

**Town & Country Planning Act 1990 s.78**

**LAND NORTH OF BRADMORE WAY, THE BROOKMANS PARK ESTATE, BROOKMANS PARK,  
HERTS**

***APP/C1950/W/22/3307844***

**OPENING STATEMENT**

*On behalf of the Local Planning Authority*

*7 February 2023*

## Introduction

1. This planning inquiry is a case about competing priorities. It is not black and white, or binary. On one side is the key national planning policy priority to protect the Green Belt. There can be no real doubt about that priority's position in the hierarchy of priorities addressed by planning policy. It may be about to be given even greater prominence.
2. National Green Belt policy is absolutely clear that its aim is to keep the Green Belt open – i.e., free from inappropriate development such as the proposals being presented this week. The Government says squarely that it attaches great importance to Green Belts. These proposals cut directly across that priority. They would replace 8 hectares of open Green Belt land with built development. Unless very special circumstances arise, there should be no question of planning permission here.
3. That same Green Belt policy requires those words – '*very special circumstances*' – to be given their proper meaning. The words are not to be reduced to a mantra. They emphasize the fundamental importance of keeping Green Belt land open. It should not be the ordinary case in which planning permission to develop 8 hectares of Green Belt land is granted. In that context it is surprising to read the Appellant's team downplay the harm to the Green Belt that will be entailed by these proposals. The harm is real, and would be substantial. As a minimum, it must be given substantial weight.
4. In addition to that harm, the Council (through Mr. Browne) makes the case that there will be harm to the character of the area too, irrespective of its Green Belt location. His analysis is careful, detailed, and thoughtful, identifying and assessing the appropriate receptors in a systematic and transparent way. It should provide you with a robust framework within which to reach your own judgments about this aspect of the case, and form an overall assessment of the harm that would be caused by these proposals.

5. On the other side of the equation here are a series of other national priorities: delivering more housing in a district of significant deficit, more affordable housing where it is acutely needed, and more self-build plots; delivering a better supply of care home beds; potentially (if it can actually be secured), a net enhancement in biodiversity in the area. Local benefits will also arise – for example a replacement Scout Hut.
6. By contrast, the Council broadly accepts these benefits; and in many cases agrees the level of weight they should attract in the balancing. Their examination should not take up a great deal of inquiry time (which is not to downplay them: it is to recognise that in most cases they are essentially agreed).
7. You will have to assess each side of that balance, attributing the right amount of weight to each of the factors. If very special circumstances do arise here, and the benefits of the scheme clearly outweigh the undoubted harm it will cause, everyone agrees that planning permission should follow: questions of the tilted balance, and weight to policies of the adopted (or emerging) plan do not really advance matters.
8. In the background, the long-awaited new Local Plan is in the home straight, with its Main Modifications consultation in train and adoption in sight. The appeal site is not allocated in that draft plan. The proposals gain no support from the draft plan. It is true that at various points in the genesis of the plan, the appeal site has been considered for inclusion – even recommended, at one stage – but that is really no more than ancient history. The examination into the soundness of the plan has concluded, the appeal site is not included, and the time for criticising the choices made has passed. The plan allocates a larger site at Brookmans Park as a Green Belt release, intended to deliver more than 400 houses here, and that is the choice the plan-making system has arrived at, at least to this point. Any further relevance for this case is hard to see.
9. Because this is a balancing of competing priorities, there is no easy or straightforward answer. The answer will emerge from an overall judgment, itself taking in a series of

judgments about the weight to be attached to the various elements, about how best to reconcile those competing priorities. That is at the heart of this appeal. The competing priorities cannot *all* be served by granting (or refusing) permission here.

10. In the course of the next few days the Council will seek to persuade you that the proper outcome of that exercise in balancing priorities is to dismiss the appeal and keep this part of the Green Belt permanently open.

Josef Cannon

Counsel for the LPA

7 February 2023