

IN THE MATTER OF LAND BETWEEN 84 & 108 RAGGED HALL LANE, CHISWELL GREEN, ST ALBANS

OPINION

INTRODUCTION

1. I am instructed by James Hammond of Hammond Land and Consulting Limited to advise Mr. Martin Holderness ('the Proposed Applicant') in respect of an outline planning application he intends to make directly to the Secretary of State for determination pursuant to section 62A of the Town and Country Planning Act 1990 ('the 1990 Act') for 7 serviced plots for self-build and custom housebuilding (all matters reserved) ('the Application') at Land between 84 & 108 Ragged Hall Lane, Chiswell Green, St Albans ('the Site').
2. I am specifically asked to advise as to whether, in my view, the Site constitutes Grey Belt within the meaning set out in the National Planning Policy Framework 2024 ('the NPPF 2024').
3. I have been provided with the following documentation, which I have read:
 - 3.1 Decision Letter dated 20th January 2025 in respect of Land between 84-108 Ragged Hall Lane, Chiswell Green, St Albans, Hertfordshire, AL2 3NN ('the Site') ref: APP/B1930/W/24/3345004.
 - 3.2 The Council's comments on the NPPF 2024 and cover email dated 13th December 2024 submitted for appeal reference APP/B1930/W/24/3345004.
 - 3.3 Appellant's submissions in respect of the NPPF 2024 dated January 2025 submitted for appeal reference APP/B1930/W/24/3345004 on 3rd January 2025.
 - 3.4 Case for the proposal representing appropriate development in accordance with paragraph 154(e) of the NPPF.
 - 3.5 Decision Letter dated 3rd May 2024 in respect of 52 And Land Rear Of 28-74 Ragged Hall Lane, Chiswell Green AL2 3LD ref: APP/B1930/W/23/3331451.
 - 3.6 Decision Letter dated 21st January 2025 in respect of Land east Of Chirnside House, London Road, West Kingsdown, Kent TN15 6EJ ref: APP/G2245/W/24/3351517.
 - 3.7 Decision letter dated 27th January 2025 in respect of Land adjoining Hydon Farm, Hambledon Road, Hydestile Godalming GU8 4DN ref: APP/R3650/W/24/3352222.
 - 3.8 Decision Letter dated 6th February 2025 in respect of Land between Bluebell Grange and Harkaway, Kinsbourne Green, Harpenden, Hertfordshire, AL5 3PR ref: APP/B1930/W/24/3349774.
 - 3.9 Decision Letter dated 3rd February 2025 in respect of Land at Junction of Roestock Lane and Bullens Green Lane, Colney Heath ref: Appeal Ref: APP/B1930/W/24/3342701.
 - 3.10 Decision Letter of Secretary of State and Inspector's Report in respect of Land South of Chiswell Green Lane, Chiswell Green, St Albans and Land North of Chiswell Green

Lane, Chiswell Green, St Albans ref: APP/B1930/W/22/3313110 and APP/B1930/W/22/3312277.

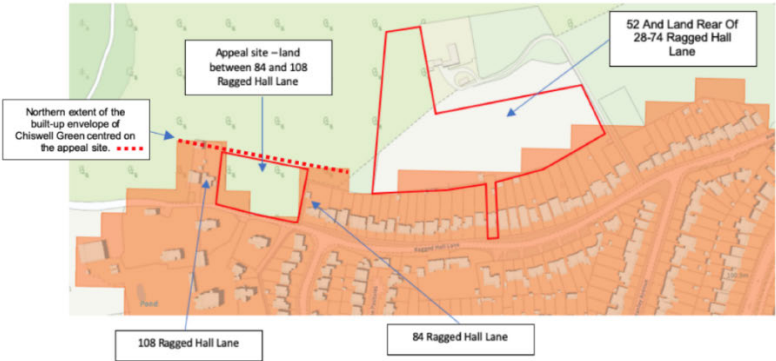
- 3.11 Decision Letter dated 9th October 2023 in respect of Land between 84 & 108 Ragged Hall Lane, Chiswell Green, AL2 3LD ('the Site') ref: APP/B1930/W/23/3320280.
- 3.12 Decision letter dated 20th January 2025 in respect of Land Between 124 and 142 Church Lane, Selston, NG16 6FD ref: APP/W3005//W/24/3347049.
- 3.13 Stage 2 Green Belt Assessment dated June 2023 authored by Arup.
- 3.14 Stage 2 Green Belt Review/NPPF 2024 extracts document.
- 3.15 Site Level Green Belt Assessment.
- 3.16 Plan ref: 12104-0002-05 dated May 2022 in respect of the Site.
- 3.17 Plan ref: LN-LP-01 Rev A dated 11th February 2022 in respect of the Site (Site Context Plan).
- 3.18 Draft Design and Access Statement incorporating Planning Statement, February 2025.
- 3.19 Illustrative Landscape Masterplan prepared by The Landscape Consultancy dated February 2025.

BACKGROUND

4. The Site comprises 0.49 hectare, predominantly rectangular shaped parcel of land on the northern side of Ragged Hall Lane, which was formerly in agricultural use, providing vehicular access for agricultural machinery from Ragged Hall Lane to fields to the north of the site. I am told that it is the subject of regular maintenance and thus is a managed area.
5. The Site is at the edge of the settlement of Chiswell Green, which is categorised as a village, positioned between existing residential development to the east (no. 84) and west (108 & 110) along Ragged Hall Lane. I am told that it 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).
6. The Site benefits 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. 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.
7. 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. There are no statutory heritage designations associated with the application site or the wider area. A Grade II Listed Building, 'Old Cuckmans', is 55m to the southwest of the Site but is screened by 'Orchard Cottage' and mature boundary vegetation.

- 8. The Site and land to the north, west and southwest fall within the Green Belt. However, there are no statutory landscape designations (e.g. National Landscape) associated with it or the wider area. Nor are there any statutory ecological designations. 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 and extends to an area of 18 hectares. It is an Asset of Community Value and ancient woodland. I am told that it performs a highly effective function to control and/or limit the potential for Chiswell Green to be extended to the west.
- 9. The Site is within Flood Zone 1. A pre-existing vehicular access point is located on the southeast boundary which allows for safe ingress and egress of vehicles into the site. I have been provided with a figure which illustrates the location of the Site:

Figure 2. The appeal site falls within the built-up area of Chiswell Green based on the ONS dataset



- 10. I have also been shown an indicative layout for the proposed scheme:



- 11. The proposed application would follow a previous outline planning application for 7 serviced plots for self-build and custom housebuilding (all matters reserved other than access) (ref: 5/2024/0144) ('the Previous Application'). St Albans City & District Council ('the Council') failed to consider the Previous Application within the relevant time period resulting in a non-determination appeal being lodged on 24th May 2024. That Appeal was determined under the written representations procedure and dismissed by Inspector N Bowden BA (Hons) Dip TP MRTPI in their Decision Letter ('DL') dated 20th January 2025 ('the Appeal Decision').

OPINION

12. I have very carefully considered the documentation set out at paragraph 3 above.

13. Paragraph 153 of the NPPF is clear that:

“When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt, including harm to its openness. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. ‘Very special circumstances’ will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations”.

14. Footnote 55 states in relation to the first sentence of paragraph 153 that this is *“other than in the case of development on previously developed land or grey belt land, where development is not inappropriate”*. It is plain, therefore, that substantial weight is not to be given to any harm, including harm to openness, where the land is grey belt and not inappropriate development.

15. This should be read together with paragraph 155, introduced through the newest iteration of the NPPF in December 2024, which provides further exceptions to the usual rule that development in the Green Belt is inappropriate by definition. Paragraph 155 states that:

“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 proposed 56;

c. The development would be in a sustainable location, with particular reference to paragraphs 110 and 115 of this Framework 57; and

d. Where applicable the development proposed meets the ‘Golden Rules’ requirements set out in paragraphs 156-157 below”

16. Pausing here, it is therefore clear that it is not enough for land to be defined as ‘Grey Belt’ in order to meet the stated exception. The development must also meet the rest of the criteria at a-d above to the extent that it is relevant.

17. Of those criteria, criterion d does not apply unless the proposed development is *“major development involving the provision of housing”*. That is clear when reading paragraphs 156 of the NPPF, which states that:

“156. Where major development involving the provision of housing is proposed on land released from the Green Belt through plan preparation or review 58, or on sites in the Green Belt subject to a planning application 59, the following contributions (‘Golden Rules’) should be made:

a. affordable housing which reflects either: (i) development plan policies produced in accordance with paragraphs 67-68 of this Framework; or (ii) until such policies are in place, the policy set out in paragraph 157 below;

b. necessary improvements to local or national infrastructure; and

c. the provision of new, or improvements to existing, green spaces that are accessible to the public. New residents should be able to access good quality green spaces within a short walk of their home, whether through onsite provision or through access to offsite spaces”.

(bold my emphasis)

18. Footnote 59 is of no relevance to the Application. The term “*major development*” in this context is to be interpreted in line with the definition in the Annex 2 Glossary to the NPPF:

“Major development 91: For housing, development where 10 or more homes will be provided, or the site has an area of 0.5 hectares or more. For non-residential development it means additional floorspace of 1,000m² or more, or a site of 1 hectare or more, or as otherwise provided in the Town and Country Planning (Development Management Procedure) (England) Order 2015”

19. The relevance of this definition to paragraph 156 of the NPPF is clear from footnote 91 to the definition which provides an exception insofar as the operation of the same: “*other than for the specific purposes of paragraphs 190 and 191 in this Framework*”. Paragraphs 190-191 relate to applications for development within National Parks, the Broads and National Landscapes as well as within areas defined as Heritage Coast. The Application does not fall within such an exception.

20. Applying the above definition, mindful that the Application is for 7 serviced plots and relates to a site comprising 0.49 hectares, it is clear that it would not constitute major development and, accordingly, it does not need to be demonstrated that it meets the ‘Golden Rules’ requirements.

21. I now turn to consider each of the remaining criterion in respect of the proposed development.

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

22. Criterion a) has two parts to it. The first requires one to consider whether the proposed development would utilise ‘Grey Belt’. If this is satisfied, then one moves to consider if the development would fundamentally undermine the purposes (taken together) of the remaining Green Belt across the area of the plan.

Is the Land ‘Grey Belt’?

23. ‘Grey Belt’ is defined in the Annex 2 Glossary of the NPPF:

*“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.”*

24. The focus of this test is on the land which comprises the site in question. It is clear by the inclusion of the words “*and/or*” that for such land to be deemed ‘Grey Belt’, it does not need to constitute previously developed land (‘PDL’). That the Site is not PDL does not therefore preclude it from being considered ‘Grey Belt’.

25. What does need to be demonstrated is that the Site “*does not strongly contribute to any of purposes (a), (b) or (d) of paragraph 143*”. A site can therefore contribute to those purposes and still be Grey Belt; it is a matter of planning judgement whether or not such contribution is strong. Moreover, a site does not need to strongly contribute to all of the stated purposes due to the use of the words “*any*” and “*or*” in order to fail to meet the exception.

26. Paragraph 143 of the NPPF states:

*“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”.*

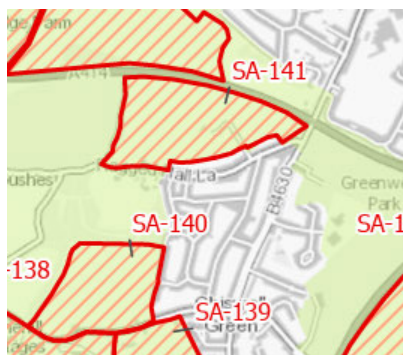
27. Accordingly, the focus of the definition in Annex 2 is on whether there is a strong contribution to a) to check the unrestricted sprawl of large built-up areas; b) to prevent neighbouring towns merging into one another; or d) to preserve the setting and special character of historic towns.

28. Before assessing the Site against these criteria, I note that in their comments to the Planning Inspectorate dated 3rd January 2025 in the recent appeal relating to the Site (ref: APP/B1930/W/24/3345004) the Council stated that:

“Given its location, the Appeal site does not a) check the unrestricted sprawl of large built-up areas; b) prevent neighbouring towns merging into one another; or d) preserve the setting and special character of historic towns as outlined in para.143.

Whilst accepting that the land now falls under the definition of ‘grey belt’ development here would be at odds with the Green Belt’s essential characteristics of openness and permanence...”

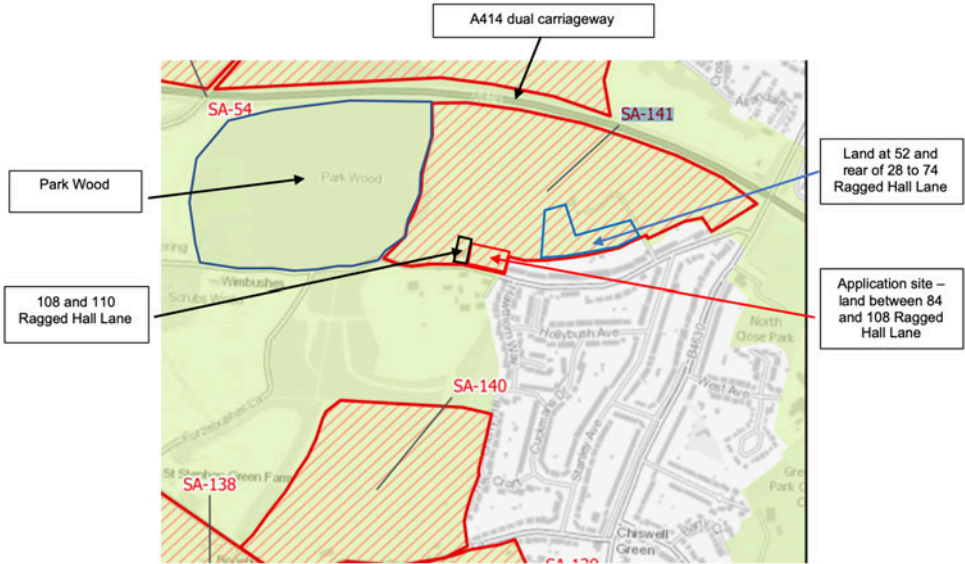
29. I will deal below with the relevance of the latter of the above comments insofar as openness and permanence; but it is clear that the Council agrees with those instructing me that the Site comprises Grey Belt.
30. Nonetheless, I have carefully considered the documentation with which I have been provided in order to come to my own view on the evidence.
31. The Council’s evidence base in respect of Green Belt is set out on its website at: <https://www.stalbans.gov.uk/green-belt-documents>. It would appear from the same that the most recent evidence base in respect of the Green Belt in the District is the Stage 2 Green Belt Review dated June 2023 authored by Arup. Section 1.1 of the document sets out the ‘Study Purpose’ and states that *“it is intended 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”*. Section 1.2 notes that *“the purpose of a GBR is to provide evidence of how different areas of Green Belt perform against the Green Belt purposes, as set out in the National Planning Policy Framework (NPPF, 2021)”*. I acknowledge that there have been two further iterations of the NPPF since the study was published less than two years ago; however, the five purposes of the Green Belt have not changed in those subsequent iterations such that in my view the Green Belt Review is a helpful document in determining the extent to which both the Site and the remaining Green Belt in the District performs against those purposes¹.
32. Section 3.1 notes that St Albans is *“tightly constrained by the Metropolitan Green Belt”* and that *“over 81% of the district comprises land in the Green Belt (equating 13,141 hectares)”*. Moreover, that *“Green Belt boundaries in the district have not altered since the adoption of the District Local Plan Review in 1994”*.
33. The closest settlement to the Site is Chiswell Green which is defined as a ‘Large Village’². The Site falls within sub-parcel SA-141 in the Green Belt Review, illustrated on Figure 4.7 from which its close proximity to Chiswell Green can be seen:



¹ The study is clear that it assesses the entirety of the St Albans Green Belt: see for example this expressed on page 2.

² See Table 3.1 of the Green Belt Review on page 7.

34. I understand from my instructions and the documentation referenced above that sub-area SA-141 has a number of physical features which serve to enclose it including Park Wood (western extent of SA-141 – see paragraph 8 above), the A414 dual carriageway (northern extent of SA-141) and the northern settlement boundary of Chiswell Green (southern extent of SA-141). The following figure assists in illustrating the site context:



35. The Green Belt Review states that “*all sub-areas were visited to understand their immediate context, character and boundary features, and to refine initial desktop analysis. The site visit sought to gather information about the sub-areas to inform the assessment*”. Further details about the visits are set out at section 4.4 with detail as to the assessment of the sub-areas at section 4.5.

36. In assessing each sub-area against the five purposes at now paragraph 143 of the NPPF, the Green Belt Review applied a score the meanings for which are set out in Table 4.3:

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

37. I agree with those instructing me that when considering the wording of the Annex 2 definition for Grey Belt, it is logical to conclude that a score of 0-3 against a particular purpose would not suggest that the land strongly contributes toward it.

38. Turning to the assessment of sub-area 141, the following scoring was applied against Green Belt purposes a), b) and d):

38.1 a) – a score of 0 – does not meet criterion (see Table 5.1 and Table 5.2 on pages 48-49).

38.2 b) – a score of 3 – meets criterion (see Table 5.3 on page 54). The explanatory text prior to the table states that “33 sub-areas meet this purpose moderately, whilst 12 meet the purpose strongly as they form almost the entire gap between settlements and hence play an essential role in preventing settlements from merging”. Sub-area SA-141 is one of the 33 sub-areas referenced and therefore the assessors plainly considered it to only meet purpose b) “moderately”.

38.3 d) - a score of 0 - does not meet criterion (see Table 5.5 on page 60).

39. I appreciate that sub-area SA-141 comprises more land than just the Site and that when considering the definition at Annex 2 to the NPPF, it is the Site that is of relevance. I am told that the Site equates to 2.45% of the total area within sub-parcel SA-141. Given that the Green Belt Review illustrates that the whole of sub-area SA-141 does not strongly contribute to purposes a), b) or d) it is difficult to see how the Site in isolation would. Nonetheless, those instructing me have carried out a site-level appraisal which I have seen³. That appraisal seeks to apply the assessment criteria set out in the Green Belt Review for uniformity. Briefly:

39.1 In respect of Purpose a)⁴, the Green Belt Review considers two criteria: a) Land parcel is located at the edge of a discrete built-up area; and 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.

39.2 With regard a), those instructing me have responded ‘no’. I have considered the appropriateness of this response. The Green Belt Review explains that for a ‘yes’ response the sub-area would need to be “located at the edge of a large built-up area with physical or perceptual connections”. It lists what it considers to be large built-up areas at Table 4.4 on page 31 as comprising St Albans and Harpenden. On that same page⁵, the document explains that “some sub-areas may not physically abut a large built-up area but may be visually or functionally linked to it. Therefore, judgement of whether a sub-area is at the edge of a large built-up area was taken on a flexible basis utilising professional judgement”. Applying this to the Site alone, it does not appear that it meets this criterion, and I consider the response of those instructing me to be sensible. The Green Belt Review continues to explain that “any sub-area that categorised as a ‘no’ for criterion (a), was automatically scored zero for criterion (b)”. On that basis, when considering the Site alone, a score of 0 would be appropriate.

³ A table which is headed ‘Green Belt appraisals at the site level’.

⁴ Referred to as Purpose 1a and Purpose 1b in the Green Belt appraisals at the site level table.

⁵ Continuing on page 32.

39.3 In respect of Purpose b)⁶, those instructing me have scored the Site 1, which Table 4.8 on page 35 of the Green Belt Review describes as being applicable (in the context of the sub-areas) where it forms “a ‘less essential’ gap, or the less essential part of a gap, which is of sufficient scale and character that development is unlikely to cause merging between settlements”. To put this into context, pursuant to the assessment criteria, a sub-area would only ‘meet’ the criterion (a score of 3) if it formed “a gap, or part of a gap, where there may be scope for some development, but where the overall openness and the scale of the gap is important to restricting merging”. In order to be said to meet the criterion ‘strongly’ (a score of 5) a sub-area would need to form “an ‘essential gap’, where development would significantly visually or physically reduce the perceived or actual distance between settlements”. It is noted that this latter definition would not preclude all development nor any reduction in perceived or actual distance between settlements, the key word being “significantly”. A score of 4, part way between the two descriptions above, would still only be deemed by the Green Belt Review to meet the criterion “relatively strongly”, and would therefore not conflict with the Annex 2 definition of Grey Belt land.

39.4 Table 4.7 on page 34 of the Green Belt Review sets out what constitutes a settlement for the purposes of assessment, and I note that this includes Chiswell Green. The document explains that:

“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”.*

39.5 The Strategic Gaps identified in the Stage 1 assessment are set out on page 34 of the Green Belt Review and do not appear to reference Chiswell Green.

39.6 On page 35 of the Green Belt Review it is further explained that the assessment:

“...considered the openness of the Green Belt, in terms of whether it can physically or visually accommodate growth without fundamentally compromising the gaps between settlements. In determining the extent to which a gap prevents coalescence, various factors were taken into consideration including distance, natural or man-made barriers and topography”.

39.7 I have not seen any evidence to suggest that the Site forms an essential gap where the proposed development would significantly reduce the perceived or actual distance between

⁶ Referred to as Purpose 2 in the Green Belt appraisals at the site level table.

settlements, per the guidance above thus it could not reasonably be said to strongly contribute to this purpose within the meaning of the Annex 2 definition. I note that the Council also does not consider this to be the case given their comments to the Planning Inspectorate dated 3rd January 2025 in the recent appeal relating to the Site (ref: APP/B1930/W/24/3345004).

39.8 In respect of Purpose d)⁷, those instructing me have scored the Site 0 which Table 4.10 on page 37 of the Green Belt Review states, in respect of the sub-area, means it does not abut an identified historic place or provide views to a historic place and does not meet this purpose. On page 36, it explains that:

“Purpose 4 considers the extent to which a sub-area protects land in the immediate and wider context of a historic town. Two aspects are of particular importance with regard to assessment of Green Belt against purpose 4:

- The role of the sub-area in providing immediate context for the historic town, either by close proximity or physical overlapping; and*
- Contribution to views or vistas between the historic town and the sub-area, looking both inwards and outwards where public viewpoints exist”.*

39.9 It goes on to note that *“the settlements of St Albans and Harpenden were identified as being of relevance to this assessment, as the only two towns within the adopted settlement hierarchy. While it is recognised that there are historic villages with clear relationship with surrounding Green Belt, purpose 4 relates to higher order settlements”.* The guidance also states that *“as with many settlements today, only parts of St Albans and Harpenden are considered historic. Thus, the defined Conservation Areas for St Albans and Harpenden, were used in the application of the assessment criteria”.*

39.10 A score of 3, which would only meet the criterion not strongly meet it, applies where the sub-area *“plays a role in maintaining the context of a historic place by providing vistas of surrounding countryside from within the place or unbroken vistas into the place from afar or protects open land which has a strong immediate connection with the historic place”.* For a score of 5, the sub-area would have to play *“an important role in maintaining the immediate context of the historic place by providing [unspoilt] vistas of surrounding countryside from within the place or unbroken vistas into the place from afar and protects open land which had a strong connection with the historic place”.*

39.11 From the evidence I have seen, it would not appear that when applying such criteria specifically to the Site, it would meet even a score of 3 thus could not reasonably be said to strongly contribute to this purpose within the meaning of the Annex 2 definition. I note that the Council also does not consider this to be the case given their comments to the Planning Inspectorate dated 3rd January 2025 in the recent appeal relating to the Site (ref: APP/B1930/W/24/3345004).

⁷ Referred to as Purpose 4 in the Green Belt appraisals at the site level table.

40. Drawing all of the above together, it is clear to me that the Site “*does not strongly contribute to any of purposes (a), (b), or (d) in paragraph 143*” and also “*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*” such that the Site meets the definition of ‘Grey belt’ at Annex 2 of the NPPF. Accordingly, it is clear that “*the development would utilise grey belt land*” and thus meet the first part of the first criterion (criterion a)) to paragraph 155 of the NPPF.

Would the development fundamentally undermine the purposes (taken together) of the remaining Green Belt across the area of the plan?

41. This question has a different focus to Annex 2 of the NPPF, which I have analysed in respect of the Site above. Instead of focusing purely on the Site and only three of the purposes in paragraph 143⁸, paragraph 155 a) is much broader. All five of the purposes are to be considered in combination in the context of the remaining Green Belt across the area of the plan.

42. 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. As stated above, the Site sits within SA-141 which scored as follows in respect of the first four purposes in the Green Belt Review:

- 0 in respect of Purpose a) – see Table 5.1 and Table 5.2 on pages 47-48.
- 3 in respect of Purpose b) – see Table 5.3 on page 54.
- 3 in respect of Purpose c) - I note that I cannot see SA-141 in Table 5.4 on page 57 however it is coloured dark orange on page 59 which the key suggests equates to a score of 3.
- 0 in respect of Purpose d) – see Table 5.5 on page 60.

43. With regard purpose e), paragraph 4.5.1 of the Green Belt Review explains that this was not included in the Stage 1 review as “*as assessment against this purpose would not enable a distinction between sub-areas as all Green Belt achieves the purpose. It is difficult to distinguish the individual contribution that a single parcel of land makes to encouraging the re-use of urban land*”. There has therefore been no consideration, it would seem, as to SA-141 in isolation and the part it plays in assisting in “*urban regeneration, by encouraging the recycling of derelict and other urban land*”.

44. The site-specific Green Belt appraisal prepared by those instructing me has already been discussed above in respect of purposes a), b) and d).

45. As to purpose c), “*to assist in safeguarding the countryside from encroachment*”, a score of 2 is attributed when considered against the assessment criteria in the Green Belt Review. That

⁸ And noting that the Site would only need to strongly contribute towards one of them to not be Grey Belt land.

document explains how the assessment considered the character of each sub-area, and scores demonstrate the range of urban to rural characters present across the sub-areas (paragraph 5.4, page 57). On page 35, it states that the purpose “*considered openness (in terms of extent of existing built development which may encroach on the sense of spatial and visual openness due to urbanising influences) and the degree to which the Green Belt can be characterised as countryside*”. It goes on to explain how the percentage of built form was calculated, defining the different characters assessed. A score of 3, which would only meet the criterion, would exist “*where the sub-area contains less than 10% built form and/or possesses a largely rural character*”. This percentage would need to fall to less than 5% or the character would need to be “*strong unspoilt rural*” for a score of 4 and the percentage would need to be less than 3% with a “*strong unspoilt rural character*” (both would need to be met) for a score of 5. Those instructing me note that the Site itself would fall within a score of 2 “*contains less than 15% built form and/or possesses a semi-urban character*” which appears reasonable given that built development is present to both the east and west of the Site.

46. Taking these site-specific assessments in respect of the purposes and considering them, together with purpose e), in the context of the remaining Green Belt, I note that Table 5.6 on page 63 of the Green Belt Review is of some guidance in setting out the overall NPPF Performance findings based on the previous purpose 1-4 assessments. In the context of SA-141, which is larger than just the Site, the outcome is “*moderately*”, in respect of which page 37 explains that “*any sub-area scoring moderately (3) against at least one NPPF purpose and failing to score strongly or very strongly (4 or 5) against any purpose was judged as meeting the purpose assessment criteria moderately*”.
47. Table 5.7 sets out the Strategic Green Belt Assessment Summary, its introductory text noting that “*an additional qualitative assessment was undertaken to identify the role of sub-areas as part of the wider Green Belt. It is possible for a sub-area not to meet the NPPF purposes as assessed in section 5.6 but still perform an important strategic role*”. Paragraph 4.5.2 on page 38 similarly notes that “*for each sub-area, an overall conclusion was made on the level of contribution to the wider strategic Green Belt – important, partly important or less important. This was judged qualitatively, based on a composite judgement of the factors described above*”. Paragraph 4.5.2 explains that those qualitative assessments considered:
- *What is the role of the sub-area in the context of the GBA Strategic Land Parcel within which the sub-area is located? How does the performance of these areas compare? How important is the sub-area to the performance of the Strategic Land Parcel?*
 - *Would the potential release of a sub-area impact on the assessment of adjacent sub-areas? For example, would the scores of the adjoining sub-area(s), be likely to change as a result of the sub-division and if so to what extent?*
 - *Would the potential release of a sub-area harm the long-term protection or integrity of the surrounding Green Belt?*

For each sub-area, an overall conclusion was made on the level of contribution to the wider strategic Green Belt – important, partly important or less important. This was judged qualitatively, based on a composite judgement of the factors described above.

48. SA-141 is identified as ‘Important’, one of 122 sub-areas. But there is not a great deal of information that I can see within the Green Belt Review as to why this was the case. In any event, I note that the Site is an even smaller part of the overall Green Belt across the area of the plan than sub-area SA-141. It extends to 0.49 hectares which I am told equates to 0.0037% of the remaining Green Belt. Those instructing me have considered the “*Overall NPPF Purpose Performance*” in the context of the Site and determined it to be ‘Weak’, compared with the sub-area’s performance assessed in the Green Belt Review as ‘Moderately’. This appears to be reasonable based on the above. Those instructing me have also considered the Site’s Strategic Role in the context of the Green Belt as a whole in the plan area and judged it ‘less important/negligible’ compared with ‘important’. Again, this appears to be reasonable when considering the above and, in particular, the very small percentage of the overall Green Belt in the plan area which the Site comprises.
49. I have been instructed that an Illustrative Landscape Masterplan is submitted as supporting material to the outline application which is structured around two primary planting approaches: woodland planting and screen planting. If planning approval is granted, the requirement to submit landscaping details as a Reserved Matter would be secured by planning condition, such that there would be a clear and demonstrable mechanism through the development management process to ensure that the proposed scheme is the subject of appropriate landscape containment.
50. I remind myself that to meet criterion a) of the NPPF, the proposal would need to not only undermine the purposes (taken together) of the remaining Green Belt across the area of the plan but fundamentally so. I consider that to be a high test given that ‘fundamental’ is something of central importance, a necessary base or at the very core. In my view, even if a Site were considered to play an ‘important’ strategic role it would not necessarily follow that the purposes of the remainder of the Green Belt across the area of the Plan would be fundamentally undermined. Considering all of that above, in my view the proposed development meets criterion a) of paragraph 155.
51. It is unsurprising that the Council appears to be of the same view as me, given their comments to the Planning Inspectorate dated 3rd January 2025 in the recent appeal relating to the Site (ref: APP/B1930/W/24/3345004), insofar as concluding that “*a site of this scale, 7 houses, would not undermine the purposes of the Green Belt across the whole plan area*”.

b. There is a demonstrable unmet need for the type of development proposed

52. Footnote 56 of the NPPF sets out what is meant by criterion b) where the application involves the provision of housing, and states:

“56 Which, in the case of applications involving the provision of housing, means the lack of a five year supply of deliverable housing sites, including the relevant buffer where applicable, or where the Housing Delivery Tests was below 75% of the housing requirement over the previous three years; and

in the case of traveller sites means the lack of a five year supply of deliverable traveller sites assessed in line with Planning Policy for Traveller sites”

53. This appears to be a closed list given the use of the word “*means*” and absence of any word such as “*includes*” which would indicate that a list is not exhaustive.

54. The Council publishes its annual monitoring reports on its website: <https://www.stalbans.gov.uk/authoritys-monitoring-reports>. The most recent annual monitoring report for the period 1st April 2022 to 31st March 2023 indicates that the Council’s supply is as follows (see paragraph 3.16):

“4 year housing land supply at 1,066 Dwellings Per Annum (888 Dwellings per Annum + 20% Buffer) at 1 April 2023 (for planning applications which are submitted and valid from 19 December 2023 onwards): 1.7 years supply

5 year housing land supply at 1,066 Dwellings Per Annum (888 Dwellings per Annum + 20% Buffer) at 1 April 2023 (for planning applications which were submitted and valid before 19 December 2023): 1.9 years supply”.

55. A housing supply figure of 1.7 was noted by a previous Inspector at paragraph 17 of the most recent Appeal Decision relating to the Site APP/B1930/W/24/3345004⁹. I have no evidence before me which suggests that the Council can now demonstrate a five-year supply of housing in line with the NPPF 2024. Accordingly, criterion b) is met.

56. I should note that those instructing me also suggest that the Council has an unprecedented shortfall in self-build and custom housebuilding provision against the statutory duty set out in the Self-build and Custom Housebuilding Act 2015 (as amended). I am not required to consider the same in order to come to a view as to whether paragraph 155 of the NPPF is met, which I have already concluded it is; however, I note that any shortfall in provision of self-build and custom housebuilding would be a material consideration to be considered in the planning balance in determining the Application.

c. The development would be in a sustainable location, with particular reference to paragraphs 110 and 115 of this Framework

57. I note at the outset that this criterion cross references to Footnote 57 of the NPPF; however, it is of no relevance to this Application. I therefore turn to first set out what is contained at paragraphs 110 and 115 of the NPPF in order to fully understand what is required by criterion c).

58. Paragraph 110 of the NPPF states that

“110. The planning system should actively manage patterns of growth in support of these objectives. Significant development should be focused on locations which are or can be made sustainable, through

⁹ Appeal decision dated 20th January 2025.

limiting the need to travel and offering a genuine choice of transport modes. This can help to reduce congestion and emissions, and improve air quality and public health. However, opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and this should be taken into account in both plan-making and decision-making”.

59. The objectives which are referenced at paragraph 110 are those in paragraph 109:

“109. Transport issues should be considered from the earliest stages of plan-making and development proposals, using a vision-led approach to identify transport solutions that deliver well-designed, sustainable and popular places. This should involve:

- a) making transport considerations an important part of early engagement with local communities;*
- b) ensuring patterns of movement, streets, parking and other transport considerations are integral to the design of schemes, and contribute to making high quality places;*
- c) understanding and addressing the potential impacts of development on transport networks;*
- d) realising opportunities from existing or proposed transport infrastructure, and changing transport technology and usage – for example in relation to the scale, location or density of development that can be accommodated;*
- e) identifying and pursuing opportunities to promote walking, cycling and public transport use; and*
- f) identifying, assessing and taking into account the environmental impacts of traffic and transport infrastructure – including appropriate opportunities for avoiding and mitigating any adverse effects, and for net environmental gains”*

60. I note that the Application does not propose significant development as referenced in paragraph 110 and that the paragraph acknowledges that *“opportunities to maximise sustainable transport solutions will vary between urban and rural areas”*, which should be taken into account.

61. Paragraph 115 of the NPPF states that:

“115. In assessing sites that may be allocated for development in plans, or specific applications for development, it should be ensured that:

- a) sustainable transport modes are prioritised taking account of the vision for the site, the type of development and its location;*
- b) safe and suitable access to the site can be achieved for all users;*
- c) the design of streets, parking areas, other transport elements and the content of associated standards reflects current national guidance, including the National Design Guide and the National Model Design Code; and*
- d) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree through a vision-led approach”.*

62. As I interpret criterion c) of paragraph 155, it does not require one to demonstrate compliance with every element of paragraphs 110 and 115 of the NPPF. Rather, reference to those paragraphs is plainly directed under on the basis of considering the extent to which the *“location”* for the development is sustainable.

63. In their comments to the Planning Inspectorate dated 3rd January 2025 in the recent appeal relating to the Site (ref: APP/B1930/W/24/3345004), the Council suggested that the Site was not in a sustainable location supported by a response from Hertfordshire County Council. I have seen the County Council's letter dated 8th May 2024 which refers first to a previous application (5/2022/1517) for the Site whereby they had concluded that the site was in a "generally unsustainable area" as well as not having footways fronting it. It goes on to deal with the application the subject of the appeal (5/2024/0144) noting that the same transport statement is produced (dated May 2022) which includes a drawing dealing with old design guidance, several of the standards no longer being applicable. This appears to have informed the County Council's decision as to why the proposed development at that time was not sustainable. What is not entirely clear to me is why the *location* was not considered to be sustainable.

64. In focusing on the sustainability of the *location*, my attention has been drawn to an appeal decision relating to the Site dated 9 October 2023 (reference APP/B1930/W/23/3320280) wherein at paragraph 17 the Inspector concluded that the proposed housing would be in a sustainable area:

"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"

65. That is plainly highly relevant to the question of sustainability now, particularly in the context of criterion c) to paragraph 155.

66. In addition to the above, those instructing me point to a number of other recent appeal decisions in the locality. Of those decisions, Appeal Decisions APP/B1930/W/22/3313110 & APP/B1930/W/22/3312277 (recovered) are particularly helpful in that paragraph 246 of the Inspector's report notes that "*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*". I am not aware that this position has changed.

67. I am told that the Site is within walking distance of everyday services and facilities, to include the Marlborough Science Academy, Kiligrew Primary and Nursery School, Midway Surgery and a Co-op foodstore. The Site benefits 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. 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. I have been provided with a summary of the public transport services accessible from the bus stops located at Watford Road to support these instructions:

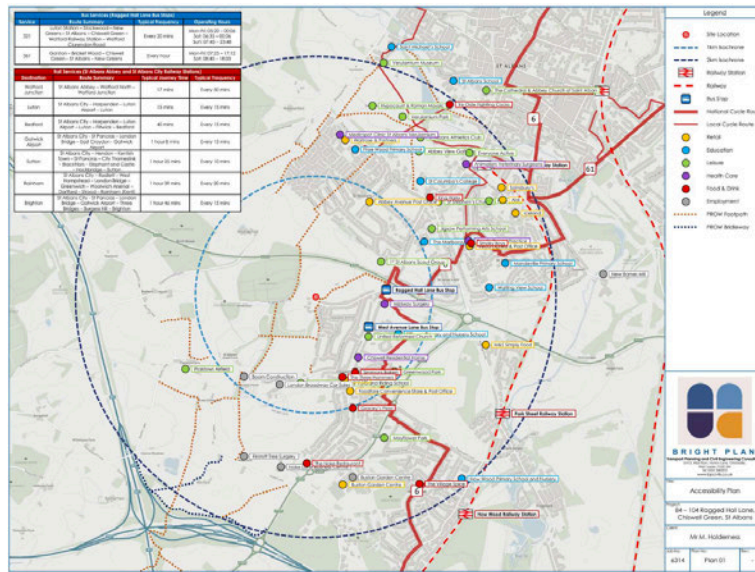
Service	Route summary	Typical frequency	Operating hours
321	Luton Station – Stockwood – New Greens – St Albans – Chiswell Green – Watford Railway Station – Watford Clarendon Road	Every 20 mins	Mon – Fri: 05:20 – 00:06 Sat: 06:35 – 00:06 Sun: 07:45 – 23:48
361	Garston – Bricket Wood – Chiswell Green – St Albans – New Green	Every hour	Mon – Fri: 07:25 – 17:12 Sat: 08:40 – 18:03

68. In terms of cycling routes, I am instructed that National Cycle Route (NCN) No. 6 is situated circa 600m to the east of the site providing a cycle route to Harpenden to the north and Watford to the south. NCR 6 connects with NCR 16 within St Albans, facilitating access to Hatfield. Additionally, routes 6 and 61 connect to the wider NCR network, including NCR 12 and NCR 57.

69. As to rail, I am told that St Albans Abbey railway station is located approximately 2km to the north of the site and provides regular services to Watford Junction. St Albans City railway station is located approximately 4.4km to the north of the site, providing additional services to Luton, Bedford, Gatwick Airport, Sutton, Rainham and Brighton. I have been provided with a summary of services to illustrate the extent of connectivity:

Service	Route Summary	Typical Journey Time	Typical Frequency
Watford Junction	St Albans Abbey – Watford North – Watford Junction	17 mins	Every 50 mins
Luton	St Albans City – Harpenden – Luton Airport - Luton	15 mins	Every 15 mins
Bedford	St Albans City - Harpenden – Luton Airport – Luton – Flitwick - Bedford	40 mins	Every 15 mins
Gatwick Airport	St Albans City – St Pancras – London Bridge – East Croydon – Gatwick Airport	1 hour 8 mins	Every 15 mins
Sutton	St Albans City – Hendon – Kentish Town – St Pancras – City Thameslink – Blackfriars – Elephant and Castle – Hackbridge - Sutton	1 hour 25 mins	Every 10 mins
Rainham	St Albans City – Radlett – West Hampstead – London Bridge – Greenwich – Woolwich Arsenal – Dartford – Strood – Rainham (Kent)	1 hour 39 mins	Every 20 mins
Brighton	St Albans City – St Pancras – London Bridge – Gatwick Airport – Three Bridges – Burgess Hill - Brighton	1 hour 46 mins	Every 15 mins

70. Finally, I have seen an Accessibility Plan for the site which was contained within the Transport Assessment dated May 2022 prepared by Bright Plan in the form of the which is an appended figure to the TA which, provided the services and amenities remain, also assists:



Accessibility Plan of the site. Source: Bright Plan Transport Assessment (May 2022)

71. Taking the above together, in my view it is arguable that the proposed development would be in a sustainable *location*. Insofar as other concerns raised by the County Council in the context of the previous Application, I note that the previous Inspector was content (see paragraph 25) that the objection could be overcome by a suitably worded condition, an approach with which the parties agreed. I have in any event been informed by those instructing me that highway consultants DHA Planning and Transport have prepared a revised illustrative access arrangement and the proposed inclusion of a 1.2m internal footway (shown indicatively) on a drawing to be submitted in support of the planning application.

72. I have already set out above why, in my view, criterion d) to paragraph 155 cannot apply to this Application. Accordingly, it is my view that it is arguable that the proposed Application would meet the exception at paragraph 155 of the NPPF.

Other Matters

73. I am conscious that, as set out above, the proposed Application follows an unsuccessful appeal in respect of a previous outline planning application for 7 serviced plots for self-build and custom housebuilding (all matters reserved other than access) (ref: 5/2024/0144) at the Site (ref: APP/B1930/W/24/3345004). I am mindful of the principle of consistency in decision making that would apply when determining the Application and, I note, is not limited to the formal decision but extends to the reasoning underlying the same¹⁰. It is not that a decision

¹⁰ See *North Wilts v Secretary of State for the Environment and Clover* [1992] 65 P&CR 137- An inspector must always exercise his own judgment. He is therefore free upon consideration to disagree with the judgment of another but before doing so he ought to have regard to the importance of consistency and to give his reasons for departure from the previous decision; *Dunster Properties Ltd v First Secretary of State and another* [2007] EWCA Civ 236; *DLA Delivery v Baroness Cumberledge OF Newick and another* [2018] EWCA Civ 1305; *Fox Strategic Land and Property Ltd v Secretary of State for Communities and Local Government* [2012] EWCA Civ 1198.

maker cannot make a different decision; but they do need to grasp the intellectual nettle of the disagreement and give sufficient reasons for any difference.

74. The previous Inspector considered whether the Site constitutes Grey Belt land at paragraph 15 to that decision stating that:

*“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.** The form of development proposed also does not fall within one of the limited exceptions given at policy 1 of the StADP. Accordingly, I conclude that the development is inappropriate development in the Green Belt and would be harmful to its openness both spatially and visually by introducing built form and removing views into the countryside at this sensitive edge-of-village location. In spatial terms, the development would comprise seven new dwellings. The proposal therefore conflicts with policies 1 and 143A of the StADP and provisions of the Framework”.*

75. In my view, it would appear from paragraph 15 of the DL that the Inspector has interpreted and applied Annex 2 of the NPPF as though the land cannot meet the definition of Grey Belt unless it is previously developed. That is incorrect given the presence of the words “*and/or*” within the definition. It is assumed that the Inspector has considered the Site to fall at the first hurdle – i.e. it does not meet the definition of Grey Belt therefore the first part of criterion a) to paragraph 155 is not met meaning the entire paragraph cannot be – but it is not clear if the Inspector has grasped the site-specific focus of the definition in Annex 2 compared with the broader focus of paragraph 155. The Inspector has concluded that the development of the land “*would not check the unrestricted sprawl of a large built-up area, to which its openness makes a strong contribution*” but has not explained why and how beyond the reference to openness. The concept of unrestricted sprawl does not mean that there can be no development at all, and thus no impact on openness, hence why this is an important lack of sufficient reasoning.
76. It is also significant that the Inspector has not reconciled the view of both parties that the land meets the Annex 2 definition of Grey Belt and explained why their view differs. It is unclear if the Inspector has repeated the same error as the Council in considering openness even though the land would otherwise meet the definition of Grey Belt in Annex 2 and then has gone one step further in determining that the land cannot then meet the definition. Paragraph 155 does not operate so as to exclude land from the definition of Grey Belt if its criteria are not met; it is technically possible for land to meet the Annex 2 definition of Grey Belt but not meet the criteria in paragraph 155 albeit perhaps unlikely. I also cannot see where the Inspector has explicitly considered the Council’s Green Belt Review.
77. Those instructing me have drawn my attention to R on the application of Lee Valley Regional Park Authority v Epping Forest District Council & Anor [2016] EWCA Civ 404 where the Court made clear (though in the context of a previous iteration of the NPPF) that where 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 nor do very special circumstances need to be demonstrated. I draw attention in particular to the following:

“17. The first sentence of paragraph 88 of the NPPF must not be read in isolation from the policies that sit alongside it. The correct interpretation of it, I believe, is that a decisionmaker dealing with an application for planning permission for development in the Green Belt must give “substantial weight” to “any harm to the Green Belt” properly regarded as such when the policies in paragraphs 79 to 92 are read as a whole (consistent with the approach taken, for example, in the judgment of Sullivan L.J., with whom Tomlinson and Lewison L.J.J. agreed, in Redhill Aerodrome Ltd. v Secretary of State for Communities and Local Government [2015] P.T.S.R. 274, at paragraph 18). Reading these policies together, I think it is quite clear that “buildings for agriculture and forestry”, and other development that is not “inappropriate” in the Green Belt, are not to be regarded as harmful either to the openness of the Green Belt or to the purposes of including land in the Green Belt. This understanding of the policy in the first sentence of paragraph 88 does not require one to read into it any additional words. It simply requires the policy to be construed objectively in its full context – the conventional approach to the interpretation of policy, as the Supreme Court confirmed in Tesco v Dundee City Council.

18. A fundamental principle in national policy for the Green Belt, unchanged from PPG2 to the NPPF, is that the construction of new buildings in the Green Belt is “inappropriate” development and should not be approved except in “very special circumstances”, unless the proposal is within one of the specified categories of exception in the “closed lists” in paragraphs 89 and 90. There is “no general test that development is appropriate provided it preserves the openness of the Green Belt and does not conflict with the purposes of including land within the Green Belt” (see the judgment of Richards L.J. in Timmins, at paragraphs 30 and 31). The distinction between development that is “inappropriate” in the Green Belt and development that is not “inappropriate” (i.e. appropriate) governs the approach a decision-maker must take in determining an application for planning permission. “Inappropriate development” in the Green Belt is development “by definition, harmful” to the Green Belt – harmful because it is there – whereas development in the excepted categories in paragraphs 89 and 90 of the NPPF is not. The difference in approach may be seen in the policy in paragraph 87. It is also apparent in the second sentence of paragraph 88, which amplifies the concept of “very special circumstances” by explaining that these will not exist “unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations”. The corresponding development plan policy in this case is policy GB2A of the local plan.

19. The category of exception in paragraph 89 with which we are concerned, “buildings for agriculture and forestry”, is entirely unqualified. All such buildings are, in principle, appropriate development in the Green Belt, regardless of their effect on the openness of the Green Belt and the purposes of including land in the Green Belt, and regardless of their size and location. Each of the other five categories is subject to some proviso, qualification or limit. Two of them – the second, relating to the “provision of appropriate facilities for outdoor sport, outdoor recreation and for cemeteries”, and the sixth, relating to the “limited infilling or the ... redevelopment of previously developed sites ...” – are qualified by reference both to “the openness of the Green Belt” and to the “purposes of including land within it”. The five categories of development specified in paragraph 90 are all subject to the general proviso that “they preserve the openness of the Green Belt and do not conflict with the purposes of including land in the Green Belt”.

20. As Dove J. said (in paragraph 61 of his judgment), the fact that an assessment of openness is “a gateway in some cases to identification of appropriateness” in NPPF policy indicates that “once a particular development is found to be, in principle, appropriate, the question of the impact of the building on openness is no longer an issue”. Implicit in the policy in paragraph 89 of the NPPF is a recognition that agriculture and forestry can only be carried on, and buildings for those activities will have to be constructed, in the countryside, including countryside in the Green Belt. Of course, as a matter of fact, the construction of such buildings in the Green Belt will reduce the amount of Green Belt land without built development upon it. But under NPPF policy, the physical presence of such buildings in the Green Belt is not, in itself, regarded as harmful to the openness of the Green Belt or to the purposes of including land in the Green Belt. This is not a matter of planning judgment. It is simply a matter of policy. Where the development proposed is an agricultural building, neither its status as appropriate development nor the deemed absence of harm to the openness of the Green Belt and to the purposes of including land in the Green Belt depends on the judgment of the decision-maker. Both are inherent in the policy.

21. If the policy in the first sentence of paragraph 88 of the NPPF meant that “substantial weight” must be given to the effect a proposed agricultural building would have on the openness of the Green Belt and on the purposes of including land within the Green Belt, the policy in paragraph 89 categorizing such buildings as appropriate development in the Green Belt, regardless of such effects, would be negated. This cannot have been the Government’s intention”.

78. In my view, these principles can be carried across to the newest iteration of the NPPF. Though the exception at paragraph 155 is not entirely unqualified – there are a number of hoops to jump through – this does not require a separate assessment as to impact on openness. In my view, the operation of paragraph 153 and footnote 55 of the NPPF makes this clear; the usual reference to applying substantial weight to any harm to the Green Belt including harm to its openness is explicitly excepted in respect of grey belt land where development is “*not inappropriate*”. Accordingly, the Council were wrong in their submissions in the context of the last application subject to appeal to bring considerations of openness back into play having confirmed that in their view the Site constituted Grey Belt. The Inspector was wrong to the extent that they may have conflated the issue in considering whether the land met the definition. It is unclear if this is what the Inspector is doing at paragraph 16 appears to do this to a degree in referencing impact on openness together with considering a number of the purposes of the Green Belt.

79. I have also considered the extent to which the Inspector has considered the appeal decisions those instructing me referenced in their written submissions on the NPPF 2024. I note that paragraphs 21-23 of the previous appeal decision APP/B1930/W/24/3345004 makes reference to the Inspector having taken account of appeals put forward by the appellant in support of the proposal but it appears that the Inspector was doing so through the guise of their interpretation of the application of the new NPPF discussed above. My assessment above has not drawn heavily on other appeal decisions mindful that the focus for me has been on the extent to which the Site constitutes Grey Belt and the impact of development on the Site in respect of the

remaining Green Belt in the area. However, I briefly note the following points which may also be considered material:

79.1 The recent appeal decision dated 3rd May 2024 in respect of 52 and land rear of 28 to 74 Ragged Hall Lane (ref: APP/B1930/W/23/3331451) concerns a neighbouring site and is therefore material insofar as the Inspector's comments regarding the way in which the A414 and topography of the Green Belt land contributed to their conclusion that limited harm would result to the purpose of checking the unrestricted sprawl of large built-up areas (purpose a) as well as the exercise of control through the development management process¹¹. Moreover, for the same reasons, that limited harm would result to the purpose of preventing neighbouring towns merging (see paragraph 17). I am told that in respect of the Site and proposed Application, the nearest boundary is only 40m from the extent of ownership under the applicant's control and the proposed scheme would not extend beyond the line of existing development on the northern side of Ragged Hall Lane whereas the approved scheme the subject of the aforementioned appeal would 'jut' awkwardly into the wider setting with no definable and/or defensible boundary.

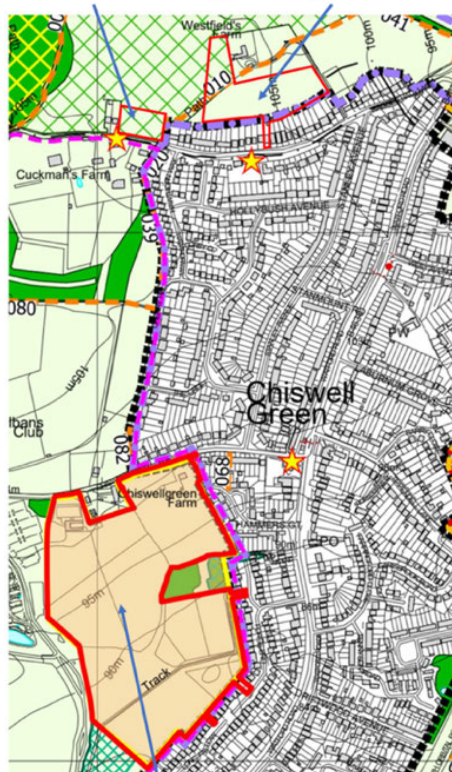
79.2 On 22nd March 2024 the Department for Levelling Up, Housing and Communities allowed two recovered planning appeals (references APP/B1930/W/22/3313110 & APP/B1930/W/22/3312277) for major development in the Green Belt: (1) Chiswell Green South, a proposal by Cala Group Limited and Redington Capital 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. I have been provided with a figure by those instructing me which annotates the site context plan prepared in support of the permitted scheme at Chiswell Green South showing the Site in context. Chiswell Green South comprises 14 hectares thus is materially larger (28.5 times) than the Site. It is noted that the Inspector at paragraph 18 concluded that the scheme would result in "*moderate harm to checking unrestricted sprawl and very limited harm to preventing neighbouring towns merging into one another*"¹².

¹¹ "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".

¹² "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".

Site at land between 84 and 108 Ragged Hall Lane, 0.49 hectares, containment on three sides (south, east and west). Northern boundary will be landscaped and does not project beyond existing curtilages

Site at 52 and land rear of 28-74 Ragged Hall Lane, 1.95 hectares. No containment along eastern and western boundaries. Limited containment to the north (the farm). Limited harm to checking unrestricted sprawl



Land to the south of Chiswell Green, 14 hectares, moderate harm to checking unrestricted sprawl. Containment to the east. Partial containment to the west.

79.3 My attention has also been drawn to an appeal decision regarding Land between Bluebell Grange and Harkaway, Kinsbourne Green (ref: APP/B1930/W/24/3349774) dated 6th February 2025. Though for a single dwelling, it is interesting to note that Hertfordshire County Council did not object, and though the relevant part of the lane was without paved footpaths or street lighting. The Council agreed that the proposal would utilise grey belt land but did not agree that the location was sustainable. However, the Inspector, in considering paragraphs 110 and 115 of the NPPF (see paragraphs 8-10) noted that the Site was “*within a loose group of existing houses and is not in any less of a sustainable location than them*”. The Inspector also noted the distance

CONCLUSION

80. I do not propose to restate what has been outlined above, which should be clear. I trust that I have covered all those matters on which I was asked to advise. Should you have any questions or queries relating to my advice, or require any further advice, please do not hesitate to contact me. Thank you for your instructions.

19th FEBRUARY 2025

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