Land between 84 & 108 Ragged Hall Lane, Chiswell Green, St Albans

Design and Access Statement incorporating Planning Statement

Hammond Land and Consulting Limited
February 2025

Design and Access Statement incorporating Planning Statement

1. Introduction

1.1 St Albans City and District Council is designated under Section 62A of the Town and Country Planning Act 1990 in respect of applications for planning permission for non-major development. This designation has had effect from 09.00 on 6 March 2024 and shall remain in force until revoked. This application for planning permission is made directly to the Secretary of State for determination.

1.2 This statement sets out the supporting case for an outline application (all matters reserved) for 7 self and custom build dwellinghouses that would represent an efficient use of land and works with the site's characteristics; whilst reflecting the character of the surrounding area.

1.3 This report is structured as follows:

- Section 2: summarises the characteristics of the site and surrounding area
- Section 3: provides a description of the development proposal accompanied by details of an indicative layout
- Section 4: outlines the relevant national and local planning policy framework
- Section 5: provides a planning policy appraisal
- Section 6: presents the findings of the St Albans Stage 2 Green Belt Review dated June 2023
- Section 7: summarises recent appeal decisions concerning major development in the Green Belt in Chiswell Green
- Section 8: provides coverage of recent appeal decisions concerning grey belt sites post-adoption of the Framework 2024
- Section 9: sets out the definition of grey belt and its application to the site through reference to recent appeal decisions made in accordance with the Framework 2024
- Section 10: outlines the shortfall in in Self-build and Custom Housebuilding provision in St Albans City and District against the statutory duty
- Section 11: presents other considerations relevant to the application site and proposed scheme of development
- Section 12: sets out the conclusions

1.4 The scheme under promotion is submitted in outline with all matters reserved and is very similar in substance to the scheme that was dismissed on appeal under reference APP/B1930/W/24/3345004. The appeal case was limited to a single issue, namely whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework). This application is supported by newly prepared material to robustly and satisfactorily address the single main issue relating to the dismissed appeal case. New supporting material comprises:

- A legal opinion prepared by Leanne Buckley-Thomson of No.5 Chambers dated 17 February 2025 to advise as to whether, in her view, the Site constitutes Grey Belt within the meaning set out in the National Planning Policy Framework 2024 ('the NPPF 2024')
- An Indicative Landscape Masterplan prepared by The Landscape Workshop dated February 2025 to demonstrate how an extensive landscape planting area could be provided to the northern boundary of the site, to include land under the ownership of the applicant that falls outside the planning application boundary.
- A revised indicative site layout plan prepared by DHA Planning dated February 2025
- An indicative access arrangement and internal footway plan prepared by DHA Planning dated February 2025 to evidence that the site could accommodate a satisfactory highway access arrangement and internal footway provision

1.5 Evidence submitted in support of this application also comprises extracts from a number of appeal decisions and other key information, summarised as follows:

- A recent appeal decision relating to the application site (reference APP/B1930/W/24/3345004) dated 20th January 2025
- St Albans City and District Planning Committee planning committee approved outline planning (planning reference 5/2023/0327) on 17th February 2025 for 550 homes on 24 hectares of green belt on land At Cooters End Lane And Ambrose Lane Harpenden. The officer's recommendation as set out within the Committee Report was to advise that the site met both the new definition of "grey belt" set out in updated national planning policy and the "golden rules" for releasing such plots for development. A significant and positive observation from the Officers Report is that as per NPPF Footnote 155 (see OR 8.1.44) if a site is PDL or grey belt it is "appropriate development" and therefore the openness test is not applicable.
- Allowed recovered appeal dated 22nd March 2024, whereby the Department for Levelling Up, Housing and Communities allowed two recovered planning appeals (references APP/B1930/W/22/3313110 & APP/B1930/W/22/3312277) for major development in the Green Belt: (1) Chiswell Green South, a proposal by Cala Group Limited and Redington Capital Limited (in collaboration with Taylor Wimpey plc) including 391 dwellings and a new school and (2) Chiswell Green North, a proposal by Headlands Way Ltd for 330 all-affordable dwellings
- A recent appeal decision dated May 2024 relating a neighbouring site at 52 and land rear of 28-74 Ragged Hall Lane (appeal reference APP/B1930/W/23/3331451) that permitted 53 dwellings. In determining this appeal decision, the Inspector concluded that given the location of the site and the particular nature of its surroundings and the physical features of the Green Belt and settlements around it, the proposal for 53 dwellings would result in limited harm to the purpose of checking the unrestricted sprawl of large built-up areas (purpose a) and would bring about limited harm to the purpose of preventing neighbouring towns merging into one another (purpose b). Had the neighbouring site

at 52 and land rear of 28-74 Ragged Hall Lane been the subject of promotion following adoption of the NPPF 2024, it would plainly meet the definition of grey belt providing the 'golden rules' were satisfied.

- An appeal decision relating to *'Land east Of Chirnside House, London Road, West Kingsdown'* (reference APP/G2245/W/24/3351517) dated 21st January 2025 that proposed 3 self-build and custom housebuilding plots at a village-edge site in the Kent green belt. The inspector held that the undeveloped site did not strongly contribute to any of purposes a), b) or d) in paragraph 143 of the NPPF and therefore comprised grey belt land. The inspector also judged that the proposal did not fundamentally undermine the purposes of the remaining green belt across the area of the plan and that the 'Golden Rules' did not apply as it was not 'major development'. Accordingly, the inspector ruled it was not inappropriate development in the green belt.
- A recent appeal decision dated 27th January 2025 (appeal reference APP/R3650/W/24/3352222) was allowed and planning permission granted for the construction of single 4-bedroom dwelling and associated works including a double garage, widening of existing vehicular access, amenity space and landscaping at Land adjoining Hydon Farm, Hambledon Road, Hydestile, Godalming GU8 4DN. The site in question was found to be grey belt. The decision provides a clear and important steer as to how the definition of grey belt as set out in the Framework 2024 is being practically applied in decision making.
- An appeal decision in St Albans District dated 3rd February 2025 concerning 'Land at Junction of Roestock Lane and Bullens Green Lane, Colney Heath' (appeal reference APP/B1930/W/24/3342701) that was allowed and planning permission granted for the construction of 9 dwellings with new vehicular access, provision of new landscaping and associated works is directly relevant to the case under consideration. The site was found to constitute grey belt.

1.6 It is important to make the upfront assertion that following publication of the NPPF 2024 on 12th December 2024, the Inspector invited comments on the relevance of the Framework to the appeal case assigned reference APP/B1930/W/24/334500 relating to the application site. The LPA submitted a response to the Planning Inspectorate dated 3rd January 2025, and that submission is provided as an enclosure to this submission. The below extract is drawn from the LPA's response dated 3rd January 2025 (emphasis added).

> *"For the purposes of plan-making and decision-making, 'grey belt' is defined as land in the Green Belt comprising previously developed land and/or any other land that, in either case, does not strongly contribute to any of purposes (a), (b), or (d) in paragraph 143.*

2. Application site and surrounding area

Application site

2.1 The site comprises 0.49 hectare, predominantly rectangular shaped parcel of land on the northern side of Ragged Hall Lane. The site was formerly in agricultural use, providing vehicular access for agricultural machinery from

Ragged Hall Lane to fields to the north of the site. The site is the subject of regular maintenance (cutting) and persists as a managed area.

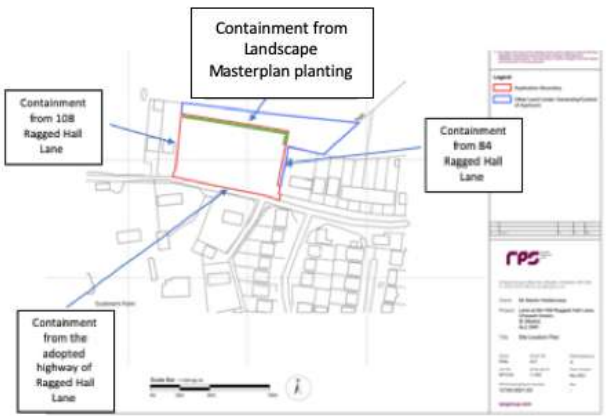
Figure 2.1. Aerial image centred on the application site edged in red

Source: Google Earth 2025

2.2 The site is located at the edge of the settlement of Chiswell Green, which is categorised as a village. The site is positioned between existing residential development to the east (no. 84) and west (108 & 110) along Ragged Hall Lane.

2.3 The site is already the subject of strong containment by virtue of the presence of residential properties and their corresponding curtilages to the east (84 Ragged Hall Lane), west (108 Ragged Hall Lane) and south (the adopted highway of Ragged Hall Lane).

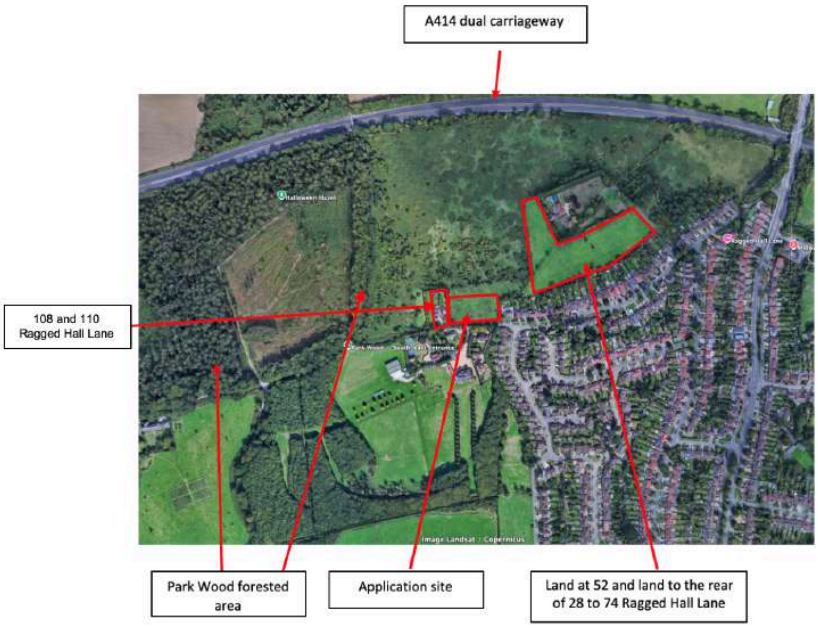
Figure 2.2. Containment of the application site



Surrounding area

2.4 The site is in a sustainable location, benefitting from access to the local road network, footways and public rights of way. A distance of circa 580m to the east is Watford Road, which provides one of the main arterial links into St Albans. Watford Road is served by a number of bus stops and services with a frequency of 10-15 minutes.

Figure 2.3. The site location in context



2.5 The most proximate bus stop is served by the 321 Sapphire (Luton to St Albans service) and 361 (New Greens to St Albans). There are a variety of services and facilities which are easily accessible, for example the Marlborough Science Academy and Kiligrew Primary and Nursery School.

2.6 The character of the area consists of residential built form with development sited linear to the respective road networks, with private and amenity space to the rear.

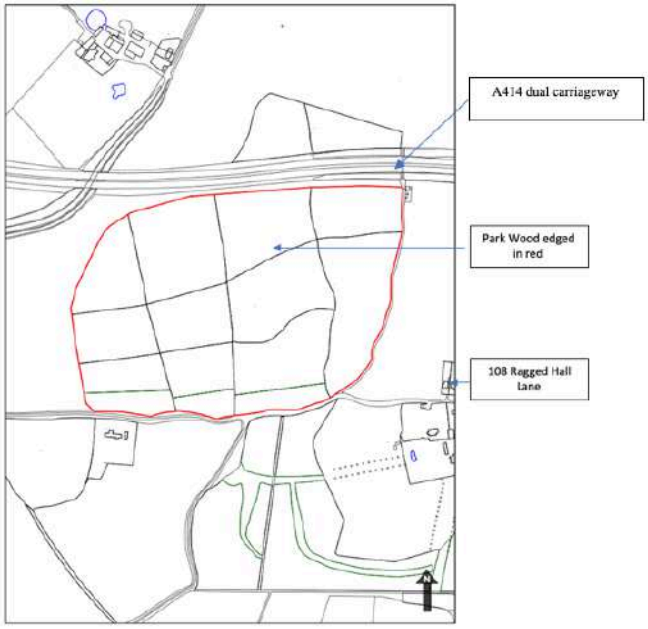
2.7 The dwelling types found locally are predominantly large detached and semi-detached dwellings (two storeys in height with accommodation into the roof space), with varying architectural styles, roof types and material palettes.

2.8 Associated plots are characteristically narrow but with a generous depth, with favourable rear private amenity space. Dwellings are typically sites in close proximity to each other and are either adjoined (linked garages) or have limited separations between side elevations.

2.9 There are no statutory heritage designations (e.g. Conservation Area) associated with the application site or the wider area. A Grade II Listed Building (ref 1175529 – 'Old Cuckmans') is located 55m to the southwest of the application site as is screened by intermediate built form ('Orchard Cottage' dwellinghouse) and mature boundary vegetation.

2.10 The application site and land to the north, west and southwest fall within the Green Belt. There are no statutory landscape designations (e.g. National Landscape) associated with the application site or wider area. There are no statutory ecological designations (e.g. SSSI) associated with the site or the wider area. There are ten non-statutory sites located within 2km search radius of the site, the closest being Park Wood Local Wildlife Site (LWS) which lies 0.14km to the west of the site.

Figure 2.4. Park Wood, Ragged Hall Lane Asset of Community Value



2.11 Park Wood extends to an area of 18.4 hectares, and was afforded status as an Asset of Community Value in 2015[1]. Park Wood is used by local residents for recreational walking, dog walking, recreational horse riding, bird watching and appreciating the bluebells is a non-ancillary use which furthers the social wellbeing or social interests of the local community. Park Wood is also designated as an Ancient Woodland.

2.12 The eastern extent of the Park Wood designation is a distance of 155 metres to the west of the application site. It is evident that the positioning and scale of Park Wood serves as a permanent feature close to the settlement edge of Chiswell Green. In this case, Park Wood performs a highly effective function to control and/or limit potential for Chiswell Green to be extended to the west. For reference, 108 Ragged Hall Lane and the alignment of the A414 dual carriageway are labelled in Figure 2.4.

2.13 Adjacent to the east of the vehicular access, and within the application site, is a Public Right of Way (PRoW – St Michael Rural 010), which runs northwards linear to the eastern site boundary before traversing to the northeast towards Watford Road.

[1] On 17 February 2015 an oral review hearing was conducted into the listing of land known as Park Wood, Ragged Hall Lane, St Albans as an Asset of Community Value. The decision is submitted as supporting evidence to this planning application.

2.14 A pre-existing vehicular access point is located on the southeast boundary of the application site to Ragged Hall Lane, allowing for safe ingress and egress of vehicles into the site.

2.15 The site is not located within an area prone to river or surface water flooding, i.e. the site falls within Flood Zone 1. The site is flat, with minimal variations in topography.

3. The proposed scheme of development

3.1 As shown indicatively in Figure 3.1, the footprint of the proposed dwellings demonstrates the site can suitably accommodate seven self-build plots that could accommodate dwellings in an arrangement that would be consistent with the prevailing scale and pattern and development.

Acceptability of the proposed scheme of development (shown indicatively)

3.2 The footprint of the proposed dwellings, which are represented indicatively, are consistent in size with those promoted under previous schemes (planning references 5/22/1517 and 5/2024/0144). As set out in paragraph 24 of the appeal decision APP/B1930/W/23/3320280 dated 9th October 2023 that related to the scheme promoted under planning reference 5/22/1517:

> *'The Council have also considered that the proposal would not harm the character and appearance of the area, would not result in harm to the amenity of future and existing occupiers and is acceptable in relation to highway matters, flood risk, drainage, heritage and archaeology for which I have no reason to conclude against. However, these are neutral matters.'*

Indicative Landscape Masterplan

3.3 An indicative Landscape Masterplan prepared by The Landscape Workshop, a Chartered Landscape Architectural practice, is submitted as part of the supporting material and presented below.

Figure 3.1. Indicative Landscaping Masterplan

3.4 This plan shows that landscape planting up to a depth of 16 metres to be introduced along the northern site boundary and within land falling outside the application redline boundary but within the ownership of the applicant (within the demise of the blue line) will provide for a meaningful defensible boundary to the site. It is important to acknowledge that the application boundary (redline) does not extend to the north beyond the curtilages of 108 and 110 Ragged Hall Lane.

3.5 The Illustrative Landscape Masterplan is structured around two primary planting approaches: woodland planting and screen planting. The woodland planting, positioned along the northern boundary, is designed to create a naturalistic transition between the development and the wider landscape. It follows a graded structure, with lower-level woodland edge planting progressing into a denser woodland core. This layered approach enhances biodiversity by providing a variety of habitats, shelter, and food sources for local wildlife. The woodland edge consists of native shrubs and smaller trees, gradually increasing in height and density towards the core, where larger canopy trees dominate. This planting strategy not only strengthens the ecological value of the site but also helps to blend the development into its surroundings, reducing its visual impact.

3.6 In contrast, the screen planting follows a more formal layout, incorporating structured tree and hedge planting to define boundaries and provide a consistent visual barrier. This element of the strategy is implemented both within private rear gardens and in the area to the rear, reinforcing privacy while maintaining a cohesive design. The structured hedge planting offers year-round coverage, while the trees provide vertical interest and seasonal variation.

3.7 The combination of these elements ensures effective screening, mitigating overlooking between properties and softening the built form. The selection of native species is tailored to balance rapid establishment with long-term robustness, ensuring effective screening without compromising on aesthetic quality.

3.8 To the front of the development, a combination of tree planting and hedge planting is employed to integrate the new housing into the streetscape. This planting approach enhances the visual appeal of the development while reinforcing a sense of place. The trees define key access routes, break up hard surfaces, and contribute to a greener streetscape, while the hedges provide a structured boundary that ties the various landscape elements together. These elements also contribute to local biodiversity by supporting pollinators and small fauna, further strengthening the ecological value of the site.

3.9 Overall, the landscape strategy is carefully designed to balance screening, ecological enhancement, and aesthetic integration. The woodland planting creates a natural transition at the site's rear, improving biodiversity and softening the development’s impact, while the screen planting provides structured visual separation between properties and ensures privacy. The additional tree and hedge planting to the front completes the scheme, integrating the development into its surroundings and reinforcing a high-quality, well-considered landscape framework.

Indicative site access arrangement and internal footway provision

3.10 Transport Consultants DHA Transport were commissioned to undertake a review of comments raised by Hertfordshire County Council, as local highway authority, in respect of comments raised in relation to a previous scheme promoted under planning reference 5/22/1517.

3.11 The formal response from HCC Highways dated 8th May 2024 to planning application 5/22/1517 refers heavily to HCC's Place and Movement Planning and Design Guidance (P&MPDG), adopted by Hertfordshire's Cabinet in March 2024. The P&MPDG has not been formally adopted by the LPA at this time.

3.12 To proactively address comments made by HCC in order to show that the site could accommodate a satisfactory highway access arrangement and internal footway provision, DHA Transport have prepared an indicative arrangement drawing that is submitted as part of the application material.

3.13 Key amendments that are shown in drawing 35257 T-02 Rev P2 dated 4th February 2025, as presented below as Figure 3.2 include:

- The kerb radii of the entrances accesses (shown indicatively) have been reduced to 4m (from 6m previously)

- It is anticipated that the section of the PRoW (St Michael Rural 010) within the redline application boundary will be surfaced and will connect with a proposed 1.2m wide internal pedestrian footway running parallel to Ragged Hall Lane to the south of the shared private drive serving the proposed dwellings. The internal footway (shown indicatively) shows an arrangement that incorporates dropped kerb and tactile paving provision

Figure 3.2. Indicative access arrangement and internal footway provision

4. Relevant policy

4.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires all applications for planning permission to be determined in accordance with the development plan, unless material considerations indicate otherwise.

4.2 The National Planning Policy Framework (NPPF December 2023) is a material consideration in the determination of this case and the following are considered relevant:

- Chapter 2 – Achieving Sustainable Development
- Chapter 5 – Delivering a Sufficient Supply of Homes

4.3 The Secretary of State for Levelling Up, Housing and Communities and Minister for Intergovernmental Relations (The Rt Hon. Michael Gove MP) made a Written Ministerial Statement titled *'The Next Stage in Our Long Term Plan for Housing Update'* on 19th December 2023. As drawn from the ministerial statement there is a section under the sub-heading '*Community-Led Housing and Self and Custom Build', as presented below with emphasis added.*

> *"The best councils know that driving faster housing delivery requires supporting diversity in the number and type of builders.* ***Councils which support small and medium sized enterprises in the housing market, and which enable custom and self-build homes, drive the necessary increase we need in supply and better ensure the right homes are provided in the right places.*** *The updated NPPF now emphasises the importance of community-led housing development, including by introducing an exception site policy for community-led housing development. Our policy changes also ensure that local authorities should seek opportunities to support small sites to come forward for community-led housing,* ***and self-build and custom build housing****. They also encourage 'permission in principle' alongside other routes to permission (such as local development orders) to remove barriers for smaller and medium site builders in the planning system."*

4.4 Paragraphs 61, 62, 63, 73, 143 and 155 of the NPPF 2024 (published 12th December 2024) are of relevance, and is presented below, with emphasis added.

> 61. To support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay. The overall aim should be to meet an area's identified housing need, including with an appropriate mix of housing types for the local community.
>
> 62. To determine the minimum number of homes needed, strategic policies should be informed by a local housing need assessment, conducted using the standard method in national planning practice guidance. In addition to the local housing need figure, any needs that cannot be met within neighbouring areas should also be taken into account in establishing the amount of housing to be planned for.

63. Within this context of establishing need, the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies. These groups should include (but are not limited to) those who require affordable housing (including Social Rent); families with children; looked after children26;older people (including those who require retirement housing, housing- with-care and care homes); students; people with disabilities; service families; travellers27; people who rent their homes and people wishing to commission or build28 their own homes.

73. Small and medium sized sites can make an important contribution to meeting the housing requirement of an area, are essential for Small and Medium Enterprise housebuilders to deliver new homes, and are often built-out relatively quickly. To promote the development of a good mix of sites local planning authorities should:

a) identify, through the development plan and brownfield registers, land to accommodate at least 10% of their housing requirement on sites no larger than one hectare; unless it can be shown, through the preparation of relevant plan policies, that there are strong reasons why this 10% target cannot be achieved;
b) seek opportunities, through policies and decisions, to support small sites to come forward for community-led development for housing and self-build and custom- build housing;
c) use tools such as area-wide design assessments, permission-in-principle and Local Development Orders to help bring small and medium sized sites forward;
d) support the development of windfall sites through their policies and decisions– giving great weight to the benefits of using suitable sites within existing settlements for homes; and
e) work with developers to encourage the sub-division of large sites where this could help to speed up the delivery of homes.

143. Green Belt serves five purposes:

a) to check the unrestricted sprawl of large built-up areas;
b) to prevent neighbouring towns merging into one another;
c) to assist in safeguarding the countryside from encroachment;
d) to preserve the setting and special character of historic towns; and
e) to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.

155. The development of homes, commercial and other development in the Green Belt should also not be regarded as inappropriate where all the following apply:

a. The development would utilise grey belt land and would not fundamentally undermine the purposes (taken together) of the remaining Green Belt across the area of the plan;
b. There is a demonstrable unmet need for the type of development proposed56;

c. The development would be in a sustainable location, with particular reference to paragraphs 110 and 115 of this Framework57; an
d. Where applicable the development proposed meets the 'Golden Rules' requirements set out in paragraphs 156-157 below.

4.5 The wording "where applicable" under part d of paragraph 155 plainly allows for application of para. 155 to grey belt land in respect of a small-scale (non-major) site where the so-called 'Golden Rules' would not have to be complied with.

4.6 When considering a planning application in the Green Belt, substantial weight is given to any harm to the Green Belt, including harm to its openness. However, footnote 55 of the NPPF states that this is not in the case of development on grey belt land, where development is not inappropriate. Accordingly, an assessment on the effect of the proposed development on the openness is not required. Likewise, very special circumstances do not need to be demonstrated for such a proposal to be considered acceptable.

4.7 Crucially, the Lee Valley v Epping Forest District Council Judgment[2] outlines where the development is not inappropriate in the Green Belt, applying the exceptions identified in the Framework, it should not be regarded harmful to the openness of the Green Belt. **As the proposed development is not inappropriate development, as per paragraph 155 of the Framework, an assessment on the effect of the proposed development on the openness is not required. Likewise, very special circumstances do not need to be demonstrated for the proposal to be considered acceptable.**

4.8 The proposed scheme will provide for seven self or custom build plot in a local authority area where there is a significant shortfall in provision against the statutory duty, thereby aligning with the policy requirement of the revised NPPF (2023) and 2024 Framework, and the ambition of the Ministerial Statement released on 19th December 2023.

4.9 Custom and Self-Build Housing (CSB) is an exceptional type of development - no other type has the same express statutory duty to grant sufficient permissions by reference to a specific number/demand figure. The Government support for CSB was strong even before the LURA 2023, and the relative strengthening that the Government wants to see in terms of housing delivery from the CSB sector is evident in the NPPF 2023 and Ministerial Statement. The LURA 2023 strengthens this further.

The Local Plan

4.10 The current adopted Local Plan is The District Local Plan Review 1994. Local Plans "expired" after 27th September 2007 unless "saved", in whole or in part. In 2007, a Direction was made saving specified policies of the District Local Plan Review 1994, i.e. they are still part of the development plan for St Albans. The policies listed in the List of Saved Policies are therefore the remaining operational policies within the District Local Plan Review 1994. Any policies not on the list have expired and are no longer part of the development plan.

[2] Lee Valley Regional Park Authority, R (on the application of) v Epping Forest District Council & Anor (Rev 1) [2016] EWCA Civ 404

4.11 The proposed scheme is considered to adhere to the NPPF and policies 69,74 and 79 of the District Local Plan Review 1994 (adopted 30 November 1994) Saved and Deleted Policies Version (July 2020). Supplementary Planning Guidance/Documents Design Advice Leaflet No. 1 – Design and Layout of New Housing Revised Parking Policies and Standards.

4.12 Importantly, there are no development plan policies which relate specifically to the provision or delivery of self-building housing in the local authority area.

The emerging local plan

4.13 The previous emerging plan was withdrawn in 2020. The Council is in the early stages of preparing a new Local Plan. It completed Regulation 18 consultation in September 2023 on a Draft Local Plan, Draft Site Allocations, Draft Policies Map and Evidence Base and Supporting Documents. The St. Albans City & District Local Plan was submitted to the Secretary of State for Independent Examination on 29 November 2024.

5. Planning Policy appraisal

5.1 In accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004, the application should be determined in accordance with the Development Plan unless material considerations indicate otherwise. Material considerations relevant to this application include the National Planning Policy Framework (2021), the Planning Practice Guidance (ongoing updates), and the 2015 Self-Build and Custom Housebuilding Act (as amended).

Appraisal of policy HOU5 – Self-Build and Custom-Build Housing of the emerging Local Plan

5.2 The reality is that St Albans District is one of the most desirable Local Authority areas for persons wanting to build their own home. On average 102 new entrants joined the register each year between base periods 1-7. The problem is on the supply side, as a vastly insufficient number of approvals for self and custom build plots have been granted planning permission.

5.3 A thorough analysis of emerging Local Plan policy HOU5 criterion (a) is provided as a separate piece of supporting evidence. The appraisal serves to clearly articulate that policy HOU5(a) will not yield a sufficient number of self and custom housebuilding plots from allocated sites (285 plots) to even materially address either the current shortfall against the statutory duty that persisted at the end of base period 7 (593 plots), a scenario that would assume that no more persons would apply to be added to the register from base period 9 onwards. Data for base period 8 is to be released imminently.

5.4 The analysis shows that if policy HOU5(a) were to remain unchanged through to adoption of the Local Plan there would be a cumulative shortfall on the supply position totalling 1,883 SBCH plots by 2040-41. Applying the lowest figure for new entrants in a single base period across base period 1-7 as a trend analysis would still generate a shortfall of 1,733 plots by 2040/41.

What does the Levelling Up and Regeneration Act mean for self-build and custom housebuilding?

5.5 Chapter 6 of the Levelling Up and Regeneration Bill (LURB) – now the LURA (Levelling Up and Regeneration Act) since receiving Royal Assent on 26th October 2023 makes some important changes to the 2015 Self-Build and Custom Housebuilding Act, which itself had already been subject to amendments through the 2016 Housing and Planning Act.

5.6 The 2015 Self-Build and Custom Housebuilding Act - as amended by the 2016 Housing and Planning Act and the 2023 Levelling Up and Regeneration Act - seeks to address some of the unforeseen consequences of the original drafting of the 2015 Act and its 2016 amendments.

5.7 These LURA amendments were introduced to address some of the problems often encountered at both application and appeal where a local authority claims its meeting its statutory, when in reality it is not. Examples include:

1. Local authorities who are counting either all single dwelling applications, or anything up to nine dwellings on the basis that it *'could'* be for the self and custom build
2. Local authority's writing off previous Base Periods where they have failed to meet Register demand on the basis that they did not have to address past shortfall and there was no legislative provision requiring them to do so.

Section 123 of the Levelling-up and Regeneration Act 2023

5.8 The Levelling-up and Regeneration Act 2023 (Commencement No. 2 and Transitional Provisions) Regulations 2024 formally commencing section 123 of the LURA on 31 January 2024 (Reg. 2(f)). Regulation 2(f) brings into force section 123 of the Act. Section 123 of the Act amends section 2A of the Self-build and Custom Housebuilding Act 2015 to ensure that only land permissioned explicitly for self-build and custom housebuilding will qualify towards a relevant authority's statutory duty to meet demand for self-build and custom housebuilding in the authority's area.

5.9 The submitted Unilateral Undertaking will ensure the land will be explicitly for self-build and custom housebuilding, and thus will qualify towards a relevant authority's statutory duty.

5.10 The effect is that the Self-build and Custom Housebuilding Act 2015 is now further amended to tighten how development permissions for SBCH are defined and to make clear that demand for SBCH in an area, established by a local authority's statutory SBCH register, is cumulative. Namely that demand which is not met in a specific year is rolled over to the next.

The housing land supply position

5.11 There is a demonstrable unmet need for the type of development proposed, as the Council cannot demonstrate a 5-year housing land supply. This position has recently been confirmed in paragraph 8.3.2 of the Committee Report prepared in respect of planning application 5/2023/0327 that was approved by St Albans City and District Planning Committee on 17th February 2025.

> *8.3.2 Using the LHN calculated under the Government's new standard method, the Council currently has a housing land supply of 0.9 years from a base date of 1 April 2023. It is acknowledged that 0.9 years is substantially below the 5 years plus 20% required in the NPPF. Consequently, the NPPF dictates that the policies which are most important for determining application are out-of-date and the presumption in favour of sustainable development (also known as the tilted balance) will apply, as set out in Paragraph 11(d) of the NPPF.*

5.12 The Council cannot demonstrate a 5-year housing land supply, as the position relates to 0.9 years from a base date of 1 April 2023. The Council's Housing Delivery Test result for 2023 is 52%, which is a worsening position when compared to the 2022 HDT result, at 55%. Consequently, for the purposes of paragraph 155.b. of the Framework, there is a demonstrable unmet need for the type of development proposed.

5.13 The proposed scheme would provide seven new dwellings on a windfall site, which would make a modest contribution towards the Council's housing land supply, for which there is a substantial shortfall.

The role of self and custom build in increasing supply

5.14 As was first mooted in the Conservative Party Manifesto 2015, the self-build and custom housebuilding is a key element of the government's agenda to increase supply and tackle the housing crisis, as evidenced by the Conservative government's aspiration to at least double the number of custom and self-built homes by 2020. Meeting this challenge will form a key component of future policy formulation in emerging local plans.

5.15 Section 5 of the NPPF sets out the Government's objective of significantly boosting the supply of homes and states that it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay. The size, type and tenure of housing for different groups in the community should be assessed and reflected in planning policies, including people who wish to commission or build their own homes. Footnote 26 sets out the requirements of the Self Build and Custom Housebuilding Act 2015 which are also explained in Planning Practice Guidance (PPG).

5.16 In the national Planning Policy Framework (NPPF), paragraph 62 identifies 'people wishing to commission or build their own homes' as a distinct section of the community, for which the size, type and tenure of housing needed should be assessed and reflected in planning policies.

6. Conclusions of the Stage 2 Green Belt Review (2023)

6.1 Consultants Arup were appointed by St Albans City & District Council (SACDC) to prepare a Stage 2 Green Belt Review (GBR) to provide a robust local review of the District's Green Belt and countryside, including the washed over villages, to help inform work carried out as part of the emerging Local Plan. The Stage 2 GBR report was published in June 2023 and forms part of the submitted evidence base to the emerging Local Plan.

6.2 Information presented below is drawn from Stage 2 Green Belt Review dated June 2023 undertaken by Arup, to include:

- Table 4.3 criterion scores for the appraisal against the Green Belt purposes
- Table 4.4. Large built-up areas used for the Purpose 1 Assessment
- Key findings relating to the Purpose 1 Assessment
- Table 4.7 Settlements for Purpose 2 Assessment

6.3 The scoring criterion presented in the Stage 2 GBR report (Table 4.3) is presented below.

Table 4.3 Criterion Scores

Overall strength of Green Belt sub-area against criterion	Score	Equivalent Wording
	0	Does not meet criterion
	1	Meets criterion weakly or very weakly
	2	Meets criterion relatively weakly
	3	Meets criterion
	4	Meets criterion relatively strongly
	5	Meets criterion strongly or very strongly

6.4 The definition of grey belt as established in the NPPF 2024 relates to land that does not strongly contribute to purposes a, b and d in paragraph 143. When cross-referring to the criterion scores presented in Table 4.3 of the Stage 2 GBR report, scores of 0, 1, 2 and 3 do not strongly contribute to that purpose. Only scores of 4 and 5 strongly contribute to that purpose.

Purpose 1

To check the unrestricted sprawl of the large built-up areas

The Stage 1 GBR identified the large built-up areas as London, Luton, Dunstable and Stevenage, on the basis that preventing the sprawl of these areas was the main reason for the creation of Hertfordshire and Bedfordshire Green Belts. While this was appropriate for a strategic study, for this finer grained assessment, the purpose 1 criteria were applied in relation to settlements within St Albans and its neighbouring authorities (Table 4.4).

Table 4.4 Large Built-up Areas Used for the Purpose 1 Assessment

St Albans Large Built-Up Areas[27]	Neighbouring Local Authorities Large Built-Up Area[28]
St Albans **Harpenden**	Luton and Dunstable (Luton/ Central Bedfordshire) Hemel Hempstead (Dacorum) Watford (Watford) Hatfield (Welwyn Hatfield) Welwyn Garden City (Welwyn Hatfield)

6.5 The Stage 2 GBR report concludes that Chiswell Green is not a large built-up area for the purposes of apprising the performance of sub-parcels against purpose a (unrestricted sprawl of large built-up areas). This categorisation that Chiswell Green is not a large built-up area as defined within the Stage 2 GBR

report is consistent with the definition of Chiswell Green as a Tier 5 Medium Sized Village in Table 1.3 - Settlement Hierarchy within the Draft Local Plan 2041 Regulation 19 Publication dated September 2024.

6.6 Based on the definition that Chiswell Green is not a large built-up area the Stage 2 GBR report concludes that the sub-parcel within which the application site falls (SA-141) does not perform against Green Belt purpose a. The only large built-up areas within the district comprise St Albans and Harpenden.

6.7 Paragraph 5.2.1 of the Stage 2 GBR report clarifies that 120 sub-areas (parcels) are not located at the edge of a large-built up area (i.e. are not located adjacent to either St Albans and Harpenden), to include sub-parcel SA-141 in which the site is located.

5. Green Belt Key Findings

5.1 Introduction

This section summarises the key findings from the assessment of the 183 sub-areas against the NPPF purposes, consideration of the role of the sub-areas as part of the wider strategic Green Belt, consideration of boundaries and categorisation and recommendations for each sub-area. The detailed pro-formas setting out the assessments for each sub-area can be found in the Annex Report.

5.2 Purpose 1

Purpose 1: To check the unrestricted sprawl of large built-up areas

5.2.1 Criteria (a) Assessment

The findings of the purpose 1 criteria a assessment are presented in Table 5.1 and Figures 5.1 and 5.2. Of the 182 sub-area assessed, 62 score 'Yes' against purpose 1 criteria (a) meaning that they are located at the edge of a large built-up area. The remaining 120 sub-areas score 'No' as they are not located at the edge of a large built-up area.

5.2.2 Criteria (b) Assessment

The findings of the purpose 1 criteria b assessment are presented in Table 5.2 and Figures 5.3 and 5.4. A total of 120 sub-areas scored 'No' against purpose 1 criteria (a) and hence automatically scored 0 against criteria (b). In addition, sub-areas that lie adjacent to a large built-up area that are fully developed also received this score. Of the remaining sub-areas that did meet criteria (b), 43 performed strongly, meaning that the sub-areas play an important role in preventing outward, irregular spread of a large built-up area. In addition, five sub-areas performed moderately, and 11 sub-areas performed weakly against this purpose.

6.8 The purpose 2 assessment (to prevent neighbouring towns merging into one another) included consideration/appraisal of Chiswell Green as a defined settlement, as recorded in Table 4.7 of the Stage 2 GBR report.

6.9 The purpose 2 criterion considers the extent to which sub-areas protect a valued gap in the built-up form and preventing towns from merging <u>through sprawl or ribbon development</u> (emphasis).

Table 4.7 Settlements for Purpose 2 Assessment

St Albans Settlements	Neighbouring Local Authority Settlements
St Albans	Luton and Dunstable (Luton/ Central Bedfordshire)
Harpenden	Slip End (Central Bedfordshire)
Bricket Wood	Hemel Hempstead (Dacorum)
Chiswell Green	Kings Langley (Dacorum)
How Wood	Markyate (Dacorum)
London Colney	Abbots Langley (Three Rivers)
Park Street / Frogmore	Watford (Watford)
Redbourn	Radlett (Hertsmere)
Wheathampstead	Hatfield (Welwyn Hatfield)
	Welwyn Garden City (Welwyn Hatfield)
	Welham Green (Welwyn Hatfield)

The purpose 2 criterion considers the extent to which sub-areas protects a valued gap in the built-form and preventing towns from merging through sprawl or ribbon development. The assessment was based on the following definitions:

- 'Essential' gaps, where development would significantly reduce the perceived or actual distance between settlements.
- 'Gaps', or part of a gap, where limited development may be possible without coalescence between settlements.
- 'Less essential' gap, or less essential part of a gap, where development is likely to be possible without any risk of coalescence between settlements.

Defining the extent of sub-parcel SA-141 in which the application site falls

6.10 Section 4.3 of the Stage 2 GBR explains the process of defining sub-area boundaries. Key to this is paragraph 143 of the NPPF, as follows:

> *Given the requirement through paragraph 143 of the NPPF for Green Belt boundaries to be defined 'clearly, using physical features that are readily recognisable and likely to be permanent', it therefore follows that sub-areas should be defined, to reflect these principles from the outset.*

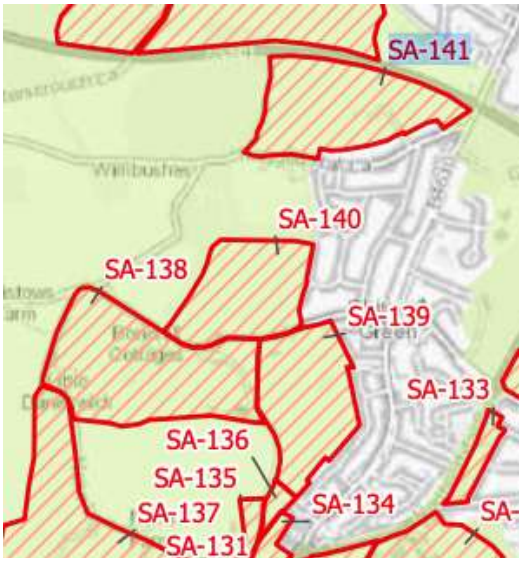
6.11 Permanent and readily recognisable boundary features (both man-made and natural) are listed in the first column of Table 4.2 of the Stage 2 GBR, as presented below.

Table 4.2 Boundary Features for Identifying Sub-areas

Permanent Man-made and Natural Features	Additional Boundary Feature
Motorways	Unclassified public and private roads
A and B Roads	Smaller water features, including streams and other watercourses
Railway lines	Prominent physical/topographical features, e.g. embankments
Canals	Existing development with strongly established, regular or consistent boundaries
Rivers and waterbodies	Well-established woodland edges, tree belts and hedgerows
Natural 'buffer' features such as ridgelines	

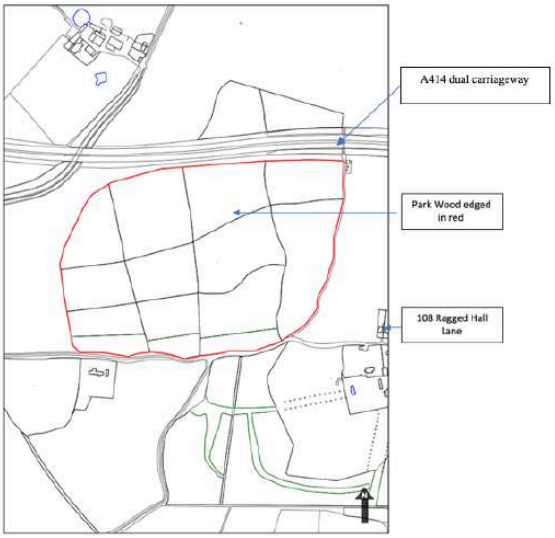
6.12 The spatial extent of sub-parcel SA-141 is shown in Figure 6.1. It extends to a total area of 20 hectares, and is enclosed by the A414 dual carriageway to the north, the northern settlement boundary of Chiswell Green along the parcel's southern alignment and Park Wood to the west.

Figure 6.1. The extent of sub-parcel SA-141



6.13 Park Wood is an area of woodland that extends to 18.4 hectares on the northern side of Ragged Hall Lane. The eastern edge of Park Wood is a distance of 156 metres to the west of the application site. For reference, 108 Ragged Hall Lane and the alignment of the A414 dual carriageway are labelled in Figure 6.2.

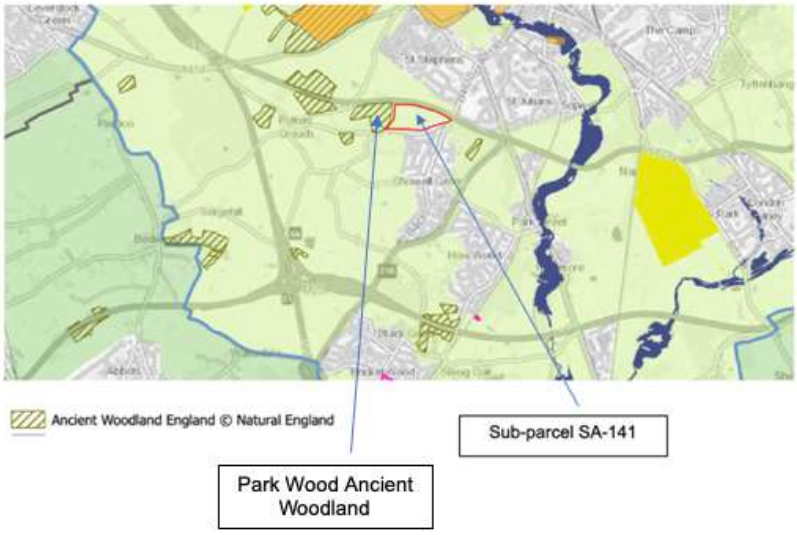
Figure 6.2. Park Wood Asset of Community Value, Ragged Hall Lane



6.14 Approximately 75% of the area of Park Wood is designated as Ancient Woodland, which further reinforces the degree of assuredness one can attribute to its permanence.

6.15 Given its designation status and typical spatial extent, Ancient woodland is a logical natural boundary for the designation of a Green Belt boundary, or otherwise as a boundary feature for defining sub-parcel areas in Green Belt reviews. The spatial relationship between Park Wood and sub-parcel SA-141 is shown in Figure 6.3.

Figure 6.3. Sub-parcel SA-141



6.16 Crucially, the scale and positioning and scale of Park Wood serves as a permanent feature close to the settlement edge of Chiswell Green. In this case, Park Wood performs a highly effective function to control and/or limit potential for Chiswell Green to be extended to the west. Likewise, the alignment of the A414 dual carriageway is a permanent feature that contains sub-parcel SA-141 to the north.

Performance of sub-parcel SA-141 against the purposes of the Green Belt as set out in the Stage 2 GBR

6.17 In the Stage 2 GBR the following scoring is applied to sub-parcel SA-141:

- Green Belt Purpose A: 0 – does not meet criterion
- Green Belt Purpose B: 3 – meets criterion (but not strongly)
- Green Belt Purpose C: 0 – does not meet criterion

6.18 To add some context to the assigned scores, the output for sub-parcel SA-141, as presented in the St Albans Stage 2 Green Belt Review Annex Report[3] dated June 2023 is presented below.

Boundaries
The sub-area is bounded by the North Orbital Road (A414) to the north, Watford Road (B4630) to the east, a mature tree line, the regular backs of residential properties and gardens along Ragged Hall Lane and Ragged Hall Lane to the south and a mature tree line to the west. Inner boundary: south. Outer boundaries: north, east and west.

Purpose Assessment

Sub-area Assessment Summary

	Purpose 1		Purpose 2	Purpose 3	Purpose 4
Sub-area scores	Criteria (a)	Criteria (b)	3	3	0
	No	0			

Purpose (1) To check the unrestricted sprawl of large built-up areas	
(a) Land parcel is located at the edge of a discrete built-up area	The sub-area is not at the edge of a large built-up area in physical or perceptual terms.
(b) Prevents the outward, irregular spread of a large built-up area and serves as a barrier at the edge of a discrete built-up area in the absence of another defensible boundary.	The sub-area does not meet purpose 1.
Purpose (2) To prevent neighbouring towns merging into one another	
Restricts development that would result in merging of or significant erosion of the gap between neighbouring built-up areas.	The sub-area forms a wider part of the gap between St Albans and Chiswell Green. Due to the presence of the A414/ North Orbital Road, the topography and predominantly unbroken tree lines to the north and south of the highway, perceptual merging of the neighbouring built-up areas is limited. Overall, it is judged that there may be some scope for development without significant physical or perceptual erosion of the gap between neighbouring built-up areas.

[3]https://www.stalbans.gov.uk/sites/default/files/attachments/St%20Albans%20GB%20Annex%20Report_20230612%20FINAL%20ISSUE%20low%20res.pdf

Purpose (4) To preserve the setting and special character of historic towns	
Protects land which provides immediate and wider context for a historic place, including views and vistas between the place and surrounding countryside.	The sub-area does not abut an identified historic place or provide views to a historic place and does not meet this purpose.
Summary	
	The sub-area performs moderately against the purposes overall. The sub-area does not meet purpose 1 criteria (a) or 4; and performs moderately against purposes 2 and 3.

6.19 Commentary presented within the Annex 2 report explains that against Green Belt purpose A:

> "The sub-area is not at the edge of a large built-up area in physical or perceptual terms."

6.20 Commentary presented within the Annex 2 report explains that against Green Belt purpose B there is **scope for development within sub-parcel SA-141 without significant physical or perceptual erosion of the gap between neighbouring built-up areas.**

> *"The sub-area forms a wider part of the gap between St Albans and Chiswell Green. Due to the presence of the A414/ North Orbital Road, the topography and predominantly unbroken tree lines to the north and south of the highway, perceptual merging of the neighbouring built-up areas is limited. Overall,* ***it is judged that there may be some scope for development*** *without significant physical or perceptual erosion of the gap between neighbouring built-up areas."*

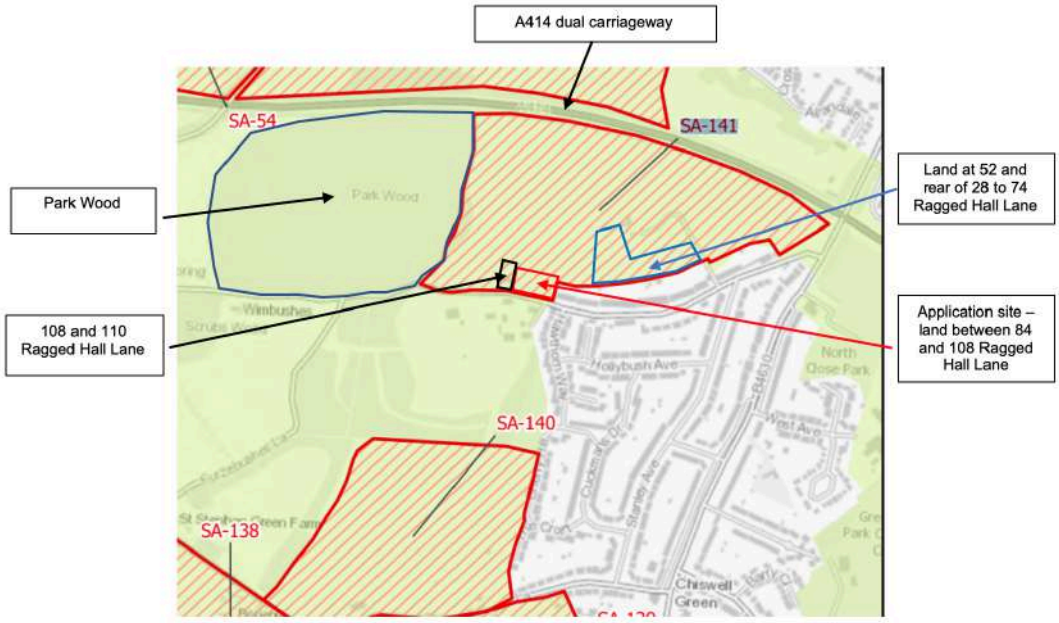
6.21 Accordingly, the Stage 2 GBR report confirms that **sub-parcel SA-141 does not strongly contribute to Green Belt purposes a, b and d as set out** in paragraph 143 of the Framework.

6.22 Importantly, the application site represents the most credible part of sub-parcel SA-141 upon which development could be accommodated.

Performance of the application site against the purposes of the Green Belt in the context of the Stage 2 GBR conclusions

6.23 The application site and the boundary of the neighbouring major development at 52 and land rear of 28-74 Ragged Hall Lane that was granted on appeal are represented on Figure 6.4. The site at 52 and land rear of 28-74 Ragged Hall Lane extends to 1.95 hectares (circa 400% larger than the application site), and projects north into sub-parcel SA-141 to a far greater extent when compared to the application site.

Figure 6.4. The application site in the context of sub-parcel SA-141



6.24 The application site extends to 0.49 hectares, which equates to 2.45% of the total area within sub-parcel SA-141. Based on the scoring applied to sub-parcel SA-141, but further refined the provide a site-level appraisal, generates the following scores for the application site:

- Green Belt Purpose A: 0 – does not meet criterion
- Green Belt Purpose B: 1 - meets criterion weakly or very weakly (based on the ONS definition of the extent of the built-up area)
- Green Belt Purpose D: 0 – does not meet criterion

6.25 Accordingly, as informed by the findings of the Stage 2 GBR, the site does not strongly contribute to purposes a, b and d in paragraph 143.

Land At Cooters End Lane And Ambrose Lane Harpenden, Hertfordshire

6.26 St Albans City and District Planning Committee planning committee approved outline planning on 17th February 2025 for 550 homes on 24 hectares of green belt on land At Cooters End Lane And Ambrose Lane Harpenden after the officer's recommendation was to advise that the site met both the new definition of "grey belt" set out in updated national planning policy and the "golden rules" for releasing such plots for development. The planning application was assigned reference 5/2023/0327 and the description of development is as follows:

> *"Outline application (access sought) - Construction of up to 550 dwellings including circa. 130 Class C2 integrated retirement homes, affordable housing, early years setting, public open space, allotments and publicly accessible recreation space (including junior sport pitches)"*

6.27 The Illustrative Masterplan for the scheme is presented on page 9 of the Committee Report and is presented below.

Figure 1: Illustrative masterplan

6.28 Paragraph 4.8 of the Committee Report provides a supportive description of the Illustrative Masterplan:

> *Illustrative Masterplan*
>
> 4.8. To make the outline element more tangible, an illustrative masterplan has been developed, which is an informed interpretation as to what the scheme might eventually look like within these broad controls. This includes how buildings might be laid out within the overall envelope set out in the Parameter Plans, including how the access routes and green infrastructure would be delivered, and where the community uses may be provided. While the Illustrative Masterplan represents the applicants informed thinking at this point in time, it remains as one iteration of how the overall development might be realised and could therefore be subject to change through future reserved matters applications.

6.29 The Committee Report presents extensive evidence concerning the performance of the site against the purposes of the Green Belt, with a particular focus on purposes a, b and d.

6.30 Against purpose a, which is concerned with 'unrestricted' sprawl, the Committee Report concludes in paragraph 8.1.22 that the topographical features and the strategic green infrastructure would help to contain the development and provide a defined new edge to the town, thereby, in the view of officers, reducing the contribution of the land to checking the unrestricted sprawl of the built-up area of Harpenden. The report clarifies that purpose a is concerned with 'unrestricted' sprawl, which implies that there would be nothing to stop further development resulting in the continued outward incremental spread of the urban area.

> *8.1.22. It is important to recognise that this purpose is concerned with 'unrestricted' sprawl, which implies that there would be nothing to stop*

further development resulting in the continued outward incremental spread of the urban area. In this regard, the topographical features and the strategic green infrastructure would help to contain the development and provide a defined new edge to the town, thereby, in the view of officers, reducing the contribution of the land to checking the unrestricted sprawl of the built-up area of Harpenden.

6.31 Paragraph 8.1.23 of the Committee Report, as presented below, goes on to conclude that as a matter of planning judgement, it is considered that **the land comprising the application site does not 'strongly' contribute to this purpose. Further, it is considered that the level of harm to this purpose is moderate.**

8.1.23. In summary, there is no disputing that the proposed development would extend the existing built settlement edge. While it is acknowledged that the land does make a contribution to the purpose of checking the sprawl of a large built-up area, as a matter of planning judgement, it is considered that ***the land comprising the application site does not 'strongly' contribute to this purpose. Further, it is considered that the level of harm to this purpose is moderate.***

6.32 In respect of Green Belt purpose b (to prevent neighbouring towns merging into one another) paragraphs 8.1.24 to 8.1.26 of the Committee Report sets out the associated considerations and planning judgement made by the local authority.

8.1.24. The SKM Stage 1 GBR assessed the extent to which strategic land parcels serve as gaps or spaces between settlements, focussing on gaps between the 'tier 1' settlements of St Albans, Harpenden, Hemel Hempstead, Hatfield, Welwyn Garden City, Watford, Luton and Dunstable and Radlett. The SKM Stage 1 GBR report noted that the larger strategic parcel (GB40) contributes towards the strategic gap between Harpenden and Luton and Dunstable, but that any small to medium- reduction in the gap would be unlikely to compromise the separation of 1st tier settlement in physical and visual terms, and overall openness. The larger strategic parcel GB40 was therefore considered to make a partial contribution to this Green Belt purpose.

8.1.25. In addition to the tier 1 settlements detailed above, the Stage 2 Arup Green Belt Review also considers the 'tier 2' settlements of Bricket Wood, Chiswell Green, How Wood, London Colney, Park Street / Frogmore Redbourn and Wheathampstead within St Albans District, and Slip End, Kings Langley, Markyate, Abbots Langley and Welham Green (within neighbouring local authorities).

8.1.26. The Arup GBR details that sub-area SA-19 makes no discernible contribution to the separation between the neighbouring built-up areas in physical or perceptual terms. However, in relation SA-20 and SA-21, the Arup GBR notes that these sub-areas form a less essential part of the gap between Harpenden and Luton and it is judged that the gap is of sufficient scale that the removal of the sub-area would not result in physical or perceptual merging between the neighbouring built up areas. ***As a planning judgement therefore, it is considered that the land comprising the***

application site does not 'strongly' contribute to this purpose. In addition, no harm is identified in relation to this purpose.

6.33 The Committee Report provides an overview of the Green Belt studies, and places a particular emphasis on the Arup Green Belt Review dated June 2023. The LPA has drawn out information from the Arup Stage 2 GBR report to asserts that in relation sub-parcels SA-20 and SA-21, the Arup GBR notes that these sub-areas form a less essential part of the gap between Harpenden and Luton and it is judged that the gap is of sufficient scale that the removal of the sub-area would not result in physical or perceptual merging between the neighbouring built up areas. As a planning judgement therefore, the LPA has found that the land comprising **the application site does not 'strongly' contribute to this purpose. In addition, no harm is identified in relation to this purpose.**

6.34 **The sub-parcel areas SA-19, SA-20 and SA-21 are presented in Figure 2 of the Planning Committee report prepared for the scheme approved under reference** 5/2023/0327. The Committee Report confirms in paragraph 8.1.14 that the application site comprises 22.6% of the land contained within Parcels SA-19, SA-20 and S-A21, taken together. The application site in question extends to 24 hectares.

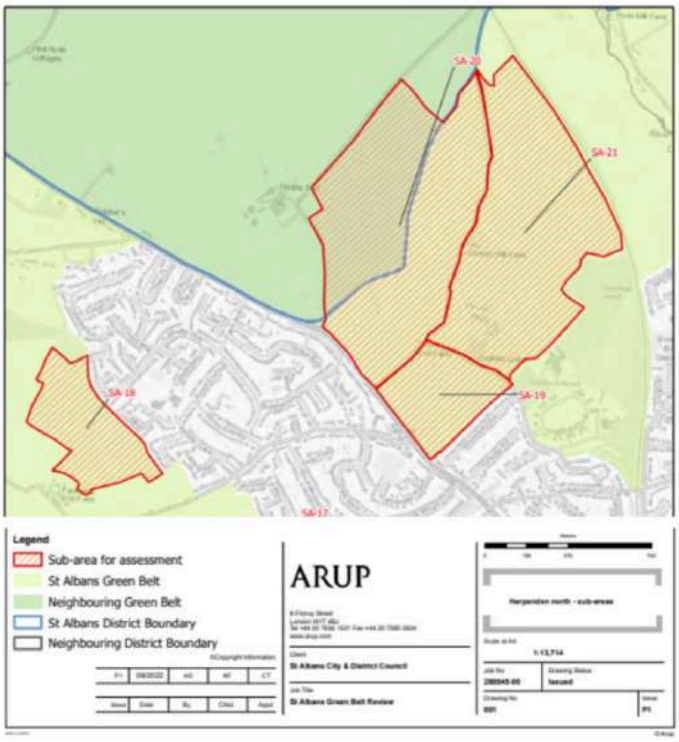


Figure 2: extract of the relevant sub-areas from the Arup GB Review

6.35 Paragraph 8.1.14 of the Committee Report goes onto explain that a site-specific assessment and planning judgement on the harm to Green Belt purposes of the proposed development at the application site on its own has been generated, drawing on the relevant evidence base as a material consideration.

8.1.14. It is noted that the application site comprises only 22.6% of the land contained within Parcels SA-19, SA-20 and S-A21, taken together. Therefore, in order to reach an informed view on the contribution of the land

and impact of the development within the application site itself to the purposes of the Greenbelt, as part of an assessment of the planning application, a site-specific assessment is necessary. A site-specific assessment and planning judgement on the harm to Green Belt purposes of the proposed development at the application site on its own is provided below, drawing on the relevant evidence base as a material consideration:

Applying the learned outcomes of the Land At Cooters End Lane And Ambrose Lane Harpenden, Hertfordshire decision to the application site

6.36 Applying the learned outcomes from the outline scheme on Land At Cooters End Lane And Ambrose Lane Harpenden, Hertfordshire (reference 5/2023/0327) granted approval by committee to the application site generates very clear and robust analysis that is directly applicable to the scheme under promotion of land between 84 to 108 Ragged Hall Lane (the site), as bulleted out below:

- the application site is located on the edge of Chiswell Green which is identified as a Tier 5 Medium Sized Village in Table 1.3 - Settlement Hierarchy within the Draft Local Plan 2041 Regulation 19 Publication dated September 2024.
- the village of Chiswell Green is modest in size and is much smaller than a number of Tier 1, 2, 3 and 4 settlements in the district, to include Harpenden which is a tier 1 settlement
- the approved outline scheme at Land At Cooters End Lane extends to 24 hectares in size, which is 49 times larger (i.e. 4900%) than the application site (0.49 hectares)
- the approved outline scheme at Land At Cooters End Lane was found to not perform strongly against green belt purposes a, b and d. This judgement was informed by the Stage 2 GBR which was supplemented by a site level appraisal. To generate a site level appraisal for the scheme under consideration the same methodology as was applied in the case of the Land At Cooters End Lane has been utilised. This site level appraisal has confirmed the site does not perform strongly against green belt purposes a, b and d. A consistency of approach has to be applied by the decision maker
- the scheme under promotion includes the submission of a Landscape Masterplan prepared by a Chartered Landscape Architect. The topographical features of the site, which is flat, and the extent of the landscaping area in combination would serve to contain the development and provide a defined new edge to the northern boundary of the site, thereby significantly reducing (or indeed entirely eliminating) the contribution of the land to checking the unrestricted sprawl of the built-up area of Chiswell Green

Failure of the appeal decision issued on 20th January 2025 (reference APP/B1930/W/24/3345004) to consider evidence drawn from the Stage 2 GBR

6.37 Extracts from the Stage 2 GBR report were submitted as part of the supporting material into the planning appeal case presented on behalf of the appellant relating to the site. Specifically, extracts from the Stage 2 GBR report were

presented within a supporting document at the time the appeal was submitted to the Planning Inspectorate. The same extracts from the Stage 2 GBR report were also referenced within the response provided on behalf of the appellant following a request made by the Inspector in December 2024 for representation from both parties on the relevance of the NPPF 2024 following publication of the NPPF on 12th December 2024.

6.38 Despite the fact the appellant's submitted evidence to the recent appeal decision relating to the site (APP/B1930/W/24/3345004) made substantial cross-reference to relevant sections of the Stage 2 Green Belt Review report, the appeal decision *contains no corresponding commentary on reference to the submitted evidence drawn from the Stage 2 Green Belt Review report, which is a serious oversight,* and a material consideration in its own right.

7. Recent appeal decisions concerning major development in the Green Belt in Chiswell Green

7.1 A major scheme of development referred to as 'Chiswell Green south' was approved on appeal in March 2024, for which the description of development is as follows:

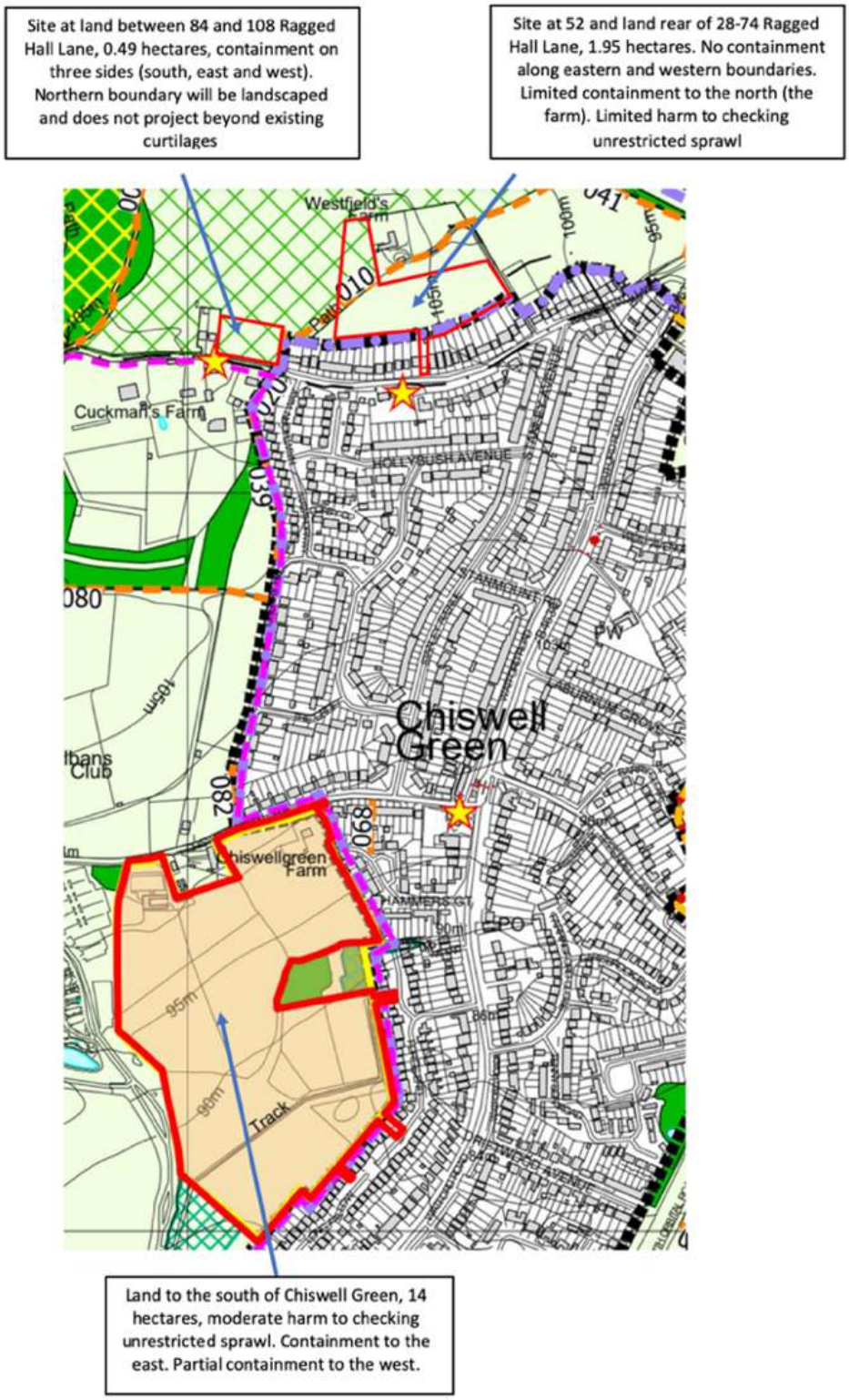
> *"Outline application for the demolition of existing structures and construction of up to 391 dwellings (Use Class C3); the provision of land for a new school, open space provision and associated landscaping, internal roads, parking, footpaths, cycleways, drainage, utilities and service infrastructure and new access arrangements ('Appeal A')."*

7.2 Figure 7.1 is an annotated version of the site context plan prepared in support of the scheme on land south of Chiswell Green. Reference to this figure confirms that the major scheme of development on land south of Chiswell Green will only be subject to partial containment along its western boundary. The appeal A site extends to 14 hectares, meaning it is 28.5 times larger than the site on land between 84 and 108 Ragged Hall Lane.

7.3 In terms of the performance of the 14-hectare parcel against the purposes of the Green Belt, the Inspector concluded in para. 18 that the scheme would result in ***moderate harm to checking unrestricted sprawl and very limited harm to preventing neighbouring towns merging into one another***. Para. 18 is presented below.

> *18.Appeal A: For the reasons given at IR534 the Secretary of State agrees that Appeal site A is largely undeveloped and open at present, and that the introduction of 391 dwellings, a school and associated works would introduce a great deal of built volume to the Green Belt. For the reasons given in IR535-542, the Secretary of State agrees with the Inspector that the Appeal A scheme would result in definitional harm to the Green Belt, as well as harm to its openness and purposes (moderate harm to checking unrestricted sprawl, very limited harm to preventing neighbouring towns merging into one another, and moderate harm to safeguarding the countryside from encroachment). Like the Inspector he attaches substantial weight to this harm.*

Figure 7.1. Major sites located on the edge of Chiswell Green permitted on appeal and the application site in context



7.4 Figures 7.1 and 7.2 present the site boundaries of the application site and the neighbouring major development proposal on land at 52 and land to the rear of 28 to 74 Ragged Hall Lane granted on appeal in May 2024, which was assigned reference APP/B1930/W/23/3331451.

Figure 7.2. The application site in context

7.5 In determining the appeal case assigned reference APP/B1930/W/23/3331451, the Inspector concluded that given the location of the site and the particular nature of its surroundings and the physical features of the Green Belt and settlements around it, the proposal for 53 dwellings would result in ***limited harm to the purpose of checking the unrestricted sprawl of large built-up areas (purpose a) and would bring about limited harm to the purpose of preventing neighbouring towns merging into one another (purpose b).***

7.6 Plainly, had the neighbouring site at 52 and land rear of 28-74 Ragged Hall Lane been the subject of promotion following adoption of the NPPF 2024, it would meet the definition of grey belt, providing the 'golden rules' were satisfied as it is major development in the green belt.

7.7 The appellant's submission to the appeal case considered under reference APP/B1930/W/24/3345004 relating to the application site made extensive and repeated reference to the appeal decision on the neighbouring site on land at 52 and land to the rear of 28 to 74 Ragged Hall Lane, to include:

- the S78 Statement of Case,
- final comments, and
- the further response following publication of the NPPF 2024

7.8 All documents submitted with the appellant's case contained extensive reference to a recent appeal decision dated May 2024 on a neighbouring site that permitted 53 dwellings at 52 and land rear of 28-74 Ragged Hall Lane (appeal reference APP/B1930/W/23/3331451). Confusingly, the appeal decision issued under reference APP/B1930/W/24/3345004 relating to the application site pays no attention to the allowed appeal decision APP/B1930/W/23/3331451) on the

neighbouring site at 52 and land rear of 28-74 Ragged Hall Lane. This lack of consideration by the appeal Inspector is a material consideration.

7.9 In the case of the appeal decision concerning the site at 52 and land rear of 28-74 Ragged Hall Lane, the Inspector concluded that given the location of the site and the particular nature of its surroundings and the physical features of the Green Belt and settlements around it, the proposal for 53 dwellings at 52 and land rear of 28-74 Ragged Hall Lane would result in limited harm to the purpose of checking the unrestricted sprawl of large built-up areas (purpose a) – as set out in paragraph 16 of appeal decision APP/B1930/W/23/3331451.

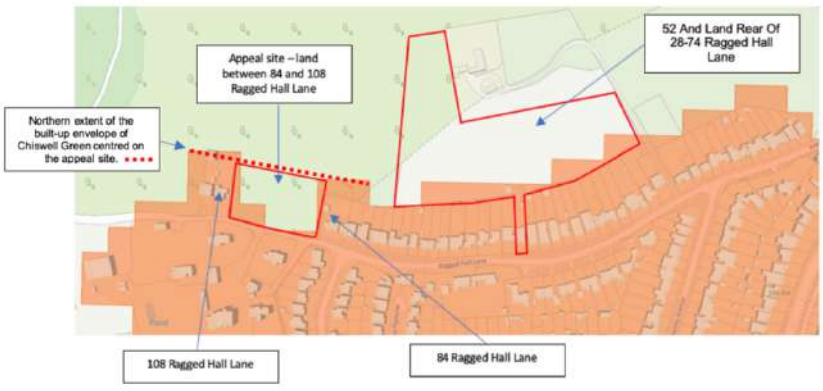
16. Turning to the purposes of the Green Belt set out in the Framework it was agreed that the proposal conflicts with purposes a) to c). Taking each of these in turn, I find that given the location of the site and the particular nature of its surroundings and the physical features of the Green Belt and settlements around it, the proposal would result in limited harm to the purpose of checking the unrestricted sprawl of large built-up areas. There was a discussion as to whether or not Chiswell Green was a large built-up area for this purpose. However, I find no need to reach a conclusion on that point. In any event, the location of the A414, the topography and the Green Belt land which would remain to the west, north and east of the site, as well as the land which would remain north of the A414, and the natural boundary of the farm all contribute to limiting harm to this purpose. Further, the exercise of control through the development management process and this appeal means that growth is not unrestricted.

7.10 For the same reasons, the Inspector concluded that the proposal for 53 dwellings at 52 and land rear of 28-74 Ragged Hall Lane would bring about *limited harm to the purpose of preventing neighbouring towns merging into one another (purpose b)* – as set out in paragraph 17 of appeal decision APP/B1930/W/23/3331451.

Appeal Decision APP/B1930/W/23/3331451

17. For the same reasons, I find limited harm to the purpose of preventing neighbouring towns merging into one another. The gap; visual, spatial and perceptual between Chiswell Green and St Albans would, in my opinion remain fundamentally the same as it appears today. In this, I also note that the resultant gap between the built form of Chiswell Green and St Albans would still be larger than the (in my opinion, much more prominent and easily seen) gap between them where the Watford Road crosses the A414.

Figure 7.3. The application site falls within the built-up area of Chiswell Green based on the ONS dataset



7.11 From an objective standpoint, one fails to logically understand how the site in question, i.e. land between 84 and 108 Ragged Hall Lane, could be judged to contribute to checking the unrestricted sprawl of a large built-up area when, as concluded in the case of the appeal decision at 52 and land rear of 28-74 Ragged Hall Lane, the Inspector opined in that case that the location of the A414 to the north, the boundary of the farm would limit harm to the purpose of controlling unrestricted sprawl. The Inspector also found that the exercise of control through the development management process would mean that growth is not unrestricted.

7.12 The neighbouring site at 52 and land rear of 28-74 Ragged Hall Lane is on the same side (north) of Ragged Hall Lane and the most proximate boundary is only a distance of 40 metres from the extent of ownership under the control of the applicant on land between 84 and 108 Ragged Hall Lane. Importantly, the proposed scheme would not extend beyond the line of existing development on the northern side of Ragged Hall Lane. By comparison, the approved scheme at 52 and land rear of 28-74 Ragged Hall Lane juts awkwardly into the wider setting, and the boundary extent to the site follows no definable and/or defensible boundary.

7.13 A detailed Landscape Masterplan is submitted as part of the application. The landscape strategy is structured around two primary planting approaches: woodland planting and screen planting. The woodland planting, positioned along the northern boundary, is designed to create a naturalistic transition between the development and the wider landscape. In contrast, the screen planting follows a more formal layout, incorporating structured tree and hedge planting to define boundaries and provide a consistent visual barrier. This element of the strategy is implemented both within private rear gardens and in the area to the rear, reinforcing privacy while maintaining a cohesive design. The structured hedge planting offers year-round coverage, while the trees provide vertical interest and seasonal variation. The combination of these elements ensures effective screening, mitigating overlooking between properties and softening the built form.

7.14 The submitted landscaping scheme concerning soft landscaping details would be secured through imposition of a planning condition, such that there would be a clear and demonstrable mechanism through the development management process to ensure that the site is the subject of appropriate landscape containment such that growth, i.e. the extent of development, is not unrestricted.

7.15 In the determination of the recent appeal decision dated 20th January 2025 (reference APP/B1930/W/24/3345004) relating to the application site, had the appointed Inspector considered the submitted material relating to the neighbouring site at 52 and land rear of 28-74 Ragged Hall Lane, then it is the clear view of the planning consultant that the appeal decision issued on 20th January 2025 relating to the application site would have allowed the appeal.

7.16 A large area of St Albans district is Green Belt land, and the appeal site represents a very small proportion of this land, and large swathes of Green Belt land within the district would be unaffected. As such, the proposal would not

fundamentally undermine the purposes of the remaining Green Belt across the area of the plan.

8. Recent appeal decisions concerning grey belt sites

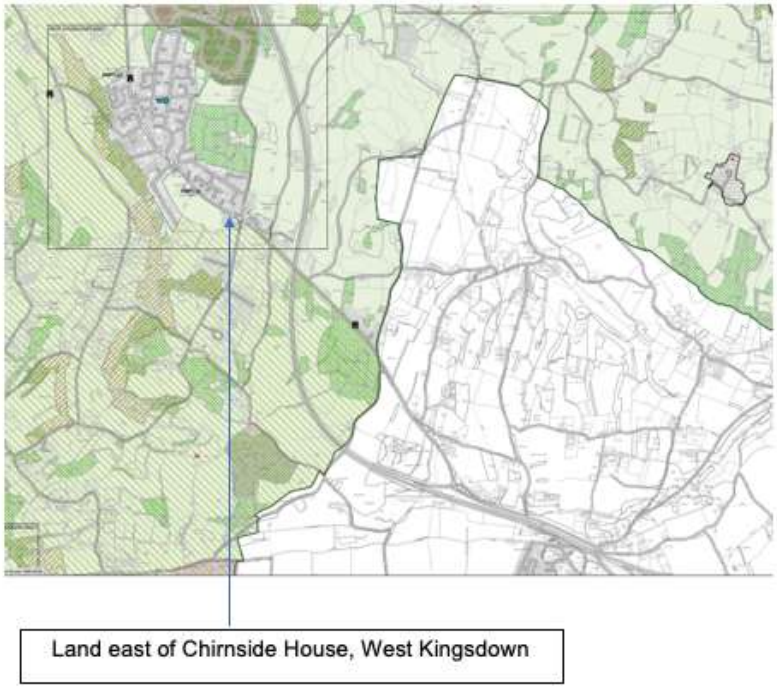
8.1 This section draws out pertinent information from appeal decisions issued in 2025 whereby consideration of the definition and application of grey belt is central to the issued appeal decision.

Land to the east of Chirnside House, West Kingsdown appeal decision dated 21st January 2025 – APP/G2245/W/24/3351517

8.2 An appeal decision relating to 'Land east Of Chirnside House, London Road, West Kingsdown' (reference APP/G2245/W/24/3351517) dated 21st January 2025 that proposed 3 self-build and custom housebuilding plots at a village-edge site in the Kent green belt. The inspector held that the undeveloped site did not strongly contribute to any of purposes a), b) or d) in paragraph 143 of the NPPF and therefore comprised grey belt land.

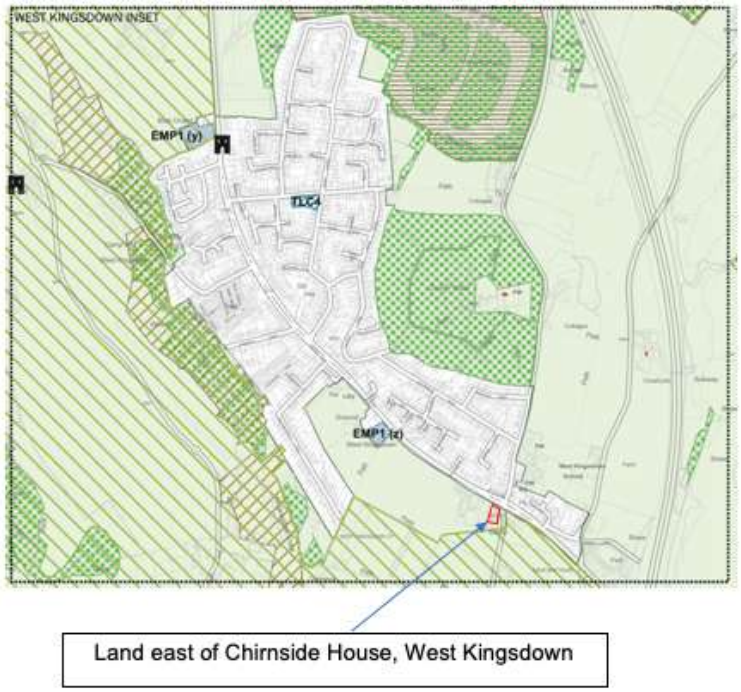
8.3 The inspector also judged that the proposal did not fundamentally undermine the purposes of the remaining green belt across the area of the plan and that the 'Golden Rules' did not apply as it was not 'major development'. Accordingly, the inspector ruled it was not inappropriate development in the green belt. The site in question is a small-scale site located outside, but immediately adjacent to the settlement limits of West Kingsdown. The location of the site in the broader context is shown in Figure 8.1.

Figure 8.1. The location of Land to the east of Chirnside House, West Kingsdown in the context of the north-west of Sevenoaks District



8.4 At a finer grain of assessment, the site's relationship with the settlement limits of West Kingsdown can be better understood, as presented in Figure 8.2.

Figure 8.2. Site location - Land to the east of Chirnside House, West Kingsdown



8.5 Paragraphs 11 to 19 of appeal decision APP/G2245/W/24/3351517, set out herein, confirms the steps taken by the Inspector to confirm that the proposed scheme would be appropriate development in the Green Belt. Emphasis is added by the author.

Green Belt

11. The Framework indicates that the fundamental aim of Green Belt policy is to prevent urban sprawl and that inappropriate development is harmful to the Green Belt. Policy LO8 of the Allocations and Development Management Plan, Local Plan, February 2015 (LP), states that the extent of the Green Belt will be maintained. Paragraph 155 of the Framework identifies that the development of homes in the Green Belt should not be regarded as inappropriate subject to the specified criteria.

12. Criterion a) specifies that the development would need to utilise grey belt land and not fundamentally undermine the purposes of the remaining Green Belt across the area of the plan. The Framework defines Grey Belt as previously developed land in the Green Belt and/or land that does not strongly contribute to any of purposes a), b) or d) in paragraph 143.

13. The appeal site is located on the edge of West Kingsdown which is identified as a village within LP Policy LO7. <u>The village is modest in size and is much smaller than other settlements in the district.</u> <u>The village does not connect to a larger urban conurbation and is surrounded by Green Belt.</u> The appeal site is therefore not contributing to checking the unrestricted sprawl of a large built-up

area. The proposal would extend West Kingsdown in a south easterly direction. The nearest settlement in that direction is Kemsing which is a significant distance away and there are large areas of undeveloped land between the two settlements. As such, the appeal site makes a negligible contribution towards preventing the merging of the two settlements. There are no conservation areas within West Kingsdown and there is no evidence to indicate that West Kingsdown is a historic town. As such, the appeal site does not strongly contribute to any of purposes a), b) or d) in paragraph 143 of the Framework. It can therefore be classified as Grey Belt land.

14. *A large area of Sevenoaks district is Green Belt land, and the appeal site represents a very small proportion of this land. Whilst the proposed development may reduce the contribution neighbouring land is making toward the purposes of the Green Belt, large swathes of Green Belt land within the district would be unaffected. As such, the proposal would not fundamentally undermine the purposes of the remaining Green Belt across the area of the plan.*

15. *In applications involving the provision of housing, footnote 56 of the Framework indicates that an unmet need for the type of development proposed is where there is a lack of a five-year supply of deliverable housing sites, amongst other matters. The parties agree that the Council cannot demonstrate a five-year supply of deliverable housing sites and that the Council is not meeting its statutory duty with regard to Self-Build and Custom Housebuilding. Therefore, the proposal could meet an unmet need for the type of development proposed.*

16. *West Kingsdown accommodates several services and facilities including a school, a medical centre, a church, and public houses. There is also a bus stop immediately outside the appeal site. However, given the limited extent of facilities and services, it is likely that future occupiers would need to travel further afield to meet some of their day-to-day needs. These journeys could be undertaken on public transport, but future occupiers would be somewhat reliant on the use of private motor vehicles.*

17. *Nevertheless, I am mindful of paragraph 110 of the Framework which indicates that opportunities to maximise sustainable transport solutions will vary between urban and rural areas. West Kingsdown is a village in a rural area. It is expected that the opportunity to maximise sustainable transport solutions would be limited. As such, the proposed development would be in a sustainable location.*

18. *The 'Golden Rules' set out within paragraph 155 d) do not apply as the proposed development is not 'major development'. Therefore, the proposal would accord with paragraph 155 of the Framework, and it would not be inappropriate development in the Green Belt. The proposal would therefore comply with LP policies LO1 and LO8*

which indicate that development will only take place where it is compatible with policies for protecting the Green Belt.

19. *The Lee Valley v Epping Forest District Council Judgment[4] outlines where the development is not inappropriate in the Green Belt, applying the exceptions identified in the Framework, it should not be regarded harmful to the openness of the Green Belt.* ***As the proposed development is not inappropriate development, as per paragraph 155 of the Framework, an assessment on the effect of the proposed development on the openness is not required. Likewise, very special circumstances do not need to be demonstrated for the proposal to be considered acceptable.***

Applying the learned outcomes of the West Kingsdown appeal decision to the application site

8.6 Applying the learned outcomes from the appeal decision APP/G2245/W/24/3351517 relating to 'land east of Chirnside House, West Kingsdown' to the application site, the application site is located on the edge of Chiswell Green which is identified as a Tier 5 Medium Sized Village in Table 1.3 - Settlement Hierarchy within the Draft Local Plan 2041 Regulation 19 Publication dated September 2024. The village is modest in size and is much smaller than a number of Tier 1, 2, 3 and 4 settlements in the district.

Tier 5 Medium Sized Village	Smaller population size compared to the Large Villages Provision of key services Functional relationship with St Albans and Watford for high order services Availability of bus routes and rail branch line to provide transport offer	Bricket Wood Chiswell Green How Wood Park Street

8.7 In respect of the overall size of the respective settlements of Chiswell Green and West Kingsdown, based on ONS data the following applies:

- West Kingsdown[5] = 3 km² Area
- Chiswell Green[6] = 2.4 km² Area

8.8 The settlement area of Chiswell Green is 20% smaller than the settlement area of West Kingsdown. West Kingsdown which is identified as a village within LP Policy LO7 of the extant Local Plan. Likewise, Chiswell Green is identified as a Tier 5 Medium Sized Village in Table 1.3 - Settlement Hierarchy within the Draft Local Plan 2041 Regulation 19 Publication.

8.9 According to the 2021 census, the population of West Kingsdown is 5,464, and the population of Chiswell Green 6,689. The two settlements are, therefore, of a comparable population size and scale.

[4] Lee Valley Regional Park Authority, R (on the application of) v Epping Forest District Council & Anor (Rev 1) [2016] EWCA Civ 404

[5] [redacted]

8.10 In paragraph 13 of the West Kingsdown appeal decision (ref APP/G2245/W/24/3351517), the Inspector concluded that:

> *The village is modest in size and is much smaller than other settlements in the district. The village does not connect to a larger urban conurbation and is surrounded by Green Belt.*

8.11 As a direct comparison, the settlement area of Chiswell Green is smaller than West Kingsdown. The decision maker must also acknowledge and apply the point that settlement of Chiswell Green is much smaller than the Tier 1, 2, 3 and 4 settlements in the district, with a particular emphasis on the two tier 1 settlements. Chiswell Green does not connect to a larger urban conurbation and is surrounded by Green Belt. Chiswell Green is not recognised as a historic settlement.

8.12 The village of Chiswell Green does not connect to a larger urban conurbation and is surrounded by Green Belt, with a focus on the swathe of land to the west of the application site.

8.13 The nearest large settlement to the west of Chiswell Green is Hemel Hempstead, which is a significant distance away (5.12km) and there are large areas of undeveloped land between the two settlements. Accordingly, the application site does not contribute to checking the unrestricted sprawl of a large built-up area. The site also makes a negligible contribution towards preventing the merging of the two settlements. The site does not fall within a Conservation Area and there is no evidence to indicate that Chiswell Green is a historic town. As such, the appeal site does not strongly contribute to any of purposes a), b) or d) in paragraph 143 of the Framework. It can therefore be classified as Grey Belt land.

8.14 The conclusions drawn in respect of the performance of the site against the purpose of the Green Belt are consistent with findings of the Stage 2 GBR, which found that sub-parcel SA-141 does not strongly contribute to purposes a, b and d in paragraph 143. The application site only forms a small proportion (2.45%) of the total area of sub-parcel SA-141.

8.15 The performance of the application site against the purposes of the Green Belt is also validated through the conclusions of recent appeal decisions taken on major development in Chiswell Green. The most relevant appeal decision relates to the neighbouring major site on land at 52 and land rear of 28-74 Ragged Hall Lane, which also falls within sub-parcel SA-141 of the Stage 2 GBR.

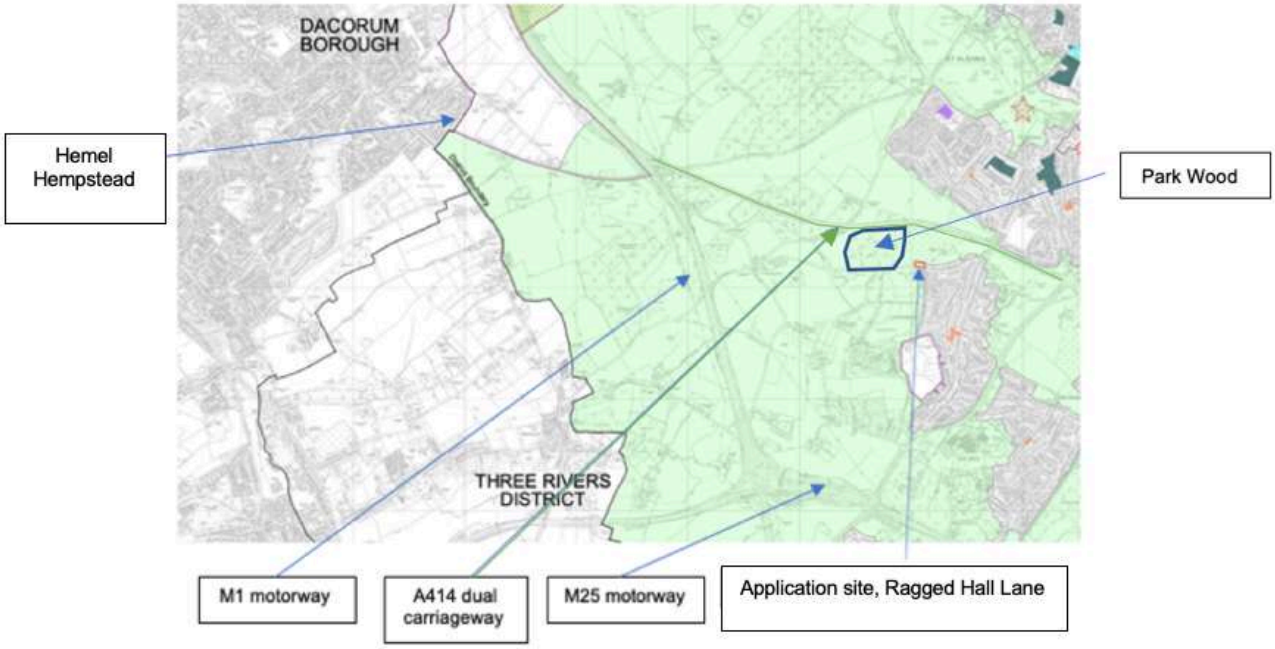
8.16 In the case of the appeal decision concerning the site at 52 and land rear of 28-74 Ragged Hall Lane, the Inspector concluded that given the location of the site and the particular nature of its surroundings and the physical features of the Green Belt and settlements around it, the proposal for 53 dwellings at 52 and land rear of 28-74 Ragged Hall Lane would result in limited harm to the purpose of checking the unrestricted sprawl of large built-up areas (purpose a). For the same reasons, the Inspector concluded that the proposal for 53 dwellings at 52 and land rear of 28-74 Ragged Hall Lane would bring about *limited harm to the purpose of preventing neighbouring towns merging into one another (purpose b).*

8.17 On the basis the proposed scheme is much smaller, is far better enclosed and does not project beyond the established built form, it must be found to perform at least on par with the neighbouring site at 52 and land rear of 28-74 Ragged Hall Lane in respect of performance against the Green Belt purposes. The site is without question grey belt.

8.18 Returning to the Lee Valley v Epping Forest District Council Judgment[7], it outlines where the development is not inappropriate in the Green Belt, applying the exceptions identified in the Framework, it should not be regarded harmful to the openness of the Green Belt.

8.19 Taking onboard the conclusions of the recent appeal decision at West Kingsdown (ref APP/G2245/W/24/3351517), in that case it was concluded that as the proposed development is not inappropriate development, as per paragraph 155 of the Framework, an assessment on the effect of the proposed development on the openness is not required. Likewise, very special circumstances do not need to be demonstrated for the proposal to be considered acceptable.

Figure 8.3. The application site in context



Land at Junction of Roestock Lane and Bullens Green Lane, Colney Heath appeal decision dated 3rd February 2025

8.20 An appeal decision in St Albans District dated 3rd February 2025 concerning Land at Junction of Roestock Lane and Bullens Green Lane, Colney Heath (appeal reference APP/B1930/W/24/3342701) that was allowed and planning permission granted for the construction of 9 dwellings with new vehicular access, provision of new landscaping and associated works is directly relevant to the case under consideration. Paragraphs 16 to 20 inclusive of the appeal decision

[7] Lee Valley Regional Park Authority, R (on the application of) v Epping Forest District Council & Anor (Rev 1) [2016] EWCA Civ 404

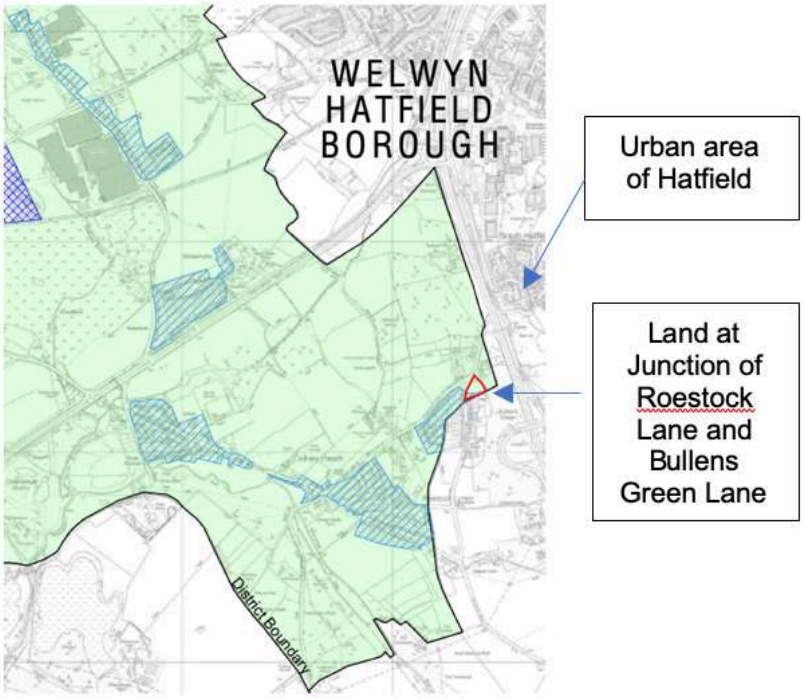
APP/B1930/W/24/3342701 provides commentary in respect of paragraph 155 of the Framework:

> *15. In respect of paragraph 155 of the Framework, both main parties agree that the site can be defined as grey belt. From reviewing the evidence and from what I saw during my site visit, I consider that the land does not strongly contribute to any of the purposes of checking the unrestricted sprawl of large built-up areas, of preventing neighbouring towns merging into one another, or of preserving the setting and special character of historic towns. As such, I agree with both parties, and consider the land to be grey belt.*
>
> *16. Paragraph 155 of the Framework states that the development of homes in the Green Belt should also not be regarded as inappropriate where, as well as utilising grey belt land, it would not fundamentally undermine the purposes (taken together) of the remaining Green Belt across the area of the plan, there is a demonstrable unmet need for the development and it would be in a sustainable location.*
>
> *17. I am satisfied that the distances from the appeal site to the next nearest settlements are sufficient that the proposed development would not result in the unrestricted sprawl of large built-up areas or the merging into one another of neighbouring towns. Green Belt countryside beyond the appeal site would not be encroached upon as a result of the scheme due the defined nature of the development boundary, and there are no historic towns near enough to the site that their setting and special character could be affected be affected. I do not see that the development of this Green Belt site would be at odds with encouraging the recycling of derelict and other urban land, as planning policies therein remain explicitly more encouraging of development. In addition, the housing land supply position demonstrates there is unmet need.*
>
> *18. I will address whether the site is in a sustainable location, with particular reference to paragraphs 110 and 115 of the Framework below. The proposed development is not a major development (as defined in the glossary of the Framework) and, therefore, criterion (d) in paragraph 155 is not applicable.*
>
> *19. The development is not inappropriate development in the Green Belt by virtue of paragraph 155 (a) and (b) of the Framework. I will come back to paragraph 155 (c).*

8.21 Appeal decision APP/B1930/W/24/3342701 confirms that the impact of a proposed scheme on the Green Belt openness has no bearing on whether a site meets with the definition of grey belt.

8.22 The site on Land at Junction of Roestock Lane and Bullens Green Lane extends to 0.46 hectares, and so is highly comparable to the application site (0.49 hectares) in size and scale (9 dwellings versus 7).

Figure 8.4. Location of Land at Junction of Roestock Lane and Bullens Green Lane



8.23 In the case at Land at Junction of Roestock Lane and Bullens Green Lane the Inspector was satisfied that the distances from the appeal site to the next nearest settlements are sufficient that the proposed development would not result in the unrestricted sprawl of large built-up areas or the merging into one another of neighbouring towns. This is despite the fact the site in question is only a distance of 415m to the west of Hatfield, which is a large built-up area.

8.24 Applying the same principle to the application site, the distances from the application site to the next nearest settlement at Hemel Hempstead some 5.12km to the west is sufficient that the proposed development would not result in the unrestricted sprawl of large built-up areas or the merging into one another of neighbouring towns. There must be a consistency of decision making.

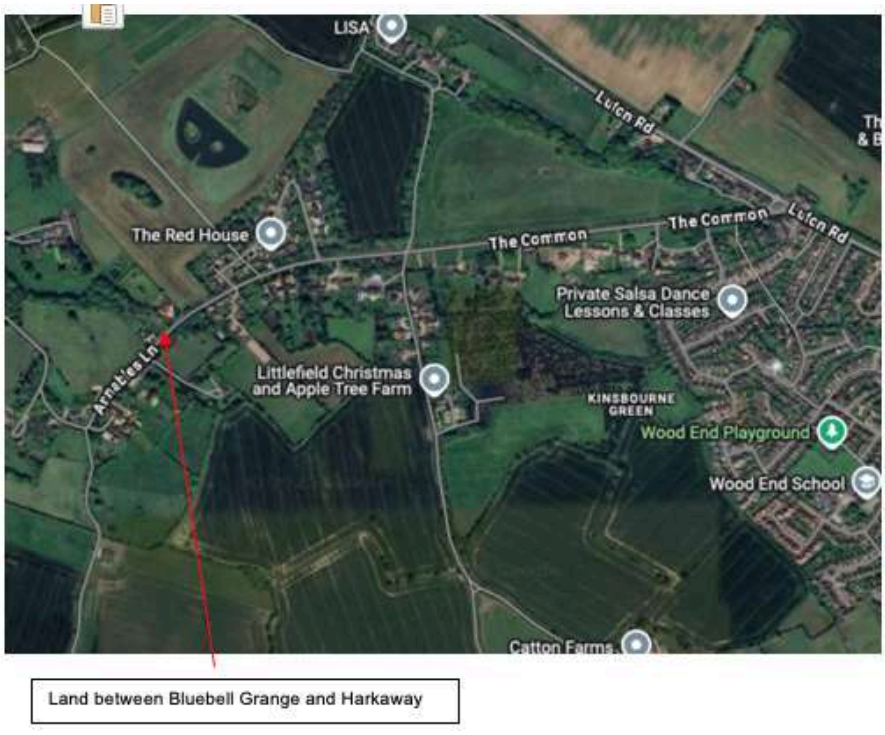
Land between Bluebell Grange and Harkaway, Kinsbourne Green dated 6th February 2025 - APP/B1930/W/24/3349774

8.25 The proposed construction of a single residential dwelling on a site referenced as *'Land between Bluebell Grange and Harkaway, Kinsbourne Green'* (appeal reference APP/B1930/W/24/3349774) was allowed on appeal dated 6th February 2025. The site is located in St Albans City and District administrative area.

8.26 The location of the site is shown in Figure 8.5. Hertfordshire County Council, as local highway authority, did not raise an objection to the scheme at the planning application stage, despite the fact the site is in a rural location and the are no paved footpaths or street lighting along this part of Annables Lane, which is likely to discourage walking.

Figure 8.5. Location of Land between Bluebell Grange and Harkaway, Kinsbourne Green

Figure 8.6. Aerial of Land between Bluebell Grange and Harkaway, Kinsbourne Green



8.27 Considerations as to whether the proposal would utilise grey belt land and if the development would be in a sustainable location is set out in paragraph 7 of the appeal decision, presented below:

> *7.The main parties agree that the appeal proposal would utilise grey belt land and would not fundamentally undermine the purposes of the*

remaining Green Belt. They also agree that there is a demonstrable unmet need for housing in the district. They disagree on whether the development would be in a sustainable location.

8.28 Paragraphs 8 to 10 of the appeal decision, presented below, explore if the development in question is in a sustainable location or not.

> *8.The appeal site is in a rural location and is not within a recognised settlement. However, paragraphs 110 and 115 of the Framework state amongst other considerations that opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and that it should be ensured sustainable transport modes are prioritised taking account of the vision for the site, the type of development and its location.*
>
> *9.The appeal proposal is for 1 house, on a plot between 2 existing houses. Several other houses are visible on Annables Lane from the site. While my site visit only represents a snapshot in time, I saw a steady flow of vehicles along the road during that time. While the proposal is for a large house and would add to the volume of private vehicles using the road, the increase from a single dwelling would be limited in proportion to the existing traffic on the road.* ***In addition, the site is about 4 kilometres from Harpenden railway station, a distance in line with the average cycle journey recorded in the National Travel Survey. The site is also about 1 kilometre from the nearest bus stop, around the average walking distance recorded in that Survey.***
>
> *10.I am mindful that there are no paved footpaths or street lighting along this part of Annables Lane, which is likely to discourage walking. However, the appeal site lies within a loose group of existing houses and is not in any less of a sustainable location than them. On balance, therefore, the appeal site is a sustainable location for the erection of 1 dwellinghouse.*

8.29 Despite there being no paved footpaths or street lighting proximate to the site, coupled with the distance from the site to a nearby settlement benefitting from everyday services and facilities, the Inspector opined that the site 'lies within a loose group of existing houses and is not in any less of a sustainable location than them.

8.30 The Inspector also cross-referred to, and concurred with, evidence submitted on behalf of the appellant which found that the site is about 4 kilometres from Harpenden railway station, a distance in line with the average cycle journey recorded in the National Travel Survey. The site is also about 1 kilometre from the nearest bus stop, around the average walking distance recorded in that Survey.

8.31 The Inspector concludes matters in paragraph 27 of the decision, finding that:

> *27. The appeal proposal would conflict with the development plan as it would not accord with the list of development deemed to be acceptable in the Green Belt in Policy 1. However, the updated Framework is a material consideration which in this instance indicates that a decision*

should be made other than in accordance with the development plan. Therefore, for the reasons set out above, the appeal is allowed.

Appeal decision on Land adjoining Hydon Farm, Hambledon Road, Hydestile

8.32 A recent appeal decision dated 27th January 2025 (appeal reference APP/R3650/W/24/3352222) provides a clear and important steer as to how the definition of grey belt as set out in the Framework 2024 is being practically applied in decision making. The appeal case in question was allowed, and planning permission is granted for the construction of single 4-bedroom dwelling and associated works including a double garage, widening of existing vehicular access, amenity space and landscaping at Land adjoining Hydon Farm, Hambledon Road, Hydestile, Godalming GU8 4DN.

8.33 A bulleted summary of key points drawn from the appeal decision is presented below:

- the site is connected only to a small linear stretch of housing and is detached from any larger settlement. However, the Inspector found that it was sufficiently sustainable given proximity to public footpaths (although no pavement) and that it is 550m away from the closest bus stop.
- the proposed development did not qualify as limited infilling within a village
- the proposed scheme does meet the definition of grey belt

Figure 8.7. Land adjoining Hydon Farm, Hambledon Road, Hydestile location plan

8.34 Photographs 1 and 2 present the roadside view of the site frontage of the scheme approved on appeal at Land adjoining Hydon Farm, Hambledon Road, Hydestile, Godalming, which confirms the absence of footways and street lighting.

Photograph 1. View looking north along Hambledon Road, site access on left of image

Photograph 2. View looking south along Hambledon Road, site access on right of image (red arrowhead refers)

8.35 Paragraphs 13 to 16 of the appeal decision APP/R3650/W/24/3352222 dated 27th January 2025 relating to Land adjoining Hydon Farm, Hambledon Road, Hydestile sets out the Inspector's conclusions against the definition of grey belt as set out in the Framework 2024. Critically, it was concluded that the proposed scheme would utilise grey belt land.

Grey Belt

13. *In addition to the exceptions under paragraph 154, the Framework identifies further circumstances where development is not inappropriate in the Green Belt. Paragraph 155 states the development of homes should not be regarded as inappropriate where (a) the development would utilise 'grey belt' land and would not fundamentally undermine the purposes (taken together) of the remaining Green Belt across the area of the plan; (b) there is a demonstrable unmet need for the type of development proposed; (c) the development would be in a sustainable location, with particular reference to paragraphs 110 and 115 of the Framework; and (d) where applicable the development proposed meets the 'Golden Rules' requirements set out in Framework paragraphs 156-157.*

14. *The Framework defines 'grey belt' as land in the Green Belt comprising previously developed land and/or any other land that, in either case, does not strongly contribute to any of the purposes (a), (b), or (d) in paragraph 143, and excludes land where the application of the policies relating to the areas or assets in footnote 7 (other than Green Belt) would provide a strong reason for refusing or restricting development.*

15. *Neither party dispute that the appeal site would not be considered previously developed land (PDL) as defined in the Framework, however given its location at the end of the peripheral pattern of development, the appeal site would not be located close to a built-up area; would not merge towns, nor affect the setting and special character of a historic town. Consequently, the appeal site would not strongly contribute to purposes (a), (b), or (d) in paragraph 143 of the Framework, and thus would be considered 'any other land' for grey belt purposes.*

16. *The proposal would utilise grey belt land and would not fundamentally undermine the purposes (taken together) of the remaining Green Belt across the area of the plan. Subsequently, it would accord with paragraph 155.a of the Framework.*

8.36 Paragraphs 19 to 21 of the issued appeal decision concerning Land adjoining Hydon Farm, Hambledon Road, Hydestile, Godalming explains how the site satisfies paragraphs 110 and 115 of the Framework.

19. *Paragraphs 110 and 115 of the Framework, seek to mitigate significant impacts of development on the transport network in terms of capacity, congestion and highway safety, whilst focusing development to sustainable locations by limiting the need to travel and offering a genuine choice of transport modes. Although the Framework also acknowledges that opportunities to maximise sustainable transport solutions will vary between urban and rural areas.*

20. *The appellants have submitted a Transport Statement4 (TS) which highlights that the site is relatively sustainable being in close proximity to public footpaths that would encourage walking and cycling. The TS indicates that the closest bus stop to the site is situated 550 metres north of the site along Hambledon Road. This bus stop serves bus route 503 which runs to Guildford on a daily basis. Given the proposal is for a single dwellinghouse, it is unlikely that any additional trips generated would lead to a perceptible increase in vehicle movements on the local road network, thus would have a negligible impact on road capacity and congestion.*

21. *Surrey County Council as County Highway Authority have raised no objections to the scheme on safety, capacity and congestion grounds subject to the provision of suitable conditions. Consequently, I am satisfied the proposal would be in a sustainable location, in accordance with the requirements of paragraphs 110, 115 and 155.c. of the Framework.*

8.37 Of particular interest is paragraph 21, which explains that Surrey County Council, as County Highway Authority, raised no objections to the scheme on safety, capacity and congestion grounds subject to the provision of suitable conditions. Consequently, the Inspector was satisfied the proposal would be in a sustainable location, in accordance with the requirements of paragraphs 110, 115 and 155.c. of the Framework.

9. The definition of grey belt and its application to the site

9.1 The definition of Grey Belt, as defined in the Annex 2 glossary of the NPPF 2024 is as follows:

> *"Grey belt: For the purposes of plan-making and decision-making, 'grey belt' is defined as land in the Green Belt comprising previously developed land* ***and/or*** *any other land that, in either case, does not strongly contribute to any of purposes (a), (b), or (d) in paragraph 143. 'Grey belt' excludes land where the application of the policies relating to the areas or assets in footnote 7 (other than Green Belt) would provide a strong reason for refusing or restricting development."*

9.2 Paragraph 143 of the NPPF 2024 is presented below.

> 143. Green Belt serves five purposes:
>
> a) to check the unrestricted sprawl of large built-up areas;
>
> b) to prevent neighbouring towns merging into one another;
>
> c) to assist in safeguarding the countryside from encroachment;
>
> d) to preserve the setting and special character of historic towns; and
>
> e) to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.

9.3 In revisiting the comments submitted by the LPA to the Planning Inspectorate dated 3rd January 2025 in relation to the appeal assigned reference APP/B1930/W/24/3345004, the key consideration is that the LPA was **"*accepting that the land now falls under the definition of 'grey belt'".***

9.4 The **Lee Valley v Epping Forest District Council Judgment**, which outlines where the development is not inappropriate in the Green Belt, applying the exceptions identified in the Framework, it should not be regarded harmful to the openness of the Green Belt. As the proposed development is not inappropriate development, as per paragraph 155 of the Framework, **an assessment on the effect of the proposed development on the openness is not required.** Likewise, very special circumstances do not need to be demonstrated for the proposal to be considered acceptable.

9.5 Turning back to the LPA's submitted evidence dated 3rd January 2025, no further considerations should have informed the LPA's viewpoint in respect of the land (the application site) falls under the definition of grey belt.

9.6 A key error made by the LPA is their further consideration of the impact on openness as a determinative factor in establishing whether the land was grey belt or not. The LPA's commentary drawn from the LPA's submitted evidence dated 3rd January 2025 is set out below:

> *"… development here would be at odds with the Green Belt's essential characteristics of openness and permanence evidenced by the Inspectorate's previous decision on LPA ref 5/2022/1517 where it was stated "that the appeal site provides a visual break and appears as open countryside and the site is not therefore part of the village; seven dwellings would have a significant impact on openness and this is afforded substantial weight. Moderate weight is attached to the provision of 7 houses but that this does not outweigh the harm identified consequently, no very special circumstances are identified to justify permission".*

9.7 In paragraph 15 of the appeal decision assigned reference APP/B1930/W/24/3345004 the Inspector carried forward the misjudgement of the definition of grey belt that the LPA had incorporated into their response dated 3rd January 2025. The relevant part of paragraph 15 of the appeal decision is presented below:

> *15. No exceptions to the general presumption against development in the Green Belt under paragraph 154 have been put to me. I have considered arguments that the development is not inappropriate under paragraph 155. However, the land cannot fall within the definition of Grey Belt as* ***it is not previously developed and the development of it would not check the unrestricted sprawl of a large built-up area****, to which its openness makes a strong contribution, having regard to the definition given at Annex 2 of the Framework.*

9.8 A further obvious and serious concern regarding paragraph 15 of the appeal decision is the *use of 'and' by the Inspector rather than 'and/or'* in the context of the definition of grey belt. The reader must remind themselves that the definition of grey belt as set out in the Framework, as follows:

> ***Grey belt:*** *For the purposes of plan-making and decision-making, 'grey belt' is defined as land in the Green Belt comprising previously developed land* ***and/or*** *any other land that, in either case, does not strongly contribute to any of purposes (a), (b), or (d) in paragraph 143. 'Grey belt' excludes land where the application of the policies relating to the areas or assets in footnote 7 (other than Green Belt) would provide a strong reason for refusing or restricting development.*

9.9 The grey belt definition in Annex 2 does not stipulate that land has to be Previously Developed Land to constitute grey belt. This is an obvious and critical flaw made by the appointed Inspector in the assessment of whether or not the site is grey belt or not in determining the appeal decision issued on 20th January

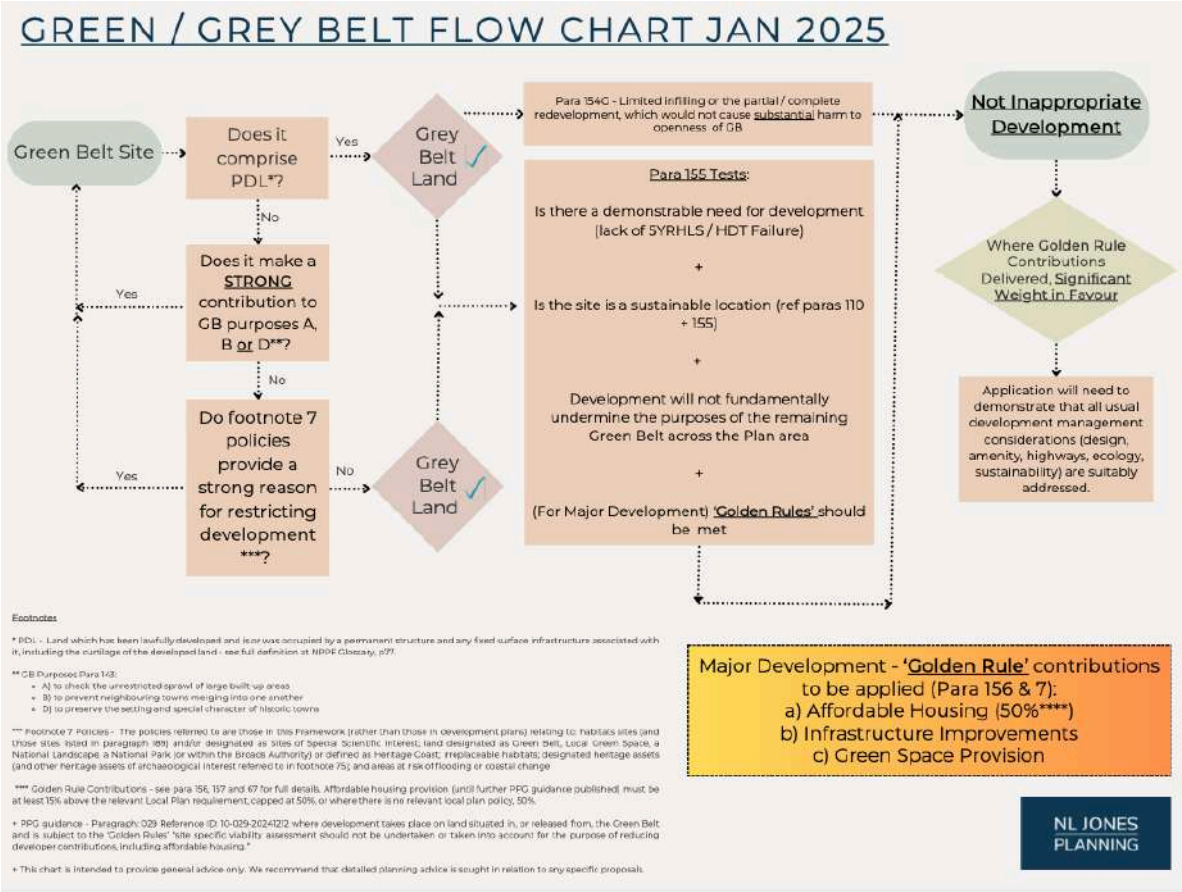
2025 under reference APP/B1930/W/24/3345004. The decision was made in error.

9.10 A critical step is that the LPA has accepted the site falls under the definition of 'grey belt' development against the definition of the Framework 2024. The failing of the LPA in within their submitted a response to the Planning Inspectorate dated 3rd January 2025 is that they stepped outside the considerations by which the decision-maker is to form a judgement as to whether a site is grey belt or not in line with the Framework by bringing into play the impact of the proposed development on the Green Belt's essential characteristics of openness and permanence.

9.11 As has been established in the **Lee Valley v Epping Forest District Council Judgment**, where the development is not inappropriate in the Green Belt, applying the exceptions identified in the Framework, it should not be regarded harmful to the openness of the Green Belt. As the proposed development is not inappropriate development, as per paragraph 155 of the Framework, **an assessment on the effect of the proposed development on the openness is not required.** Likewise, very special circumstances do not need to be demonstrated for the proposal to be considered acceptable.

9.12 The steps that are to be taken to establish if a site is grey belt is presented in the flow chart in Figure 9.1.

Figure 9.1. Green/grey belt flow chart (January 2025)



9.13 Somewhat confusingly, within the LPA's response dated 3rd January 2025 they maintain that:

> *"However under paragraph 155 (c) the NPPF introduces the requirement for development to be in a sustainable location. The scheme does not meet this new test as supported by the consultation response from Herts County Council Highways. These comments are appended in full and form part of the Council's case."*

9.14 A recent appeal decision relating to the application site dated 9 October 2023 (reference **APP/B1930/W/23/3320280**) confirmed that the site is in a sustainable location, as summarised in paragraph 17.

> *17. There are other considerations that would weigh in favour of the proposal including boosting the supply of new housing in a sustainable area, potentially releasing smaller housing as families could upsize to the proposed, larger housing. The proposal could also encourage more young people to live in the area. I also note the appellant's intention to provide landscape and ecological enhancements. In combination, these considerations attract moderate weight in the proposal's favour.*

9.15 The appeal decision also confirmed in paragraph 24 that the proposal would be acceptable in relation to highway matters, stating that:

> *24. The Council have also considered that the proposal would not harm the character and appearance of the area, would not result in harm to the amenity of future and existing occupiers and is acceptable in relation to highway matters, flood risk, drainage, heritage and archaeology for which I have no reason to conclude against. However, these are neutral matters.*

9.16 Paragraph 246 of the recovered appeal decision appropriately explains why, on grounds of sustainability, Chiswell Green is a settlement appropriate for expansion.

> *246. For good reasons of sustainability, Council Officers have already identified the settlement of Chiswell Green as appropriate for expansion in order to address the Council's chronic, and serious, unmet housing needs. Neither the Local Planning Authority nor the Highway Authority has any highways objection to the Appeal Scheme itself, or the Appeal Scheme coming forward together with the Cala Homes proposal.*

9.17 Applying the learned outcomes of the Land adjoining Hydon Farm, Hambledon Road, Hydestile appeal decision to the scheme under promotion, Hertfordshire County Council, as local highway authority, has not previously raised objection to schemes promoted on the application site (all schemes have promoted 7 dwellings) in respect of highway safety, capacity and congestion grounds.

9.18 Similarly, in the appeal case concerning a scheme at Land between Bluebell Grange and Harkaway, Kinsbourne Green dated 6th February 2025 (appeal

reference APP/B1930/W/24/3349774), the Inspector cross-referred to, and concurred with, evidence submitted on behalf of the appellant, which demonstrated that the site is about 4 kilometres from Harpenden railway station, a distance in line with the average cycle journey recorded in the National Travel Survey. The site is also about 1 kilometre from the nearest bus stop, around the average walking distance recorded in that Survey.

9.19 Paragraph 28 of the appeal decision relating to the application site dated 20th January 2025 confirms that: *"The site … is accessible by public transport."* The application site is within walking distance of everyday services and facilities, and Chiswell Green is a sustainable settlement.

9.20 Clearly it must logically follow that if other schemes granted on appeal, to include Land adjoining Hydon Farm, Hambledon Road, Hydestile and Land between Bluebell Grange and Harkaway, Kinsbourne Green are judged to not conflict with paragraphs 110 and 115 of the Framework, then the proposed scheme is itself not capable of conflicting with paragraphs 110 and 115 of the Framework. Accordingly, the proposal would be in a sustainable location, in accordance with the requirements of paragraphs 110, 115 and 155.c. of the Framework.

10. The shortfall in SBCH provision against the statutory duty

10.1 A key consideration is the weight that is to be attributed to the shortfall in self-build and custom housebuilding provision against the statutory duty. Since 2016, the Department for Levelling Up, Housing and Communities has collected information from relevant local authorities in England on self-build and custom housebuilding activity in their areas. This release of data – in the form of management information – provides the figures reported by local authorities for the periods 2016, 2016-17, 2017-18, 2018-19, 2019-20, 2020-21 and 2021-22.

Table 10.1. Self-build register entries by base period and associated permissions for self-build plots

Base period	Total entries for period (Individual and group) – DHLUC returns (Column C, Individual, Column D, Group)	Cumulative total (Individual and group) DHLUC returns (Column E, Individual, Column F, Group)	Cumulative total (Individual and group) Corrected figures do to error in adding	Permissions DHLUC returns Column G	Surplus/ Shortfall by Base Period
1 – up to 30 October 2016	107	107	107	0	-107
2 – 31 October 2016 to 30 October 2017	143	251	250	17	-126
3 – 31 October 2017 to 30 October 2018	105	356	355	19	-86
4 – 31 October 2018 to 30 October 2019	87	440	442	24	-63
5 – 31 October 2019 to 30 October 2020	76	516	518	9	-67
6 – 31 October 2020 to 30 October 2021	132	648	650	15	-117
7 – 31 October 2021 to 30 October 2022	87	735	737	60	-27
Base period 1-5	**518**	**516**	**518**	**69**	**518 – 69 = 449**
Base period 1 -7	**737**	**735**	**737**	**144**	**737 – 144 = 593**

10.2 For St Albans City and District, a total of *449 plots* are required to meet the total self and custom build register demand corresponding to the end of base period 5, and *593 plots* are required to meet the legal duty imparted by the 2015 Self-Build and Custom Housebuilding Act - as amended by the 2016 Housing and Planning Act and the 2023 Levelling Up and Regeneration Act. The shortfall is one of the largest figures of any local authority in England.

10.3 As of 30 October 2024, the requirement against the statutory duty will reflect the shortfall against base periods 1 to 6, which stands at *566 SBCH plots.* This demonstrates the scale upon which the shortfall against the statutory duty is increasing year-on-year.

10.4 Data presented in Table 10.1 is broadly consistent with the outturn of a Freedom of Information request made by consultants to inform the Colney Heath appeal case. In summarising the position with respect to the FOI response, the consultants found that *"at 14 August 2020 there were a total of 498 individuals and one association of four individuals on the St Albans City and District Council Self-Build Register."*

Base Period	No. of Individuals	No. of Associations of Individuals	Date by which demand must be met under the Statutory Duty
1 (1 April 2016 to 30 October 2016)	108	0	30 October 2019
2 (31 October 2016 to 30 October 2017)	140	1	30 October 2020
3 (31 October 2017 to 30 October 2018)	104	0	30 October 2021
4 (31 October 2018 to 30 October 2019)	87	0	30 October 2022
5 (31 October 2019 to 30 October 2020)	59 (to date)	0	30 October 2023
Totals	**498**	**1**	-

Source: FOI Response 14 August 2020

10.5 Fuller coverage is provided within the document appended to this submission titled *'Self-Build and Custom Housebuilding Statement Colney Heath'*.

10.6 Paragraph 7.11 of the delegated officer's report prepared for the scheme promoted under reference 5/2024/0144 helpfully provides an account of the self build and custom housebuilding position from the LPA's perspective, as set out below:

> *"7.11 The proposal is for all 7 units to be serviced plots for self-build and custom housebuilding. The LHNA states that as at 1st January 2020 there were 450 registered on part 1 of the self and custom build register (see LHNA para 8.9). As at 30th October 2023 the figure was 812, comprising 799 individuals and a total of 13 people within 3 associations. The 2023 Authority Monitoring Report shows a total of 197 self-build / custom build plots have been approved. The PPG states that LPAs should use the demand data from the register in their area to understand and consider future need for custom and self-build housing in the area[1]. Therefore the*

current data demonstrates that there is demand for self-build in the district which this proposal would assist in meeting.

Should the appeal be allowed the provision of the plots as serviced plots for self-build/custom build housing should be secured by condition."

10.7 The LPA derived data confirms that the shortfall as of October 2023 (the end of base period 8) stood at 615 plots (i.e. 812 minus 197), which is higher than the shortfall of 593 plots the appellant calculated was the corresponding shortfall at the end of base period 7 (i.e. as of October 2022). The scale of the shortfall against the statutory duty is unprecedented, and such a shortfall must be assigned great weight.

10.8 A significant implication of Section 123 that has not yet manifest itself at this time is that LPA's are required to forensically check those permissions they believe were granted for credible self build proposals to establish if they are compliant with the definition of the 2015 Self-Build and Custom Housebuilding Act - as amended.

10.9 In many cases having undertaken such an exercise the vast majority of LPAs will come to learn that proposals they have counted towards meeting the statutory duty are not in compliance with the requirements of Section 123, and thus must be disregarded. In this context the shortfall of St Albans DC against the statutory duty will be a minimum figure, and may well be significantly higher subject to how many of the 197 self build and custom housebuilding plots the LPA contend have been permitted in base periods 1 to 8 would have to be disregarded.

10.10 The merits of this case do not require further examination of the shortfall, as taken at face-value the shortfall of 615 plots at the end of base period 8 provides justification to demonstrate that very special circumstances exist.

Source: https://livedin.co.uk/localauthorities/windsor-and-maidenhead

10.11 At the time the decision was made in respect of the Holyport scheme where it was found that Very Special Circumstances in the Green Belt could be demonstrated, cumulatively, the Royal Borough of Windsor and Maidenhead had a *shortfall of 118 plots corresponding to the end of case period 4* in order to meet its Statutory Duty under Section 2A of the Self-Build and Custom Housebuilding Act (as amended).

10.12 In the Great Witley appeal decision, *great weight* was applied to the scale of the shortfall against the statutory duty which amounted to 62 plots at the end of base period 4. The shortfall that persists in SDC is some 913% greater than the shortfall that persisted in Malvern Hills District, as articulated in the Great Witley appeal decision.

10.13 In the context of such a great shortfall in CSBH provision against the statutory duty, great weight should be attached to the proposed provision of 7 SBCH plots.

Secondary data sources to quantify self-build demand

10.14 The Planning Policy Guidance (PPG) provides guidance on assessing demand for self-build and custom housebuilding. This appears in two separate parts of the PPG, the first is within the Self-Build and Custom Housebuilding section at Paragraph 011 Reference ID 57-011-20210208 where it states under the heading of 'what is the relationship between the register and the Strategic Housing Market Assessment' that:

> *"Local planning authorities should use the demand data from the registers in their area, supported as necessary by additional data from secondary sources (as outlined in the housing and economic development needs guidance), to understand and consider future need for this type of housing in their area. Secondary sources can include data from building plot search websites, enquiries for building plots recorded by local estate agents and surveys of local residents. Demand assessment tools can also be utilised."*

10.15 The second is where the reader is re-directed to the Housing and Economic Development Needs Guidance and then the 'housing needs of different groups' section whereby under the heading of 'how can self-build and custom housebuilding needs be assessed' it states at Paragraph 003 Reference ID 67-003-20190722 that:

> *"To obtain a robust assessment of demand for this type of housing in their area, local planning authorities should assess and review the data held on registers. This assessment can be supplemented with the use of existing secondary data sources such as building plot search websites, 'Need-a-Plot' information available from the Self Build Portal and enquiries for building plots from local estate agents"*

10.16 In the Bullens Green lane, Colney Heath appeal case the most recent assessment of housing need by the respective authorities were derived from a January 2016 SHMA in the case of St Albans.

10.17 In the case of St Albans, the SHMA pre-dated the introduction of the PPG robust assessment wording but the SHMA did recognise self and custom-build as being a small sector within the housing market and one which had the potential to grow.

10.18 It is also of relevance to remember that the first iteration of the National Planning Policy Framework (NPPF) back in 2012 required local authorities to plan for the needs of those wishing to build their own homes – so the requirement to deal with this sub-set of housing need is far from new to local authorities and has been a requirement of national policy for approaching a decade now.

10.19 In light of the fact that neither local authority had undertaken a robust assessment of demand further evidence presented on behalf of the appellant considered secondary data sources comprising data obtained from Buildstore, and a research-based approach that provided consideration of what demand could constitute locally when using national survey data as a proxy.

10.20 Buildstore hold the largest database of self and custom-builders in the country. There are two elements to their data-set that were considered, the first being their 'Custom Build Register' comprising those seeking an opportunity for a customisable house – which revealed there were 314 people seeking such an opportunity in St Albans, – and the second being their 'PlotSearch' platform comprising people seeking a serviced plot of land to build or commission their own home – which revealed that there were *984 people seeking such an opportunity in St Albans,* far in excess of the self-build register totals for the authority area.

10.21 On the research-based approach, Ipsos Mori polling for the National Custom and Self-Build Association (NaCSBA) has consistently shown that 1:50 of the adult population want to self-build. When this ratio is applied to the adult population for St Albans City and District using ONS population statistics, then this revealed that there could be a need for as many as *2,034 plots.*

10.22 Inspector Masters deals with the matter of assessment of demand at paragraph 50 of her report in referring to the fact that *"the Planning Practice Guidance advises that local authorities should use the demand data from registers, supported by additional data from secondary sources, to understand and consider future need for this type of housing in their area."* She then goes on at paragraph 51 to explain that:

> *"Neither authority has an up-to-date assessment of likely future demand for this type of housing in line with the Planning Practice Guidance. The appellant provided detailed evidence in relation to the Custom Build Register, none of which is disputed. Evidence also presented demonstrated that the statutory duty to provide for base period plot provision has also not been met in either authority, in some periods by a significant margin. Taking into account other secondary data sources, these shortfalls may well be on the conservative side."*

10.23 The consideration given to the secondary data sources – which demonstrated a level of demand far exceeding self-build register numbers – is clear in the Inspectors decision whereby reference is drawn to the fact that not only has the statutory 'Duty' been failed by both authorities but that the shortfalls against the

register numbers are not likely to represent the totality of the shortfall against unmet demand given what the secondary data sources illustrate. Once again this demonstrates the importance of considering secondary data sources as a critical element of considering the level of demand for self-build and custom housebuilding.

Supporting the delivery of a small-scale site and the ability to build out quickly

10.24 The Framework acknowledges that small and medium sized sites can make an important contribution to meeting the housing requirement of an area, and are often built out relatively quickly. There would also be some economic benefits arising from the construction process and on-going expenditure into the local economy by new residents. In the context of the housing supply shortfall, the ability for the site to contribute to a materially worsening supply position should be afforded very significant weight.

11. Other considerations

11.1 The appeal decision issued under reference APP/B1930/W/24/3345004 dated 20th January 2025 provides a summary account of other considerations in paragraph 28 of the decision, as follows:

> *28. The site is not located within an area at risk of flooding, is accessible by public transport, could be built without harm to neighbours living conditions and would have an acceptable impact on local biodiversity and the character and appearance of the area. These, and other neutral factors, weigh neither for nor against the proposal.*

11.2 The appeal case assigned reference APP/B1930/W/24/3345004 followed the non-determination of planning application 5/2024/0144 by the LPA. In their statement of case dated 27th August 2024 the LPA asserted that had it been in a position to determine the application, that permission would have been refused for the following reason:

> *The site is located within the Metropolitan Green Belt. The proposed development would be inappropriate development in the Metropolitan Green Belt as defined in national planning policy, and is therefore harmful by definition. It would also adversely impact on the openness and character of this part of the Metropolitan Green Belt. No very special circumstances exist that would clearly outweigh the significant harm identified. The proposed development would conflict with the purposes of including land within the Green belt and would be contrary to Policy S1 (Location of Development) of the St Stephens Neighbourhood Plan, Policy 1 (Metropolitan Green Belt) and 143a (Watling Chase Community Forest) of the St Albans District Local Plan Review 1994 and the National Planning Policy Framework 2023.*

11.3 In paragraph 12 of the appeal decision (reference APP/B1930/W/24/3345004) relating to the application site the Inspector opined that the proposed scheme would conflict with Policy 1 of the St Albans City and District Plan 1994 (StADP), as presented below:

12. Policy 1 of the St Albans City and District Plan 1994 (StADP), despite its age, is not inconsistent with the Framework insofar as it sets out that, except in very special circumstances, development outside defined settlements and for certain purposes will not be permitted.

11.4 The Inspector's consideration of Policy 1 of the StADP against the appeal case refused under APP/B1930/W/24/3345004 dated 20th January 2025 is in direct contrast with an appeal decision in St Albans District dated 3rd February 2025 (appeal reference APP/B1930/W/24/3342701) concerning Land at Junction of Roestock Lane and Bullens Green Lane, Colney Heath that was allowed, and planning permission is granted for the construction of 9 dwellings with new vehicular access, provision of new landscaping and associated works. Paragraph 5 of the appeal decision APP/B1930/W/24/3342701 confirms that:

5. *However, Policy 1 pre-dates the Framework and is inconsistent with it, in that it does not contain the same list of exceptions to inappropriate development; Paragraph 154 of the Framework requires that a local planning authority regard the construction of new buildings as inappropriate in the Green Belt save for certain exceptions. This includes an exception not specified in Policy LP1, which is (e) limited infilling in villages. In addition, paragraph 155 of the Framework states that the development of homes in the green Belt should also not be regarded as inappropriate if each criterion set out thereafter is met.*

11.5 It is clear there is no associated conflict with Policy 1, which pre-dates the Framework.

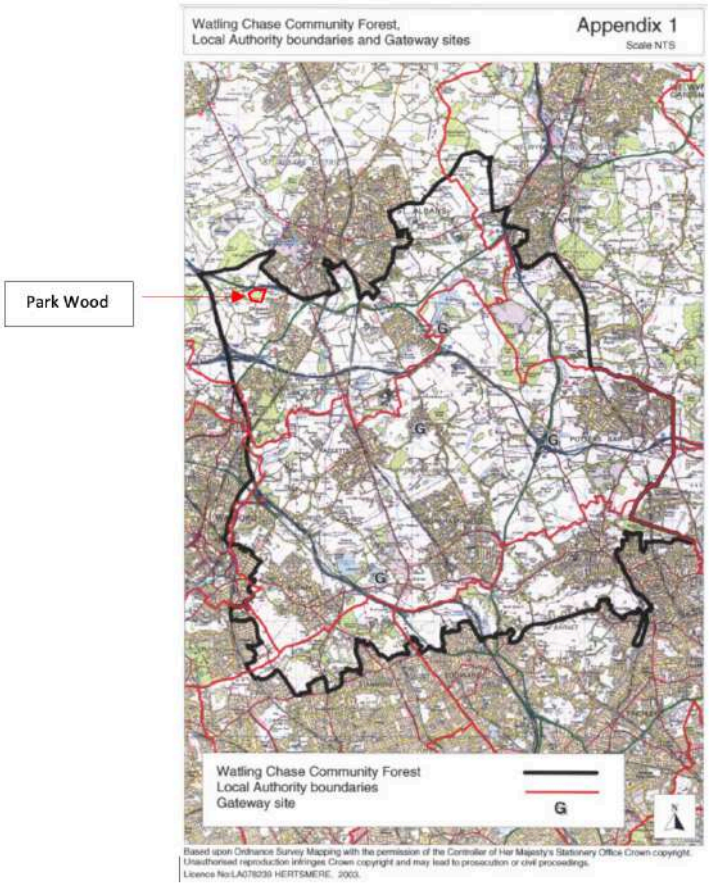
Policy 143A (Watling Community Forest)

11.6 Policy 143A (Watling Community Forest) is generally a permissive policy which identifies that: 'The District Council will support the establishment of the Watling Chase Community Forest in the general location indicated on Figure 21A.

11.7 Within the Community Forest, the Council will welcome detailed proposals for the purposes of landscape conservation, recreation, nature conservation and timber production. Proposals should be consistent with Green Belt policy (Policy 1) and the other policies in this Plan, particularly Policies 91, 96, 103 and 106'. It is noted that the policy does not specifically state that development should be refused, merely that proposals should be consistent with other policies in the Plan.

11.8 Policy 143A (Watling Community Forest) is a policy in the District Local Plan Review dated 1994. The outcome of the case into Park Wood as an Asset of Community Value was dated 3rd August 2015, meaning there was more than a 20-year gap between the adoption of Policy 143A and the emergence of Park Wood as an Asset of Community Value.

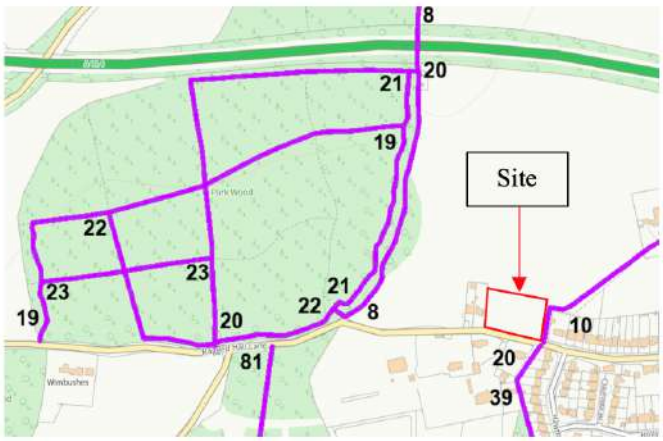
Figure 11.1. Watling Chase Community Forest



Source: https://www.hertsmere.gov.uk/Documents/09-Planning--Building-Control/Planning-Policy/Planning-Publications/SPG---Watling-Chase.pdf

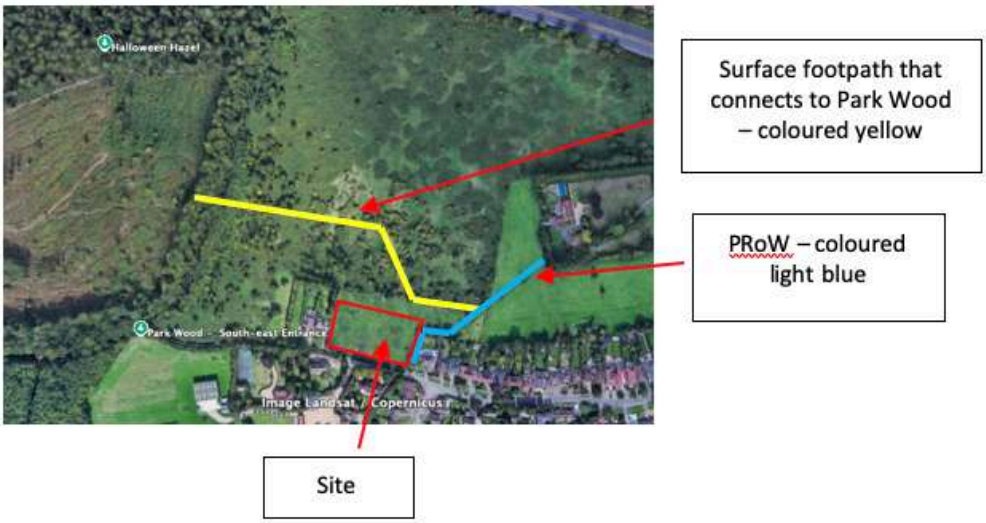
11.9 On the back of the designation of Park Wood as an Asset of Community Value, the Council added 2.4km of public footpaths through the woods to the definitive map, as presented in Figure 11.2.

Figure 11.2. Extract from the PRoW definitive map centred on Park Wood



11.10 It is also important to acknowledge the footpath connection that diverts off from the public right of way that passes to the east of the application site. The relevant details are marked on Figure 11.3.

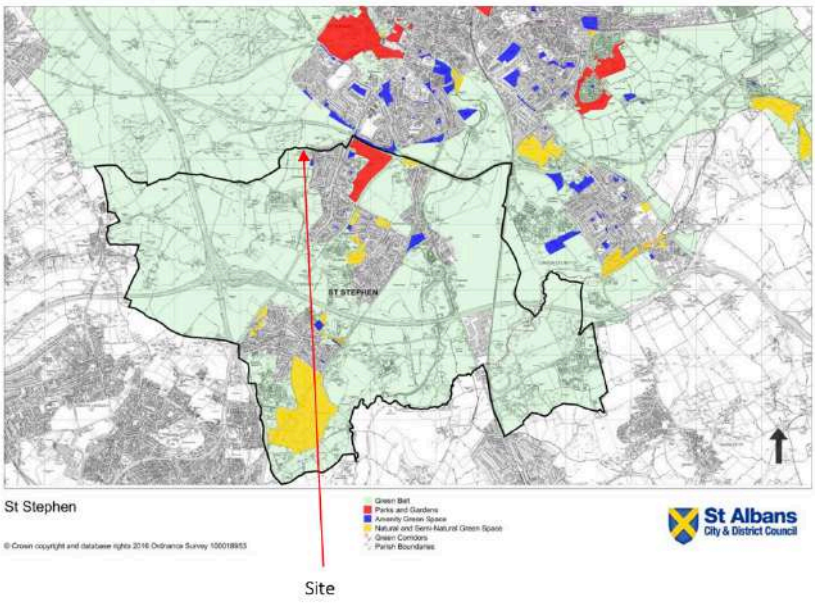
Figure 11.3. Footpath connections proximate to the site



11.11 Relevant commentary on the weight to be attributed to Policy 143A (Watling Community Forest) is provided with the appeal decision assigned reference APP/B1930/W/18/3212658 concerning the scheme of development promoted on land at Lye Lane, Bricket Wood, St Albans AL2 3TN. Paragraph 32 of the appeal decision, which is submitted as supporting evidence, is of particular relevance, as repeated below:

> 32. *The evidence indicates there is no urgent unmet need for the proposed community forest and that there are other areas of publicly accessible open space in the vicinity of the appeal site. So, whilst the provision of the community forest would provide new recreational opportunities and this would be beneficial, this consideration is to be given limited weight.*

Figure 11.4. Detailed Local Plan Technical Report Green Spaces May 2016



11.12 The site is within close distance of parks and gardens, natural and semi-natural green space and amenity green space, most notably Park Wood.

11.13 Picking up on the commentary cited by the Inspector in the decision into the scheme at Lye Lane, Bricket Wood, in the case of the planning application under consideration, the evidence indicates there is no urgent unmet need for the proposed community forest and that there are other areas of publicly accessible open space in the vicinity of the appeal site. So, whilst the provision of the community forest would provide new recreational opportunities and this would be beneficial, this consideration is to be given limited weight.

11.14 While consideration must be given to the plan as a whole, in respect of the policies listed as of particular relevance within Policy 143A itself, Policies 91 and 96 relate to leisure development and, therefore, are not relevant in the consideration of the application proposals. Policy 103 is not a saved policy and therefore carries no weight. Policy 106 relates to Nature Conservation, a matter which the LPA raises no concerns in relation to the application site. The appeal proposals are, therefore, not considered in conflict with Policy 143A.

11.15 Notwithstanding the position explained above, the Watling Chase Community Forest guide for landowners, developers and users cites that implementing the aims of the Watling Chase Community Forest will increase the quality of the environment and the desirability of being located in the area.

11.16 The supporting material to this planning application includes an Indicative Landscape Masterplan relating to both the northern edge of the site, as well as an area of 0.22ha within the control of the applicant that is shown to provide for an extensive landscaped and ecological enhancement area. It is considered the provision of the two areas of landscaping in combination will comply with Policy 143A (Watling Community Forest) which is generally a permissive policy which identifies that: 'The District Council will support the establishment of the Watling Chase Community Forest in the general location indicated on Figure 21A.

12. Conclusions

12.1 The proposed scheme will provide for seven self or custom build plot in a local authority area where there is a significant shortfall in provision against the statutory duty, thereby aligning with the policy requirement of the revised NPPF (2023) and 2024 Framework, and the ambition of the Ministerial Statement released on 19th December 2023.

12.2 Custom and Self-Build Housing (CSB) is an exceptional type of development - no other type has the same express statutory duty to grant sufficient permissions by reference to a specific number/demand figure. The Government support for CSB was strong even before the LURA 2023, and the relative strengthening that the Government wants to see in terms of housing delivery from the CSB sector is evident in the NPPF 2023 and Ministerial Statement. The LURA 2023 strengthens this further.

Findings of the Stage 2 Green Belt Review

12.3 Consultants Arup were appointed by St Albans City & District Council (SACDC) to prepare a Stage 2 Green Belt Review (GBR) to provide a robust local review of the District's Green Belt and countryside, including the washed over villages, to help inform work carried out as part of the emerging Local Plan. The Stage 2 GBR report was published in June 2023 and forms part of the submitted evidence base to the emerging Local Plan.

12.4 Close examination of the prevailing features that effectively provide very strong containment to sub-parcel SA-141 places a clear emphasis on both the alignment of the A414 dual carriageway that defines the northern boundary of sub-parcel SA-141, and Park Wood; which defines the western boundary of sub-parcel SA-141.

12.5 Park Wood is an area of 18 hectares that is the subject of Ancient Woodland designation, Local Wildlife Site and Asset of Community Value. It is evidently a permanent feature that was correctly applied in the derivation of sub-area boundaries to inform the Stage 2 GBR. In combination, both the positioning and spatial scale of Park Wood and the alignment of A414 dual carriageway strictly control and/or limit potential for Chiswell Green to be extended to the west and/or north.

12.6 The village of Chiswell Green does not connect to a larger urban conurbation and is surrounded by Green Belt. Indeed, the nearest large settlement to the west of Chiswell Green is Hemel Hempstead, which is a significant distance away (5.12km), and there are large areas of undeveloped land designated as Green Belt between the two settlements.

12.7 In the context of the St Albans Stage 2 Green Belt Review, the role performed by both the physical extent and containment provided by Park Wood, coupled with the role performed by the A414 dual carriageway in combination with the northern area of settlement along Ragged Hall Lane, is reflected in the resulting performance of sub-parcel SA-141 as reported in the Stage 2 Review output report.

12.8 Commentary presented within the Stage 2 GBR Annex 2 report in relation to sub-parcel SA-141 explains that against Green Belt purpose A:

> ***"The sub-area is not at the edge of a large built-up area in physical or perceptual terms."***

12.9 Commentary presented within the Stage 2 GBR Annex 2 report in relation to sub-parcel SA-141 explains that against Green Belt purpose B there is scope for development within sub-parcel SA-141 without significant physical or perceptual erosion of the gap between neighbouring built-up areas.

> *"The sub-area forms a wider part of the gap between St Albans and Chiswell Green. Due to the presence of the A414/ North Orbital Road, the topography and predominantly unbroken tree lines to the north and south of the highway, perceptual merging of the neighbouring built-up areas is limited. Overall,* ***it is judged that there may be some scope for***

development *without significant physical or perceptual erosion of the gap between neighbouring built-up areas."*

12.10 Accordingly, the Stage 2 GBR report confirms that **sub-parcel SA-141 does not strongly contribute to Green Belt purposes a, b and d as set out** in paragraph 143 of the Framework.

12.11 Crucially, extracts from the Stage 2 GBR report were submitted as part of the supporting material into the planning appeal case presented on behalf of the appellant relating to the site. Specifically, extracts from the Stage 2 GBR report were presented within a supporting document at the time the appeal was submitted to the Planning Inspectorate. The same extracts from the Stage 2 GBR report were also referenced within the response provided on behalf of the appellant following a request made by the Inspector in December 2024 for representation from both parties on the relevance of the NPPF 2024 following publication of the NPPF on 12th December 2024.

12.12 Despite the fact the appellant's submitted evidence to the recent appeal decision relating to the site (APP/B1930/W/24/3345004) made substantial cross-reference to relevant sections of the Stage 2 Green Belt Review report, the appeal decision *contains no corresponding commentary on reference to the submitted evidence drawn from the Stage 2 Green Belt Review report, which is a serious oversight,* and a material consideration in its own right.

The performance of the site against the purposes of the Green Belt – cross-reference to a neighboring major site

12.13 The application site falls within sub-parcel SA-141**.** The application site extends to only 0.49 hectares, which equates to 2.45% of the total area within sub-parcel SA-141. The conclusions drawn in respect of the performance of the site against the purpose of the Green Belt are consistent with findings of the Stage 2 GBR, which found that sub-parcel SA-141 does not strongly contribute to purposes a, b and d in paragraph 143.

12.14 The performance of the application site against the purposes of the Green Belt is also validated through the conclusions of recent appeal decisions taken on major development in Chiswell Green. The most relevant appeal decision relates to the neighbouring major site on land at 52 and land rear of 28-74 Ragged Hall Lane (appeal reference APP/B1930/W/23/3331451). Critically, the site at land at 52 and land rear of 28-74 Ragged Hall Lane which also falls within sub-parcel SA-141 of the Stage 2 GBR.

12.15 In the case of the appeal decision concerning the site at 52 and land rear of 28-74 Ragged Hall Lane, the Inspector concluded that given the location of the site and the particular nature of its surroundings and the physical features of the Green Belt and settlements around it, the proposal for 53 dwellings at 52 and land rear of 28-74 Ragged Hall Lane would result in **limited harm to the purpose of checking the unrestricted sprawl of large built-up areas (purpose a).** For the same reasons, the Inspector concluded that the proposal for 53 dwellings at 52 and land rear of 28-74 Ragged Hall Lane would bring about ***limited harm to the purpose of preventing neighbouring towns merging into one another (purpose b).***

12.16 On the basis the proposed scheme is much smaller, is far better enclosed and does not project beyond the established built form, it must be found to perform at least on par with the neighbouring site at 52 and land rear of 28-74 Ragged Hall Lane in respect of performance against the Green Belt purposes. At the site level the proposed scheme would result in **limited harm to the purpose of checking the unrestricted sprawl of large built-up areas (purpose a) and** would bring about ***limited harm to the purpose of preventing neighbouring towns merging into one another (purpose b).***

The site meets with the Framework 2024 definition of grey belt

12.17 A critical step is that the LPA has accepted that, as set out in their submitted evidence to the recent appeal case relating to the site dated 3rd January 2025, the site falls under the definition of 'grey belt' development against the definition of the Framework 2024.

12.18 The failing of the LPA in within their submitted a response to the Planning Inspectorate dated 3rd January 2025 is that they stepped outside the considerations by which the decision-maker is to form a judgement as to whether a site is grey belt or not in line with the Framework by bringing into play the impact of the proposed development on the Green Belt's essential characteristics of openness and permanence.

12.19 The proposed scheme would utilise grey belt land and would not fundamentally undermine the purposes (taken together) of the remaining Green Belt across the area of the plan. Subsequently, it would accord with paragraph 155.a of the Framework.

12.20 There is a demonstrable unmet need for the type of development proposed, as the Council cannot demonstrate a 5-year housing land supply. This position has recently been confirmed in paragraph 8.3.2 of the Committee Report prepared in respect of planning application 5/2023/0327 that was approved by St Albans City and District Planning Committee on 17th February 2025.

> *8.3.2 Using the LHN calculated under the Government's new standard method, the Council currently has a housing land supply of 0.9 years from a base date of 1 April 2023. It is acknowledged that 0.9 years is substantially below the 5 years plus 20% required in the NPPF. Consequently, the NPPF dictates that the policies which are most important for determining application are out-of-date and the presumption in favour of sustainable development (also known as the tilted balance) will apply, as set out in Paragraph 11(d) of the NPPF.*

12.21 The Council cannot demonstrate a 5-year housing land supply, as the position relates to 0.9 years from a base date of 1 April 2023. The Council's Housing Delivery Test result for 2023 is 52%, which is a worsening position when compared to the 2022 HDT result, at 55%. Consequently, for the purposes of paragraph 155.b. of the Framework, there is a demonstrable unmet need for the type of development proposed.

12.22 When considering a planning application in the Green Belt, substantial weight is given to any harm to the Green Belt, including harm to its openness. However, footnote 55 of the NPPF states that this is not in the case of development on grey belt land, where development is not inappropriate. Accordingly, an assessment on the effect of the proposed development on the openness is not required. Likewise, very special circumstances do not need to be demonstrated for such a proposal to be considered acceptable.

12.23 The development would be in a sustainable location, with particular reference to paragraphs 110 and 115 of this Framework. Subsequently, it would accord with paragraph 155.c of the Framework.

12.24 The 'Golden Rules' set out within paragraph 155 d) do not apply as the proposed development is not 'major development'. Therefore, the proposal would accord with paragraph 155 of the Framework, and it would not be inappropriate development in the Green Belt.

12.25 The Lee Valley v Epping Forest District Council Judgment outlines where the development is not inappropriate in the Green Belt, applying the exceptions identified in the Framework, it should not be regarded harmful to the openness of the Green Belt.

12.26 **As the proposed development is not inappropriate development, as per paragraph 155 of the Framework, an assessment on the effect of the proposed development on the openness is not required. Likewise, very special circumstances do not need to be demonstrated for the proposal to be considered acceptable.**

12.27 The plan area of St Albans City and District comprises a large amount of Green Belt land. Indeed, some 13,141 hectares, or 81.5 per cent, of the district's area is designated as green belt. The application site extends to 0.49 hectares, which represents a very small proportion of this land (0.0037%). The proposal would not fundamentally undermine the purposes (taken together) of the remaining Green Belt across the area of the plan.