



Appeal Decision

Inquiry held on 5–8 and 12–13 February 2013

Site visit made on 8 and 13 February 2013

by Elizabeth Fieldhouse DipTP DipUD MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 12 March 2013

Appeal Ref: APP/B1930/A/12/2180486

Sewell Park, land rear of 112–156b Harpenden Road, St Albans, AL3 6BZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Hunston Properties Limited against the decision of St Albans City & District Council.
 - The application Ref 5/11/2857, dated 18 November 2011, was refused by notice dated 10 February 2012.
 - The development proposed is the erection of 116 dwellings and 72 bed care home and formation of new accesses to Harpenden Road, 2 tennis courts and public open space.
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Decision

1. The appeal is dismissed.

Application for costs

2. At the Inquiry applications for costs were made by St Albans District Council against Hunston Properties Limited and by Hunston Properties Limited against St Albans District Council. These applications are the subject of separate Decisions.

Procedural matters

3. The application is in outline with access, layout and scale to be considered, leaving appearance and landscaping as reserved matters.
4. The application submitted to the Council included the provision of 35% of the units (41 units) as affordable. This percentage was increased after determination by the Council for the lodging of the appeal to 53% (61 units). The increase in affordable housing provision did not result in any changes to the proposed layout with the increase provided in intermediate (shared ownership) dwellings. While it is not evident that any particular third party would be affected by the increase in affordable housing provision, third parties did not have the opportunity to see the location of the additional units as there was no plan submitted until part way through the inquiry. From the plan, it was evident that there would be several concentrations of affordable housing. To determine the appeal on a basis different from that consulted upon and considered by the Council could prejudice third parties and would therefore be unreasonable.
5. Planning permission was refused and the appeal dismissed on 3 July 2012 (APP/B1930/A/11/2164231) for the same proposal with 35% of the units to be affordable. In addition to the harm by reason of inappropriateness, that

Inspector found that both parts of the development would cause harm to openness, two of the purposes of including land within the Green Belt and the character and appearance of the area. This harm was not clearly outweighed by other considerations so as to amount to the very special circumstances to justify inappropriate development. The other considerations in relation to the residential development were the five year supply of housing land, the lack of an up to date development plan and the community benefits. In relation to the care home, it was the need for care home beds.

6. The Appellant raised with the Planning Inspectorate various concerns over several aspects of that Inspector's decision, and I am aware of the Inspectorate's response to that complaint, to which I have had regard. However, the decision was not challenged through the courts and still stands. I have, of course, determined this appeal on its merits and on the evidence put to me.
7. Since the previous decision, the East of England Plan (RSS) has been revoked and no longer forms part of the development plan. The development plan comprises the St Albans City and District Local Plan Review 1994 (LP). The public consultation on a draft Pre-submission Strategic Local Plan (SLP) was put on hold and not approved by the decision of the Council on 28 November 2012. The Council advises that the SLP carries no weight.

Main Issues

8. The appeal site lies outside the defined built-up area within the Metropolitan Green Belt. As agreed by the parties, both the proposed residential development and the proposed care home would be inappropriate development in the Green Belt for purposes of National and Local policy. Therefore the main issues in this appeal are:
 - the effect of the development on openness and the purposes served by the Green Belt, and the character and appearance of the area;
 - in the case of the proposed housing development, whether the harm by reason of inappropriateness and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development; and
 - in the case of the proposed care home development, whether the harm by reason of inappropriateness and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

Reasons

Green Belt and character and appearance

Green Belt

9. Paragraph 87 of the National Planning Policy Framework 2012 (the Framework) advises that inappropriate development is, by definition, harmful to the Green Belt and should not be permitted except in very special circumstances. Very special circumstances will not exist unless the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. Substantial weight is given to any harm to the Green Belt.

10. The Green Belt boundary is drawn tightly along the rear boundaries of dwellings that front Harpenden Road, Sandridgebury Lane and the cul-de-sacs that abut the site. St Albans Girl's School (SAGS) to the south and the sports field and associated building to the north of the appeal site are within the Green Belt. LP policy 1 has the presumption against development in the Green Belt for purposes other than those identified which do not include residential or care home development. The policy advises that the boundaries have been defined by reference to the degree of long term expansion of the built-up area. However, the LP is nearly 19 years old.
11. The Framework advises that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. The essential characteristics of Green Belts are their openness and their permanence. The appeal site, apart from 126 Harpenden Road is a greenfield site that runs east from the gardens to properties fronting Harpenden Road to the sporadic hedgerow on the eastern side of the field. The appeal site is therefore open and the erection of buildings as proposed would harm openness as a matter of fact. The development of the site by the erection of dwellings between 9m and 12m high and a block containing 72 care beds would effectively close any existing views through to the countryside and present a built-up appearance from close viewpoints and those further to the east. In addition to the harmful impact of residential development on openness, as found by the previous Inspector, the large care home block with a variety of roof forms to reduce the height would result in a building of considerable bulk that would have a significant harmful impact on openness, one of the essential characteristic of Green Belt.
12. Paragraph 80 of the Framework sets out the five purposes the Green Belt serves. These include checking the unrestricted sprawl of large built-up areas and assisting in safeguarding the countryside from encroachment. Of the other purposes, Harpenden is sufficiently separated from St Albans not to merge if additional residential development to the rear of the existing linear development along the Harpenden Road were permitted. There would be no impact on the setting and special character of the historic town and St Albans did not appear to have derelict and other urban land in need of recycling.
13. There is a small section of the appeal site that would abut Sandridgebury Lane but that area would be occupied by two open tennis courts for the benefit of SAGS. Therefore no new urban edge would be created along Sandridgebury Lane. To the north beyond the cul-de-sac, the appeal site would create a new urban edge to the playing fields and to the east the development up to the field boundary hedge would also become a new urban edge. This increase in urban development beyond the rear of existing development or, as found by the previous Inspector, beyond the area enclosed by Sandridgebury Lane and the easternmost house in the cul-de-sac to the north, would set a new urban edge and appear as sprawl. It would be less well related to the existing linear development and harm one of the purposes served by the Green Belt.
14. Similarly, the appeal site forms part of the countryside beyond the urban area and development on it would irrevocably encroach into the countryside, especially beyond the area between spurs of development that might be considered rounding off. Thus there would be encroachment into the countryside conflicting with a second identified purpose served by the Green Belt. Overall in terms of the Green Belt there would be harm to openness and

two of the purposes the Green Belt serves. This adds to the harm by reason of inappropriateness.

Character and appearance

15. The proposal is in outline but layout and scale as well as access are not reserved. LP policy 1 requires new development within the Green Belt to integrate with the existing landscape with siting, design and external appearance of particular importance. In relation to general design and layout, LP policy 69 requires a high standard of design that takes into account the context, including the scale and character of the surroundings.
16. The siting and heights of the proposed development have not changed from those considered by the previous Inspector. He found that along a line from the last house in Sandridgebury Lane to the easternmost house on the cul-de-sac to the north, development to the rear of properties fronting Harpenden Road could be assimilated with the grain of existing development and take advantage of small changes in levels to reduce the visual prominence.
17. Despite the additional wire frame images that have been submitted with this appeal, it is evident that development to the north east of the site would be prominent from the wider area. This was demonstrated by the prominence of the last property in the cul-de-sac in existing views. Such prominence on the higher land would erode the character of the countryside and consolidate the appearance of the depth of development.
18. The proposed care home siting relative to the petrol filling station would appear appropriate for the non-domestic scale building. Nevertheless, due to its scale, the care home would appear uncharacteristic of the development in the area which is predominately two-storey pitch roof detached or semi-detached dwellings. Due to its usage, the care home would be unlikely to be able to accommodate changes in level or insets in the building so as to break up the overall mass. In any event, the site layout drawing shows a building footprint without significant indents in any of its wings. The bulk of the care home is evident in the 3D visualisations that informed the wire frame images which demonstrate the mass and bulk of development that would be visible and impact harmfully on the countryside.
19. The wire frame images were imposed on photographs taken from a higher level than the appeal site. They demonstrate that the buildings would generally mask the existing dwellings and would be prominent in the overall area irrevocably harming the character and appearance of this part of the countryside.
20. The Appellant considers that the development would have an insubstantial impact on the visual environment. I concur that the impact of the finished development on residents in New Greens Avenue and on views from further north on Harpenden Road/entrance to Woollam Fields would be minor/negligible. However, from Sandridgebury Lane to the south and east beyond the dwellings and from both the permissive and definitive footpaths to the east, there would be a considerable change with development prominent particularly in the higher north eastern area. Development to the east of a line roughly between the existing extent of development along Sandridgebury Lane and the cul-de-sac to the north would irrevocably erode the countryside

character and consolidate a built-up appearance. Significant weight is attached to this harm.

21. Overall compared to the existing situation, the proposed development would erode the openness of the area, conflict with two of the purposes the Green Belt serves and cause irrevocable harm to the character and appearance of the area. LP policies 1 and 69 would not be met. Although these policies were adopted in 1994, as found previously, they are consistent with the broad policy principles of the Framework. Therefore they are given due weight as part of the development plan.

Other considerations - residential development

A - Housing land supply

22. The Framework paragraph 47 requires local planning authorities to meet the full objectively assessed needs for market and affordable housing as far as is consistent with the other policies in the Framework. Sites should be identified and updated annually to provide a supply of specific and deliverable sites sufficient to provide five years worth of housing against their housing requirements. There should be a 5% additional buffer to ensure choice and competition although, if there is a persistent under delivery of housing, the buffer should be increased to 20%. In the examining plans section of the Framework, paragraph 182 requires a plan, among other points, to be positively prepared and seek to meet objectively assessed development and infrastructure requirements where it is reasonable to do so and consistent with achieving sustainable development.
23. The District Local Plan Review 1994 had a housing target in policy 3 for the delivery of 480 dwellings per annum between 1986 and 2001. The LP requirement was superseded from 2001 by the Hertfordshire Structure Plan Review 1991-2011 adopted in 1998 (SP). SP policy 9 had a housing target for St Albans District of 315 dwellings per year. The SP was superseded by the RSS 2008 that in policy H1 had a housing target for St Albans District of 360 dwellings per year between April 2000 and March 2021. Since the revocation of the RSS and in the absence of a more up to date development plan there is a policy vacuum in terms of the housing delivery target.
24. The emerging Pre-Submission Draft of the Strategic Local Plan (SLP) was due to go forward for public consultation in late 2012 but Members required further studies. These studies included an independent review of Green Belt boundaries and a Green Belt study of all potential housing locations and an independent commission of housing need in the District. This information would inform the evidence base for the delivery of housing land. This effectively put the SLP on hold. Therefore there is no up-to-date development or emerging plan and no definitive housing delivery requirement. As found by the Inspector in relation to residential development between Waldegrave Park and 101 Piggottshill Lane, Harpenden (APP/B1930/A/12/2177158) in his decision dated 5 February 2013, this weighs significantly in the Appellant's favour.
25. The Government's aim is for localism rather than requirements derived and set at a regional level. Paragraph 14 of the Framework advises that where the development plan is absent, silent or relevant policies are out-of-date permission should be granted unless adverse impacts would significantly and

demonstrably outweigh benefits or specific policies in the Framework indicate development should be restricted. The examples include specific policies for the Green Belt. The appeal site lies within the Green Belt, to which the Government attaches great importance. Once established Green Belt boundaries should only be changed in exceptional circumstances (paragraph 83, the Framework) with inappropriate development only to be permitted in very special circumstances.

26. The Council meeting of 17 January 2013 resolved that the RSS target of 360 dwellings per annum from 2001 to 2021 was the most appropriate interim housing target/requirement for housing land supply purposes. This figure was found sound by the Panel which considered the RSS on an evidence base that included significantly higher populations and household projections. The level of provision required in RSS policy H1 was justified by the specific circumstances of the District, having regard to previous Government advice in Planning Policy Guidance and Planning Policy Statements and did not simply apply Government population and household projection figures. RSS policy H1 requirement took account of the constraints to development in the District striking a balance of the social, economic and environmental objectives with the aim of achieving sustainable development. The balance was evidence based, consulted upon, subject to a sustainability appraisal, justified and publically examined. In reaching the housing requirement, the supporting text made it clear that full provision is not made for all needs irrespective of constraint.
27. From the Department for Communities and Local Government (DCLG) projections to 2028 there would be 688 new households per year in the District. The Appellant considers that the need for dwellings should be 5% higher to take account of vacancies, second homes and the like. This would make an annual requirement for 720 units to which the Appellant considers an additional 20% should be added having regard to paragraph 47 of the Framework. The overall requirement would therefore be for 864 dwellings that would reduce to 756 units if a 5% buffer were applied.
28. The DCLG 2008 household projections are the most up to date figures and will be used in the Green Belt and housing need studies to be undertaken; to do otherwise would start from a position of constraint. However, to start from a position of adopting the full household projections even without taking account of additional factors like vacancies and second homes would fail to any account of the constraints within the District which were applicable when the RSS was examined. There is no evidence to suggest that they would be any less applicable now. They had taken account of the threads of sustainability that ran through previous Government advice and run through the Framework. There is a social and economic cost from under-delivery of housing land but overall sustainability has also to take account of the environmental role.
29. The RSS figure provided housing requirements for the period to 2021 and took account of the severe constraints in the District. It provides the only figure that has been scrutinised through the independent examination process. Government policy aims for localism rather than top down set targets but there was nothing to indicate that the constraints identified in the RSS process are reduced because the RSS is no longer extant or that any unmet need in St Albans District was distributed into other Districts in RSS policy H1. Paragraph 5.5 of the supporting text to RSS policy H1 advises that the overall regional

identified provision falls significantly short of what is needed based on evidence about housing pressure, affordability and household projections.

30. At this time and in the absence of an identified need that takes account of any constraints to development and acknowledging the age of the RSS data, and the fact that the RSS has now been revoked, I consider it is reasonable that the annual housing target should have regard to constraints in the district and be that which takes them into account. As resolved by the Council on 17 January 2013, provision should be made for a minimum of 360 residential units per annum on specific deliverable sites.
31. However, apart from the 5 year supply of deliverable and developable sites, paragraph 47 of the Framework requires an additional 5% buffer (moved forward from later in the plan period) to ensure choice and competition in the market for land. This should be increased to 20% where there has been a record of persistent under delivery of housing. The evidence presented by the parties at the inquiry seems to be similar to that reported in the previous decision. As found by the previous Inspector, the record of delivery over a number of years had varied and the minimum delivery has been missed in some years but in several years the minimum had been exceeded. Overall, having regard to the provision in more recent years and the fact that more units have been delivered than required in the last 11 years, the record of the Council should not be regarded as a persistent under-delivery. Hence, I concur with the previous Inspector and consider that a 5% buffer should apply.
32. The Framework paragraph 47 and associated footnotes states that to be deliverable sites should be available now, offer a suitable location for development now, be achievable with a realistic prospect that housing will be delivered on the site within 5 years and in particular that development of the site is viable. To be developable sites should be in a suitable location for housing development and there should be a reasonable prospect that the site is available and could be viably developed at the point envisaged. As found by the previous Inspector and in line with some of the appeal decisions to which I have been referred, the reference in the second part of footnote 11 to sites with planning permission being considered deliverable allows for those sites to be included within the 5 year supply but does not indicate that to be deliverable a site would have to have planning permission at the start of the 5 year period.
33. Another aspect of paragraph 47 is that the local plan should meet the full objectively assessed needs for affordable as well as market housing and the need for all types of housing is addressed in paragraph 159 of the Framework. The Council's target for affordable housing in LP policy 7A is to secure the delivery of at least 200 dwellings per annum. The 2004 Supplementary Planning Guidance expands on the policy and requires sites in excess of 15 units or 0.4ha to provide 35% of the units as affordable. The Council points out that policy 7A sets out a target and not an annual requirement. The Inspector in the first appeal had considered the provision of 35% of the units as affordable which that Inspector found a function of the amount of housing to be provided and not an additional consideration. I concur with that view and, regardless whether 35% or 53% of the units would be affordable the need for affordable housing and the limited supply is a significant material consideration.

34. The proposal, the subject of this appeal, was considered by the Council on the basis of 35% of the units to be affordable. At the inquiry the Appellant indicated that the percentage of affordable housing had been increased to 53% in order to appeal and that this level of affordable housing would be viable as the contribution to SAGS had been withdrawn. However, even if the change to 53% affordable units were acceptable, there were no details of viability. The monetary contribution to SAGS, that had been included in a draft Undertaking considered by the previous Inspector, was removed prior to the earlier determination. Therefore, the removal of a monetary contribution to SAGS is not a new matter that made the delivery of a greater percentage of affordable housing viable after the proposal, the subject of this appeal, had been determined by the Council.
35. The Council considers that it has identified specific deliverable sites for 2,183 dwellings which at a requirement of 360 dwellings per year would comprise 6.06 years supply as at 1 November 2012. The Appellant disputes the suitability/availability of some sites. Before considering whether there would be an adequate supply to meet the requirement, I deal with the sites in dispute that could lead to a reduction in potential housing delivery over the 5 year period.
36. *BRE site*: This is a large employment site in the Green Belt occupied by various buildings and structures some of which are surplus to requirements. A fairly recent application for 100 dwellings on the site (ref.5/2012/0819) was withdrawn following an officer recommendation for refusal for 8 reasons. However, discussions have continued and, as a matter of principle, the Council considers the development of the site would be acceptable and would be capable of being carried out on previously developed land and therefore would not be inappropriate.
37. Following the withdrawal of the application a Planning Performance Agreement (PPA) between the Council and BRE was prepared. It set parameters for management and delivery of a planning decision regarding the redevelopment of the site. While there is no guarantee that planning permission will be granted, from the PPA and subsequent discussions, it is evident that there is intent on behalf of the owners to redevelop part of the BRE site.
38. It cannot be guaranteed that planning permission would be granted for the scheme but, from the evidence, there is a realistic prospect that housing would be permitted on the previously developed land. The site is in the Green Belt and although an independent Green Belt review is to take place, development on the BRE site would be on previously developed land and fall within the exceptions in paragraph 89 of the Framework for development.
39. There would be a time lag between any grant of outline planning permission and development on the ground, but from the evidence submitted there would appear to be a reasonable prospect of development commencing and dwellings being completed within five years. On the balance of probabilities, the full 100 dwellings should be included in the five year housing land supply.
40. *Harperbury Hospital*: This is a large site within the Green Belt part of which is being considered for redevelopment for housing. The residential dwellings would be on the previously developed land and providing there would be no greater impact on openness or the purposes served by the Green Belt would therefore be appropriate development within paragraph 89 of the Framework.

The Council advises that there were pre-application discussion with the landowners and their development partners in late 2012 on the use of the site for a mixed use development. Residential development on the site would be as part of an overall mixed community with planning permission having been granted for an 86 bed mental healthcare facility in October 2012 (5/2012/1812). The approved design allows the delivery of subsequent residential development.

41. The site is relatively isolated and presents challenges in terms of accessibility. In this respect it has not changed since consideration by the previous Inspector who found it not readily accessible to the railway and requiring new public transport links. However, accessibility is only part of the overall dimensions of sustainability in the Framework. A mixed use development on the site would accord with the aims of the Framework, should not erode openness and would not use greenfield land but make better use of previously developed land. Even so, at the time of the inquiry there were many uncertainties to be resolved that might delay delivery. Nevertheless, there is a realistic prospect that residential units would be delivered towards the end of the 5 year period.
42. The site has been identified by the Harperbury Freeschool Group as their preferred location for a school but this is not supported by those who are involved in delivering the mixed use development. The Freeschool proposal has passed the initial stage of the process but there was no evidence that this was a realistic prospect or that it would prevent the delivery of the identified housing towards the end of the five year period.
43. *Civic Centre*: LP policy 116 (2E) advises that, if the Civic Centre (south) becomes available, the Council will prepare a planning brief for the redevelopment of the area. The Development Brief for the Civic Centre site was adopted by the Council in July 2012 as a Supplementary Planning Document. The land is previously developed, in the urban area close to transport, services and shopping. It contains large scale redundant buildings. There are a number of landowners but there have been joint meetings with those involved in the redevelopment and some progress since the previous Inspector's decision.
44. However, although there would be the possibility of providing residential accommodation in a highly sustainable location, there was no evidence that there was agreement between the various stakeholders. Even if there are only a limited number of stakeholders concerned with the southern part of the Civic Centre, there are other matters including easements to be addressed. The number of units to be delivered in 5 years has been reduced from that considered by the previous Inspector. Nevertheless, I am not convinced that there is a realistic prospect of the delivery of all 50 units within 5 years on the Civic Centre site.
45. *The Affinity (former Veolia) water site*: The site has significant areas of redundant previously developed land and, although still an operational water site, the Council advises that the landowner is actively pursuing residential development. The site adjoins a listed building and while no assessment of its significance or that of its setting was available, well designed and suitable new building(s) can be sited alongside listed properties. I concur with the previous Inspector that there is a reasonable prospect of the site being developed for residential units within the five year period.

46. *London Colney Pastoral Centre*: 30 dwellings are expected to be delivered on this Green Belt site in the latter half of the trajectory period. There is a grade II* listed building on the site but substantial amounts of the site comprise non-historic buildings. I heard nothing to suggest that an appropriate scheme cannot be delivered that would respect the setting of the listed building. As with other Green Belt sites identified, redevelopment of previously developed land with no greater impact on openness or the purposes served by the Green Belt would not be inappropriate. Development towards the end of the 5 year period is a realistic prospect.
47. *Former HSBC training centre, Smug Oak Lane*: This is another site where there are redundant large scale buildings in the Green Belt. At the time of the previous appeal, the Council considered that there was insufficient certainty that residential development would be delivered within five years for its inclusion. The site has now been wholly disposed of by HSBC to a property developer with pre-application discussions having taken place with the Council and a local pre-application public exhibition held. Again it is a Green Belt site with limited public transport accessibility although Bricket Wood railway station is fairly close. However, the road to the station crosses a narrow bridge over the railway and there is concern whether a safe pedestrian crossing could be achieved. Transport and accessibility issues are capable of being resolved but in view of the matters to be resolved, I am not convinced that any units would be delivered in 2015 reducing the delivery within the first five years by some 45 units.
48. *The Garage Sites*: There is a Council commitment to the deliver of affordable housing on appropriate underused garage sites. The Council has identified a number of sites over the next 4 years. The Appellant considers that there would be a breach of LP policy 42 as there would be a loss of residential off-street parking areas and garage courts. LP policy 42 does provide for exceptions and from the details already provided I find no reason why the deliver of 150 dwellings within five years would not be achieved.
49. *The Former Ariston Works site*: The figure put forward by the Council, 55 units, was based on the development brief but only some 48 units have ever been permitted. There is a realistic prospect that 48 units would be delivered. Therefore the supply from this site should be reduced by 7 units.
50. *Beaumont Works*: This is an employment site that the Council advises currently has no proper employment uses. There did not appear to be any significant change since the previous appeal decision and I find no reason to take a different view or exclude this site from the housing land supply.
51. *Beaufort House*: Beaufort House is a 1980s office block to the south of the railway station. It is owned by a Housing Association with residential development on two sides. Therefore I have no reason to doubt that there is a realistic prospect of residential units being delivered on the site. In view of the ownership, it is likely to provide 100% affordable units.
52. *Lea Industrial Estate*: Land for residential development would be delivered alongside a rationalisation of the industrial site. Mixed uses on sites would accord with the thrust of the Framework. There is a realistic prospect of this site coming forward.

53. *Windfalls*: The glossary to the Framework advises that windfall sites are those not specifically identified as available in the local plan process and are normally previously-developed sites that have unexpectedly become available. However, compelling evidence is necessary to make an allowance for windfall development in the supply figures. The completions on small sites and conversions have remained around 80 units for the last 4 years with an annual average of 81 units for the last 11 years.
54. Based on sites with planning permission (commitments data) the Council estimates that 58% are on garden land. This figure is derived from commitments and then applied to completions to give the windfall allowance on small sites but does not affect the level of conversions or larger windfall sites. The Appellants considered the net gain in units from the commitments rather than determining the percentage of units that would be on garden land from the commitments for that to be applied to completions. In the end there is a limited difference in the number of units that are likely to come forward within the five year period.
55. In the last four years the number of units completed on small site and conversions has steadily increased. Therefore, in making a windfall allowance, it is reasonable for the Council to gradually increase the likely number of units that would be completed. I am satisfied that the evidence is such that an allowance for windfall is justified and that the Council has not taken garden land into account.
56. *Completions*: There was some dispute between the parties about the number of dwellings that had already been completed on some sites or the time period when the delivery would come on stream. In many instances the delivery would still be within the same five year period and therefore did not affect the availability of a five year supply of housing land. Of more concern is whether more properties had been completed prior to 1 November 2012 and therefore could not be included in the five year supply from 1 November 2012.
57. In particular the parties disagreed about the number of completions at King Harry Lane North and South and therefore the amount of housing to be delivered in future years. The Council's five year housing land supply figure runs from the 1 November 2012. Shortly after that date the Council visited the sites to confirm completions which then fed into the supply for future years. The Appellant appears to have carried out the assessment closer to the inquiry, some two months after the start of the five year land supply figures. The Appellant found more properties had been completed than the Council. In view of the Council's survey work having been carried out shortly after 1 November 2012, I find no reason not to accept the Council's figures for dwellings to be erected during the 5 year period.
58. *Overall conclusion on housing land supply*: There is doubt over the delivery of the development on the Civic Centre (south) site within 5 years. On the HSBC I have found that units would be delivered later than indicated but probably within the five year period. Even taking out the Civic Centre (south), HSBC entirely and the 7 units on Ariston Works site, the identified supply of developable land would not drop below the requirement for five years plus a 5% buffer. As found by the previous Inspector, there is sufficient diversity of sites to allow confidence that overall there is a robust case for the supply being above the requirement for 5 years plus a 5% buffer. However, broad locations were only provided for part of the requirement for years 6-10 and no details for

years 11-15. These are matters that would be addressed through the additional assessments being undertaken in relation to the Green Belt boundary and Green Belt sites, as well as housing need, that will inform the evidence base for the SLP.

B - Community Benefits

59. The Appellant has submitted two S106 Unilateral Undertakings both of which appear to have the same provisions but one of which is signed by/for the Corporate Seal of the Secretary of State for Transport only, the other by the remaining parties. Both Undertakings have hand written amendments but only that signed for the Secretary of State for Transport has the amendments individually initialled/signed. Without initials of the signatories or their legal representatives, the amendments are not certified and therefore the Undertaking is not complete. Nevertheless, I have noted the contents of the Undertakings.
60. The development includes two tennis courts the freehold of which the Appellant proposes to transfer by gift to SAGS. Although a letter dated 24 September 2010 from the Head teacher of SAGS indicated that the school looked forward to further discussion about the benefits to the school, it is not clear that the tennis courts are necessary or would enable further development. While of potential benefit to the school, the provision and transfer of the tennis courts would not be of direct benefit to the community as a whole or the occupiers of the development. Overall, it is not clear that the tennis courts are necessary to make the development acceptable in planning terms, are directly related to the development or would fairly and reasonably relate in scale and kind to the development.
61. The remainder of the Unilateral Undertakings provide for affordable housing, a sustainable transport contribution, green travel plan provision, and contributions to leisure, libraries, youth services, childcare and nursery provision, primary and secondary education, provision of fire hydrants and highway works. As found by the previous Inspector, 35% affordable housing is required by policy but, at appeal, the Appellant has chosen to provide 53% of the units as affordable. The Appellant has indicated that the higher level of provision would be viable on this greenfield site. The level of provision, even if only 35%, would provide a valuable contribution to meeting the affordable housing needs and, with the amendments initialled, the Undertaking would ensure its delivery.
62. There would also be the delivery of highway improvements to the operation of the Ancient Briton junction and additional highway works. These works would be required as a result of the development but, particularly in respect of the Ancient Briton junction, would be of some benefit to the wider community in terms of the free flow of traffic and conditions of highway safety.
63. In respect of all matters other than the tennis courts, the contributions would be justified for projects to meet the needs generated by the proposed development on the site. Contributions would be necessary to make the development acceptable in planning terms. They would be directly related to the development, and would be fairly and reasonably related in scale and kind to the development. Therefore Regulation 122 of the Community Infrastructure Levy Regulations 2010 would be met.

Other considerations – care home

64. It is not disputed that, with an aging population, there will be a need for care home facilities which, as purpose built, could be in a more suitable building than the older units. However, the need for care bed spaces was assessed by the County Council as 163 bed spaces between 2010/11 and 2020/21. Since the start of this period the Council has granted planning permission for 127 bed spaces in one year alone. Although there have been bed spaces lost, overall the current need is for around 80 bed spaces over the remaining 8 years with half the requirement having been provided in the first two years. While the level of residual need is higher than that identified by the previous Inspector, over 50% of the requirement to 2021 has been met. The changes in provision demonstrate a changing situation not that a further 72 bed spaces would be necessary so early in the projected period. In addition, there is a programme for the expansion and upgrading of existing Council owned care homes that, the Council advises, would produce additional bed spaces.
65. LP policy 62 advises that care homes should be dispersed within the community and none are within the immediate environs of the appeal site. However, it was not demonstrated that other sequentially preferable sites would not come forward given the time frame within which provision is to be made. I am not convinced that a Green Belt greenfield site is necessary at this time.

Overall planning balance - Residential development

66. I have found that the proposed development of the greenfield Green Belt land would cause harm by reason of inappropriateness, result in the loss of openness and conflict with two of the purposes the Green Belt serves. In line with the Framework paragraph 88, substantial weight is attached to the harm to the Green Belt. In addition, development on the appeal site would cause the harmful and irrevocable erosion of the countryside as well as consolidating the urbanisation in the area. Significant weight is attached to this harm.
67. Additional delivery of housing would be of value as would the proposed affordable housing provision whether at 35% or 53%. Nevertheless, the five year housing land supply has been found to be robust even if the delivery may not be as high as the Council advises on some sites. A 5% buffer over and above the 5 year supply has been found to be appropriate and there is a realistic prospect that adequate provision has been made for the delivery of five years plus 5% supply of housing land. Therefore the supply of additional housing on a greenfield Green Belt site is not afforded weight. However, in line with the view of the previous Inspector and in the light of the need for affordable housing in the District, the affordable housing provision is afforded great weight.
68. The appeal site was one of several areas assessed in a presentation to the Local Development Framework Working Party in 2010. The presentation identified the BRE site and Harperbury Hospital as Green Belt previously developed land suitable for delivering some housing. The appeal site was identified as well related to existing built development. It could deliver additional sports facilities for the school and was in an accessible, sustainable location reasonably well served by existing public transport close to the existing urban edge. This presentation identified the benefits of the appeal site but does not provide justification for the development of greenfield Green Belt land without an identified need.

69. The proposed community benefits are generally required to offset the effects of the development although there are some additional benefits for existing users from the improvements to the Ancient Briton junction. Nevertheless, the junction improvements have not been found necessary at this time in the absence of the proposal. The tennis courts would be of benefit to SAGS but the only evidence of need for such facilities is the letter from 2010 which refers to general headings of a discussion between the Appellants, the local education authority and the school. There is no evidence of the specific need or direct benefits from the provision of new tennis courts. Therefore this matter is afforded limited weight in favour of the proposal.
70. The Appellant carried out an assessment of the appeal site compared to other Green Belt sites identified in the five year housing land supply having regard to the overall three strands of sustainability in paragraph 7 of the Framework. While the appeal site scored well in terms of accessibility, the difference between all the sites was limited when the economic, social and environmental roles of sustainability were taken into account as a whole. However, there appeared to be limitations in the assessment and weighting system with no specific credence or weighting to the advice in the Framework that the essential characteristics of Green Belts are their openness or to the purposes the Green Belt serves. The residential development on the sites identified in the 5 year land supply would replace existing buildings and therefore be appropriate development that would not conflict with the purposes the Green Belt serves or harm openness. The Appellant's assessment does not provide weight or justification for the proposal on a greenfield site in the Green Belt.
71. Overall, the policy vacuum is afforded significant weight, the affordable housing provision great weight, the improvements to the Ancient Briton junction some weight and limited weight to the proposed tennis courts that would be transferred to SAGS. However, in the absence of an identified need for the release of a greenfield Green Belt site, the substantial harm to the Green Belt and significant harm to the character and appearance of the countryside are not clearly outweighed by the other material considerations either individually or as a whole. Therefore the very special circumstances necessary to justify the inappropriate residential development in the Green Belt do not exist. The development would be contrary to LP policies 1 and 69(i) as well as Government policy in the Framework.

Overall planning balance - Care Home

72. The care home would cause the same type of harm to the Green Belt and the countryside as found in relation to housing, added to which the substantial bulk and plan-form has been found to be particularly harmful. Against this are the benefits that would flow from a purpose-built care home to meet the growing need. Nevertheless, in the light of the progress towards meeting the identified need for 163 bed spaces between 2010/11 and 2020/21, there is not a proven need for a greenfield Green Belt site to meet the need remaining up to 2021. Overall the totality of the benefits from the proposed care home do not individually or collectively outweigh the irrevocable harm to the Green Belt and the countryside such as to provide very special circumstances for the proposal.

Conclusion

73. For the reasons given, having regard to all material considerations including the appeal decisions and judgements to which I have been referred, the appeal should be dismissed

Elizabeth Fieldhouse

INSPECTOR

Richborough Estates

APPEARANCES

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He called

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INTERESTED PERSONS:

Mark Carrington

Chairman of Campaign by Locals Against Sewell Housing (CLASH)

Dominic Bentley

CLASH statement from Local Resident

DOCUMENTS

- 1 Notification letters
- 2 Garage sites programme update
- 3 List of small sites and conversions granted planning permission
- 4 Briefing note on 3D visualisations
- 5 Aerial photographs of previously development land at the former HSBC site, Smug Oak Lane, Bricket Wood
- 6 Note from Brian Barber Associates website on a planning appeal decision - APP/L2820/A/10/2121676
- 7 Aspect – Briefing Notes on 3D visualisations for landscape and visual impact assessments
- 8 Draft Statement of Common Ground
- 9 Lists of housing sites agreed and those not agreed
- 10 Opening submissions on behalf of the Appellant
- 11 Opening statement on behalf of the Local Planning Authority together with authorities referenced
- 12 District Local Plan Review 1994 policies 20 and 42 and policy intention 3
- 13 Appeal decision APP/B1930/A/12/2177158
- 14 Draft List of conditions

- 15 CLASH statement from Mr Carrington
- 16 Affordable Housing completions 2001-2012
- 17 Local Plan policy 116
- 18 Report to Cabinet of 17 January 2013
- 19 Minutes of Meeting no.10 of the Cabinet, 17 January 2013
- 20 Report to Council meeting of 30 January 2013
- 21 Hertfordshire County Council letter dated 13 March 2009
- 22 St Albans Girl's School Head Teacher's letter dated 24 September 2010
- 23 Correspondence relating to Mr Lane's appendix 20
- 24 Mr Charsley's summary and conclusions
- 25 Statement from Mr Bentley on behalf of CLASH
- 26 Missing pages of Appendix 13 from Mr Lane's appendices
- 27 Housing Completions 2010-2011
- 28 Housing Completions 2011-2012
- 29 Mr Lane's additional appendices
- 30 Draft Section 106 Unilateral Undertaking
- 31 East of England Plan policy H1
- 32 Telford Road Garages, London Colney
- 33 Suggested conditions
- 34 Signed Statement of Common Ground
- 35 Additional judgements/authorities submitted by the Council
- 36 Development Plan Housing Targets applicable since 1986
- 37 Closing submissions on behalf of the Council
- 38 Closing submissions on behalf of the Appellant
- 39 Application for a partial award of costs on behalf of the Council
- 40 Application for an award of costs on behalf of the Appellant

PLANS

- A Effect of closing off Bucknalls Drive to BRE employees