

**Summary Planning Proof of Evidence
Russell Gray BA (Hons) DIP UP MRTPI**

Appeal by Aurora Properties (UK) Ltd

**Land North of Bradmore Way,
The Brookmans Park Estate
Brookmans Park, Hertfordshire
(BrP12a)**

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

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1 Introduction

Qualifications

- 1.1 My name is **Russell Gray**. I hold a BA (Hons) in Geography and Planning Studies, a Post-Graduate Diploma in Urban Planning and am a Member of the Royal Town Planning Institute. I am a Director of Woods Hardwick Planning Ltd, a position I have held since 2011. I have over 21 years' planning experience in the public and private sector. My experience includes providing planning advice in respect of residential, mixed-use and commercial schemes for a range of clients, including housebuilders, developers, land promoters and landowners. I have appeared as an expert witness at a number of s78 inquiries, hearings and development plan examinations.

Evidence

- 1.2 I am instructed by Aurora Properties (UK) Ltd ("the Appellant") to provide evidence to this inquiry on planning matters, including compliance with the development plan, material considerations and the planning balance, including the very special circumstances case for development in the Green Belt.

Statement of Truth

- 1.3 I confirm the evidence which I have prepared for this appeal is true to the best of my knowledge and belief and has been prepared in accordance with the guidance of my professional institution. The opinions expressed are my true and professional opinions.

Updated Position Following Determination

Reasons for Refusal

- 1.4 Since the application was determined considerable progress has been made between the Appellant and WHBC on narrowing the scope of disagreement, with additional information being provided by the Appellant to address the third, fourth and fifth RfR.
- 1.5 WHBC has confirmed it no longer intends to pursue the third and fifth RfR. It has also advised that subject to the provision of an agreed S106 Agreement, the fourth and sixth RfR are also addressed.

- 1.6 This leaves only the first and second RfR, which I will discuss during this proof, having regard to the evidence prepared on behalf of the Appellant. My Proof will also address objections raised by the two Rule 6 Parties, the Combined Objector Group (“COG”) and North Mymms Parish Council, along with other third-party comments.

2 The Appeal Site, Surroundings and Context

Appeal Site and Surroundings

- 2.1 The Appeal Site comprises approximately 8.0 ha of contained grazing land located to the north of Bradmore Way, adjoining the northern edge of Brookmans Park village (See Figure 2.1 below and location plan at **Appendix RG10**). The evidence of Mark Flatman describes the origins of the modern day commuter village of Brookmans Park.



Figure 2.1: Looking south over the appeal site and Brookmans Park beyond.

- 2.2 To the immediate north and west of the appeal site is Peplins Wood, a substantial block of mature woodland, with only a small section of the northern boundary currently open. Beyond this to the west is the East Coast Mainline railway. To the east, separated from the site by mature trees and boundary hedgerow, is Brookmans Park Golf Course.
- 2.3 Residential development runs along the full extent of the southern boundary of the site, along Peplins Way and Bradmore Way, with a mixture of modern house types and styles, but mainly comprising modern 2 to 3 storey large detached and semi-detached family homes in plots with well vegetated gardens, including mature trees. The carriageway of Bradmore Way currently terminates at the site's southern boundary (See photograph at Figure 2.2 below).
- 2.4 Brookmans Park primary school is less than 200 metres south of the site boundary. The village centre, which comprises 41 shop units and pub/restaurant, is just 600 metres south of the site and the railway station is less than 800 metres from the site



Figure 2.2: View from Bradmore Way which leads northward to the application site.

- 2.5 The evidence of Mark Flatman and the submitted Landscape and Visual Impact Assessment (LVIA; CD1.28) note that, whilst the site contains some attributes of the wider landscape character area, it is a highly contained parcel of grazing land that forms part of a transition zone which is characterised largely by a mixture of existing housing at the settlement edge, as well as the local well wooded slopes, providing a significant degree of containment.

Locational Sustainability

- 2.6 It is common ground between WHBC and the Appellant that the appeal site is a sustainable location for residential development given the accessibility of ‘day to day’ services and facilities, including the mainline railway station (See main SoCG, para 8.37). As I come on to argue in Section 7 below, the benefits of the site in terms of its level of accessibility to these services and facilities is a material consideration in support of the appeal.

Extent of the Appeal Site’s Contribution to the Green Belt Purposes

- 2.7 Notwithstanding the Council’s position that only Green Belt purpose c) is relevant to the RfR, I set out my position on the contribution it currently makes to each of the five national Green Belt purposes below.

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

- 2.8 WHBC’s Stage 3 Green Belt Study (CD 6.36 - 6.38) assesses parcel 66, within which the appeal site lies (and comprises around 12% of the overall parcel), as making limited or no contribution to this purpose. I agree that the appeal site makes no contribution to this purpose as Brookmans Park is not a large built-up area.

b) to prevent neighbouring towns merging into one another

- 2.9 The Stage 3 assessment assesses parcel 66 as making a partial contribution to

this purpose, but concludes:

“...blocks of woodland located to the northwest of the parcel between the two settlements act as separating features. Given the site-specific context, then, it is considered that the well-established built and natural boundaries of the Ancient Woodland, the golf course and Brookmans Park would lead to a reduced contribution from this site for preventing the merging of neighbouring towns. As such, the subject site makes no contribution to preventing coalescence given it would not create a continuous built form between two separate settlements.” (My underlining)

2.10 I am of the position that this appeal site makes no contribution to this Green Belt purpose, in line with the Council’s own findings above.

c) to assist in safeguarding the countryside from encroachment

2.11 Having regard to the Green Belt Review prepared by Liz Lake Associates Landscape Architects submitted with the application (CD 1.30), and also to the evidence of Mark Flatman, I consider that the appeal site is visually and spatially well contained given the nature of the existing boundary treatments and surrounding features in the landscape, which include: the Ancient Woodland, the East Coast Mainline railway, the existing settlement edge, and the golf course. As such, any physical, spatial or perceived encroachment into the Green Belt is, in fact, very limited.

2.12 Whilst there is a small gap in part of the northern boundary of the site (at its eastern extent), due to the noticeably rising topography, views out are foreshortened by the topography and the site instead embraces views of the village’s built form to the south, and the substantial screening provided by the Ancient Woodland to the north and west.

2.13 My experience of this site is markedly one of it being a suburban fringe, particularly as the countryside beyond the gap in landscaping along the northern boundary cannot be readily perceived from the site due to the aforementioned topography and the high level of containment provided by the surrounding landscape, and with the northern edge of Brookmans Park imparting an influence on the site’s character. I therefore consider that the appeal site makes only a limited contribution to this Green Belt purpose.

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

2.14 Brookmans Park is not a historic town and the appeal site does not therefore make any contribution to this Green Belt purpose. This view is supported by WHBC’s Stage 3 Green Belt Study (CD 6.36 - 6.38), which makes the same

assessment.

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

- 2.15 The site is currently an undeveloped parcel of land and therefore in theory makes a contribution towards this purpose. I note that the WHBC Green Belt Study (CD 6.36 - 6.38) assesses all Green Belt parcels equally as making a significant contribution to it. The reality is, however, that the Draft WHP proposes the release of hundreds of hectares of greenfield land from the Green Belt to assist in meeting housing need in the Borough. As confirmed by the Council's own assessment of "exceptional circumstances" for the release of Green Belt land, opportunities for urban regeneration of 'brownfield' land are scarce in this part of Hertfordshire. If there were an abundance of such sites then the strategy of the draft Local Plan would have looked very different and the LPA would not have the dire housing shortage that currently exists, as I discuss later in this proof.
- 2.16 To conclude, then, I consider the appeal site currently makes only a relatively limited contribution to the Green Belt purpose of safeguarding the countryside from encroachment. It also contributes to assisting urban regeneration by encouraging the recycling of derelict and other urban land, as do all undeveloped Green Belt sites as confirmed in the Council's evidence to the draft Local Plan, but that is diminished by the clear lack of supply of such brownfield sites in this area, and in this case is unlikely to meet the Borough's greatest need, which is for family housing.
- 2.17 I discuss the impact of the proposed development on the Green Belt purposes having regarding the site's current contribution in Section 7 of this evidence.

3 The Development Plan

Status of the Development Plan

- 3.1 The WHDP was adopted in 2005, over 17 years ago. It is therefore considerably dated, predating even the first version of the NPPF (2012) by many years. It only planned for the delivery of housing up to 2011 and this was based on a Structure Plan housing requirement dating back to 1994. Consequently, for over 11 years now there has been no strategy in place at all for meeting housing need in the Borough, which, as I explain later in this proof, given the extent of Green Belt in the Borough, is the principal cause of the Council's acute housing shortfall and affordability issues.
- 3.2 It is common ground that the development plan policies which are "most important" for the determination of this appeal are deemed out of date (See paragraph 8.7 of the agreed SoCG; CD 13.01), due to their age and their predating the Framework.

4 Compliance with the Development Plan

- 4.1 My evidence demonstrates that the appeal proposals comply, or can be compliant at the reserved matters stage, with all of the relevant policies in the WHBP, including those considered to be most important for the determination of this appeal, subject to the very special circumstances balance required by the Framework. I undertake that exercise in Section 8 of this proof having first discussed material considerations.

5 Material Considerations - The Draft Welwyn Hatfield Local Plan

The current position on the Draft Welwyn Hatfield Local Plan

- 5.1 WHBC has for an inordinate amount of time been working on a replacement for its adopted Local Plan (2005), known as the Draft Welwyn Hatfield Local Plan (“WHLP”).
- 5.2 This lengthy period of preparation has, to date, spanned several changes in national planning policy, including the introduction of the first version of the Framework in 2012 and the subsequent updates in 2018, 2019 and 2021.
- 5.3 The WHLP was eventually submitted for examination on 17th May 2017 (the submission version is at **CD 6.01**). It is therefore being examined against the 2012 version of the Framework (**CD 8.22**) under the “transitional arrangements” first published in the 2018 update to the Framework and retained in subsequent revisions (now set out at paragraph 220 of the 2021 Framework; **CD 8.23**).
- 5.4 The housing requirement that the 2012 Framework required local plans to meet (as far as is consistent with the policies of the Framework) is that of full “objectively assessed need” (see paragraph 47 **CD 8.22**), and not the local housing need calculated by the standard method that was brought in with the 2018 update to the Framework and has been retained in subsequent versions since.
- 5.5 In **Appendix RG4** of this proof I set out a detailed overview and discussion of the examination proceedings to date, which have been nothing short of tortuous. Whilst I would encourage the Inspector to review this Appendix in full, I have highlighted below in a focused summary, a number of key points that are pertinent to understanding the very complicated background to the position the Draft Local Plan has currently reached, and why no certainty can be placed on the Plan proceeding to adoption even though consultation is currently taking place on Main Modifications.

Summary of the Local Plan examination proceedings to date

- At the point of Submission, the Draft Plan did not represent the FOAHN in the SHMA Review in 2014 or the latest assessment of FOAHN in the 2017 SHMA update, with the latter published around the same time.
- In written advice as long ago as December 2017 (EX39; **CD 6.33**) the examining Inspector advised that there would need to be very sound

reasons for not meeting the increased FOAHN identified in the updated SHMA of May 2017.

- He also advised that the Plan as submitted did not provide sufficient housing to meet even the lower target it was based on, and that there was insufficient justification for not doing so. This was largely due to the inadequacy of the Green Belt Review, which he considered to be too strategic and not sufficiently granular. It was therefore also known by WHBC as long ago as December 2017 that further sites needed to be released from the Green Belt and allocated to meet its housing need.
- the FOAHN has changed during the course of the lengthy appeal process, it was confirmed by the Inspector as 760 dpa following a further hearings session (Stage 9) in February 2021. Such was the time that had elapsed in the examination that the 2018 Household Projections had been published with the Inspector confirming that a meaningful change had taken place (See EX274; **CD 6.72**).
- WHBC has steadfastly refused to meet the FOAHN throughout the process and has sought to reduce it below figures recommended by its own appointed consultants, Turley (see particularly, the Minutes of the CPPP meeting of 17th November 2020; **CD 6.88** and also paras. 9-10 of EX274; **CD 6.72**)
- This is despite Officers recommending sufficient sites for it to do so, including the appeal site. Notably, in a Report to the Council's Cabinet Planning and Parking Panel ("CPPP") of January 2020 (See paragraphs 4.97 - 4.100 of the Report; **CD 6.96**) appended to which was a Site Selection Background Paper 2019 (**CD 6.10**) recommending sufficient sites, including the Appeal Site (which I discuss in greater detail in Section 6), but Members refused to agree this (See Minutes of the meeting (**CD 6.86**)).
- The Inspector has requested numerous times since December 2017 that further sites be submitted. See particularly paragraph 8 of EX183 (**CD 6.51**), EX197 (**CD 6.55**); EX212B (**CD 6.62**) and EX271 paragraphs 8-9 (**CD 6.69**).
- He has also concluded, on a number of occasions (See particularly paragraph 45 of his Interim Report; **CD 6.61**), that exceptional circumstances exist to release sufficient land (in addition to existing commitments, windfall, non-GB sites etc) to meet the FOAHN of 760 dpa. This was also confirmed in paragraph 4 of EX283 (**CD 6.75**).
- The Inspector has made the suggestion he could find the Plan unsound on

several occasions (See EX155 (CD 6.44), last paragraph and EX212 B paragraph 134).

- Despite this, he ultimately went on to offer the Council a very pragmatic way out of this stalemate, which in my view runs counter to the position he had maintained through the examination to date, that being a reduced Plan period of only 10 years (contrary to the NPPF and his own previous advice in EX178 (CD 6.48), and a reduced housing requirement as a result, with a commitment to an early review of the Plan period (See paras. 6 - 16).
- Remarkably, the Council was unwilling to even agree to that major compromise, as confirmed by the Minutes of a CPPP meeting of 21 July 2022 (CD 6.93) which recorded their recommendation to Cabinet, who then recommended to Full Council, the sites in Table 3 of the Officer's Report (CD 6.100). The effect being to reduce the housing supply further to 12,775 dwellings, of which only 8,517 would be delivered in the 10-year Plan period.
- It is perhaps testament to his desperation to see the Local Plan process brought to a conclusion that the Inspector accepted this position in EX290 (CD 6.84; see particularly para 4). I note that he accepts this approach would not be fully consistent with the Framework (2012), but that it would be better than no Plan at all, which I might add is a very low bar.

The latest position

- 5.6 The Council appeared to then drag its feet again, see for example the letters dated 21st September 2022 to the then Prime Minister, Liz Truss, and Secretary of State, Simon Clarke (CD 6.116 and CD 6.117) complaining about the Local Plan Inspector forcing the Council to build far more homes than it considers fair (despite the very generous concessions made by the Inspector discussed above and the fact that the Plan is supposed to be meeting the Council's own objectively assessed need and not the standard method). I also note the reference to the Council taking the decision to remove three 'high harm' sites (HS22/BrP4 (Brookmans Park), HS29/Cuf12 and HS30/Cuf7 (Cuffley)) and that it *"will not reverse that decision"*.
- 5.7 Most surprisingly, the Council then, at very short notice, convened meetings of its CPPP, Cabinet and Special Council on 15th, 16th and 20th December 2022 to consider the Main Modifications to the Plan ahead of consultation commencing on 4th January (See Report to CPPP at CD 6.110).
- 5.8 This is particularly surprising given the content of the letter from the Secretary of State for Levelling Up Housing & Communities and the accompanying Written

Ministerial Statement published on 5th December 2022 (CDs 8.39 and 8.38 respectively) only a matter of 10 days before the CPPP meeting, which highlighted matters to be included in the upcoming NPPF Prospectus (Subsequently published on 22nd December 2022). This included the suggestion that LPAs are not expected to review the Green Belt to deliver housing and that where authorities are well-advanced in plan-making, but the constraints the Secretary of State outlined mean that the amount of land needs to be re-assessed, they will be given two years to revise their plan and to get it adopted. These scenarios appear to reflect exactly the position of WHBC, which, as summarised above, has been opposed to meeting its FOAHN for the duration of the lengthy examination to date, and had as recently as September 2022, written to Liz Truss and Simon Clarke on the matter.

- 5.9 After a stagnant period of nearly two years since the Inspector closed the formal Examination Hearings, there is no reasonable explanation for the sudden urgency within the Council to rush into public consultation, other than to give the impression of progress. Indeed, the Officer's presentation to the three Committee meetings advised Members in each case that progressing the Local Plan would assist the Council in fending off speculative development and defending appeals, including this one.
- 5.10 The Council resolved to proceed with the proposed Main Modifications (CD 6.104 - 6.107), with consultation now running from 4th January to 15th February. In my view, however, that in no way guarantees this Draft Local Plan will proceed to adoption.
- 5.11 Indeed, at all three Committee meetings the Officer presenting the Reports stressed to the Council's Members that they were only approving the consultation on the proposed Main Modifications, and that resolving to do so does not in any way bind them to adopt the Plan at a later date, with there being further opportunities to debate and decide how to proceed with the Plan. That comment was made on no less than 10 separate occasions at the Full Council meeting on 20th December by the presenting Officer and the Council's Executive Member for Resources and Planning.
- 5.12 There also remain other potential stumbling blocks, as I explain below.
- 5.13 Firstly, matters may be raised in responses to the consultations to the Main Modifications that challenge their soundness, with all responses still the subject of review by the examining Inspector before he issues his final Report on the soundness of the Plan. There is also the potential of a legal challenge to adoption of the Plan based on the Main Modifications given what has been covered above and particularly the fact even the Inspector has acknowledged it is not fully consistent with the Framework.

- 5.14 Given the deadline for consultation responses on the Main Modifications is 15th February 2023 I also consider it highly unlikely that there will be sufficient time for the Inspector to review all of the comments, finalise and issue his Report on the soundness of the Plan, and for the Council to then consider it and take it to Full Council for adoption, before the Local Government pre-election (purdah) period commences on 23rd March 2023. Indeed, the Council itself has stated at its meeting on 20 December 2022 that it will be “Summer or Autumn” before the Plan would be ready for adoption, if it ever proceeds to that state of readiness.
- 5.15 One third of the seats in Welwyn Hatfield are up for election on 4th May 2023. Given the Conservative Party currently only has a majority of 4 seats there is a very real possibility of a change in control of the Council, or a situation whereby there is no overall control.
- 5.16 Either scenario could result in a situation where the Council might ultimately choose not to adopt the Draft Local Plan despite a sound verdict from the Inspector.
- 5.17 Even if the Inspector’s Report is published in sufficient time, following the consultation on the Main Modifications to the Plan, to allow it to be reported to Full Council for adoption prior to the pre-election (purdah) period, or were the Conservative Party to retain control of the Council following the elections, I still do not consider it a foregone conclusion that the Plan would be adopted.
- 5.18 As noted at paragraph 5.10 above, in September 2022 the Conservative Cabinet members wrote to the then Prime Minister (**CD 6.116**) and the then Housing Minister (**CD 6.117**) making absolutely clear that under no circumstances would the Council adopt a Plan which included three sites which had been found by LUC to be High Harm if released from the Green Belt. Those sites are HS22/BrP4 (Brookmans Park), HS29/Cuf12 and HS30/Cuf7 (Cuffley). EX294 (**CD 6.103**) which relates to housing supply, also confirms Members do not support these sites.
- 5.19 The High Harm sites were originally included within the Submitted Plan, but the LUC evidence (**CD 6.36 - 6.38**) was prepared during the Examination, after submission. The Council therefore considers that the new evidence justifies the deletion of these sites from the submitted Plan. However, the Council has now included the three High Harm sites for consultation in the Main Modifications in the Plan.
- 5.20 As already noted, the Letter to all MPs and the accompanying Written Ministerial Statement of 5th December laid down by the SoS for Levelling Up Housing & Communities (**CD 8.38** and **8.39** respectively) suggests an

opportunity to reassess the housing requirement in the Draft Local Plan the Council has been so desperate to secure, so it would seem more than a little contradictory for it to suddenly accelerate the Draft Local Plan for adoption, including High Harm Green Belt sites, which it has previously resolved to remove from the submitted Plan.

- 5.21 A scenario whereby WHBC decides to withdraw or seeks to amend substantially its Plan at this late stage does still seem a real possibility.

The Weight to be given the Draft Local Plan

- 5.22 In view of the long and turbulent history in the preparation and examination of the WHLP and the considerable possibility that it may never reach adoption, along with the fact that in any case the Main Modifications are still the subject of consultation and then further consideration by the Inspector, I consider its policies should only be given limited weight.

Compliance with relevant Policies in the Draft Welwyn Hatfield Local Plan (CD 6.01)

- 5.23 My evidence demonstrates that the appeal proposals comply, or can be compliant at the reserved matters stage, with all of the relevant policies in the Draft WHLP, subject to the very special circumstances balance required by the Framework. I undertake that exercise in Section 8 of this proof.

6 Material Considerations - the Consideration of the Site through the Local Plan Process

- 6.1 The appeal site has been promoted for allocation by the Appellant throughout the lengthy draft Local Plan process to date, during which it has been found suitable for allocation and recommended for inclusion in the Plan by Officers several times, but the Council's Members have chosen not to support this. It has also been found by Inspector Middleton to be a suitable site to assist the Council in making up the shortfall of housing land he identified.

The Housing Sites Selection Background Paper (June 2016; CD 6.112)

- 6.2 Section 17 of this Paper sets out the conclusions for Brookmans Park, with Table 33 identifying 4 sites in the Green Belt considered suitable for allocation. Included in this is BrP12 (a larger area of land that takes in the appeal site) with an indicative capacity of 110 dwellings.
- 6.3 Paragraphs 17.14 - 17.21 of this Paper set out that due to primary school capacity only those sites listed in Table 35 were proposed for allocation in Brookmans Park, with BrP12 not included, solely due to a perceived lack of primary school capacity in that village. I note that Brookmans Park is the only settlement to which this additional filter was applied to a specific site allocation.
- 6.4 The Appellant subsequently submitted a report in respect of education capacity in Brookmans Park (Copy included at **Appendix RG5**), which identified that only 48% of the children in attendance at Brookmans Park primary school lived within the school's Education Planning Area (EPA) with the remainder (52%) travelling into Brookmans Park from other towns and villages due to parental choice (See paras. 2.6 and 3.2 of Mr Clyne's Report). Thus, primary school capacity should not have been a reason for not allocating the site. However, WHBC refused to reconsider its decision and continued to exclude BrP12 from allocation based solely on a perceived lack of primary school capacity in Brookmans Park.

Housing and Economic Land Availability Assessment 2019

- 6.5 The Housing and Economic Land Availability Assessment (HELAA) 2019 (**CD 6.12**) sets out the results of the Council's assessment of suitability of sites promoted through a further Call for Sites held that year, but also included sites that had been previously assessed in 2016.

- 6.6 Appendix 2 of this document sets out the results of this assessment by settlement. Table 26 confirms that the wider BrP12 site and BrP12a (the appeal site) passed, with both identified as having a capacity for 125 dwellings. Page 314 contains the proforma for the two sites providing a brief overview of technical considerations. It confirms that “*both sites are found suitable*”.

Housing and Employment Site Selection Report Background Paper 2019

- 6.7 Paragraph 18.13 of this document, which pulled together the HEELA and other further technical work on site selection undertaken in response to the Inspector’s request that further sites be submitted, discusses both BrP12 and the smaller parcel the subject of this appeal, BrP12a, stating:

“Site BrP12 has been considered as two potential development options (BrP12 and BrP12a); BrP12a consisting of a smaller development area that more closely aligns with the existing north western edge of Brookmans Park. This smaller area (BrP12a) is considered suitable for allocation. The smaller area helps to reduce the scale of any impact on the Green Belt and ensures a more logical Green Belt boundary can be created and has the potential to deliver the same dwelling capacity as the larger BrP12 site (at a slightly higher although still moderate density). The north eastern corner of this site is rounded off to ensure the proposed Green Belt boundary is coherent and reflective of the northern edge of the settlement.” (My underlining)

- 6.8 The overall conclusion on the site template for BrP12a (the appeal site) states:

“Development of BrP12 would extend the settlement of Brookmans Park to the north and result in moderate-high harm to the Green Belt. The site is however, contained on three sides which limits the wider Green Belt harm. There is opportunity to form clearly defined and defensible boundaries using existing physical features, which would be similar in strength to the existing Green Belt boundary. BrP12a would not extend as far into the countryside to the east, in comparison with the larger BrP12 site, thus reducing any potential impacts, and in particular, reducing the extent the Golf Course could otherwise become more contained. Brookmans Park is a sustainable location for development benefiting from good public transport connectivity, services and facilities. On balance, the benefits of the site are considered to outweigh any potential harm on the Green Belt. The site is considered suitable for allocation” (My underlining)

- 6.9 It is a highly important material consideration, in my view, that Officers of the Council reached the conclusion that the benefits of the appeal site outweigh

any potential harm to the Green Belt, and as I come on to discuss, this supports my own position on the very special circumstances balance.

Reports to Cabinet Planning and Parking Panel - 23rd and 29th January 2020 (CD 6.96 and CD 6.118)

- 6.10 The recommendation at paragraph 2.2 of the Report advised the Panel to recommend to Cabinet the sites identified as Option 1 of the Site Selection Background Paper 2019, detailed in sections 10-24, be published for public consultation as sites to be added into the Local Plan. This included the appeal site.
- 6.11 The Printed Minutes of the further meeting of 29th January (CD 6.87) note that an alternative strategy referred to as “the Conservative Option” which was described at minute 59.1 but with the deduction of [site] HAT 15 Symonshyde” was carried and recommended to Cabinet despite it delivering only 13,076 homes.
- 6.12 This excluded the appeal site on the simple basis that it was one of a number of sites throughout the Borough which had been found to have Moderate - High harm to the Green Belt, in its case as part of an assessment of the larger parcel (P66) rather than the appeal site itself, in the LUC Stage 3 Green Belt review (CD 6.36 - 6.38) However, this overlooked the fact that many of the sites in the draft WHLP, which were included for allocation, were also found to be Moderate - High harm to the Green Belt in the new LUC Green Belt review. As such, this was a blanket decision by Members, against Officer advice and recommendation, to exclude sites in suitable and sustainable locations without any rational or comparative assessment and with no site specific consideration of “this” Green Belt as required by the guidance in the “Calverton judgment” (CD 11.15).
- 6.13 This position also completely overlooked the assessment of the smaller parcel BrP12a in the Site Selection Paper 2019 discussed above, which acknowledged it would have reduced harm to the Green Belt, therefore below Moderate - High harm, which is an entirely logical conclusion shared by the Inspector examining the Local Plan, as I come onto below.
- 6.14 It is worth reiterating the evidence of Mark Flatman and the overview of consideration of the Green Belt in CD 1.30, which both highlight that the Council’s own Stage 1 Green Belt Review undertaken by SKM (CD 6.16) assessed that the appeal site lies within the wider parcel (45) that would have least harm to the Green Belt if developed of anywhere in the whole Borough.

Consideration of the appeal site by the Local Plan Inspector

- 6.15 As noted in my summary of the local plan examination to date in the preceding section and also in my detailed overview of the background to the current draft Local Plan position at **Appendix RG4**, the Inspector examining the Local Plan assessed the appeal site (BrP12a) as one of a number that had passed the Council's Site Selection process, but which had not been put forward for allocation by it. His findings are set out in paragraphs 115 - 121 of EX273 (**CD 6.71**) and I note that he concludes that not only is the site a sustainable location for residential development, but it is also one that could contribute to the five-year housing land supply.
- 6.16 Despite several opportunities to include the Appeal site, with Officer recommendations to allocate it, WHBC Members have steadfastly refused to do so, without any rational explanation.
- 6.17 This is a highly significant material consideration that weighs heavily in favour of the scheme in the planning balance, as I come on to discuss in further detail below.

7 Material Considerations

- 7.1 There are numerous material considerations relevant to the determination of this appeal. I consider these in turn below.

National Planning Policy Framework 2021 (CD 8.23)

- 7.2 The NPPF 2021 includes a host of policies that are directly relevant to the determination of this appeal, including the presumption in favour of sustainable development, and also those in respect of, the weight to be attached to policies in both existing and emerging development plans (and the correlating weight be given to any conflict with them), which I discussed in Sections 3 - 5 of this proof, the need for development plans to be kept up to date, the requirement to meet housing need of different types, Green Belt and the planning balance.

The need for up-to-date local plans

- 7.3 National policy in the NPPF (See para. 33) and PPG (Paragraph 062 - Reference ID: 61-062-20190315; CD 8.13) is explicit on the need to keep local plans up-to-date.
- 7.4 As noted in Section 3 of this proof, the WHDP was adopted in 2005. That is over 17 years ago. It was prepared to deliver a housing requirement derived from Regional Planning Guidance 9 in 1994 that only sought to meet need to 2011. The WHDP is not up-to-date and is certainly not effective as required by national policy.
- 7.5 As a consequence of tightly drawn Green Belt boundaries (where 80% of the Borough is in the Green Belt), the Council has relied almost entirely on brownfield sites within towns and villages excluded from the Green Belt to provide new dwellings, with the dire consequence that a considerable amount of the Borough's housing need has not been met since 2011.
- 7.6 As noted in Section 5 of my proof, it is evident that no certainty can be placed on the emerging Local Plan being adopted, even if it is ultimately found sound, and regardless, even were the plan to be adopted it is not going to meet the FOAHN confirmed by the Inspector due to the Council's persistent refusal to agree to meeting that level of housing despite its own evidence base confirming it could do so and the acute housing need and affordability issues besetting the Borough.

The Need for Market Housing

- 7.7 The most recent Housing Delivery Test result (CD 7.02) confirms that the

delivery of housing has been substantially below the housing requirement over the previous three years. Only 1,488 dwellings have been provided against a requirement for 2,244 over the three-year period. Therefore only 66% of the required dwellings have been delivered.

- 7.8 The Council's HDT Action Plan (**CD 7.01**) published in August 2022 indicates that the 2022 HDT result is likely be less than the 2021 figure, meaning that the presumption in favour of sustainable development in Framework will continue to apply.
- 7.9 The Appellant's latest assessment of the current housing supply is provided in Ben Pycroft's evidence. He demonstrates robustly that at 1st April 2022 the Council has a woeful supply of only **1.65 years**, a marginal worsening from the 5YHLS Statement submitted with the application (**CD 1.23**). This results in a very significant shortfall of some **3,566 dwellings**.
- 7.10 Even on the Council's own position in its Housing Delivery Test Action Plan, it can demonstrate a supply of only **2.67 years** at 1st April 2022, a shortfall of some **2,523 dwellings**, which is still very significant.

The Forward Supply were the Draft Local Plan to be adopted

- 7.11 The Main Modification that are currently the subjection of public consultation (**CD 6.104**), and particularly those to draft Policy SP2, confirm a housing supply of 13,392 dwellings with a ten year supply of 9,209 dwellings against a FOAHN of 15,200 dwellings. Thus, the Plan will not meet the FOAHN even for the 10-year period of the Plan and proposes a review to commence within 5 years as a consequence.
- 7.12 In terms of the 5YHLS, paragraph 3.14 and Table 4 in the report to the special meeting of CPPP arranged for 15th December 2022 (**CD 6.108**) suggests that adoption of the Plan based on the main modifications would give the Council a very marginal supply of 5,481 dwellings against a requirement of 5,472 years.
- 7.13 The evidence of Ben Pycroft demonstrates that the deliverable supply at 1st April 2023, on the assumption the Plan were adopted as proposed to be modified, would in fact only amount to 2,056 dwellings, some 3,425 less than the Council suggests. This equates to either 1.88 years or 1.95 years, depending on whether a stepped trajectory is applied. The shortfall will therefore remain a very substantial one even in the highly questionable scenario whereby the Plan is adopted later this, which is ultimately a product of the considerable delays in the Plans progression.

The weight to be given to the provision of Market Housing

- 7.14 It is common ground between the Appellant and WHBC that the Council cannot

demonstrate the required 5YHLS. Whilst there is a dispute on the extent of the shortfall, with WHBC claiming 2.64 years' supply and the Appellant 1.65 years' I consider this immaterial to the weight that should be given to the provision of up to 59 (47%) market homes as part of this scheme, and regardless of whether the 5YHLS is 2.64 or 1.65 years', that weight should be **very substantial**.

- 7.15 In the Roundhouse Farm, Land off Bullens Green Lane, Colney Heath decision, Inspector Masters referred to the Council's then supply of only 2.58 years as "considerable and significant" whilst also suggesting "the position is a bleak one" (See DL para. 48; **CD 9.28**). She went on to give the provision of up to 45 market homes (45%) very substantial weight in paragraph 49 of the Decision Letter.

The Need for Affordable Housing

- 7.16 The evidence of James Stacey presents a truly depressing picture of failure when it comes to the delivery of affordable housing, the catastrophic shortfall in supply, a very substantial need that is simply not going to be met, and terrible affordability issues that continue to worsen. I do not repeat this here, but note it is one of the many consequences of the considerable delays in the preparation of an up-to-date Local Plan to fully address the Borough's housing need.

The weight to be given to the provision of affordable housing

- 7.17 Paragraph 11.35 and 11.36 of the Officer's Report to Committee (**CD 4.02**) confirms that very substantial weight should be given to the schemes provision of affordable housing. At the time the OR was prepared the affordable housing offer was 36%. As noted in the main SoCG the Appellant has since increased the offer to 45% (See Section 7 and para. 8.13). I unequivocally agree that the contribution of up to 56 hugely need affordable homes in a parish that has seen no new affordable homes delivered at all in the period since 2001 should be afforded **very substantial weight**.

The need for specialist accommodation for older people

- 7.18 The evidence of Nigel Newton Taylor demonstrates the critical need for specialist accommodation for older people both nationally and also that there is a need locally in the market catchment area. I do not repeat this evidence here.
- 7.19 I also note paragraph 11.17 of the OR to Committee (**CD 4.02**) acknowledges that "one of the planning objectives for Brookmans Park in the emerging Local Plan is to improve the provision of care homes".

The weight to be given to the provision of a 60-bed care home

- 7.20 Paragraph 11.45 of the OR to Committee (CD 4.02) suggests that significant weight be attached to the provision of a 60 bed care home as part of the scheme. As Mr Newton Taylor notes at paragraph 7.12 of his evidence, had the Officer had the benefit of understanding the full scale of both qualitative and quantitative need, the weight would have been greater still. In my view that weight should be **substantial**.

The need for plots for Self-Build & Custom Housebuilding

- 7.21 It is common ground that WHBC has failed to meet its statutory duty under the provisions of the 2015 Self Build and Custom Housebuilding Act (as amended by the 2016 Housing and Planning Act) to have a sufficient number of suitable permissions to meet demand arising from Base Periods 1, 2, 3 and 4 of its Self-Build Register (See main SoCG para. 8.26; CD 13.01).
- 7.22 WHBC and the Appellant are also in agreement that the Council has an accrued shortfall of at least 318 plots compared to demand identified on its Self-Build Register from Base Periods 1, 2, 3 and 4 alone (See main SoCG para. 8.28).
- 7.23 It is also common ground that the Council are unlikely to meet their statutory duty in respect of Base Period 5 (See main SoCG para 8.27).
- 7.24 in the six years since the inception of the Self-Build Register just 11 self-build or custom housebuilding (“SBCH”) plots have been delivered across just two sites in the entire Borough.
- 7.25 The Council has no Borough wide self-build housing policy in its emerging Plan, so even if that Plan ever gets adopted, self-build houses would not generally be delivered through the Plan’s policies.

The weight to be given to the provision of Self-Build & Custom Housing Plots

- 7.26 In light of the above, I consider that **substantial weight** should be given to the provision of 8% (up to 10) serviced plots for SBCH as part of this scheme, a position which is common ground between WHBC and the Appellant (See main SoCG para. 8.29).

Other social benefits and the weight to be afforded to them

Provision of a new Scout Hut

- 7.27 The scheme includes the provision of a new scout hut, which is an additional community benefit. As noted in the Statement of Mr Ian Lewington, Group Scout Leader, included at Appendix RG7, this is to replace a 1960’s timber hut,

which is reaching the end of its economic life and requires constant maintenance. A need for a new facility therefore exists, and the appeal site would also have locational advantages, being on the village side of the railway line, and with better access. I consider this social benefit to be one that should be afforded **moderate weight** in the planning balance.

Improvements to Pedestrian Facilities in Brookmans Park

- 7.28 The Highways SoCG (**CD 13.03**) confirms at paragraph 2.13 that the appellant and HCC have agreed off-site highway works that are shown in principle on drawing 2012-1353-300 C appended to it. These will introduce a combination of tactile paving, new crossing points and a revised layout at the traffic island of Bradmore Green/Brookmans Avenue on highways and public pavements that are all adopted by the County Council. It is noted that this will help promote sustainable, active and accessible travel between the appeal scheme and key facilities in the village centre, as well as to bus stops and the railway station. These improvements would also be a benefit to existing residents in the area, and I consider that this should be afforded **moderate weight**.

Other S106 Contributions

- 7.29 The S106 Agreement that is being agreed between the main parties includes a number of financial contributions towards local infrastructure, which is a further material consideration in support of the scheme.
- 7.30 I consider this further social benefit to be an additional positive factor in support of the appeal scheme, which should be afforded **moderate weight**.

Economic benefits and the weight to be afforded to them

- 7.31 The appeal scheme would contribute to the creation of both full and part time employment in the proposed care home. It would also provide construction jobs and an economic boost to the wider supply chain.
- 7.32 The development would also generate additional custom and support for the range of existing services and facilities in Brookmans Park, along with those in other nearby centres. This would assist in maintaining the viability and vitality of such services.
- 7.33 I consider these economic benefits resulting from the scheme should attract **moderate weight** in the planning balance.

Environmental benefits and the weight to be afforded to them

- 7.34 The Summary Statement Biodiversity Net Gain prepared by Liz Lake Associates and included in **Appendix RG3** of this proof of evidence provides an overview of the background to discussions between the Appellant and Hertfordshire

Ecology and Hertfordshire and Middlesex Wildlife Trust regarding achieving a biodiversity net gain (“BNG”) from the development. This has ultimately resulted in agreement with both consultees, to a financial offsetting option, to be secured through the S106 Agreement that is being prepared.

- 7.35 As explained in the note, the sum of £302,349 has been agreed based on real habitat creation and management. This represents 15% BNG in accordance with Hertfordshire and Middlesex Wildlife Trust’s (HMWT) methodology of calculation and that is also now agreed with Hertfordshire Ecology and the Appellant (Note, if this sum is presented as a multiple of £12,000 per biodiversity unit it equates to 25% BNG). HMWT have confirmed they have no objection to the appeal proposals (See paragraph 5.5 of Appendix RG3 particularly).
- 7.36 Whilst landscaping is a reserved matter, the illustrative Landscape Masterplan (CD 1.29), demonstrates considerable scope for new planting as part of the scheme, with Mark Flatman’s evidence, particularly the table at paragraph 3.5 explaining how this would contribute towards the Management Guidelines of the Landscape Character Area. Paragraph 4.4 of the Landscape SoCG (CD 13.04) confirms the Council accepts that the landscape masterplan exhibits a number of beneficial features.
- 7.37 I consider that these environmental benefits should be afforded **moderate weight** in the planning balance.

Locational benefits of the Appeal Site

- 7.38 It is common ground between WHBC, HCC and the Appellant that this is a sustainable location for new development in terms of access to facilities and services. I note that new residents would have access to a considerable range of facilities, services and amenities, along with Brookmans Park railway station and bus stops, providing sustainable access to wide range of destinations.
- 7.39 The provision of new homes in such a highly sustainable location is a further benefit of the scheme which I consider should be given **significant weight**.

Scheme Impacts - Green Belt

- 7.40 It is acknowledged that any harm to the Green Belt should be given substantial weight as required by paragraph 148 of the Framework, and that includes the definitional harm from inappropriate development.
- 7.41 Before the very special circumstances balance can be undertaken it is necessary to understand the nature of the harm to the openness of the Green Belt and purposes of including land within it, having regard to the contribution the site makes to those purposes in its current state, which I set out in Section

2 above.

Extent of visual impact from loss of openness

7.42 Mark Flatman covers the visual aspect of the proposed development's impact on openness in his Proof of Evidence. Whilst acknowledging that there would inevitably be a loss of open countryside from development of this site and that within the site there would be some harm to the visual aspect of loss of openness of the Green Belt, the visual effects of openness relative to the wider area are much more limited. He refers to the photo viewpoints to demonstrate this and notes that the Council has not highlighted any issues with visibility being wider than as assessed in the submitted LVIA (CD 1.28). I agree with his assessment.

7.43 He points to the conclusions of the 3 Green Belt assessments undertaken to inform the Draft Local Plan, which identify the wider parcels of land assessed that the appeal site lies within, to be of least harm to the Green Belt in the Borough. The LUC assessment (Stage 3) also notes the level of containment provided by urban development and protected woodlands confirming that:

“..... the impact of its release on the integrity of the wider Green Belt would be limited.”

7.44 He also refers to Inspector Middleton's assessment of the site, which I discussed in detail in the preceding Section, noting the point that he finds the appeal site would cause less harm than the wider parcels assessed in the Council's studies.

7.45 Mr Flatman concludes that only a very limited change to visual openness would arise in the wider landscape, such that the wider integrity of the Green Belt can be maintained without harm. I agree.

Extent of spatial impact from loss of openness

7.46 In terms of the spatial dimension of openness, I acknowledge there would be a loss of openness from development on what is currently an open field, however, again, I consider this to be limited by the appeal site's relationship with the existing settlement of Brookmans Park and its general level of containment by existing landscaping, particularly Peplins Wood to the north and west, but also the boundary landscaping to the east separating it from the golf course.

7.47 This level of containment and relationship with the existing built form of Brookmans Park, along with the separation from the wider open and non-developed land, particularly to the north, by Peplins Woods, would limit the harm from development of the site in terms of the spatial dimension of loss of openness.

Impact on the purposes of including land in the Green Belt

- 7.48 I turn now to impact on the purposes of including land in the Green Belt at paragraph 138 of the Framework. In assessing this regard needs to be had to the contribution that the site currently makes to the purposes of including land within the Green Belt. I set out my position on this in Section 2 of this proof, noting that I do not consider the site to makes a significant contribution to any of these purposes.
- 7.49 It is common ground between WHBC and the Appellant that the proposed development would not conflict with Green Belt purposes a), b), d), or e) (See main SoCG para. 8.2; **CD 13.01**).
- 7.50 This leaves only purpose c) *to assist in safeguarding the countryside from encroachment*, on which the parties disagree.
- 7.51 Paragraph 11.33 of the OR to Committee (**CD 4.02**) suggests that the proposed development would represent a “significant” encroachment into the countryside. The explanation for this position is provided in a single paragraph above it (11.32), where the Officer states:

“..... There is a notable open gap to the north-eastern side of the site which affords longer range views of the countryside....”

and

“... Despite the presence of dwellings and their gardens beyond the southern boundary, it is considered that the site has an overwhelming rural character. The experience of the site on the ground is that of countryside beyond the settlement and with limited influence from the properties on Bradmore Way and Peplins Way.”

- 7.52 The Council’s SoC adds little to this, with paragraph 5.5 suggesting that the experience when viewing the site from public viewpoints and within it is that of countryside beyond a settlement with limited influence from built form and other physical features.
- 7.53 The evidence of Mark Flatman debases this assessment. He notes at paragraph 3.1.7, with reference to photo appended to his proof, that the settlement edge is apparent. At paragraph 3.1.8 he describes the site as forming part of a transition zone, which is influenced by suburban housing at the settlement edge.

I have also referred above to both Mr Flatman’s evidence on lack of intervisibility with the wider countryside and the extent to which the site is contained by existing features in the landscape, such as Peplins Woods, which

is supported by the Council's own evidence in support of the Draft Local Plan, particularly the Housing and Employment Site Selection Report Background Paper 2019, which I covered in more detail Section 6 of this proof.

- 7.54 Paragraph 5.5 of the Council's SoC suggests that it will explain how the Green Belt Study Stage 3 and the examining Inspector's Hearing Session round-up notes (EX273; CD 6.71) discussing the site, should not diminish the Council's contended contribution of the Appeal site to the specific purpose, but the Council's SoC offers no further explanation for that curious position.
- 7.55 As I noted in Section 2 above, my view is that the site makes only a limited contribution to this purpose as it currently exists and that reduces the harm associated with its development. Further, there is the potential to include mitigation landscaping as part of the scheme, particularly along the northern boundary, as demonstrated by the Landscape Masterplan (CD 1.30), which would increase the already high level of containment experienced by the site.
- 7.56 My assessment, having regard to the approach of Inspector Masters in considering this same issue in the Colney Heath appeal, is that there would be no harm from development of the smaller parcel BrP12a to purpose c) given the limited contribution to that purpose based on its relationship with the northern edge of the existing settlement of Brookmans Park, which already provides urban influences on the land, and the aforementioned level of containment, physically separating the site from the countryside beyond and thus limiting significantly any impact on the wider integrity of the Green Belt through encroachment.

Conclusions on Impact on the Green Belt

- 7.57 To conclude on impact on the Green Belt then, whilst the proposed development is inappropriate development meaning there is definitional harm, as demonstrated by Mark Flatman's evidence, the impact in terms of loss of openness in a visual sense is in fact of limited harm, mainly experience on the site itself and from Bradmore Way, due to the site's relationship with the existing settlement of Brookmans Park, its high level of containment by existing landscape features and the resulting limited visual envelope from which that harm can be appreciated. I reach a similar conclusion in respect of the spatial dimension of loss of openness.
- 7.58 It is common ground that there would be no harm to 4 out of 5 Green Belt purposes. I also consider there would be no harm to purpose c) *encroachment on the countryside* due to the limited contribution the site currently makes, such is its level of containment, and the limited effect on the integrity of the wider Green Belt.

7.59 In totality then, the harm to the Green Belt, which must be given substantial weight, is at the lowest end of the spectrum of harm that could occur. A position supported by the conclusions of the Council's own evidence base to the Local Plan and the assessment of the examining Inspector. I also note again that this is a site that has been found to be suitable for allocation as part of the draft Local Plan on more than one occasion and, indeed, has been recommended for inclusion by Officers, which is in itself a material consideration in the support of this appeal of considerable weight.

Consultation on Potential Changes to the NPPF

7.60 The Government launched a consultation on potential changes to the NPPF on 22nd December 2022. This consultation runs until 11:45 pm on 2 March 2023.

7.61 Given this is only a consultation on potential changes to the Framework at this stage, I do not consider that it should be given any weight in the determination of this appeal.

8 Very Special Circumstances Planning Balance

- 8.1 It is common ground that the appeal proposal constitutes inappropriate development in the Green Belt, which is by definition harmful. It therefore needs to be assessed using the very special circumstances balance at paragraph 148 of the Framework

Harm to the Green Belt

- 8.2 In Section 7 above, I set out that the harm in terms of the loss of openness from development at the site, both in a visual sense and spatially, having regard to Mr Flatman's evidence, would be limited. This is as a consequence of the site's relationship with the existing settlement of Brookmans Park, with the houses on Bradmore way and Peplins Way apparent wherever you are on it, and it also being extremely well contained by the surrounding landscaping, particularly Peplins Wood to the north and west, but also the railway to the west and mature planting separating it from Brookmans Park Golf Course to the east.
- 8.3 As noted in the preceding Section, even the Council's Stage 3 Green Belt Study (CD 6.36 - 6.38) acknowledges the level of containment in the much wider Parcel 66 it assessed, and that the impact from its development on the wider integrity of the Green Belt would be limited.
- 8.4 It is common ground between the Council and the Appellant that there is no impact on 4 of the 5 Green Belt purposes at paragraph 138 of the Framework. My evidence in Section 2 above demonstrates that the appeal site makes only a limited contribution to the Green Belt purpose of safeguarding the countryside from encroachment. As a consequence, and due to the site's relationship with existing built development on Bradmore Way and Peplins Way, along with the high level of containment provided by existing landscape features, which can be augmented by new landscaping as part of the development proposals, I do not consider there to be any impact on this purpose either and this is a neutral consideration in the balance.
- 8.5 Therefore, whilst substantial weight must be given to the definitional harm from inappropriate development in the Green Belt and to the loss of openness that would occur from the proposed development, that harm in this case is limited by the particular characteristics of the site and its relationship with the adjoining settlement and countryside. Overall the harm to the Green Belt would be at the lowest end of the spectrum of harm, which is, in my view, why Officers of the Council were right to recommend it for inclusion in the Plan

previously, and also why the examining Inspector has considered it a suitable site to contribute the Council's housing supply.

Other Harm

- 8.6 Mark Flatman's evidence and the LVIA that supported the application assess that development of the site would have only a localised harm on the landscape of the site, but that this would not be harmful to the character of the area, with the LVIA considering the significance of landscape impact as a slight adverse effect on landscape resource. This is supported by the Council's own Landscape Officer's response (**CD 3.32**). This harm should be given **moderate weight**.
- 8.7 Added to that is the loss of circa 1 ha of Grade 3a best and most versatile agricultural land. As identified in the Agricultural Land Report at Appendix RG8, the bulk of the site (7ha) is subgrade 3b. Given the very low amount of BMV land involved and limitation on its agricultural quality, I consider that this should be given only very **limited weight** in the planning balance.
- 8.8 The supporting material submitted with the application demonstrates that all other harms can be suitably mitigated as part of this development.

Other Considerations

- 8.9 In my view, this harm is clearly outweighed by the "other considerations" in this case, which have been set out in detail in the preceding sections.
- 8.10 These considerations include the fundamental failure in plan-making in this area and the inability of WHBC to bring forward an up-to-date plan to replace its adopted Local Plan, which time expired in 2011, in order to properly plan for and meet housing and other needs, as required by the NPPF (para. 33). Plan-making has therefore been ineffective in Welwyn Hatfield for a considerable period of time.
- 8.11 The housing requirement in the emerging Local Plan is below that which is required by the Standard Method in the Framework 2021. As documented above, assuming the draft Local Plan even reaches a point where it is a) found sound by Inspector Middleton and b) adopted by WHBC, and I have my doubts on the latter point particularly as expressed in Section 5 above, based on the current position (explained in Section 5 and in greater detail in **Appendix RG4**) it will not meet even the lower requirement of the FOAHN over a 10 year period, and the Plan is now likely to be the subject of an early review, albeit one can have little confidence in that being undertaken in a timely manner given progress on the current draft plan, required to commence within 5 years. This is despite the Appeal Site having passed the Council's site selection

process, been found suitable, sustainable and deliverable, and having been recommended for allocation by Officers, and also found to be capable of contributing towards the 5 year housing requirement by the examining Inspector, as discussed in detail in Section 6 above.

- 8.12 A direct consequence of this failure in plan-making is that WHBC has an appalling track-record in terms of delivering housing, achieving only 66% of the delivery required in the latest Housing Delivery Test results (**CD 7.02**) and a near total failure to deliver family homes in the Borough. It has a substantial deficit in its 5YHLS by the Council's own admission. The updated position on behalf of the Appellant, set out in Mr Pycroft's evidence, demonstrates that the position is worse even than that claimed by WHBC at only 1.65 years' supply with a current shortfall of some 3,566 dwellings.
- 8.13 The aforementioned failure in plan-making and the lack of any certainty over the future of the Draft Local Plan means that the only mechanism for resolving these supply positions in the foreseeable future is through applications for windfall developments such as this.
- 8.14 As noted in the preceding Section, given the diabolical housing supply position that exists here, I consider that the provision of market housing at the Appeal site should be given **very substantial weight**. This is consistent with Inspector Masters at paragraph 49 of the of the Colney Heath DL (**CD 9.28**).
- 8.15 James Stacey's evidence demonstrates that Welwyn Hatfield Borough Council's record of delivering affordable housing across the plan area is, at best, very poor, with there being an acute need and no clear evidence of the position improving any time soon. The affordability ratio in the Borough is significantly worse than the national average, with affordability ratios worsening.
- 8.16 Given this context, it is common ground between the main parties to this appeal that the provision of 45% (up to 56 affordable homes) as part of the scheme should also be given **very substantial weight**. Again, this is consistent with the position of Inspector Masters in the Colney Heath appeal Decision Letter (paragraph 54 **CD 9.28**).
- 8.17 The application includes the provision of 8% (up to 10) plots for SBCH. The Government attaches great importance to the provision of this element of the housing supply. Critically, paragraph 62 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. It is common ground between the main parties that **substantial weight** should be given to the provision of the self-build plots in

this scheme. This is consistent with the conclusion of Inspector Masters at paragraph 52 of the Colney Heath appeal decision (**CD 9.28**).

- 8.18 The evidence of Nigel Newton Taylor demonstrates a clear need for new care home provision both nationally and locally and that this justifies **substantial weight** to the provision of a 60-bed care homes (C2 use) as part of this scheme.
- 8.19 There are other benefits to the scheme, such as the achievement of a net gain in green infrastructure and biodiversity, economic and social benefits also discussed in the preceding Section. I have summarised the other considerations in support of the Appeal Scheme, together with the weight I consider they should be given in the table below and have also recorded the harms and their weight.

Weight given to harm to the Green Belt and any other harm	Weight given to “other considerations” in support of the appeal scheme
The definitional harm to the Green Belt from inappropriate development and limited impact from loss of openness must be given substantial weight in accordance with NPPF paragraph 148	The Council’s failure to bring forward a Local Plan to replace the adopted Plan, which time expired in 2011 is a consideration of significant weight. Plan-making has been ineffective in the Borough for well over a decade. It is also material that the Council is choosing not to meet its FOAHN despite the availability of sites such as the appeal site. As I have already noted, it remains highly questionable as to whether the draft Plan will ever reach adoption given its challenging history, despite consultation currently taking place on the Main Modifications.
Moderate weight should be given to the slight adverse impact on landscape resource	The provision of 47% market housing (up to 59 dwellings) as part of the scheme should be given very substantial weight
The scheme would result in the loss of 1 ha of grade 3a BMV agricultural land and 7ha of sub grade 3b, which I afford very limited weight .	It is common ground that the provision of 45% affordable housing (up to 56 units) should be given very substantial weight given the chronic level of under-delivery in recent years in the Borough and acute shortfall in supply.
	It is also common ground that the provision of 8% of the dwellings as plots

	for SBCH (up to 10) should be given substantial weight in light of the shortfall of plots against those required in base periods 1, 2, 3 and 4.
	The provision of a 60-bedroom care home as part of the scheme should be given substantial weight in light of the evidence on need both nationally and locally
	The provision of a new of a new scout hut is an additional community benefits that should be given moderate weight
	I consider the improvements to pedestrian facilities and highway safety improvements in Brookmans Park to be an additional benefit that should be afforded moderate weight
	The infrastructure improvements to be secured through the S106 Agreement, which total in excess of £3.6 million, provide a further benefit that should be afforded moderate weight .
	The economic benefits of the scheme, including the provision of full and part time jobs in the proposed care home, the provision of construction jobs, both direct and in supply chains and additional custom new residents would provide for the facilities in Brookmans Park should be given moderate weight
	The environmental benefits of the scheme, including the achievement of a 15% BNG and the provision of on site landscaping that would contribute to the Management Guidelines for the Landscape Character Area should be afforded moderate weight
	It is common ground that the appeal site is a sustainable location. I consider it to be highly sustainable given the access to facilities, services and public transport

	and that this should be given significant weight
	A further consideration that weighs strongly in support of the scheme is the fact it passed the Council’s Site Selection Process, has been considered suitable for allocation to help meet the Council’s housing need, has been recommended as such by Officers as part of the Draft Local Plan process, and has been found suitable by the Inspector undertaking the Local Plan examination. I consider that this should be given substantial weight

- 8.20 I acknowledge that every very special circumstance balance will be the product of the individual harms and other considerations. However, as is clear from the Colney Heath appeal decision (**CD 9.28**), a lack of a five-year housing land supply, a chronic failure to deliver new homes, very high affordability ratios and an acute and dire need for market, affordable and self-build and custom housing can be sufficient other considerations in principle to demonstrate Very Special Circumstances to justify development in the Green Belt in this very Borough.
- 8.21 I also note that WHBC itself resolved unanimously on 9 December 2021 to grant outline planning permission for 121 dwellings in the Green Belt at land to the south of Cuffley (ref:6/2015/1342/PP; documents at **CD 12.04 - 12.07**) with very special circumstances comprised of the provision of market and affordable housing.
- 8.22 Whilst I again acknowledge that each case had its own unique set of very special circumstances (as is always the case by the very nature of the balancing exercise required), the commonality in the Secretary of State decisions in the Green Belt at Burley-in-Wharfedale (**CD 10.01**), Oxford Brookes University Wheatley Campus (CD 10.02), Cheadle Hulme, Stockport (CD 10.03) and Huntingdon, York (**CD 10.12**) is that each case involved a LPA where plan-making had been either considerably delayed or was very problematic. The same was also the case in the Billericay and York decisions (**CD 9.44 and 9.03 respectively**), which not are Secretary of State cases, but also involved development in the Green Belt where there was not an up-to-date plan.
- 8.23 As I have explained, there is not a plan-led route to meeting housing need in WHBC and there has not been for over a decade. Even if the WHLP is adopted

later in 2023, it will not meet the FOAHN identified by the Council's own evidence and confirmed by the examining Inspector. Mr Pycroft's evidence demonstrate, that far from providing the immediate remedy to the Council's housing woes, adoption of the Plan would still leave it substantially short of the required 5YHLS. James Stacey's evidence confirm that the considerable affordable housing shortfall will similarly not be addressed.

- 8.24 In conclusion then, the other considerations in this case clearly outweigh the limited harm to the Green Belt that would result (given substantial weight), together with the other harm identified above. Very special circumstances therefore exist and justify the granting of planning permission.

9 S38(6) Planning Balance

- 9.1 Having regard to all of the above, if my position on the balance required by paragraph 148 of the Framework is supported, and it is accepted that very special circumstances do exist for development in the Green Belt, then the conclusion should also be that the appeal proposals comply with the development plan when read as a whole.
- 9.2 In Section 4 of this proof I have set out an assessment of compliance with each of the relevant policies in the development plan and I conclude that the scheme complies with the Plan read as a whole.
- 9.3 There are no material considerations that warrant a decision other than in accordance with the development plan in these circumstances and planning permission should be granted.
- 9.4 Thus, in accordance with Section 38 (6) of the Planning & Compulsory Purchase Act (2004), the scheme should be approved without unnecessary delay.

10 Paragraph 11d) Tilted Balance

- 10.1 The tilted balance at paragraph 11d) of the Framework is engaged for the purposes of determining this application as WHBC, by their own admission, cannot demonstrate a five-year housing land supply.
- 10.2 The first limb of paragraph 11(d) does not apply in this case as Green Belt policy does not provide a clear reason for refusing the development proposed. In contrast, in terms of the Green Belt, the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the appeal proposal, is clearly outweighed by other consideration, as I have demonstrated above.
- 10.3 The second limb under paragraph 11(d) requires an assessment as to whether any adverse impacts of granting permission for the development, would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework, taken as a whole.
- 10.4 There is no significant and demonstrable harm which outweighs the aforementioned substantial benefits of this scheme. Nor do the policies of the Framework which seek to protect assets of clear importance provide a clear reason for refusal. Indeed, this scheme is compliant with relevant policies in the NPPF, and the NPPF when taken as a whole.
- 10.5 It follows from the very special circumstances balance already undertaken above that the harm resulting from the scheme (both to the Green Belt and other harm) is clearly outweighed by the material evidence presented and examined in this statement and the Council's reluctance to meet its housing need across affordable and market sectors.
- 10.6 Therefore, in accordance with the tilted balance, planning permission should be granted.

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