in granting sufficient permission for self-build and custom housebuilding plots, and the proposals would contribute significantly meeting this need.

4. Public Open Space and Children's play space

- 6.21 The Proposed Development will provide for approximately 2,450sqm of open space and amenity areas, including a Locally Equipped Area for Play (LEAP) along the western boundary of the site. This quantum vastly exceeds the policy requirement of 51sqm for toddler play areas (as acknowledged within paragraph 8.7.1 of the August 2023 Committee Report) and will make a contribution to local amenity.

5. Biodiversity Net Gain

- 6.22 The Proposed Development will provide at least a 10% biodiversity net gain on site.

6. Sustainable site location

- 6.23 The site is located on the edge of Park Street, within close proximity to a number of services and facilities, including schools and public transport links. Three bus stops are located close to the site's eastern boundary with Park Street, and Park Street train station is c.320m to the south. The site is therefore considered to be located within a sustainable location, to contribute towards the social and environmental objective of achieving sustainable development, in accordance with paragraph 8 of the NPPF.

7. Economic benefits

- 6.24 The delivery of up to 95 dwellings would generate direct and indirect economic benefits through the provision of employment during the construction phases, operational expenditure from future residents and direct revenue to the Council through Council Tax receipts.

8. Community benefits

- 6.25 In addition, the local community will benefit from the planning obligations associated with the Proposed Development, which include financial contributions towards the expansion of schools in the area, Special Educational Needs and Disabilities (SEND) contributions towards the delivery of new Severe Learning Difficulty (SLD) special school spaces, library services and youth services. Local highways improvements are proposed, in addition to a contribution to the NHS (GP surgeries/ambulances). Planning obligations are a local finance consideration, which is material to this appeal, and it will have a positive impact on the community.

7.0 Suggested conditions and s106 obligations

- 7.1 The Appellant will seek to agree a list of conditions with the LPA. These are set out in the Committee Report and are covered in the SOCG.
- 7.2 A number of financial and non-financial contributions are to be secured by a Unilateral Undertaking, as set out in the Committee Report and discussed further within the SOCG.

8.0 Statement of Common/Uncommon Ground

- 8.1 The Appellant is seeking to agree a SOCG with the LPA, in which it intends to set out all matters of agreed fact, and to identify the matters in dispute.
- 8.2 As noted above the draft SOCG has been provided with the appeal submission and this Statement seeks to avoid repetition by cross referring to it where appropriate. However, the Appellant reserves its right to address matters in evidence where any such matters may subsequently not be agreed.

9.0 The overall planning balance

- 9.1 As set out within paragraph 153 of the NPPF, the core test is whether the harms to the Green Belt, and any other harms are outweighed by benefits. As set out within Section 6.0, the Appellant considers that the material planning considerations of the scheme, including its main planning benefits, substantially outweigh any potential harm to the openness of the Green Belt. The main planning benefits of the scheme that clearly outweigh any perceived harm include a) Provision of new homes, b) Affordable Housing, c) self-build and custom plots, d) Public Open Space and Children’s play space, e) Biodiversity Net Gain, f) sustainable site location, g) Economic Benefits; and h) Community benefits.
- 9.2 In consequence, it is the Appellant’s position that the granting of planning permission accords with the statutory development plan when read as a whole, and in addition to that, it is further supported by other material considerations, in particular the Green Belt chapter of the NPPF.

10.0 Justification for an Inquiry

10.1 An inquiry is the only suitable procedure for the consideration of this matter. This section sets out a justification for this, considering the criteria set out for determining the procedure for planning appeals in the Guide.

10.2 Based on the reasons for refusal, the Appellant considers the following factors are material:

1. There is a need for evidence to be tested through formal questioning by an advocate.
2. The issues are complex.
3. The appeal has generated substantial local interest to warrant an Inquiry as opposed to dealing with the case by Hearing.

10.3 Need for evidence to be tested through formal questioning

It is considered that the reasons for refusal should be examined in detail with the benefit of questions from an advocate. The Appellant intends to call eight witnesses, being Planning Policy and Balance, Landscape and Visual Impact, Green Belt Impacts, Housing Land Supply, Affordable Housing, self-build and custom Housing, Highways and Ecology. It would be beneficial for the evidence to be tested through cross examination because of the importance of the strategic and local issues raised.

10.4 In addition, the Appellant does not know the Council's position behind its reason for refusal given the application was recommended for approval and refused by Members. This is particularly relevant in respect of affordable housing, as this was first raised at the January 2024 Committee and is policy compliant so its inclusion as a reason for refusal is not clear. The Appellant reserves the right to see the Council's Statement of Case, which would necessitate this appeal being dealt with by way of planning Inquiry - to produce proofs of evidence to respond.

The issues are complex

10.5 There are technical issues in the reasons for the refusal, such as Green Belt, landscape and visual impact and highways impacts alongside the development of affordable and custom self-build housing, that will require detailed evaluative assessment and cross examination of technical advice.

The appeal has generated substantial local interest

10.6 Throughout the determination period, the application drew significant local opposition, with the LPA receiving a total of 480 individual objections. The Appellant considers that this amounts to substantial local interest to warrant an Inquiry as opposed to dealing with the case by a Hearing.