



---

## Appeal Decision

Site visit made on 4 August 2025

by **D M Young JP BSc (Hons) MA MRTPI MIHE**

an Inspector appointed by the Secretary of State

Decision date: 1<sup>st</sup> October 2025

---

### **Appeal Ref: APP/B1930/W/25/3365491**

### **Lye Lane, Bricket Wood, St Albans, AL2 3TF**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
  - The appeal is made by J K Rudkin builders Ltd. against the decision of St Albans City Council.
  - The application Ref is 5/2024/0086.
  - The development proposed is the demolition of existing buildings and dwellings and construction of 34 low energy dwellings of which 50% will be reserved for over 55's and associated access and highway alterations.
- 

### **Decision**

1. The appeal is allowed, and outline planning permission is granted for the demolition of existing buildings and dwellings and construction of 34 low energy dwellings of which 50% will be reserved for over 55's and associated access and highway alterations at Lye Lane, St Albans, AL2 3TF in accordance with the terms of the application, Ref 5/2024/0086, subject to the conditions in the attached schedule.

### **Preliminary Matters**

2. A previous scheme for 115 dwellings was dismissed in June 2025 following a 7-day Inquiry in 2024<sup>1</sup>. While elements of that case are material to my decision, the scale of development proposed in the current appeal is significantly reduced. I have therefore determined the appeal on its own individual merits in light of the circumstances and evidence before me.
3. Planning permission was refused on eight grounds. Following the publication of the previous appeal decision, the Council confirmed that it would not be defending reason for refusal 2 relating to noise impacts on future occupiers.
4. The application was submitted in outline with only access to be determined at this stage. Nonetheless, the application was accompanied by an indicative layout showing how the dwellings might be arranged. I have had regard to this plan insofar as it is relevant to the main issues below.
5. A signed and dated agreement under s106 of the Town and Country Planning Act 1990 has been submitted. Among other things, the s106 agreement contains obligations in respect of off-site highway works, education, fire & rescue and monitoring contributions. All the proposed planning obligations need to be assessed against the statutory Community Infrastructure Levy (CIL) tests, a matter I return to later.

---

<sup>1</sup> PINS ref: APP/B1930/W/24/3338501

## Main Issues

6. The main issues are:
- 1) Whether the development is inappropriate development in the Green Belt for the purposes of the National Planning Policy Framework (NPPF);
  - 2) Whether the location of the development would be sustainable in transport terms;
  - 3) The effect of the development on highway safety, and
  - 4) Overall compliance with the Development Plan and whether any harms would significantly and demonstrably outweigh the benefits of the appeal scheme.

## Reasons

### *Inappropriate development*

7. Given recent changes to national Green Belt policy which are not reflected in Policies 1 and 2 of the 1994 St Albans District Local Plan Review (SALP), I have defaulted to policy in the December 2024 version of the NPPF.
8. Paragraph 153 states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 155 sets out several exceptions which need to be met for development to be deemed as not inappropriate. One of these (g) states that development in the Green Belt is inappropriate unless, inter alia, it constitutes:
- “limited infilling or the partial or complete redevelopment of previously developed land (including a material change of use to residential or mixed use including residential), whether redundant or in continuing use (excluding temporary buildings), which would not cause substantial harm to the openness of the Green Belt.”* (my emphasis)
9. Working through paragraph 154g), it is common ground that the appeal scheme would involve the partial or complete redevelopment of previously developed land which is either redundant or in continuing use. Where the parties depart is on the level of harm to openness. The Council argues that the appeal scheme would result in substantial harm. I note it took the same position in relation to the previous appeal scheme. Clearly there is some tension in that position, as I find it difficult to accept that 115 dwellings would have the same effect on openness as 34.
10. In terms of spatial openness, there was initially some disagreement and confusion between the parties over the exact figures. To that end I wrote to the parties requesting that an agreed note was submitted setting out the relevant considerations. I have carefully considered the note and accompanying plan that were submitted at the end of August.
11. The Council highlight that the appeal scheme would result in a 141% increase in footprint and a 204% increase in the gross internal floor area (GIA). By comparison, the previous scheme would have resulted in equivalent figures of 304% and 860%. The Appellant’s calculations suggest a footprint and GIA increase of 82% and 143% respectively. The differences between the parties are a result of the

- inclusion, or otherwise, of buildings on the appeal site which do not have the benefit of planning permission.
12. While I take no issue with the Council's position in relation to the moveable containers (buildings L, R, T, U and V), these are fairly modest in their extent. Buildings M, N, O, P, Q and S are undoubtedly more permanent and have been in situ for some time. Similarly, buildings C and D are substantial brick buildings that were erected many years ago. While I understand these buildings do not benefit from planning permission, the Council has previously conceded that they are immune from enforcement action.
  13. The enforcement position in relation to buildings M, N, O, P, Q and S is less clear. However, there is nothing before me to suggest the Council has, or intends, to take enforcement action against them. It therefore seems to me that the dismissal of this appeal would not result in the removal of buildings C, D, M, N, O, P, Q or S. On that basis, I do not consider there is any good reason to exclude these structures from the calculations. Consequently, I consider that the overall increase in footprint and GIA is likely to be nearer to the Appellant's calculations.
  14. Turning to visual openness, the appeal site is large and comprises many different elements. The western portion of the site which is visible from Lye Lane comprises a collection of unsightly and in some cases dilapidated structures (buildings A, B, C, D, H, I, J and K) which are visible from Lye Lane. The eastern portion of the appeal site, comprising the paintballing use, is more open albeit well screened such that its openness can only be readily appreciated from views within the appeal site. While there are no permanent buildings, there is nonetheless a litany of poor-quality structures including various temporary buildings, netting infrastructure, areas of hardstanding, access roads, astro turf, timber fencing and a significant number of discordant white paintballing obstacles. Cumulatively the above ground structures and paintballing paraphernalia lend the eastern part of the site an unkempt and unplanned appearance which to me did not convey any meaningful sense of openness.
  15. While the exact impact on visual openness would depend on matters that have been reserved for future approval, it has been indicated that the frontage landscaping would be retained with single storey dwellings on either side of the access road. Any views further into the site are likely to be fleeting. On that basis and notwithstanding the access would need to be widened slightly, I consider the impact on visual openness would be neutral at worst.
  16. Bringing all these threads together, there would, based on the indicative layout, be a material impact on spatial openness particularly on the eastern part of the appeal site. For reasons already explained, I put the overall increase in footprint slightly higher than the Appellant's 82% but significantly less than the Council's 204%. Given the eastern part of the appeal site has a high degree of visual containment, the impact on visual openness would not be significant. In the more sensitive western portion of the site closest to Lye Lane, the impact on visual and spatial openness would be largely neutral if not slightly beneficial.
  17. Overall, while there would be an increase in built development across the site as a whole, in my judgment the appeal scheme would cause moderate rather than substantial harm to the openness of the Green Belt. With regard to NPPF paragraph 154g) it would not therefore be inappropriate development. The Courts

have established that the aim of preserving the openness and/or the purposes of including land of the Green Belt cannot be compromised by development that is 'not inappropriate'<sup>2</sup>.

### *Sustainable location*

18. NPPF paragraphs 110 and 117<sup>3</sup> state that significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes. Moreover, while sustainable transport modes should be prioritised, opportunities will vary between urban and rural areas, and this should be taken into account in decision-making.
19. As the previous Inspector found, there can be little doubt that the location of the appeal site is not ideal in terms of encouraging walking, cycling and the use of public transport. While I do not depart from that general finding, there are some matters raised by the Local Highway Authority (LHA) which require scrutiny. Firstly, at paragraph 3.9 of the LHA's Appeal Statement it is stated there is:

*"no safe and suitable pedestrian and cyclists accesses to the site. No footways or street lighting are located on Lye Lane and connections to local amenities and public transport facilities are inadequate"*.
20. While I do not dispute the point about street lighting, I cannot agree that there is no footway, not least because I walked along it to access the overbridge and then the public right of way (St Stephen 060) to Bricket Wood village centre. While the footway across the site frontage to the bridge is not paved with a bound surface, there is nonetheless a clear walked track across the verge which I saw several residents of the site using at the time of my visit. I can see no reason why the track could not be formalised, improved and extended to meet St Stephen 060 as part of any permission.
21. That leads to the question of whether future residents could reasonably undertake journeys on foot. In this regard I accept that even with the above-mentioned improvements, the balance of probability is that for most journeys, for most purposes, in most seasons of the year, the transport mode of choice, and in most cases necessity, would be the private car. However, the same could be said for most urban fringe sites<sup>4</sup> which is why the NPPF acknowledges that the opportunities for sustainable travel will vary between urban and rural areas.
22. In this case the LHA identifies that a range of destinations such as local schools, doctors' surgery, shops and the train station would be around 1km from the appeal site and therefore over the 800m identified as being the "*most conducive*" for walking in the Chartered Institution of Highways and Transportation's, 'Planning for Walking'. The nearest bus stop on West Riding would however be approximately 400-600m from the appeal site. This stop offers services to Hitchin, St Albans and Hatfield Business Park. The Woodbury Field Recreation Ground is a similar distance. The improvement of St Stephen 060 to LTN 1/20 standards as well as the provision of footways either side of the overbridge would help to encourage journeys on foot and benefit the wider local community.

---

<sup>2</sup> See *Lee Valley Regional Park Authority, R (on the application of) v Epping Forest District Council & Anor (Rev 1)* [2016] EWCA Civ 404. This judgement was recently confirmed by *Mole Valley DC v SSHCLG* [2025] EWHC 2127 (Admin).

<sup>3</sup> Identified by Footnote 9 as being of particular importance

<sup>4</sup> It is likely these kinds of sites will need to come forward if the Council is to meet housing needs.

23. During my site visit I observed that Lye Lane is popular with cyclists probably on account of it being one of the few lightly trafficked routes to cross the M25. The restricted width of Lye Lane also helps to suppress driven speeds which is again conducive for the promotion of cycling. There is evidently a wide range of local facilities within the standard 5km cycle distance of the appeal site including Mount Pleasant Lane primary school, Bricket Wood village centre and train station, the latter offering regular services to St Albans and Watford which in turn offer connecting services to central London. Some secondary schools would be within a 20-minute cycle journey. Based on the foregoing, I cannot agree with the LHA that there is no suitable cycle access to the site. On the contrary I consider the site is well located to encourage cycling as a viable alternative to car-based trips.
24. Overall, I consider that future residents of the appeal site would have good access to public transport through walking to the nearest bus stop or cycling to the nearest train station. Subject to off-site improvements, there would be moderate opportunities for undertaking journeys on foot with a range of local destinations within 1km of the site. Finally, there would be good opportunities for cycling. I therefore consider that the location of the appeal site would be acceptable and there would be no conflict with NPPF paragraphs 110 and 117.

### *Highway Safety*

25. The LHA's concerns relate almost exclusively to the width of Lye Lane which it stated to be very narrow in sections making it difficult for two vehicles to pass safely. While I do not necessarily disagree, that is however an existing issue, and based on the photos supplied by the LHA, appears to be exacerbated, at least in part, by a lack of maintenance.
26. Putting that issue to one side, the fundamental point is that the appeal scheme, unlike its predecessor, would only result in a small increase in the number of dwellings and hence there is unlikely to be any material intensification of use in relation to the site access or Lye Lane. While I accept the dwellings are likely to be bigger and therefore generate more trips than the existing bedsits, that would be, at least partly, offset by the removal of the leisure uses which would have generated traffic in their own right.
27. The LHA has not submitted any trip generation data to demonstrate there would be a material increase in traffic movements, including larger service vehicles, to/from the appeal site. Nor is there any accident data before me to demonstrate that the width of Lye Lane causes a particular safety problem in practice. Along with my own observations, this suggests to me that drivers are acutely aware of the limitations of this local route and drive accordingly. On that basis, I have no reason to think that future occupiers of the development would not drive in a similar manner.
28. While I accept that the some of the above information was not submitted with the application, within the overall legal framework of section 38(6) of the Town and Country Planning Act 1990, it is as much for the Council (and by extension the LHA) to make out its case as to why planning permission should be refused as it is for the Appellant to make out a case that it should be granted.
29. Visibility from the site access is a matter that could be controlled by planning condition. Based on the above, I find that the appeal scheme would not conflict with

SALP Policies 34 and 35, Policy S14 of the Neighbourhood Plan and the NPPF insofar as they seek to avoid unacceptable impacts on highway safety.

### Other Matters

30. In relation to flood risk and drainage the Appellant points out that the entirety of the appeal site is within Flood Zone 1 and therefore at the lowest risk to flooding. Moreover, there is no record of flooding on the appeal site. A Flood Risk Evaluation was submitted with the application and concluded that surface water run-off generated by the proposed development would not exceed that of the site in its current condition. I consider the level of information submitted by the Appellant is proportionate to the scale of the development and the fact that it is outline in nature with matters relating to layout being reserved for future approval.
31. There is no cogent evidence before from the Council to demonstrate why a suitable drainage scheme for the site could not be secured in the established way through the use of planning conditions. I note that the previous Inspector came to a similar view in relation to the much larger scheme for 115 dwellings.
32. Even if the Appellant's technical information is flawed as claimed by the Council, no planning harm could occur given that the Grampian conditions would prevent any development from taking place until a satisfactory scheme has been agreed with the Council. I am therefore satisfied that subject to the imposition of appropriate conditions, the development would not increase flood risk elsewhere as required by NPPF paragraph 170.
33. The Council considers that the proposed housing density would not make the efficient use of the land. However, I note that it also opposed the previous higher density scheme on landscape grounds. Despite this inconsistency, the requirement in NPPF paragraph 129 to make the most efficient use of the land is qualified. Of relevance here is paragraph 129 d) and e) which state that account should be had to the desirability of maintaining an area's prevailing character and setting and the importance of securing well-designed, attractive and healthy places.
34. While it is certainly true that the appeal site could accommodate significantly more than 34 dwellings, as evidenced through the previous scheme, there is a balance to be struck between maximising the use of the site and minimising landscape effects. In this regard, I note and concur with the comments of the previous Inspector who found that the surrounding area has a sporadic and low-density residential character which a high-density scheme would inevitably erode. Accordingly, and notwithstanding the Council's housing land supply position, I do not consider that the proposed lower density is a matter that weighs against the scheme.
35. Like the previous Inspector, I am satisfied that any adverse impacts on protected species and local ecology could be satisfactorily mitigated via the imposition of suitably worded conditions. This is not therefore a matter that weighs against the appeal scheme in the planning balance.
36. The Council alleges harm through the non-provision of affordable housing on the site. NPPF paragraph 65 states that "*To support the re-use of brownfield land, where vacant buildings are being reused or redeveloped, any affordable housing contribution due should be reduced by a proportionate amount*"<sup>5</sup>. Paragraph 66

---

<sup>5</sup> Footnote 30 states that the reduction should be equivalent to the existing gross floorspace of the existing buildings.

states that “*Where major development involving the provision of housing is proposed, planning policies and decisions should expect that the mix of affordable housing required meets identified local needs...*”.

37. The Council has not addressed paragraph 65 in its Appeal Statement and instead refers to NPPF paragraphs 67 and 157. However, these are only relevant to proposals being considered under the Golden Rules which are not relevant here. The Council also refers to its 2004 Affordable Housing SPG. While this document is of some vintage, paragraph 7.10 states that the Council will normally seek the 35% requirement from SALP Policy 7A on sites of over 0.4 hectares.
38. It is clear that the requirement to provide affordable housing in NPPF paragraphs 65 and 66 or the SPG is not absolute. The inclusion of words such as ‘should’ and ‘normally’ leave room for unusual circumstances. In this case the development would only result in a net increase of three dwellings and would involve the ‘*re-use of brownfield land, where vacant buildings are being reused or redeveloped*’. In those circumstances the non-provision of affordable housing does not necessarily conflict with NPPF paragraph 65. There is however conflict with the SPG and this is a matter that weighs against the scheme. However, the weight I attach to that harm is limited by the SPG’s inconsistency with NPPF paragraph 65.
39. I am satisfied that the effect of the development on social and physical infrastructure would be satisfactorily mitigated by the planning obligations in the s106 agreement – discussed below.
40. While I appreciate that the application was determined prior to the Inspector issuing his appeal decision on the previous scheme, I wrote to the Council in July 2025 seeking clarification on which reasons it intended to defend. Despite a clear indication from the previous Inspector that matters pertaining to ecology and drainage could be dealt with by condition, the Council did not withdraw these reasons. The Planning Practice Guidance (PPG) makes clear that refusing planning permission on a planning ground capable of being dealt with by conditions as well as persisting in objections to a scheme or elements of a scheme which an Inspector has previously indicated to be acceptable, can amount to unreasonable behaviour. In future, the Council should carefully consider whether reasons for refusal can be addressed by the imposition of suitable planning conditions, particularly in cases where an Inspector has indicated that to be the case.

## **Planning Obligations**

41. The NPPF sets out policy tests for planning obligations which 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 CIL Compliance Statement summarises the obligations which are agreed between the parties. Nonetheless, the agreement provides that if my decision letter concludes that any provision in the agreement is incompatible with any one of the tests then the relevant obligation shall cease to have effect.
42. Hertfordshire County Council (HCC) seeks the following financial contributions to mitigate the impact of the development on social infrastructure:
  - 1) A primary Education Contribution of £273,182 (including land costs of £3,698) towards the delivery of a new primary school in Chiswell Green and/or provision serving the development.

- 2) A secondary Education Contribution of £208,482 towards the expansion of Marlborough Science Academy and/or provision serving the development.
  - 3) A Special Educational Needs and Disabilities (SEND) Contribution of £33,132 towards new Severe Learning Difficulty special school places (WEST) through the relocation and expansion of Breakspeare School and/or provision serving the development.
  - 4) A childcare Contribution of £219 towards childcare provision at the new primary school in Chiswell Green and/or provision serving the development.
  - 5) A Library Service Contribution of £8,490 towards the expansion of/ delivery of a new centre in St Albans and/or provision serving the development.
  - 6) A Youth Service Contribution of £3,777 towards the expansion of/ delivery of a new centre in St Albans and/or provision serving the development.
  - 7) A Waste Service Transfer Station Contribution of £3,531 towards increasing capacity at Waterdale Transfer Station and/or provision serving the development.
  - 8) A Fire and Rescue Service Contribution of £846 towards new appliances and/or equipment and/or provision serving the development.
43. According to HCC's Consultation Response, the education contributions (1-4) have been calculated in accordance with its Developer Contributions Guidance which first seeks to identify the number of pupils arising from a development and then compares this to the capacity of current provision. I am satisfied from the evidence before me that the education contributions are necessary, directly related to the proposal and fair and reasonable in scale and kind to the appeal scheme.
44. HCC's consultation response states that the Youth Service Contribution is necessary because "*The additional young people arising from this development, and others in the area, would result in the facility being over capacity*" (my emphasis). The problem with the above justification is that the contribution appears contingent on other (unspecified) development in the area. There is nothing in the justification provided to demonstrate that the four additional young people from this development could not be accommodated at the existing facility. There is also no information before me about when the new facility would be provided and whether it is already fully funded. Accordingly, I do not consider this obligation meets the legal tests in CIL Regulation 122.
45. Turning to the library contribution, HCC's response states that the proposed development, which results in a net increase of three dwellings, would generate 77 or 123 additional library users<sup>6</sup>. Given such a modest net increase in the number of homes on the appeal site, I have real difficulty with even the lower figure. Moreover, it is reasonable to assume that a good proportion of future residents would be relocating from elsewhere in the district and therefore already likely to be registered at a library. Given the above concerns and uncertainty regarding the number of new users, I cannot be sure that the library contribution accords with the legal tests in CIL Regulation 122.

---

<sup>6</sup> Paragraph 10.5 refers to 123 additional people whereas paragraph 10.8 refers to 77.

46. Hertfordshire Fire and Rescue Service state that a contribution of £846 is based on the need to increase capacity and would go towards new appliances and/or equipment or provision serving the development. While I accept the amount has been calculated by reference to the number of new units and people, there is nothing before me which “*compares this to the capacity of current provision*” as set out in HCC’s own guidance. Details provided regarding the contribution are notably vague, for example I do not know where the money would be spent or when. Without the above information I cannot be sure that the obligation is not simply a contribution to the day-to-day running costs of the fire service. Accordingly, I do not consider this obligation meets the legal tests in CIL Regulation 122.
47. In respect of HCC’s other financial contributions including monitoring fees and waste service contributions, the information before me sets out the detailed background and justification for the obligations which are not disputed by the Appellant. I am satisfied from the evidence before me that these obligations are necessary, directly related to the proposal and fair and reasonable in scale and kind to the appeal scheme. As a result, I have taken the obligations into account as part of my overall conclusion that the appeal should be allowed.
48. St Albans City Council request the following obligations:
- 1) A sustainable transport contribution of £39,500 to cover the cost of providing dropped kerbs and tactile paving at various junctions in the local area and the provision of Kassel kerbing and bus shelter improvements to the eastbound bus shelter on West Riding opposite Grassington Close
  - 2) An obligation to secure 50% of the dwellings as Self-Build and Custom House Building plots.
  - 3) An obligation to secure 50% of the dwellings as Age-Restricted Accommodation/Provision/Management of Public Open Space and Play Space
  - 4) The provision of on-site children’s play space.
  - 5) An obligation to secure the cessation of the paintballing use.
49. Dealing with the sustainable travel obligations first, it is a long-established principle that development should mitigate its own impact. This is reflected in SALP Policy 35. At paragraph 2.6 of the CIL Compliance Statement the Council argues “*a precise contribution cannot be calculated because the final number of dwellings is not fixed*”. That is incorrect. The description of development refers to the “construction of 34 dwellings”. Accordingly, there can be no ambiguity as to the quantum of development proposed.
50. The justification for the list of works at paragraph 2.6a) appear, in large part, to be informed by the Milestone Transport Planning Technical Note (June 2023). That document has not been provided by either party but appears to have been prepared in support of the previous scheme for 115 dwellings. Contrary to what is suggested at paragraph 2.4, it does not form part of the current application or appeal. On that basis alone, one should be particularly wary about adopting its recommendations given it was predicated on a significantly larger development with a completely different trip generation profile.
51. I have had regard to the LHA’s consultation response dated 27 September 2024. While this states that “*Kassel kerbing and shelters can be considered on both sides*”

*of West Riding, to enhance the bus stop amenities and pursue the opportunity to make bus services as attractive as possible”, it does not identify the list of improvements included at paragraph 2.6a) of the Compliance Statement. Even in respect of the bus stop improvements there is nothing before me in either the consultation response or Compliance Statement to explain how the development would be unacceptable without this (or any of the other) improvements.*

52. The improvements sought at paragraph 2.6a) are generally at locations that are distant from the appeal site. Again, there has been no analysis of how many additional pedestrian trips would be generated at these locations. In the absence of any information to the contrary, I would suggest the number is likely to be negligible. Moreover, most of the junctions already benefit from dropped kerbs and there is no clear justification to explain how tactile paving at these locations would mitigate the impact of development. In light of the above shortcomings, I find that the sustainable travel obligations do not satisfy the legal tests in CIL Regulation 122.
53. In respect of all the other obligations to the Council (2-5), I am satisfied from the evidence before me that the obligations are reasonably necessary and I have taken them into account as part of my overall conclusion that the appeal should be allowed.

### **Conditions**

54. The Council has suggested a number of planning conditions which I have considered against the advice in the PPG. In some instances, I have amended or amalgamated the conditions in the interests of brevity, to avoid repetition or to ensure compliance with the PPG.
55. To provide certainty, I have imposed standard conditions for outline permissions covering time limits, the reserved matters and the approved plans [Conditions 1-4]. A landscaping plan is necessary to ensure the satisfactory appearance of the development [5]. I have added an implementation clause and an additional requirement relating to acoustic fences. A Construction Management Plan (CMP) is necessary to ensure all aspects of the construction adhere to best practice and do not adversely affect the amenity of local residents [6]. A Landscape and Ecological Management Plan (LEMP) is necessary to ensure the development delivers a net-gain for biodiversity [7].
56. A housing mix condition is necessary to ensure local housing needs are appropriately met [8]. An arboricultural impact assessment is necessary to ensure appropriate measures are taken to protect trees and hedges on and close to the site [9]. Drainage conditions are necessary to ensure the site is appropriately drained [10-11]. In some cases, I have incorporated the requirements of other conditions into condition 10. As a result, I have omitted several of the suggested drainage conditions to avoid repetition. I have added a requirement to the CMP to ensure details are submitted of any temporary drainage measures during construction. Details of fire hydrants is necessary to ensure there is adequate firefighting infrastructure within the development [12].
57. An Archaeology condition is necessary to protect any archaeological assets that may be present [13]. Details pertaining to the post-excavation project, to the extent it is necessary, can be agreed under condition 13. I have omitted suggested condition 23 accordingly. A noise condition is necessary to ensure future residents

are not subjected to unacceptable levels of noise and vibration [14]. As with the drainage conditions, I have reduced and simplified the number of suggested noise conditions. I have added a requirement to the CMP in respect of noise and vibration from plant and machinery. Lighting details are captured by the LEMP (condition 7d)), a separate condition is therefore unnecessary. Land contamination conditions are necessary to ensure the land is suitable for a residential use [15-16]. Finally, I have imposed a condition relating to the off-site pedestrian improvements. This is necessary to ensure future residents can access local facilities on foot in a safe and convenient manner [17].

58. Changes to and specifications of the site access would be covered under s278 or 184 agreements under the Highways Act. I do not therefore consider this condition meets the test of necessity. Details of the internal road layout (suggested condition 12) would be captured by the reserved matters. I have omitted the condition accordingly. Given future residents would have access to private areas to the front and rear of each dwelling I do not consider it necessary to impose a condition relating to cycle parking. Details of the open space are secured by Schedule 3 of the s106 agreement. On that basis I am not persuaded a separate condition is necessary. To ensure compliance with Policy 12 of the Hertfordshire Waste Development Framework (2012) I have added a requirement (j) to the CMP. Accordingly, I do not consider a Site Waste Management Plan is necessary.
59. Conditions 6, 9, 10, 13 and 15 are 'pre-commencement' form conditions and require certain actions before the commencement of development. In all cases the conditions were agreed between the main parties and address matters that are of an importance or effect that need to be resolved before construction begins.

### **Planning Balance and Conclusion**

60. While I have found moderate harm to the openness of the Green Belt, the development satisfies the exception in NPPF paragraph 154g) and is not inappropriate development. In accordance with the *Lee Valley* and *Mole Valley* judgements, the harm to openness does not therefore weigh against the development in the overall planning balance.
61. Subject to pedestrian improvements between the site and Bricket Wood village centre, I have found that the development would be consistent with NPPF paragraphs 110, 115 and 117 and future residents would have a genuine choice of transport modes. Subject to appropriate conditions and/or planning obligations there would be no unacceptable effects on highway safety, flooding, ecology or local infrastructure. I have found some policy conflict arising from the failure of the scheme to provide a policy compliant level of affordable housing. For the reasons outlined I attach limited weight to this conflict.
62. The benefits of the scheme are acknowledged in the Officer's Report. At present the Council has a very concerning supply (0.9-year) of deliverable housing sites. In that context the delivery of three additional residential units must be given considerable importance and weigh. Beyond the numbers, many of the existing units are small and generally unsuited to family occupation. The scheme would deliver 34 family homes built to high environmental standards. The provision of 50% of the dwellings as age restricted units is consistent with NPPF paragraphs 61 and 63. The Officer's Report identifies a local need for Age Restricted General

Market Housing. The provision of 50% of the units for self-build would also address an identified need. I give the above social benefits significant positive weight.

63. The removal of the existing buildings and structures on the land and their replacement with a modern residential development is likely to have a positive impact on the character and appearance of the area. Improvements to bridleway St Stephen 060 would have some wider public benefit as would the play space and open space within the site. Subject to conditions I consider it likely that the development could deliver a biodiversity net-gain. Collectively these environmental benefits attract moderate weight.
64. The economic benefits would comprise employment during the construction phase as well as additional Council Tax revenue per annum and 'first occupation expenditure'. I give these benefits limited to moderate weight.
65. In light of the Council's housing land supply position, the policies which are most important for determining the application are out-of-date. In accordance with NPPF paragraph 11d) this means that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination.
66. Based on the foregoing, it is evident that the benefits listed above clearly outweigh the identified harm. For these reasons the appeal should be allowed.

*D M Young*

INSPECTOR

## SCHEDULE OF CONDITIONS

- 1) Details of the appearance, landscaping, layout, and scale, "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
- 3) The development hereby permitted shall take place not later than two years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plans: 2503-202 Rev C and 2503-203 Rev A.
- 5) Full details of both soft and hard landscape works shall be submitted as part of application(s) for reserved matters approval, as required by Condition 1. The landscaping details to be submitted shall include:
  - a) existing and proposed finished levels and contours
  - b) trees and hedgerow to be retained;
  - c) planting plans, including specifications of species, sizes, planting centres, number and percentage
  - d) mix, and details of seeding or turfing;
  - e) hard surfacing;
  - f) means of enclosure and boundary treatments; and structures (such as furniture play equipment, refuse or other storage units, signs, lighting)
  - g) Details of any acoustic screens/fencesThe development shall be carried out in accordance with the approved details.
- 6) No development, including demolition, shall take place until a Construction Management Plan (CMP) has been submitted to and approved in writing by the Local Planning Authority. The Construction Management Plan shall include details of:
  - a) Details of any temporary fencing/hoardings to be provided;
  - b) Details of the routing of construction and delivery vehicles to / from site;
  - c) Access arrangements to the site;
  - d) Traffic management requirements;
  - e) Construction and storage compounds (including areas designated for car parking, loading / unloading and turning areas);
  - f) Siting and details of wheel washing facilities;
  - g) Hours of construction;
  - h) Provision of sufficient on-site parking prior to commencement of construction activities;
  - i) Details of surface water drainage and any temporary drainage measures;
  - j) Details of measures to minimise construction and demolition waste;

- k) Details of any floodlighting, including location, height, type and direction of light sources, hours of operation and intensity of illumination, and
- l) Details of measures to protect nearby residents from construction noise and vibration.

The approved CMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the Local Planning Authority.

- 7) A landscape and ecological management plan (LEMP) shall be submitted as part of application(s) for reserved matters approval, as required by Condition 1 and include:
  - a) Description of the objectives;
  - b) Habitat/feature creation measures proposed, including a methodology translocation of habitats, such as the existing topsoil, grassland and timeframes for completion;
  - c) Maintenance of habitat/feature creation measures in the long-term and those responsible for delivery;
  - d) Lighting strategy (aim to ensure that illumination of the landscape features does not exceed 0.5 lux); and
  - e) A monitoring programme and the measures required to adapt the LEMP should objectives fail to be met. The LEMP shall cover all landscape areas within the site, other than privately owned domestic gardens.

The approved plan will be implemented in accordance with the approved details.
- 8) Full details of the proposed housing mix, including a breakdown of unit sizes and tenure, shall be submitted as part of the first application for reserved matters approval as required by Condition 1, and thereafter approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved mix.
- 9) No development shall commence until an arboricultural impact assessment and protection plan for all trees and hedgerows within and adjacent to the site boundaries has been submitted to and agreed in writing with the Local Planning Authority. The development shall be implemented in accordance with the approved details and recommendations. Any trees or hedges removed without such consent or dying or being severely damaged or becoming seriously diseased before the end of that period shall be replaced by trees of such size and species as may be agreed with the Local Planning Authority.
- 10) No development shall commence until a detailed surface water drainage scheme for the entire site, including site access, has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include the following:
  - a) Detailed drawings and hydraulic calculations demonstrating the incorporation of above ground source control features that meet the four pillars of SuDS;

- b) The hydraulic calculations shall take into account the connectivity of the different surface water drainage features and any interaction with the surface water flow route; and
- c) Demonstrate that the proposed surface water drainage system does not surcharge in the 100% AEP (1 in 1 year) critical storm duration, flood in the 3.33% AEP (1 in 30 year) plus climate change critical storm duration or the 1% AEP (1 in 100 year) critical storm duration.
- d) Demonstrate that no above ground flooding occurs up to and including the 1 in 100 (1%) plus climate change critical storm event.
- e) Include appropriate legal agreements for any third-party land crossings required,
- f) Demonstrate strict accordance with the drainage hierarchy.
- g) Details of the maintenance and management of the sustainable drainage scheme

The detailed design shall include:

- h) construction drawings of the surface water drainage network;
- i) associated sustainable drainage components; and
- j) flow control mechanisms;

The scheme shall be submitted to and approved in writing by the Local Planning Authority and implemented, managed and maintained in full in accordance with the approved details prior to first occupation of the development

- 11) Prior to first occupation of any dwelling a verification report shall be submitted to and approved in writing by the Local Planning Authority. The verification report shall include a full set of “as built” drawings together with photographs of excavations (including soil profiles/horizons), any installation of any surface water drainage structures and control mechanisms.
- 12) No above ground works shall take place until a scheme for the provision of adequate water supplies and fire hydrants, necessary for firefighting purposes at the site, has been submitted to and approved in writing by the Local Planning Authority. The development shall not be occupied until the scheme has been implemented in accordance with the approved details.
- 13) No development shall take place within the site until a written scheme of archaeological work including any post-excavation project has been submitted to and approved in writing by the Local Planning Authority. This scheme shall include a programme of archaeological evaluation and open area excavation followed by off-site work such as the analysis, publication, and archiving of the results, together with a timetable for completion of each element. All works shall be carried out and completed in accordance with the approved scheme, unless otherwise agreed in writing by the Local Planning Authority. This must be carried out by a professional archaeological organisation in accordance with the agreed Written Scheme of Investigation.
- 14) No dwelling shall be occupied unless details of noise and vibration levels within that unit have been submitted to and approved in writing by the Local Planning Authority. The submitted details shall demonstrate that acceptable

resting levels of noise attenuation have been achieved in accordance with standards set out within BS8233: 2014. If acceptable noise levels have not been achieved, details of what additional measures will be undertaken to ensure that they are achieved. These additional measures shall be implemented prior to the occupation of the building in accordance with details so approved.

- 15) Prior to commencement of development (including piling or the implementation of a geothermal open/closed loop system) the following shall be submitted to and approved in writing by the Local Planning Authority:
- i An Intrusive Ground Investigation to identify the current state of the site and appropriate techniques to avoid displacing any shallow contamination to a greater depth.
  - ii A Risk Assessment identifying both the aquifer and the abstraction point(s) as potential receptor(s) of contamination.
  - iii A Method Statement detailing the depth and type of excavations (e.g. piling) to be undertaken including mitigation measures (e.g. appropriate piling design, off site monitoring boreholes etc.) to prevent and/or minimise any potential migration of pollutants to public water supply. Any excavations must be undertaken in accordance with the terms of the approved method statement.
- 16) If, during development, contamination not previously identified is found to be present at the site, then no further development shall be carried out until a Remediation Strategy detailing how this contamination will be dealt with has been submitted to and approved in writing by the Local Planning Authority in consultation with Affinity Water. The remediation strategy shall be implemented as approved with a robust pre and post monitoring plan to determine its effectiveness.
- 17) Prior to first occupation of any dwelling details of the off-site pedestrian improvements comprising:
- 1) new footway across the site frontage connecting to the existing footway across the M25 overbridge and,
  - 2) The improvement and upgrade of Bridleway St Stephen 060 to LTN 1/20 standards

The scheme of works shall thereafter be constructed in accordance with the approved details and timetable.