

Planning Statement

Land at Oakleigh Farm, Codicote Road, Welwyn,
Herts, AL6 9TY

On behalf of Kingshall Estates Ltd

October 2024



Woods Hardwick

Architecture | Engineering | Planning | Surveying

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Executive Summary

This document has been produced by Woods Hardwick Planning Ltd on behalf of Kingshall Estates Ltd in support of a full planning application for a residential development at the site known as Land at Oakleigh Farm, off Codicote Road, Welwyn, also referred to as Oakleigh Meadows.

Planning permission has previously been granted (at appeal) for the demolition of all existing buildings and structures, the change of use of western section to residential comprising the erection of seven new detached dwellings with associated detached garages, parking and amenity areas. The change of use of eastern section to paddock and upgrading the existing access road.

This application seeks a number of amendments to the previously approved scheme to enhance the layout and design of the approved dwellings, all of which are considered to result in a scheme that is far superior to that previously approved, is of a high quality and improved construction and is reflective of the rustic character and appearance of the area, as demonstrated throughout the application submission documents.

There is no intention to increase the quantity of dwellings already approved; seven dwellings are proposed.

This planning statement demonstrates there are no material considerations that warrant a decision other than in accordance with the development plan, and as a consequence planning permission should be granted.



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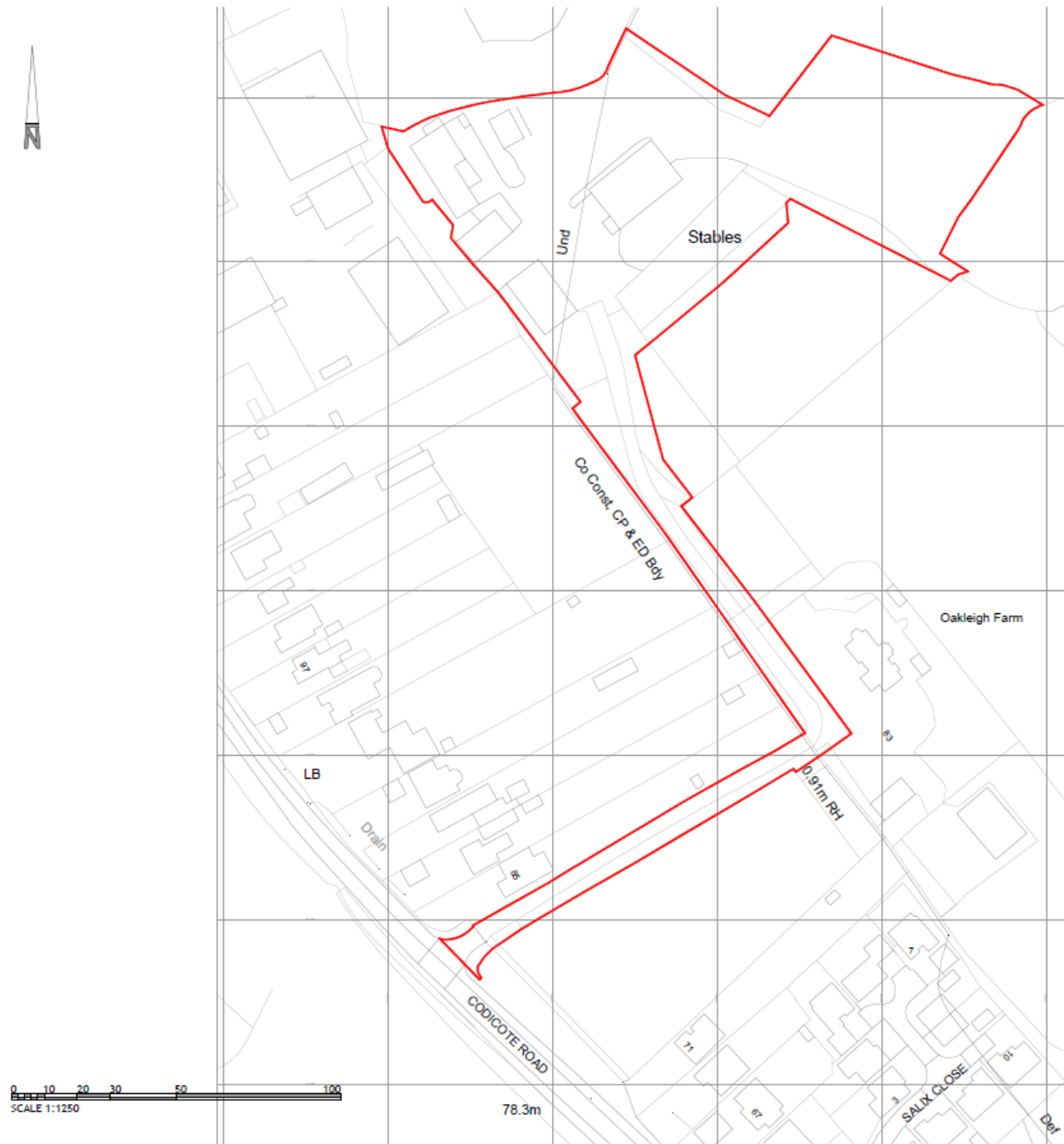
1 Introduction

Full planning application for a residential comprising the erection of seven new detached dwellings with associated detached garages, parking and amenity areas and upgrading of the existing access road, following the demolition of all existing buildings and structures.

- 1.1 This Planning Statement is submitted in support of a full planning application for a residential development of seven dwellings and associated access at Land at Oakleigh Farm, Codicote Road, Welwyn (“the application site”).
- 1.2 The application site straddles the boundary between North Hertfordshire District Council (“NHDC”) and Welwyn Hatfield Borough Council (“WHBC”).
- 1.3 The application site is located in the Green Belt and lies south-east of Codicote and to the rear of existing residential and commercial properties.
- 1.4 It is accessed from Codicote Road via an existing drive that also serves Oakleigh Farm house and, until recently, was occupied by a number of buildings previously used for commercial purposes together with areas used for open storage.
- 1.5 In September 2021 planning application 6/2020/0714/MAJ was allowed at appeal for the demolition of all existing buildings and structures, the change of use of western section to residential comprising the erection of seven new detached dwellings with associated detached garages, parking and amenity areas. The change of use of eastern section to paddock and upgrading the existing access road.
- 1.6 The appeal decisions for both NHDC and WHBC are included at Appendix A for reference (APP/C1950/W/21/3269378 & APP/X1925/W/21/3269379).
- 1.7 This planning application seeks to make a number of amendments to extant planning permission ref: 6/2020/0714/MAJ.
- 1.8 The amendments to the extant planning permission relate primarily to the design and external appearance of the dwellings as below and are fully explained in the submitted Design and Access Statement.
- 1.9 The amendments are made to:
 - Optimise the orientation, and internal arrangement of the dwellings;
 - Improve proportions and aesthetic appearance externally;
 - Create a building hierarchy across the development;
 - Apply a varied material palette reflective of the local vernacular;
 - Enhance brick detailing to add character and quality;
 - Extend the garden curtilage for Plot 5.
- 1.10 This Statement demonstrates there are no material considerations that warrant a

decision other than in accordance with the development plan, and as a consequence planning permission should be granted.

Figure 1.1: Site Location Plan



2 Description of the Site and its Context

- 2.1 As noted above the application site, outlined in red at figure 1.1, straddles the boundary between North Hertfordshire District Council (“NHDC”) and Welwyn Hatfield Borough Council (“WHBC”).
- 2.2 The entire area of the application site, which is approximately 1.39ha, is located with the Green Belt and lies outside of the settlement boundaries of Welwyn and Codicote.
- 2.3 The site was previously used for industrial and equestrian uses and contained a number of buildings which have been demolished since the redevelopment of the site for residential uses was allowed on appeal.
- 2.4 The immediate surrounding area includes residential properties to the south and southwest and industrial buildings immediately to the northwest. To the east and the southeast is predominantly open countryside. Oakleigh Farm lies to the southeast beyond which there are further residential properties.
- 2.5 The application site does not fall within a Conservation Area and there are no designated heritage assets nearby. In respect to the development impact upon heritage assets, no concerns were raised established during the consideration of the approved application.
- 2.6 Being entirely within Flood Zone 1 the area is at the least risk of flooding.

- 2.7 Given the existing built form and land uses on the application site, it is considered to be previously developed land, a matter that was agreed by all parties during the consideration of the previously approved application.

Planning History

- 2.8 In September 2021 planning permission 6/2020/0714/MAJ was allowed at appeal for the demolition of all existing buildings and structures, the change of use of western section to residential comprising the erection of seven new detached dwellings with associated detached garages, parking and amenity areas. The change of use of eastern section to paddock and upgrading the existing access road.
- 2.9 The appeal decisions for both NHDC and WHBC are included at Appendix A for reference (APP/C1950/W/21/3269378 & APP/X1925/W/21/3269379).
- 2.10 These planning permissions were subsequently amended in July 2024 through the approval of Section 73 applications (WHBC ref: 6/2023/2229/VAR) which sought to introduce revised drawings with amendments to the approved access road to the site and its associated landscaping. The purpose of the amendments was to improve the visual appearance and useability of the access road.
- 2.11 Separate full applications were also

submitted concurrently to both authorities which incorporated design enhancements to the 7 dwellings and their garages/carports. This revised scheme reflected the amendments to the access road which were proposed in the abovementioned Section 73 applications.

- 2.12 NHDC approved the full application, but WHBC subsequently took the decision to refuse the application (ref. 6/2023/2359/MAJ) since, whilst concluding that proposal significantly improved upon the extant consent in design terms, Officers considered that “very special circumstances” had not been sufficiently demonstrated to approve inappropriate development in the Green Belt.
- 2.13 Positive discussions have since been held with WHBC to address the concerns and an amended proposal is the subject of this application.

Figure 2.1 Proposed Site Plan



3 The Proposed Development

- 3.1 Planning permission is sought for a number of amendments to the previously approved scheme. The approved layout consists of seven detached units around a single shared private drive. This layout is considered to be acceptable, however, there are several missed opportunities within the layout which this planning application seeks to address.
- 3.2 It is important to understand, the principle of the development is established and the quantum of housing proposed complies with the previously approved scheme. This application simply seeks to modify and enhance the detail of the scheme in a manner that resonates with the National Planning Policy Framework (“NPPF”) objectives to create *well-designed, beautiful and sustainable places*.
- 3.3 The amendments are explained in greater detail within the Design & Access Statement but are summarised below:
- Slight re-arrangement of each plot, to improve solar gain, thermal comfort and provide views out onto the countryside.
 - Modest alterations to the appearance and character of dwellings. This has been achieved by finessing the proportions and utilising materials as a tool to break up large masses of building form.
 - External materials. A diverse use of materials across the site has been applied, defining hierarchy between the dwellings.
 - Introduction of design features to include traditional detailing and construction methods complimenting the surrounding rural context. Examples of this include brick detailing, tile hung dormers and 40-45-degree roof pitches.
 - Within the development itself, boundary treatments have been chosen to define plot boundaries. This is by way of brick screen walls, estate railings and verdant landscaping and a gated entrance feature.
 - Alterations to accommodate double garages and/or carports as would be expected by future occupiers of the dwellings. Careful consideration has been taken in arranging these ancillary building ensuring they are kept within or as close to the building line of the Approved scheme, retaining the open feel of the surroundings by not extending built form into gardens.
 - In simplifying the transfer of land, an additional area has been included within the purchase agreement and is therefore included within the red line

of this application. This area is proposed as garden curtilage for Plot 5 providing this property with a larger amenity space proportionate to the size of the dwelling.

- A detailed landscaping strategy accompanies this application and further supports the aspirations of a high quality scheme.

3.4 Additionally, the land purchase agreement requires the Paddock area to the northeast of the site (identified on the Proposed Layout Plan at figure 2.1), to remain undeveloped as per the description within the previously approved application. No changes are proposed to the Paddock area.

3.5 The amended proposal results in the creation of high quality, beautiful and sustainable homes, and as set out in Paragraph 131 of the NPPF, is fundamental to what the planning and development process should achieve.

4 Planning Policy

- 4.1 Section 38 (6) of the Planning & Compulsory Purchase Act (2004) states that planning applications must be determined in accordance with the adopted development plan unless material considerations indicate otherwise. This is reinforced by the National Planning Policy Framework (NPPF), which has at its heart a presumption favour of sustainable development. Paragraph 11 states that development proposals that accord with an up-to-date development plan should be approved without delay.
- 4.2 The development plan relevant to this area includes the Welwyn Hatfield Local Plan 2016 which was adopted on 12 October 2023.
- 4.3 As the Local Plan was adopted after the original decisions were made, it is necessary to consider whether there have been any significant changes to policy.
- 4.4 Those policies considered relevant are:
- Policy SP1: Delivering Sustainable Development,
 - Policy SP3: Settlement Strategy and Green Belt boundaries,
 - Policy T2: Parking,
 - Policy SADM1: Windfall Development,
 - Policy SP4: Transport and Travel,
 - Policy SADM2: Highways Network and Safety,
 - Policy SADM3: Sustainable Travel for All,
 - Policy SP7: Type and Mix of Housing,
 - Policy SP9: Place Making and High-Quality Design,
 - Policy SADM11: Amenity and Layout,
 - Policy SADM12: Parking, Services and Refuse,
 - Policy SP10: Sustainable Design and Construction,
 - Policy SADM13: Sustainability requirements,
 - Policy SADM14: Flood Risk and Surface Water Management,
 - Policy SADM16: Ecology and Landscape,
 - Policy SADM18 Environmental Pollution,
 - Policy SP4: Rural Areas, and
 - Policy SADM34: Development within Green Belt.
- 4.5 Table 4.1 provides an assessment of how the proposed development complies with the relevant adopted policies listed above, or can do so through mitigation measures.
- 4.6 It concludes the proposed development accords with the development plan policies, taken as a whole, subject to the balance required by paragraph 153 of the NPPF and referred to in Policy SADM34. That exercise is undertaken in Section 5.

- 4.7 A principal material consideration relevant to the decision making in respect of this planning application is the NPPF, revised December 2023, however other material considerations include the planning history of the site, namely the extant planning permission granted on 29 September 2021.

**National Planning Policy Framework
(NPPF (revised December, 2023))**

- 4.8 A principle aim of the NPPF is the creation of high quality, beautiful and sustainable places, further stating that local planning policies and decisions should ensure that developments will:

a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;

b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;

c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);

d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;

e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and

f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

- 4.9 In accordance with the NPPF, the proposed amendments sought are considered to create high quality, beautiful and sustainable homes whilst respecting the rural character of the area and the surrounding environment.

- 4.10 As the Site is located in the Green Belt and given the nature of the scheme, Paragraphs 152 to 154 of the National Planning Policy Framework (NPPF) are relevant.

- 4.11 Paragraph 152 states:

‘Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.’

- 4.12 Paragraph 153 states:

‘When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. ‘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.'

- 4.13 There is no definition of what could be a 'very special circumstances', however, the courts have held that in considering whether there are 'very special circumstances' to justify development in the Green Belt, the material considerations need not be rare or uncommon to be special (Wychavon DC v SoS for CLG and Butler [2008] EWCA Civ 692, paragraphs 19 - 21).

- 4.14 Paragraph 154 of the NPPF goes on to say:

'A local planning authority should regard the construction of new buildings as inappropriate in the Green Belt. Exceptions to this are:

- a) buildings for agriculture and forestry;*
- b) the provision of appropriate facilities (in connection with the existing use of land or a change of use) for outdoor sport, outdoor recreation, cemeteries and burial grounds and allotments; as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it;*
- c) the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building;*
- d) the replacement of a building, provided the new building is in the same use and not*

materially larger than the one it replaces;

e) limited infilling in villages;

f) limited affordable housing for local community needs under policies set out in the development plan (including policies for rural exception sites); and

g) limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would:

- not have a greater impact on the openness of the Green Belt than the existing development; or*
- not cause substantial harm to the openness of the Green Belt, where the development would re-use previously developed land and contribute to meeting an identified affordable housing need within the area of the local planning authority.'*

- 4.15 Exception g) is the most relevant to the consideration of this application.

- 4.16 Other material considerations include:

Design Supplementary Planning Document (2011),

Vehicle Parking and New Developments (2011)

Table 4.1	Policy Compliance
Policy	Compliance
Policy SP1 Delivering Sustainable Development	The proposal will contribute to the creation of mixed and sustainable communities which are well planned, promote healthy and active lifestyles, are inclusive and safe, environmentally sensitive, accessible, culturally rich, vibrant and vital, well served, and built to high design standards reflecting local character.
Policy SP3 Settlement Strategy and Green Belt boundaries	The extant planning permission established the principle of the development in this location. There is no change to the number of dwellings proposed therefore the principle remains acceptable.
Policy T2 Parking	Vehicle and cycle parking is provided in accordance with the Council's parking standards. Each dwelling shall be provided with an electric vehicle charging point. There is no conflict with this policy
Policy SADM1 Windfall Development	The extant planning permission established the principle of the development in this location.
Policy SP4 Transport and Travel	The extant planning permission established the principle of the development in this location and planning permission has been granted for the access road, which is to serve 7 dwellings and Oakleigh Farm. There is no change to the number of dwellings that will use the proposed access road or the position/geometry of the previously approved junction, therefore the proposal does not conflict with this policy.
Policy SADM2 Highways Network and Safety	Planning permission has been granted for the access road, which is to serve 7 dwellings and Oakleigh Farm. There is no change to the number of dwellings that will use the proposed access road or the position/geometry of the previously approved junction, therefore the proposal does not conflict with this policy. The site is not within an AQMA and it does not meet the major development threshold to require an air quality assessment. There is no conflict with this policy.
Policy SADM 3 Sustainable Travel for All	The principle of the development within this location is established by the positive appeal decisions, it is therefore accepted that the site is within a sustainable location.
Policy SP7 Type and Mix of Housing	The proposal for 7 dwellings requires at least 20% of all new dwellings to meet Building Regulation Part M4(2) for accessible and adaptable dwellings. There is no reason why two dwellings cannot be designed to meet the requirements of Part M4(2) details which can be demonstrated at the working drawing stage and secured by planning condition.
Policy SP9 Place Making	National guidance states that planning should achieve high quality and

and High-Quality Development	inclusive design for all development. The proposed amendments seek to build further on the design of the previously approved scheme by improving the architectural features, using higher quality materials, and providing higher standards of living for future occupants of the development. The revised design of the dwellings is considered to be an enhancement and superior to the extant scheme. Together with appropriate landscaping, an exceptionally high quality and beautiful development can be delivered. This policy is therefore complied with.
Policy SADM11 Amenity and Layout	The amendments to the proposal ensure that sunlight within the building and gardens is maximized and all internal and external spaces meet the required standards. One of the reasons for the amendments to the dwellings is to ensure adequate head height is provided in the bedrooms and roofspace rooms, which is lacking in the approved scheme. There is significant separation between the site boundary and neighbouring properties which ensures there is no overlooking/loss of privacy. The layout and design will ensure future occupiers would not suffer detrimental impacts to amenity. In addition, the Noise Assessment considers the effect from neighbouring commercial uses and confirms, with mitigation incorporated into the design, no harm to amenity would occur. There is no conflict with this policy.
Policy SADM12 Parking, Services and Refuse	Vehicle and cycle parking is provided in complete accordance with the Council's parking standards. Each dwelling shall be provided with an electric vehicle charging point in accordance. Tracking plans demonstrate that the site layout can accommodate larger vehicles including the refuse collection vehicle. There is no conflict with this policy
Policy SADM13 Sustainability Requirements	The proposal incorporates sustainable design measures into the construction of the dwellings. There is no conflict with this policy.
Policy SADM14 Flood Risk and Surface Water Management	The site is not within an area at risk of flooding and does not increase the flood risk as set out in the approved Flood Risk Assessment, reference B02913 Rev 02, dated August 2020 prepared by Scott White and Hookins, dated 18 September 2020. An indicative drainage solution was prepared to support the approved scheme in the Flood Risk Assessment, reference B02913 Rev 02, dated August 2020 prepared by Scott White and Hookins, dated 18 September 2020 with detailed design to be approved as a planning condition (Condition 17 of the permission). An updated FRA and Drainage strategy, based on the above principles, is submitted with this application. The proposal incorporates sustainable water management measures into the design and is a requirement of Condition 20 of the original planning

	approval. There is no conflict with this policy.
Policy SADM16 Ecology and Landscape	A habitat survey was prepared to support the previous planning application. No impact on biodiversity was found and there is no reason to believe the proposed amendments would amount to any further harm given the nature of the amendments. The proposed changes to the scheme are not significant and certainly not to a degree that would result in an additional impact on the landscape or the openness of the Green Belt. Proposed landscaping and future management can be secured by planning conditions as per the original consent. There is no conflict with this policy.
Policy SADM18 Environmental Protection	Condition 16 of the original planning approval sets out the requirements of remediation in the unlikely event that contamination is found during construction. An updated contamination report is submitted with this application and confirms there is no conflict with this policy.
Policy SP24 Rural Areas	The extant planning permission established the principle of the development in this location. There is no change to the number of dwellings proposed therefore the principle remains acceptable.
Policy SADM34 Development within the Green Belt	The extant planning permission established the principle of the development in this location. There is no change to the number of dwellings proposed therefore the principle remains acceptable. The impact of the proposed amendments on the openness of the Green Belt is considered further in Section 5.

5 Planning Considerations

Principle Of Development

- 5.1 Section 38 (6) of the Planning & Compulsory Purchase Act 2004 requires that applications for planning permission are determined in accordance with the development plan, unless material considerations indicate otherwise.
- 5.2 Paragraph 11 of the NPPF seeks to apply a presumption in favour of sustainable development which means approving developments that accord with an up-to-date development plan without delay.
- 5.3 The application site lies within the Green Belt where there is a presumption against inappropriate development, however, by virtue of the extant planning permission, it is material consideration that the principle of residential development at the site is accepted.
- 5.4 Noting the comments made by Inspector Osgathorp (Appendix A) when allowing the appeal, the previously approved development proposal for the site was found not to represent inappropriate development in the Green Belt.
- 5.5 The Inspector reached this conclusion by making a comparison between the existing built footprint and volume on the site and that of the proposed development.
- 5.6 Paragraph 10 of the appeal decision states:

“The information before me shows that the proposal would reduce the footprint of built form on the site by around 23 square metres (1.92%)” and goes on to say *“I acknowledge*

that there would be a sizeable increase in floorspace of around 34.5%, however this is due to the accommodation contained within the roof space of the dwellings. The proposed dwellings would be of modest scale and the first floor accommodation would be served by small dormer windows and rooflights. Consequently, the proposed development would result in a minor increase in built volume of around 118 cubic metres (2.3%).”

- 5.7 The Inspector clearly accepted the increase in both floorspace and volume, concluding that the siting and scale of the proposed development would not result in a spatial loss of Green Belt openness:

“I find that the proposal would meet the exception in paragraph 149(g) of the Framework, which requires that redevelopment of previously developed land would not have a greater impact on the openness of the Green Belt than the existing development. The proposal therefore would not constitute inappropriate development in the Green Belt when assessed against the Framework. Furthermore, the proposed development would not encroach into the countryside and therefore would not conflict with the purposes of including land in the Green Belt.” (Paragraph 13)

- 5.8 The current application proposal seeks to make amendments to the previously approved scheme, therefore the main consideration for the application has to be whether or not those changes result in greater impact on the

openness of the Green Belt.

- 5.9 When determining the previous application made to amend the approved scheme (ref. 6/2023/2359/MAJ), WHBC noted that there had been a change in the material circumstances relating to the site in that the existing buildings had been demolished, with only the open storage area remaining.
- 5.10 Whilst acknowledging that this did not change the status of the site as previously developed land, WHBC concluded that, since the site is now essentially open, the proposed development for 7 dwellings would have a substantial impact on the openness of the Green Belt.
- 5.11 As such the proposal was found to represent inappropriate development in the Green Belt, and it was necessary for 'very special circumstances' to be demonstrated.
- 5.12 In deciding to refuse the application, WHBC concluded that the harm to the Green Belt in terms of inappropriateness and loss of openness, is not clearly outweighed by other material considerations such as to constitute the 'very special circumstances' necessary to approve inappropriate development in the Green Belt.
- 5.13 In the sections that follow, we set out how the revised proposal has sought to address the matters raised in the Officer Report for the previous application.

Impact on the openness of the Green Belt

- 5.14 It is well established in planning law that the fallback position is entirely capable of being a material consideration.
- 5.15 *R. v Secretary of State for the Environment Ex p. PF Ahern (London) Ltd [1998] Env. L.R. 189* established that the decision maker should consider three important things -
 - (i) is there a legal fall-back, i.e. what development can be undertaken lawfully without any new planning permission;
 - (ii) is there a real prospect of the development being undertaken; and
 - (iii) if the answer to (ii) is "yes", how the proposed development compares to the fallback scheme.
- 5.16 The case of *Mansell v Tonbridge & Malling Borough Council [2017] EWCA Civ 1314*, further confirmed the fallback does not have to be probable or even likely, even a possibility of the fallback happening is enough.
- 5.17 This was accepted by WHBC when determining the previous application, and it was also recognised that there are similarities to the previous permission (which exists as a fallback) with the proposed scheme.
- 5.18 In assessing the changes being proposed in the last application, WHBC concluded that the increase in overall volume over the consented scheme would have a materially greater impact on the openness of the Green Belt,

when compared to the fallback position.

5.19 In addition, WHBC suggested the proposed increase to the residential curtilage for plot 5 would result in further loss of Green Belt openness through the potential siting of a greater amount domestic paraphernalia. The proposed perimeter landscaping was considered insufficient to mitigate the greater impact upon Green Belt openness.

5.20 Ultimately the comparison between the proposal and the fall-back position is a planning judgement of fact and degree in relation to size and appearance. This is demonstrated by the fact North Herts District Council found the impacts on the Green Belt would be comparable to that of the extant permission, and therefore decided to approve the application.

5.21 The Applicant has, however, acknowledged the concerns raised by WHBC over the greater impact upon Green Belt openness and has responded by making changes to the proposal.

5.22 As detailed further in the DAS, the following amendments have been made to address the concern:

- A reduction in volume of the proposed double garages on plots 5 & 6 by amending them to single garages with garden stores to provide space for storing garden paraphernalia;
- A reduction in the ridge height of the proposed garage on plot 4 further reducing volume; and

- An enhanced landscape buffer around the perimeter of the gardens to provide a more robust screen of the development.

5.23 With respect to volume, a comparison between the approved scheme and the proposed amendments has been made in the DAS (page 40 and 41). This demonstrates that there will be an increase in volume of 15.3% when compared to the approved scheme, for the parts of the development within the administrative boundary of WHBC. This has reduced from a 20.4% increase in the previous application.

5.24 As illustrated within the DAS (figure 4.3), the massing and height of the proposed garages to plots 5 and 6 has been significantly reduced and, as a result, the impact upon the openness of the Green Belt.

5.25 When the amendments to the double garages on plots 5 & 6 were being considered, the option of replacing these within single garages was explored. This would have reduced the increase in volume over the approved scheme to 12.3% (for the parts of the development within WHBC). However, this raised a concern that the occupiers of these properties would have little storage space for garden paraphernalia, thus potentially leading to unplanned storage solutions within gardens, which could cause harm to the Green Belt. This was a particular concern for WHBC associated with the proposed increase to the residential curtilage for plot 5.

- 5.26 As such, the addition of gardens stores to the single garages was considered a better approach that would overcome the need for separate stores within the gardens of these plots and would result in a higher quality and more functional design. Furthermore, this could be achieved within only a relatively small increase in volume (i.e. 3%).
- 5.27 The Applicant would be prepared to accept a condition removing Class E permitted development rights from plots 5&6 should planning permission be granted. This is a benefit compared with the approved scheme since the Inspector dealing with the appeals only chose to remove permitted development rights for alterations and enlargements to the dwellings.
- 5.28 Therefore, under the approved scheme, it would be possible for future owners/occupiers to construct their own ancillary buildings within the curtilage of the dwellinghouse and provided they are in compliance with the height limitations set out by Schedule 2, Part 1, Class E.
- 5.29 Turning to the concern that the previous landscape proposals would be insufficient to mitigate the greater impact upon Green Belt openness, a revised scheme has been prepared which shows a considerably enhanced perimeter boundary to the proposed gardens. This takes the form of a 3m wide landscaped buffer to the eastern edge, expanding to 4m along the southern edge.
- 5.30 This landscaped buffer will include hedgerow,

tree and understorey shrub planting, the retention and maintenance of which will be secured by a covenant on each plot. It will provide a significant visual screen of the development from the limited public viewpoints of the site.

- 5.31 In summary, through the abovementioned amendments, positive steps have been taken to reduce the impact of the new scheme upon the openness of the Green Belt. The amended proposal is materially less harmful to the Green Belt than the proposal recently refused by WHBC and, in our view, the impacts on the openness would be comparable to that of the extant permission.

Impact upon Green Belt purposes.

- 5.32 When determining the previous application, WHBC concluded that the proposal would not conflict with any of the purposes of the Green Belt. This remains the case for the amended proposal.
- 5.33 Having addressed Green Belt Harm, in the following sections we go on to consider the potential for other harm to arise from the proposal.

Access, parking and other highway considerations

- 5.34 No changes have been made to the access and parking arrangements proposed in the previous application. In total 21 spaces will be provided, 4 of which are visitor spaces. Apart from plots 2 and 3 (which will have 2 spaces each), the remaining plots will have 3 on site

car parking spaces. All properties will benefit from parking via hardstanding within their own curtilages which would be directly accessed by an internal road. This level of provision complies with minimum Council standards. In addition, the dwellings will have a minimum of one cycle space, including capacity in the provided garages.

- 5.35 In terms of the proposed access arrangements, the new access road would be wider than the existing and would include a pedestrian footway on one side, which would continue to Codicote Road. The vehicular access onto Codicote Road would be widened in association with the works to the access road. After re-consultation on the last application, the Highways Authority did not object to the altered access road and footpath and the proposed internal manoeuvring and refuse collection arrangements were considered acceptable, taking into account the grant of planning permission on appeal.
- 5.36 As such, it was recognised previously that there would not be any adverse impact on the access road or Codicote Road. Furthermore, it previously accepted that the impact of the proposal for seven dwelling would not cause unacceptable harm to the local highway network through additional vehicle movements. This remains the case for the amended proposal.

Ecology

- 5.37 No concerns in relation to ecology were raised during the consideration of the previous

applications. The ecology surveys concluded that development of the site is unlikely to have adverse effects on habitats or species due to the former uses. This remains the case for the amended proposal.

Flood Risk and Drainage

- 5.38 The site is located within Flood Zone 1 where there is low probability of land flooding (less than a 1 in 1000 annual probability of river flooding).
- 5.39 In respect of surface water drainage, the submitted Flood Risk and Drainage Strategy explains the site wide drainage strategy using infiltration and soakaway methods based on the ground conditions at the site.
- 5.40 It is proposed to connect foul water discharge to the existing nearby sewers.
- 5.41 There is no reason why the proposal should not be considered acceptable in this respect.

Contamination

- 5.42 The potential for contamination was assessed for the previously approved application and further assessments were recommended.
- 5.43 An updated Geo-Environmental Assessment has been carried out at the site and is submitted with this application. It identifies moderate to low risk which can be addressed through a remediation strategy, secured by a planning condition.

Amenity

- 5.44 In determining the last application, WHBC

recognised that, due to the siting of the proposed dwellings and the distance to neighbouring residential properties (approximately 95 metres would be retained between the proposed dwellings and the closest existing residential property), the proposed development would not result in any harmful overbearing impact, impact on outlook or loss of privacy.

- 5.45 Furthermore, having regard to the existing activities on the site, WHBC did not consider that the proposal would result in such a level of increase in use of the access road that would result in significant harm from noise and disturbance to those properties that bound the access road.
- 5.46 In terms of the potential for disturbance to the future occupiers of the proposed development, conditions were proposed to secure the implementation of noise mitigation measures to reduce the impact from commercial operations on the adjoining site.
- 5.47 Having assessed the potential for Green Belt harm and demonstrated the absence of any other harm arising from the proposal, we now turn to consider the “other considerations” or benefits of the proposal that must be weighed against the harms when considering whether ‘very special circumstances’ exist.

Benefits - Design & Living Standard Enhancements

- 5.48 When determining the previous application, WHBC recognised that the proposed amendments would result in enhancements to

the design of the scheme when compared to the extant permission. However, WHBC noted that the appeal Inspector had found the extant permission acceptable in design terms and suggested that materials of similar quality could be secured through the condition attached to the extant permission. As such, only limited weight was afforded to this benefit.

- 5.49 In the DAS, additional detail has been provided to demonstrate the uplift in appearance and enhancement to the living standards within the proposed dwellings. A detailed plot by plot comparison has been provided at figures 8.1 to 8.8 within the Appendix to the DAS. These annotated illustrations demonstrate the uplift in design and appearance on the elevations of each of the dwellings, and the better living standards that will be achieved through the proposed modifications to internal layouts.
- 5.50 Additionally, an assessment has been made of the practicality of installing the required Mechanical Ventilation Heat Recovery (MVHR) systems within the loft space of the approved dwellings. The section included at figure 8.9 within the Appendix to the DAS demonstrates that the approved design simply does not allow sufficient space. The amendments proposed therefore provide room to accommodate this essential system for creating a healthier living environment.
- 5.51 In view of the above, the design and living standard enhancements should be afforded significant weight.

Benefits - Sustainability Enhancements

- 5.52 In June 2019 Welwyn Hatfield declared a Climate Change Emergency, with the aspiration of achieving net-zero carbon emissions by 2030.
- 5.53 Local Plan Policies SP10 and SADM13 seek to maximise opportunities for reducing carbon emissions; encourage the use of renewables where it is appropriate and consistent with other policies; and ensure that proposals are responsive to how the climate will change over their lifetime and minimise their contribution to the urban heat island effect.
- 5.54 The provision of MVHR and EV charging points was secured by condition on the extant planning permission. This was considered sufficient to meet Local Plan policies.
- 5.55 The previous application proposed sustainability enhancements over the extant permission including the provision of Air Source Heat Pumps (ASHPs) for all dwellings.
- 5.56 It was also identified that additional improvements to thermal performance can be achieved by ensuring good work practice, better meeting airtightness targets. Simple measures like sealing around services (e.g. water, gas and cables), using proprietary seals and collars, ensuring blockwork is sealed and plaster finish is applied to external walls before erecting studwork for internal partitions can all improve air tightness results.
- 5.57 A number of energy efficient systems were also proposed:
- Low energy lighting (efficacy $\geq 45\text{lm/W}$)
 - Shower Save/Water Conservation
 - Advanced Heating controls
- 5.58 Beyond these measures, it was also highlighted that the amendments to the proposed layout, including the orientation of dwellings, would achieve energy efficiencies over the extant permission through enhanced daylighting.
- 5.59 When determining the previous application, WHBC recognised the additional measures proposed, but gave no weight to this benefit as no details or calculations have been provided to ascertain the actual enhancement in sustainability credentials.
- 5.60 The same sustainability measures are proposed in this application, although to demonstrate the improvement a preliminary SAP calculation has been completed for the proposed dwelling on Plot 5 (see figure 8.10 within the Appendix to the DAS) and this demonstrates that, with the enhancements measures proposed, the dwelling would achieve a 53.3% improvement against the latest SAP CO₂ target emission rate (see % Dwelling Emission Rate < Target Emission Rate).
- 5.61 All of the proposed dwellings are expected to achieve at least a 50% improvement against latest SAP CO₂ target emission rate, and the Applicant is prepared to accept a condition to this effect.
- 5.62 On this basis, the sustainability enhancements

should be afforded significant weight, particularly in view of the Council's declared Climate Change Emergency.

Benefits - Landscaping Enhancements

- 5.63 As noted above, within this revised application the perimeter landscaping has been enhanced considerably to provide a substantial screen of the proposed development in the limited views from the wider countryside.
- 5.64 The amended perimeter landscaping takes the form of a 3m wide landscaped buffer to the eastern edge, expanding to 4m along the southern edge. This landscaped buffer will include hedgerow, tree and understorey shrub planting, the retention and maintenance of which will be secured by a covenant on each plot.
- 5.65 Whilst challenging to comprehensively quantify the uplift in landscaping when comparing the revised scheme with the approved scheme, the increase in tree planting alone is notable. The landscaping proposals for the approved scheme included 31 trees. This has been increased to 74 trees on the landscape proposals that form part of this application. Widened hedgerows and additional areas of scrub planting have also been proposed.
- 5.66 In view of the above, the landscape enhancements should be afforded moderate weight.

Benefits - Biodiversity Net Gain Enhancements

- 5.67 As part of the previous application, details were provided to demonstrate that the proposal could achieve a 44.76% net gain in habitat units.
- 5.68 Whilst recognising that these figures are substantial, WHBC noted the pre-existing commercial site had limited ecological value and that no evidence had been provided to form a comparison between the extant permission and the proposed development to demonstrate what the actual improvement in BNG would be. No weight was therefore afforded to this benefit.
- 5.69 An updated BNG assessment has been undertaken for the revised proposals, and this demonstrates that with the landscape enhancements proposed, the development is now capable of achieving a 76.32% net gain in habitat units.
- 5.70 In terms of providing a comparison, a BNG calculation was not undertaken for the approved scheme since it was not a mandatory requirement at the point this application was being determined. A high-level calculation has, however, been undertaken and is provided at Appendix B and this demonstrates that the approved scheme could deliver around a 40% net gain in habitat units.
- 5.71 The latest proposals therefore achieve a substantial uplift of 88% in habitat units over the approved scheme. This is a benefit that should attract significant weight.

Other Benefits

- 5.72 Other social benefits associated with the propose development include the delivery of 7 much needed new family homes, whilst there are economic benefits associated with the jobs and economic activity generated by the construction process, the stimulus to the local economy from the additional households and the increased financial contributions through Council Tax and the New Homes Bonus.
- 5.73 Whilst it is acknowledged that these would also be achieved by the implementation of the extant permission (as the fall back), that scheme does not deliver the quality and design standards that the Applicant commits to on all of its developments. If this application is refused, there would be further delay until these benefits are realised on this site.
- 5.74 The social and economic benefits associated with the expedient delivery of the 7 dwellings on site should therefore carry some weight.

Conclusions on 'Very Special Circumstances'

- 5.75 Since the former buildings on the site have been demolished, it is understood that WHBC will find that the proposed development has a greater impact on the openness of the Green Belt than the existing position, and therefore deem it to be inappropriate development in the Green Belt. As such 'very special circumstances' will need to be demonstrated, which means demonstrating that 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.

- 5.76 In this regard, the fallback position of the approved development, is a recognised material consideration when considering the harm to the Green Belt in relation to a loss of openness. WHBC considered that the previous application proposals would have a materially greater impact on the openness of the Green Belt when compared to the fallback position. Harm to openness was therefore identified.
- 5.77 Through the revisions proposed as part of this application, positive steps have been taken to reduce the impact of the new scheme upon the openness of the Green Belt. The amended proposed is materially less harmful to the Green Belt than the previous application and, in our view, the impacts on openness would be comparable to that of the fallback extant permission.
- 5.78 Therefore, beyond the definitional harm by reason of inappropriateness, the proposed development would not result in materially greater harm to the openness of the Green Belt. It has also been demonstrated that it will not have an impact on Green Belt purposes, nor will it lead to any other material harm.
- 5.79 As to the factors weighing in favour of the proposal, the evidence discussed in this statement demonstrates that there are numerous benefits of the proposal over the fall-back extant permission:

- The uplift in design & living standards

should attract significant weight;

- The sustainability enhancements should attract significant weight;
- The landscape enhancements should attract moderate weight;
- The uplift of BNG habitat units should attract significant weight; and
- Further weight should be given to the social and economic benefits associated with the expedient delivery of the 7 dwellings on site.

5.80 In conclusion, the harm to the Green Belt would be clearly outweighed by the other considerations that together amount to 'very special circumstances'.

6 Conclusion

- 6.1 It is recognised the proposed development will be treated by WHBC as ‘inappropriate development’ in the Green Belt, which according to paragraphs 152 and 153 of the NPPF should only be approved if ‘very special circumstances’ exist which outweigh the potential harm by reason of inappropriateness, and any other harm.
- 6.2 A comprehensive balancing exercise has been undertaken in this statement, which demonstrates that there are considerations relevant to the proposed development that when taken together are sufficient to clearly outweigh the harm identified so that ‘very special circumstances’ have been demonstrated.
- 6.3 As such, the proposed development would not conflict with policies in the Local Plan and the NPPF. There are no material considerations that warrant a decision other than in accordance with the development plan, and as a consequence planning permission should be granted.

Appendix A

**Appeal Ref: APP/X1925/W/21/3269379 & APP/C1950/W/21/3269378 Land at
Oakleigh Farm Industrial Estate, Codicote Road, Welwyn AL6 9TY**



Appeal Decision

Site visit made on 7 September 2021

by C Osgathorp BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 September 2021

Appeal Ref: APP/X1925/W/21/3269379

Land at Oakleigh Farm Industrial Estate, Codicote Road, Welwyn AL6 9TY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Kevin McBride (Blackshu Ltd) against the decision of North Hertfordshire District Council.
 - The application Ref 20/00598/FP, dated 11 March 2020, was refused by notice dated 11 February 2021.
 - The development proposed is demolition of all existing buildings and structures. Change of use of western section to residential, comprising the erection of seven new detached dwellings with associated detached garages, parking and amenity areas. Change of use of eastern section to paddock. Upgrade existing access road.
-

Decision

1. The appeal is allowed and planning permission is granted for 'demolition of all existing buildings and structures. Change of use of western section to residential, comprising the erection of seven new detached dwellings with associated detached garages, parking and amenity areas. Change of use of eastern section to paddock. Upgrade existing access road' at Land at Oakleigh Farm Industrial Estate, Codicote Road, Welwyn AL6 9TY in accordance with the terms of the application, Ref 20/00598/FP, dated 11 March 2020, subject to the conditions set out in the attached Schedule.

Preliminary Matters

2. The appeal site straddles the boundary between North Hertfordshire District Council and Welwyn Hatfield Borough Council and consequently two applications were submitted. Both applications were refused, and I have considered the current appeal alongside that relating to Welwyn Hatfield Borough Council.
3. The Council cites policies from the emerging North Hertfordshire Local Plan 2011-2031 (the emerging Local Plan) in its decision notice, however given the stage of preparation it could be subject to further modification. Accordingly, I have afforded these policies limited weight.
4. Since the appeal was submitted, the Government published a revised version of the National Planning Policy Framework (the Framework). The main parties were given the opportunity to comment on any implications for the appeal of this change, and I am satisfied that no prejudice would be caused by my consideration of the appeal in light of the revised Framework

Main Issues

5. The main issues are:

- whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies; and,
- the effect of the proposal on the character and appearance of the area; and,
- whether a planning obligation for financial contributions towards local infrastructure and services is necessary to make the proposal acceptable in planning terms.

Reasons

Inappropriate development

6. The appeal site is located in the Green Belt. The Framework in paragraph 147 states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. It outlines that the construction of new buildings, other than in connection with a small number of exceptions set out in paragraph 149, should be regarded as inappropriate development.
7. Saved Policy 2 of the North Hertfordshire District Local Plan 1996 (the District Plan) pre-dates the Framework and is not consistent with the list of exceptions set out in the Framework. This limits the weight that I attach to Policy 2. I have therefore proceeded on the basis of the approach set out in the Framework.
8. The appellant draws attention to the exception set out in paragraph 149(g) [previously paragraph 145(g)] of the Framework, which concerns the limited infilling or the partial or complete redevelopment of previously developed land, providing that it would not have a greater impact on the openness of the Green Belt than the existing development. According to the Framework¹, previously developed land comprises land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure. This definition excludes, amongst other things, land that is or was last occupied by agricultural or forestry buildings.
9. The officer's report sets out that the appeal site includes a range of commercial buildings not in agricultural use and so the land west of the proposed paddock is previously developed land. I see no reason to take a different view.
10. The Framework advises that openness and permanence are the essential characteristics of the Green Belt. Openness is the absence of development and it has both spatial and visual aspects. The information before me shows that the proposal would reduce the footprint of built form on the site by around 23 square metres (1.92%). Whilst there would be some changes to siting, the proposed dwellings and gardens would be positioned near to the area currently occupied by buildings and open storage. I acknowledge that there would be a sizeable increase in floorspace of around 34.5%, however this is due to the accommodation contained within the roof space of the dwellings. The proposed

¹ See 'Annex 2: Glossary' – the National Planning Policy Framework

dwelling would be of modest scale and the first floor accommodation would be served by small dormer windows and rooflights. Consequently, the proposed development would result in a minor increase in built volume of around 118 cubic metres (2.3%). Having regard to the above factors, overall, the siting and scale of the proposed development would not result in a spatial loss of Green Belt openness.

11. Whilst the proposed development would generate a degree of traffic and activity, this would not be materially greater than that associated with the existing commercial use of the site. The proposed development would lead to parked cars and domestic paraphernalia associated with residential gardens, however this would largely be contained to areas that are currently used for parking and open storage. Furthermore, the unsightly area of open storage in the north-eastern corner of the site would be changed to an open grassed paddock, which would be beneficial to the visual openness of the Green Belt and reduce encroachment into the countryside. Given that the land is within the appeal site, I am satisfied that this could be secured through a planning condition.
12. I appreciate that the domestic appearance of the proposal would result in a degree of visual change, however given the low-rise, modest scale of the proposed dwellings I do not consider that this would diminish the openness of the Green Belt. The proposed soft landscaping and extensive planting around the boundaries would provide more greenery to soften the appearance of the site and restrict views of the buildings, access road and gardens in the surroundings. Therefore, I do not find that the proposal would result in a visual loss of Green Belt openness.
13. For the above reasons, I find that the proposal would meet the exception in paragraph 149(g) of the Framework, which requires that redevelopment of previously developed land would not have a greater impact on the openness of the Green belt than the existing development. The proposal therefore would not constitute inappropriate development in the Green Belt when assessed against the Framework. Furthermore, the proposed development would not encroach into the countryside and therefore would not conflict with the purposes of including land in the Green Belt.

Character and appearance

14. The appeal site is located behind residential properties and commercial units in Codicote Road and lies in a rural setting outside the village of Codicote. The appeal site contains a range of commercial buildings, including large areas of hard-surfacing and open storage. The utilitarian appearance of the existing buildings and the unsightly open storage, plant and parking in the outside areas appears incongruous in the surroundings and detracts from the character and appearance of the area. This includes a large area of open storage, which has limited screening, and visually encroaches into the countryside to the north-east.
15. The change of use of the open storage to an open grassed paddock at the north-eastern end of the site would provide a significant visual enhancement and reduce encroachment of development into the countryside. The amount of proposed built form would be similar to the existing development, and the traditional design approach would provide an acceptable appearance. The low-rise, modest scale of the proposed dwellings, along with the spacious layout,

would respect the rural character of the area. Furthermore, the proposed soft landscaping and extensive new planting around the site boundaries would be visually beneficial due to the greenery and the screening that would be provided to the proposed dwellings and gardens. Whilst the domestic appearance of the site would result in a degree of visual change, the development would appear discreet in the surroundings due to the modest scale of the dwellings and the new planting. It would also be seen in context of other residential properties nearby.

16. For these reasons, I find that the proposal would maintain the character and appearance of the area. It would therefore accord with Policy 57 of the District Plan and Policies SP1 and D1 of the emerging Local Plan, which, amongst other things, state that housing proposals should achieve high standards of design and relate to and enhance their site and surroundings. The proposal would also accord with Chapter 12 of the Framework, which, amongst other matters, states that decisions should ensure that developments are visually attractive and sympathetic to local character; and paragraph 174 which states that planning decisions should contribute to and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside.

Infrastructure

17. Whilst not a matter raised by the Council, Hertfordshire County Council seeks financial contributions towards primary education (the expansion of Codicote Primary School), secondary education (the expansion of Monks Walk Secondary School), library services (the enhancement of services at Welwyn Library) and youth services (alterations to the Welwyn Garden City Young Peoples Centre. It also seeks provision of fire hydrants. Hertfordshire County Council's (HCC) Planning Obligations guidance – Toolkit for Hertfordshire (2008) sets out a tariff for calculating such contributions, as shown in Table 2 of the document (index linked to PUBSEC 175).
18. HCC states that education contributions are calculated using its Census-based model which forecasts the number of children likely to emerge from different types, sizes and tenures of dwellings. HCC states that the Census-based model indicates that on a long-term average there will be an additional 2.3 primary school aged children residing within the proposed development at any point in time. It is also estimated that there will be a peak of 3.8 primary school aged children. The long-term average figure is used to calculate the impact on permanent school places and therefore is linked to the costs of permanent school extension.
19. HCC comments that forecast demand is calculated on the basis of primary education planning areas, and although the appeal site falls into the Welwyn primary planning area, the closest school is Codicote C of E Primary School, which is within the Codicote primary planning area at approximately 1.2 miles walking distance. The forecast primary school capacity shown in paragraph 4.9 of HCC's statement shows a surplus of spaces in 2020-21 & 2023-24 and a shortfall in 2021-22 & 2022-23.
20. Having regard to the fluctuation in forecast capacity and the small amount of additional primary school places that would be generated by the proposal, I am not persuaded the evidence shows that the proposal would result in a need for additional primary school capacity. Furthermore, whilst Codicote C of E Primary

School is closest to the appeal site, Welwyn St Mary's C of E Primary School is located around 1.4 miles to the south, which would provide an alternative for future residents of the proposed development. There is no information before me to show the forecast capacity of that school. As such, the evidence does not demonstrate that a financial contribution is necessary to make the development acceptable in planning terms.

21. HCC states that their Census-based model indicates that on a long-term average there will be an additional 2.1 secondary school aged children residing within the proposed development. Further, families living in Codicote and north of Welwyn predominantly look to Welwyn Garden City for secondary schools, and secondary demand is rising in Welwyn Garden City with the latest forecast indicating a need for additional places across the town in future years to meet demand. Nevertheless, the evidence before me does not show up to date forecast capacity of secondary schools in the area, and the amount of additional secondary school places generated by the proposed development would be small. Accordingly, it has not been demonstrated that a financial contribution is necessary.
22. Regarding youth provision, HCC states that their Census-based model estimates 2.2 additional young people may reside in the proposed development. Welwyn Garden City Young People's Centre is the closest young people's centre to the appeal site. HCC states that the additional young people arising from the proposed development would result in the facility being over capacity and contributions are therefore justified in order to fund additional provision. Funding would be used to improve and extend the entrance area of Welwyn Garden City Young People's Centre in order to increase access. However, there is no substantive evidence before me that the proposal would result in the Centre being over capacity.
23. In respect of library provision, HCC states that funding would be used towards the enhancement of Welwyn Library by installing a smaller enquiry desk to create additional capacity. Whilst I note the existing usage of stock at Welwyn Library compared to other libraries in the same category, I am not convinced that this information indicates a requirement for additional capacity. Furthermore, the evidence before me does not indicate the demand that would directly arise from the future residents of the proposed development. Based on the submitted evidence and having regard to the small amount of proposed dwellings, I find that it has not been demonstrated that a financial contribution is necessary.
24. I am satisfied that a scheme for the provision of mains water services providing fire hydrants could be secured through the imposition of a planning condition rather than requiring a planning obligation.
25. HCC has referred to various appeal decisions supporting their views as to compliance of infrastructure obligations with the Community Infrastructure Regulations 2010 as amended (the CIL Regulations) and policy. However, the obligations have to be considered on their particular planning merits and inevitably, outcomes will vary because every development proposal will be different in nature and planning policy context. Supporting evidence on infrastructure needs will also vary.
26. For the above reasons, I conclude that a planning obligation for financial contributions towards local infrastructure and services is not necessary to make

the proposal acceptable in planning terms having regard to the statutory tests in Regulation 122 of the CIL Regulations. The proposal would therefore accord with Policy 51 and Policy SP7 of the emerging Local Plan which require development proposals to make provision for infrastructure that is necessary in order to accommodate additional demands resulting from the development.

Other Matters

27. I have had regard to the representations from local residents which raise various concerns. The south-western elevation of the dwelling on Plot 7 would include a first floor dormer window and rooflight which would face the rear gardens of properties in Codicote Road. Nevertheless, these windows would serve non-habitable rooms which, together with the degree of separation to the boundary, would ensure that there would not be an unacceptable level of overlooking into neighbouring dwellings and their gardens. The windows in the south-eastern elevation of Plot 7 would be roughly perpendicular to the neighbouring properties in Codicote Road and so they would only afford oblique views towards the neighbouring properties. Given the large separation distance and the screening provided by the boundary vegetation, the habitable windows and raised terrace of Plot 7 would not cause an unacceptable loss of privacy to neighbouring occupiers.
28. The Lead Local Flood Authority has raised no objection regarding drainage and flood risk. Details of the final design of the drainage scheme based on the submitted Flood Risk Assessment could be secured by planning condition.
29. The proposal is a small scale development and there is no substantive evidence before me that the proposal would adversely affect sewerage infrastructure. Matters relating to power supply and broadband connection are not within my jurisdiction.
30. A planning condition to require the submission of a Construction Management Plan for approval could be imposed to minimise the impact of construction works on the surrounding area. Details of external lighting could be secured through a landscaping condition to ensure that the design of the scheme would minimise light pollution.
31. There is no substantive evidence before me that the proposed development would adversely affect or restrict access to the driveway of No 85 Codicote Road. Issues relating to private rights of access are a civil matter.

Planning Balance

32. There is no dispute that the Council is unable to demonstrate a deliverable 5 year housing land supply. The appellant indicates that the supply stands at 2.2 years, which is a significant shortfall. In these circumstances, the most important policies for determining the appeal are out-of-date in accordance with footnote 8 of the Framework.
33. Paragraph 60 of the Framework sets out the Government's objective of significantly boosting the supply of housing. In the context of the significant shortfall in housing supply, the proposed development would provide a contribution of 7no dwellings, making efficient use of previously developed land. Small sized sites can make an important contribution to meeting the housing requirement of an area and are often built-out relatively quickly, as indicated in paragraph 69 of the Framework. It would create some employment

at the construction stage, and the occupiers of the proposed dwellings would help to support local facilities and services. The proposal would also provide environmental benefits through the provision of soft landscaping and new planting.

34. I have found that the proposal would not be inappropriate development in the Green Belt and would not conflict with the purposes of including land within it. Furthermore, the proposal would maintain the character and appearance of the area. The proposed development would accord with the Development Plan and there are no other considerations, including the provisions of the Framework, which outweigh this finding.

Conditions

35. In addition to the standard time limit condition, I have imposed a condition requiring the development to be carried out in accordance with the approved plans as this provides certainty.
36. In order to maintain the character and appearance of the area, I have imposed conditions relating to details of the external materials of the dwellings, landscaping, tree protection and land levels. The landscaping condition is also necessary to provide ecological enhancements and protect the openness of the Green Belt.
37. In the interests of highway safety, I have imposed conditions requiring that the proposed access arrangements are provided, and to require the submission of a Construction Management Plan for approval. A condition to require details of the proposed arrangements for future management and maintenance of the streets within the development is necessary to ensure that the roads are managed and maintained to a suitable standard. A condition to require the submission of a Site Waste Management Plan is necessary to minimise waste generation and maximise the reuse and recycling of waste materials. A condition relating to unexpected land contamination is necessary to ensure that risks to the future users of the land and neighbouring land are minimised, together with those to controlled waters and ecological systems. A condition requiring the submission of the final design of the drainage strategy is necessary to reduce the risk of flooding and ensure the satisfactory disposal of surface water from the site.
38. Conditions to remove permitted development rights for enlargement of the dwellings under Schedule 2, Part 1, Class A and Class B of the Town and Country Planning (General Permitted Development) Order 2015, and to require the provision of the paddock, are justified to protect the openness of the Green Belt.
39. A condition requiring the provision of electric vehicle charging points is necessary in the interests of the environment and to reduce carbon emissions.
40. In the interests of the living conditions of future occupiers, a condition to require the mechanical ventilation with heat recovery system to comply with the standard specified in the submitted noise assessment is necessary.
41. A condition requiring a detailed scheme for the provision of mains water services providing fire hydrants is necessary to ensure that the development would be appropriately served by such facilities.

42. Conditions relating to materials, landscaping, land levels, drainage scheme and fire hydrants are pre-commencement conditions in the interests of proper planning and to avoid potentially abortive works. Furthermore, in the interests of highway safety during construction works it is necessary for the Construction Management Plan to be submitted and approved before the commencement of works. The Site Waste Management Plan is a pre-commencement condition because it relates to construction activities. Furthermore, tree protection requires a pre-commencement condition because the carrying out of works without prior agreed methods could cause harm to retained trees.

Conclusion

43. For the reasons given above, I conclude that the appeal should be allowed.

C Osgathorp

INSPECTOR

Schedule of conditions

- 1) The development to which this permission relates shall be begun within a period of three years commencing on the date of this permission.
- 2) The development hereby permitted shall be carried out in accordance with the following approved drawings:-

2019/942/01E; 2019/942/02F; 2019/942/03F; 2018/942/04; 2018/942/05; 2018/942/06; 2018/942/07; 2018/942/08; and, Landscape Mitigation Plan.
- 3) No development (except demolition) shall commence until details and/or samples of materials to be used on all external elevations of the dwellings hereby permitted have been submitted to and approved in writing by the Local Planning Authority. The proposed development shall be carried out in accordance with the approved details.
- 4) No development (except demolition) shall commence until details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority. The details shall be based on the submitted Landscape Mitigation Plan, and include:
 - planting plans and written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants noting species, plant supply sizes and proposed numbers/densities where appropriate;
 - a scheme of ecological enhancements;
 - means of enclosure;
 - boundary treatments;
 - vehicle parking layouts;
 - other vehicle and pedestrian access and circulation areas;
 - hard surfacing materials;
 - drainage details;
 - external lighting; and,
 - an implementation and maintenance programme.

The landscaping works shall be carried out in accordance with the approved details and in accordance with the agreed implementation programme. The completed scheme shall be managed and/or maintained in accordance with an approved scheme of management and/or maintenance.

- 5) No site clearance, preparatory work or development shall take place until a scheme for the protection of the retained trees (the tree protection plan) and the appropriate working methods (the arboricultural method statement) in accordance with paragraphs 5.5 and 6.1 of British Standard BS 5837: Trees in relation to design, demolition and construction - Recommendations (or in an equivalent British Standard if replaced) shall have been submitted to and approved in writing by the local planning authority. The scheme for the protection of the retained trees shall be carried out as approved.
- 6) Prior to occupation of the development hereby permitted, the use of the land for open storage shall cease and the proposed paddock shall be provided in accordance with the approved plans. The paddock shall be retained at all times thereafter and shall not be used for any other purpose.

- 7) No development (except demolition) shall commence until details of the existing and proposed ground levels and finished floor levels of the dwellings hereby approved have been submitted to and approved in writing by the Local Planning Authority. The development shall be completed in accordance with these approved details.
- 8) Prior to occupation of the development hereby permitted, each dwelling shall incorporate an electric vehicle domestic charging point.
- 9) Prior to occupation of the development hereby permitted full details shall have been submitted to and approved in writing by the Local Planning Authority in relation to the proposed arrangements for future management and maintenance of the proposed streets within the development. The streets shall thereafter be maintained in accordance with the approved management and maintenance details until such time as an agreement has been entered into under Section 38 of the Highways Act 1980 or a Private Management and Maintenance Company has been established).
- 10) Prior to occupation of the development hereby permitted the existing access from Codicote Road shall be re-constructed 5.50 metres wide with 6.0 metre radii kerbs as identified on drawing number B02913-SWH-ZZ-XX-DR-C-0510-P02, the footway leading from the development shall extend to south side of the reconfigured access for a minimum distance of 10 metres and shall include for pedestrian dropped kerbs and tactile paving and corresponding dropped kerbs and tactile paving opposite on the existing Codicote Road. These works shall be constructed to the specification of the Highway Authority and Local Planning Authority's satisfaction and shall be secured and undertaken as part of the s278 works.
- 11) Prior to occupation of the development hereby permitted the existing access road from the Codicote Road shall be improved and re-constructed 5.50 metres wide as identified on drawing number 2019/942/02F and the internal road layout shall be complete as identified on drawing number 2019/942/03F.
- 12) No development shall commence until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. Thereafter the construction of the development shall only be carried out in accordance with the approved Plan. The Construction Management Plan shall include details of:
 - a. Construction vehicle numbers, type, routing;
 - b. Access arrangements to the site;
 - c. Traffic management requirements
 - d. Construction and storage compounds (including areas designated for car parking, loading / unloading and turning areas);
 - e. Siting and details of wheel washing facilities;
 - f. Cleaning of site entrances, site tracks and the adjacent public highway;
 - g. Timing of construction activities (including delivery times and removal of waste) and to avoid school pick up/drop off times;

- h. Provision of sufficient on-site parking prior to commencement of construction activities;
 - i. Post construction restoration/reinstatement of the working areas and temporary access to the public highway;
 - j. where works cannot be contained wholly within the site a plan should be submitted showing the site layout on the highway including extent of hoarding, pedestrian routes and remaining road width for vehicle movements.
- 13) No development shall commence until a Site Waste Management Plan has been submitted to and approved in writing by the Local Planning Authority. The Management Plan as approved shall be implemented throughout the demolition and construction period.
- 14) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), there shall be no enlargement to the dwellings hereby permitted under Schedule 2, Part 1, Class A or Class B of the Order.
- 15) Prior to occupation of the development hereby permitted, the Mechanical Ventilation with Heat Recovery system and glazing shall be installed in each dwelling in accordance with the specification set out in "Noise Assessment, Oakleigh Farm..." Report reference RP01-19338, dated 30 August 2019 by Cass Allen Associates. The scheme shall be retained in accordance with those details thereafter.
- 16) In the event that contamination is found at any time when carrying out the approved development that was not previously identified, it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken and where remediation is necessary a remediation scheme must be prepared which is also subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority. All remediation works shall be carried out in accordance with the approved scheme before any dwelling hereby permitted is first occupied.
- 17) The development hereby permitted shall be carried out in accordance with the Flood Risk Assessment, reference B02913 Rev 02, dated August 2020 prepared by Scott White and Hookins and all supporting information and the following measures:
- 1. Providing attenuation to ensure no increase in surface water run-off volumes for all rainfall events up to and including the 1 in 100 year + 40% climate change event.
 - 2. Undertaking appropriate drainage strategy based on infiltration and to include permeable paving and soakaways.
- 18) No development (except demolition) shall commence until the final design of the drainage scheme has been submitted to and approved in writing by the Local Planning Authority. The surface water drainage system will be based

on the submitted Flood Risk Assessment, reference B02913 Rev 02, dated August 2020 prepared by Scott White and Hookins, dated 18 September 2020. The scheme shall also include:

1. Detailed infiltration testing be carried out pre-commencement in accordance with BRE Digest 365 standards at the proposed locations and depths of all SuDS features.
2. Detailed engineered drawings of the proposed SuDS features including their, location, size, volume, depth and any inlet and outlet features including any connecting pipe runs and all corresponding calculations/modelling to ensure the scheme caters for all rainfall events up to and including the 1 in 100 year + 40% allowance climate change event.
3. Demonstrate appropriate SuDS management and treatment and inclusion of above ground features.
4. Provision of half drain down times within 24 hours.
5. Silt traps for protection of any residual tanked elements.
6. Details regarding any areas of informal flooding (events those exceeding 1 in 30 year rainfall event), this should be shown on a plan with estimated extents and depths.
7. Details of final exceedance routes, including those for an event which exceeds to 1:100 + cc rainfall event.

The drainage scheme shall be fully implemented prior to occupation.

- 19) Prior to occupation of the development hereby permitted, a management and maintenance plan for the SuDS features and drainage network shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include:

1. Provision of a complete set of as built drawings for site drainage.
2. Maintenance and operational activities.
3. Arrangements for adoption and any other measures to secure the operation of the scheme throughout its lifetime.

The management and maintenance plan shall be implemented thereafter.

- 20) No development (except demolition) shall commence until a detailed scheme for the provision of mains water services providing fire hydrants has been submitted to and approved in writing by the Local Planning Authority. No occupation of the development shall take place until the approved scheme for the provision of mains water services providing fire hydrants has been provided in full. Thereafter the fire hydrants shall be retained as approved in perpetuity.



Appeal Decisions

Site visit made on 7 September 2021

by C Osgathorp BSc (Hons) MSc MRTPI

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

Decision date: 29 September 2021

Appeal Ref: APP/C1950/W/21/3269378

Land at Oakleigh Farm Industrial Estate, Codicote Road, Welwyn AL6 9TY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr McBride (Blackshu Ltd) against the decision of Welwyn Hatfield Borough Council.
 - The application Ref 6/2020/0714/MAJ, dated 11 March 2020, was refused by notice dated 26 November 2020.
 - The development proposed is demolition of all existing buildings and structures. Change of use of western section to residential, comprising the erection of seven new detached dwellings with associated detached garages, parking and amenity areas. Change of use of eastern section to paddock. Upgrade existing access road.
-

Decision

1. The appeal is allowed and planning permission is granted for 'demolition of all existing buildings and structures. Change of use of western section to residential, comprising the erection of seven new detached dwellings with associated detached garages, parking and amenity areas. Change of use of eastern section to paddock. Upgrade existing access road' at Land at Oakleigh Farm Industrial Estate, Codicote Road, Welwyn AL6 9TY in accordance with the terms of the application, Ref 6/2020/0714/MAJ, dated 11 March 2020, subject to the conditions set out in the attached Schedule.

Preliminary Matters

2. The appeal site straddles the boundary between Welwyn Hatfield Borough Council and North Hertfordshire District Council and consequently two applications were submitted. Both applications were refused, and I have considered the current appeal alongside that relating to North Hertfordshire District Council¹.
3. The Council cites policies from the emerging Welwyn Hatfield Borough Council Local Plan (the emerging Local Plan), however the Council has not explained the current status of the Plan or whether these policies have been objected to or are subject to modification. Accordingly, I have afforded these policies limited weight.
4. Since the appeal was submitted, the Government published a revised version of the National Planning Policy Framework (the Framework). The main parties were given the opportunity to comment on any implications for the appeal of

¹ Appeal Ref: APP/X1925/W/21/3269379

this change, and I am satisfied that no prejudice would be caused by my consideration of the appeal in light of the revised Framework

Main Issues

5. The main issues are:

- whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies; and,
- the effect of the proposal on the character and appearance of the area; and,
- whether a planning obligation for financial contributions towards local infrastructure and services is necessary to make the proposal acceptable in planning terms.

Reasons

Inappropriate development

6. The appeal site is located in the Green Belt. The Framework in paragraph 147 states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. It outlines that the construction of new buildings, other than in connection with a small number of exceptions set out in paragraph 149, should be regarded as inappropriate development.
7. Saved Policy GBSP1 of the Welwyn Hatfield District Plan (the District Plan) seeks to maintain the Green Belt but otherwise does not explain how development is to be managed. I have therefore proceeded on the basis of the approach set out in the Framework.
8. The appellant draws attention to the exception set out in paragraph 149(g) [previously paragraph 145(g)] of the Framework, which concerns the limited infilling or the partial or complete redevelopment of previously developed land, providing that it would not have a greater impact on the openness of the Green Belt than the existing development. According to the Framework², previously developed land comprises land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure. This definition excludes, amongst other things, land that is or was last occupied by agricultural or forestry buildings.
9. The Council refused to grant a lawful development certificate for the existing use of land and buildings for storage of plant and equipment due to insufficient evidence that on the balance of probabilities the site as a whole has been used for the purposes of the storage of plant and equipment for a period of at least 10 years. Nevertheless, the Council acknowledges that many of the buildings on the site have been there for more than 4 years and despite the disagreement about whether the use of those buildings is lawful, it can be determined that part of the site is occupied by permanent structures. On the basis of the evidence before me, the appeal site contains permanent structures that are not used for agricultural purposes. To my mind, except from the area

² See 'Annex 2: Glossary' – the National Planning Policy Framework

of open storage in the north-eastern corner, the appeal site constitutes previously developed land.

10. The Framework advises that openness and permanence are the essential characteristics of the Green Belt. Openness is the absence of development and it has both spatial and visual aspects. The information before me shows that the proposal would reduce the footprint of built form on the site by around 23 square metres (1.92%). Whilst there would be some changes to siting, the proposed dwellings and gardens would be positioned near to the area currently occupied by buildings and open storage. I acknowledge that there would be a sizeable increase in floorspace of around 34.5%, however this is due to the accommodation contained within the roof space of the dwellings. The proposed dwellings would be of modest scale and the first floor accommodation would be served by small dormer windows and rooflights. Consequently, the proposed development would result in a minor increase in built volume of around 118 cubic metres (2.3%). Having regard to the above factors, overall, the siting and scale of the proposed development would not result in a spatial loss of Green Belt openness.
11. Whilst the proposed development would generate a degree of traffic and activity, this would not be materially greater than that associated with the existing commercial use of the site. The proposed development would lead to parked cars and domestic paraphernalia associated with residential gardens, however this would largely be contained to areas that are currently used for parking and open storage. Furthermore, the unsightly area of open storage in the north-eastern corner of the site would be changed to an open grassed paddock, which would be beneficial to the visual openness of the Green Belt and reduce encroachment into the countryside. Given that the land is within the appeal site, I am satisfied that this could be secured through a planning condition.
12. I appreciate that the domestic appearance of the proposal would result in a degree of visual change, however given the low-rise, modest scale of the proposed dwellings I do not consider that this would diminish the openness of the Green Belt. The proposed soft landscaping and extensive planting around the boundaries would provide more greenery to soften the appearance of the site and restrict views of the buildings, access road and gardens in the surroundings. Therefore, I do not find that the proposal would result in a visual loss of Green Belt openness.
13. For the above reasons, I find that the proposal would meet the exception in paragraph 149(g) of the Framework, which requires that redevelopment of previously developed land would not have a greater impact on the openness of the Green belt than the existing development. The proposal therefore would not constitute inappropriate development in the Green Belt when assessed against the Framework. Furthermore, the proposed development would not encroach into the countryside and therefore would not conflict with the purposes of including land in the Green Belt. Accordingly, the proposal would comply with Policy SADM 34 of the emerging Local Plan which states that planning permission for development in the Green Belt will be granted in accordance with national policy and other policies in the plan. It would also accord with District Plan Policy GBSP1, which seeks to maintain the Green Belt.

Character and appearance

14. The appeal site is located behind residential properties and commercial units in Codicote Road and lies in a rural setting outside the village of Codicote. The appeal site contains a range of commercial buildings, including large areas of hard-surfacing and open storage. The utilitarian appearance of the existing buildings and the unsightly open storage, plant and parking in the outside areas appears incongruous in the surroundings and detracts from the character and appearance of the area. This includes a large area of open storage, which has limited screening, and visually encroaches into the countryside to the north-east.
15. The change of use of the open storage to an open grassed paddock at the north-eastern end of the site would provide a significant visual enhancement and reduce encroachment of development into the countryside. The amount of proposed built form would be similar to the existing development, and the traditional design approach would provide an acceptable appearance. The low-rise, modest scale of the proposed dwellings, along with the spacious layout, would respect the rural character of the area. Furthermore, the proposed soft landscaping and extensive new planting around the site boundaries would be visually beneficial due to the greenery and the screening that would be provided to the proposed dwellings and gardens. Whilst the domestic appearance of the site would result in a degree of visual change, the development would appear discreet in the surroundings due to the modest scale of the dwellings and the new planting. It would also be seen in context of other residential properties nearby.
16. For these reasons, I find that the proposal would maintain the character and appearance of the area. It would therefore accord with Policies D1 and D2 of the District Plan, Policy SADM1 of the emerging Local Plan and guidance in the Supplementary Design Guidance, which, amongst other things, requires high quality design in all new development and respect and relate to the character and context of the area in which it is proposed. It would also accord with Chapter 12 of the Framework, which, amongst other matters, states that decisions should ensure that developments are visually attractive and are sympathetic to local character; and, paragraph 174 which states that planning decisions should contribute to and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside.

Infrastructure

17. The Council has advised that financial contributions are required towards primary education (the expansion of Codicote Primary School), secondary education (the expansion of Monks Walk Secondary School), library services (the enhancement of services at Welwyn Library) and youth services (alterations to the Welwyn Garden City Young Peoples Centre. It also requires provision of fire hydrants. Hertfordshire County Council's (HCC) Planning Obligations guidance – Toolkit for Hertfordshire (2008) sets out a tariff for calculating such contributions, as shown in Table 2 of the document (index linked to PUBSEC 175).
18. HCC states that education contributions are calculated using its Census-based model which forecasts the number of children likely to emerge from different types, sizes and tenures of dwellings. HCC states that the Census-based model indicates that on a long-term average there will be an additional 2.3 primary

school aged children residing within the proposed development at any point in time. It is also estimated that there will be a peak of 3.8 primary school aged children. The long-term average figure is used to calculate the impact on permanent school places and therefore is linked to the costs of permanent school extension.

19. HCC comments that forecast demand is calculated on the basis of primary education planning areas, and although the appeal site falls into the Welwyn primary planning area, the closest school is Codicote C of E Primary School, which is within the Codicote primary planning area at approximately 1.2 miles walking distance. The forecast primary school capacity shown in paragraph 4.9 of HCC's statement shows a surplus of spaces in 2020-21 & 2023-24 and a shortfall in 2021-22 & 2022-23.
20. Having regard to the fluctuation in forecast capacity and the small amount of additional primary school places that would be generated by the proposal, I am not persuaded the evidence shows that the proposal would result in a need for additional primary school capacity. Furthermore, whilst Codicote C of E Primary School is closest to the appeal site, Welwyn St Mary's C of E Primary School is located around 1.4 miles to the south, which would provide an alternative for future residents of the proposed development. There is no information before me to show the forecast capacity of that school. As such, the evidence does not demonstrate that a financial contribution is necessary to make the development acceptable in planning terms.
21. HCC states that their Census-based model indicates that on a long-term average there will be an additional 2.1 secondary school aged children residing within the proposed development. Further, families living in Codicote and north of Welwyn predominantly look to Welwyn Garden City for secondary schools, and secondary demand is rising in Welwyn Garden City with the latest forecast indicating a need for additional places across the town in future years to meet demand. Nevertheless, the evidence before me does not show up to date forecast capacity of secondary schools in the area, and the amount of additional secondary school places generated by the proposed development would be small. Accordingly, it has not been demonstrated that a financial contribution is necessary.
22. Regarding youth provision, HCC states that their Census-based model estimates 2.2 additional young people may reside in the proposed development. Welwyn Garden City Young People's Centre is the closest young people's centre to the appeal site. HCC states that the additional young people arising from the proposed development would result in the facility being over capacity and contributions are therefore justified in order to fund additional provision. Funding would be used to improve and extend the entrance area of Welwyn Garden City Young People's Centre in order to increase access. However, there is no substantive evidence before me that the proposal would result in the Centre being over capacity.
23. In respect of library provision, HCC states that funding would be used towards the enhancement of Welwyn Library by installing a smaller enquiry desk to create additional capacity. Whilst I note the existing usage of stock at Welwyn Library compared to other libraries in the same category, I am not convinced that this information indicates a requirement for additional capacity. Furthermore, the evidence before me does not indicate the demand that would

directly arise from the future residents of the proposed development. Based on the submitted evidence and having regard to the small amount of proposed dwellings, I find that it has not been demonstrated that a financial contribution is necessary.

24. I am satisfied that a scheme for the provision of mains water services providing fire hydrants could be secured through the imposition of a planning condition rather than requiring a planning obligation.
25. HCC has referred to various appeal decisions supporting their views as to compliance of infrastructure obligations with the Community Infrastructure Regulations 2010 as amended (the CIL Regulations) and policy. However, the obligations have to be considered on their particular planning merits and inevitably, outcomes will vary because every development proposal will be different in nature and planning policy context. Supporting evidence on infrastructure needs will also vary.
26. For the above reasons, I conclude that a planning obligation for financial contributions towards local infrastructure and services is not necessary to make the proposal acceptable in planning terms having regard to the statutory tests in Regulation 122 of the CIL Regulations. The proposal would therefore accord with Policies IM2 and H2 of the District Plan and Policies SADM1 and SP13 of the emerging Local Plan, which, amongst other things, state that development will be required to provide for the infrastructure, services and facilities which are directly related to it and necessary to the granting of planning permission.

Other Matters

27. The Council refers to Policy SADM 10 of the emerging Local Plan, which states that proposals that would result in a loss of land from Class B uses to another use whether in a designated employment area or not, will only be permitted where specified criteria are met. This includes marketing over a period of three years to demonstrate that the land or premises are no longer required to meet future employment needs and that there is a lack of demand for the land or premises in that location. Supporting paragraph 10.14 sets out that the Council's evidence base shows that even with all of the land allocated as designated employment areas, it will be difficult to provide sufficient employment floorspace to meet the jobs requirement to 2032.
28. The proposed development would result in the loss of employment floorspace and no marketing has been carried out to demonstrate that the land is no longer required to meet future employment needs and that there is a lack of demand for the premises. The proposal would therefore conflict with Policy SADM 10 of the emerging Local Plan, however I attach limited weight to this conflict given the stage of preparation of the emerging Local Plan.

Planning Balance

29. The Council is unable to demonstrate a deliverable 5 year housing land supply, and the Council states that supply stands at 2.34 years, which is a significant shortfall. In these circumstances, the most important policies for determining the appeal are out-of-date in accordance with footnote 8 of the Framework.
30. Paragraph 60 of the Framework sets out the Government's objective of significantly boosting the supply of housing. In the context of the significant shortfall in housing supply, the proposed development would provide a

contribution of 7no dwellings, making efficient use of previously developed land. Small sized sites can make an important contribution to meeting the housing requirement of an area and are often built-out relatively quickly, as indicated in paragraph 69 of the Framework. It would create some employment at the construction stage, and the occupiers of the proposed dwellings would help to support local facilities and services. The proposal would also provide environmental benefits through the provision of soft landscaping and new planting.

31. I have found that the proposal would not be inappropriate development in the Green Belt and would not conflict with the purposes of including land within it. Furthermore, the proposal would maintain the character and appearance of the area, and the contributions sought by the Council towards infrastructure provision would not meet the tests in Regulation 122 of the CIL Regulations. The proposal would result in the loss of employment floorspace and I have attached limited weight to the conflict with Policy SADM 10 of the emerging Local Plan. However, this would not outweigh the benefits of the proposal. The proposed development would accord with the Development Plan and there are no other considerations, including the provisions of the Framework, which outweigh this finding.

Conditions

32. In addition to the standard time limit condition, I have imposed a condition requiring the development to be carried out in accordance with the approved plans as this provides certainty.
33. In order to maintain the character and appearance of the area, I have imposed conditions relating to details of the external materials of the dwellings, landscaping, tree protection and land levels. The landscaping condition is also necessary to provide ecological enhancements and protect the openness of the Green Belt.
34. In the interests of highway safety, I have imposed conditions requiring that the proposed access arrangements are provided, and to require the submission of a Construction Management Plan for approval. A condition to require details of the proposed arrangements for future management and maintenance of the streets within the development is necessary to ensure that the roads are managed and maintained to a suitable standard. A condition to require the submission of a Site Waste Management Plan is necessary to minimise waste generation and maximise the reuse and recycling of waste materials. A condition relating to unexpected land contamination is necessary to ensure that risks to the future users of the land and neighbouring land are minimised, together with those to controlled waters and ecological systems. A condition requiring the submission of the final design of the drainage strategy is necessary to reduce the risk of flooding and ensure the satisfactory disposal of surface water from the site.
35. Conditions to remove permitted development rights for enlargement of the dwellings under Schedule 2, Part 1, Class A and Class B of the Town and Country Planning (General Permitted Development) Order 2015, and to require the provision of the paddock, are justified to protect the openness of the Green Belt.

36. A condition requiring the provision of electric vehicle charging points is necessary in the interests of the environment and to reduce carbon emissions.
37. In the interests of the living conditions of future occupiers, a condition to require the mechanical ventilation with heat recovery system to comply with the standard specified in the submitted noise assessment is necessary.
38. A condition requiring a detailed scheme for the provision of mains water services providing fire hydrants is necessary to ensure that the development would be appropriately served by such facilities.
39. Conditions relating to materials, landscaping, land levels, drainage scheme and fire hydrants are pre-commencement conditions in the interests of proper planning and to avoid potentially abortive works. Furthermore, in the interests of highway safety during construction works it is necessary for the Construction Management Plan to be submitted and approved before the commencement of works. The Site Waste Management Plan is a pre-commencement condition because it relates to construction activities. Furthermore, tree protection requires a pre-commencement condition because the carrying out of works without prior agreed methods could cause harm to retained trees.

Conclusion

40. For the reasons given above, I conclude that the appeal should be allowed.

C Osgathorp

INSPECTOR

Schedule of conditions

- 1) The development to which this permission relates shall be begun within a period of three years commencing on the date of this permission.
- 2) The development hereby permitted shall be carried out in accordance with the following approved drawings:-

2019/942/01E; 2019/942/02F; 2019/942/03F; 2018/942/04; 2018/942/05; 2018/942/06; 2018/942/07; 2018/942/08; and, Landscape Mitigation Plan.
- 3) No development (except demolition) shall commence until details and/or samples of materials to be used on all external elevations of the dwellings hereby permitted have been submitted to and approved in writing by the Local Planning Authority. The proposed development shall be carried out in accordance with the approved details.
- 4) No development (except demolition) shall commence until details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority. The details shall be based on the submitted Landscape Mitigation Plan, and include:
 - planting plans and written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants noting species, plant supply sizes and proposed numbers/densities where appropriate;
 - a scheme of ecological enhancements;
 - means of enclosure;
 - boundary treatments;
 - vehicle parking layouts;
 - other vehicle and pedestrian access and circulation areas;
 - hard surfacing materials;
 - drainage details;
 - external lighting; and,
 - an implementation and maintenance programme.

The landscaping works shall be carried out in accordance with the approved details and in accordance with the agreed implementation programme. The completed scheme shall be managed and/or maintained in accordance with an approved scheme of management and/or maintenance.
- 5) No site clearance, preparatory work or development shall take place until a scheme for the protection of the retained trees (the tree protection plan) and the appropriate working methods (the arboricultural method statement) in accordance with paragraphs 5.5 and 6.1 of British Standard BS 5837: Trees in relation to design, demolition and construction - Recommendations (or in an equivalent British Standard if replaced) shall have been submitted to and approved in writing by the local planning authority. The scheme for the protection of the retained trees shall be carried out as approved.
- 6) Prior to occupation of the development hereby permitted, the use of the land for open storage shall cease and the proposed paddock shall be provided in accordance with the approved plans. The paddock shall be retained at all times thereafter and shall not be used for any other purpose.

- 7) No development (except demolition) shall commence until details of the existing and proposed ground levels and finished floor levels of the dwellings hereby approved have been submitted to and approved in writing by the Local Planning Authority. The development shall be completed in accordance with these approved details.
- 8) Prior to occupation of the development hereby permitted, each dwelling shall incorporate an electric vehicle domestic charging point.
- 9) Prior to occupation of the development hereby permitted full details shall have been submitted to and approved in writing by the Local Planning Authority in relation to the proposed arrangements for future management and maintenance of the proposed streets within the development. The streets shall thereafter be maintained in accordance with the approved management and maintenance details until such time as an agreement has been entered into under Section 38 of the Highways Act 1980 or a Private Management and Maintenance Company has been established).
- 10) Prior to occupation of the development hereby permitted the existing access from Codicote Road shall be re-constructed 5.50 metres wide with 6.0 metre radii kerbs as identified on drawing number B02913-SWH-ZZ-XX-DR-C-0510-P02, the footway leading from the development shall extend to south side of the reconfigured access for a minimum distance of 10 metres and shall include for pedestrian dropped kerbs and tactile paving and corresponding dropped kerbs and tactile paving opposite on the existing Codicote Road. These works shall be constructed to the specification of the Highway Authority and Local Planning Authority's satisfaction and shall be secured and undertaken as part of the s278 works.
- 11) Prior to occupation of the development hereby permitted the existing access road from the Codicote Road shall be improved and re-constructed 5.50 metres wide as identified on drawing number 2019/942/02F and the internal road layout shall be complete as identified on drawing number 2019/942/03F.
- 12) No development shall commence until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. Thereafter the construction of the development shall only be carried out in accordance with the approved Plan. The Construction Management Plan shall include details of:
 - a. Construction vehicle numbers, type, routing;
 - b. Access arrangements to the site;
 - c. Traffic management requirements
 - d. Construction and storage compounds (including areas designated for car parking, loading / unloading and turning areas);
 - e. Siting and details of wheel washing facilities;
 - f. Cleaning of site entrances, site tracks and the adjacent public highway;
 - g. Timing of construction activities (including delivery times and removal of waste) and to avoid school pick up/drop off times;

- h. Provision of sufficient on-site parking prior to commencement of construction activities;
 - i. Post construction restoration/reinstatement of the working areas and temporary access to the public highway;
 - j. where works cannot be contained wholly within the site a plan should be submitted showing the site layout on the highway including extent of hoarding, pedestrian routes and remaining road width for vehicle movements.
- 13) No development shall commence until a Site Waste Management Plan has been submitted to and approved in writing by the Local Planning Authority. The Management Plan as approved shall be implemented throughout the demolition and construction period.
- 14) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), there shall be no enlargement to the dwellings hereby permitted under Schedule 2, Part 1, Class A or Class B of the Order.
- 15) Prior to occupation of the development hereby permitted, the Mechanical Ventilation with Heat Recovery system and glazing shall be installed in each dwelling in accordance with the specification set out in "Noise Assessment, Oakleigh Farm..." Report reference RP01-19338, dated 30 August 2019 by Cass Allen Associates. The scheme shall be retained in accordance with those details thereafter.
- 16) In the event that contamination is found at any time when carrying out the approved development that was not previously identified, it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken and where remediation is necessary a remediation scheme must be prepared which is also subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority. All remediation works shall be carried out in accordance with the approved scheme before any dwelling hereby permitted is first occupied
- 17) The development hereby permitted shall be carried out in accordance with the Flood Risk Assessment, reference B02913 Rev 02, dated August 2020 prepared by Scott White and Hookins and all supporting information and the following measures:
- 1. Providing attenuation to ensure no increase in surface water run-off volumes for all rainfall events up to and including the 1 in 100 year + 40% climate change event.
 - 2. Undertaking appropriate drainage strategy based on infiltration and to include permeable paving and soakaways.
- 18) No development (except demolition) shall commence until the final design of the drainage scheme has been submitted to and approved in writing by the Local Planning Authority. The surface water drainage system will be based

on the submitted Flood Risk Assessment, reference B02913 Rev 02, dated August 2020 prepared by Scott White and Hookins, dated 18 September 2020. The scheme shall also include:

1. Detailed infiltration testing be carried out pre-commencement in accordance with BRE Digest 365 standards at the proposed locations and depths of all SuDS features.
2. Detailed engineered drawings of the proposed SuDS features including their, location, size, volume, depth and any inlet and outlet features including any connecting pipe runs and all corresponding calculations/modelling to ensure the scheme caters for all rainfall events up to and including the 1 in 100 year + 40% allowance climate change event.
3. Demonstrate appropriate SuDS management and treatment and inclusion of above ground features.
4. Provision of half drain down times within 24 hours.
5. Silt traps for protection of any residual tanked elements.
6. Details regarding any areas of informal flooding (events those exceeding 1 in 30 year rainfall event), this should be shown on a plan with estimated extents and depths.
7. Details of final exceedance routes, including those for an event which exceeds to 1:100 + cc rainfall event.

The drainage scheme shall be fully implemented prior to occupation.

- 19) Prior to occupation of the development hereby permitted, a management and maintenance plan for the SuDS features and drainage network shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include:

1. Provision of a complete set of as built drawings for site drainage.
2. Maintenance and operational activities.
3. Arrangements for adoption and any other measures to secure the operation of the scheme throughout its lifetime.

The management and maintenance plan shall be implemented thereafter.

- 20) No development (except demolition) shall commence until a detailed scheme for the provision of mains water services providing fire hydrants has been submitted to and approved in writing by the Local Planning Authority. No occupation of the development shall take place until the approved scheme for the provision of mains water services providing fire hydrants has been provided in full. Thereafter the fire hydrants shall be retained as approved in perpetuity.

Appendix B

BNG Calculations for 2021 Approved Scheme

The Statutory Biodiversity Metric

Start page

Project details			
Planning authority:	Welwyn Hatfield Borough Council		
Project name:	Oakleigh Farm, Welwyn		
Applicant:	Kingshall Estates UK Ltd		
Application type:	Full planning		
Planning application reference:	6/20201/0714/MAJ		
Completed by:	Jess Grundy		
Date of metric completion:	3rd October 2024		
Reviewer:	Jess Grundy		
Calculation iteration:	1		
Planning authority reviewer:			
Date of planning authority review:			
Target % net gain:	10%		
Irreplaceable habitat present at baseline:	No ✓		
Total site area - including irreplaceable habitat area (hectares):	1.38	Irreplaceable habitat site area (hectares):	0.00
Total off-site area - including irreplaceable habitat area (hectares):	N/A	Irreplaceable habitat area off-site (hectares):	N/A

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	Automatic lookup
	Result

On-site baseline map

Insert

On-site baseline map reference number

Off-site baseline map

Insert

Off-site baseline map reference number

On-site post intervention map

Insert

On-site post-intervention map reference number

Off-site post intervention map

Insert

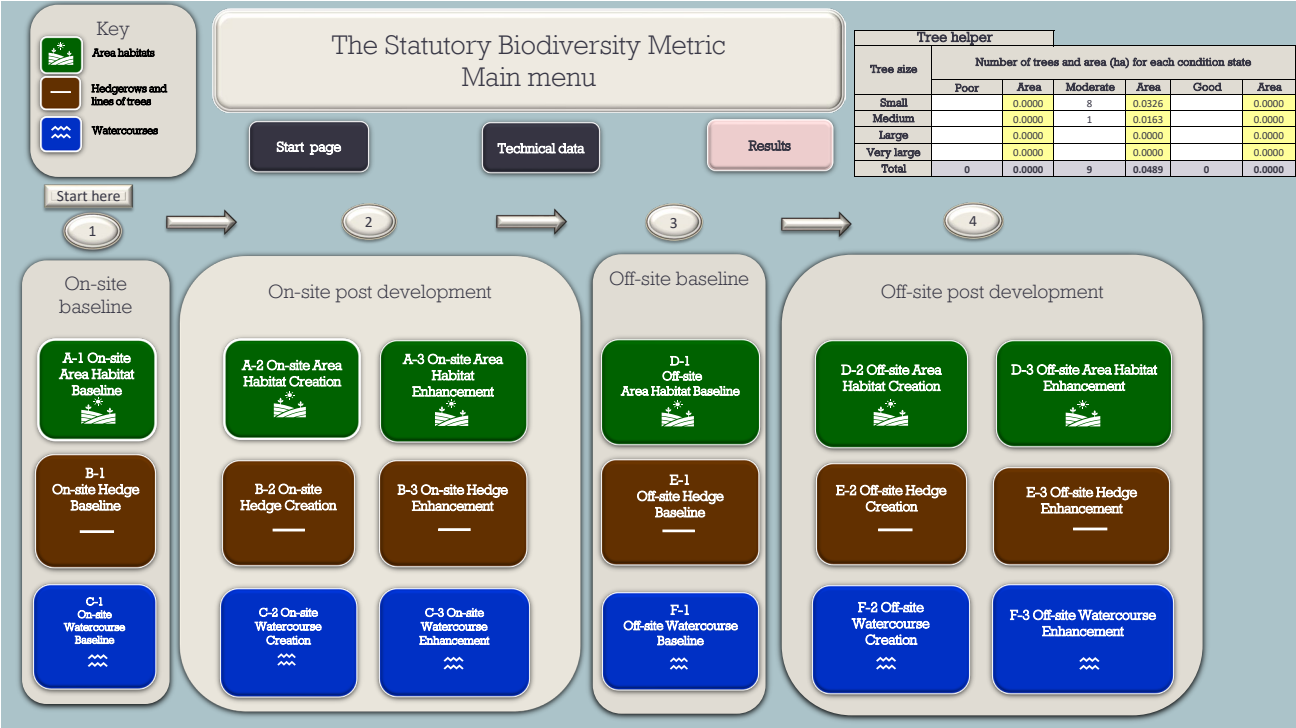
Off-site post-intervention reference number

Main menu

Results

View all

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The Statutory Biodiversity Metric
Results

Return to start
page

Headline results

Detailed results

Habitat trading
summaries

Off-site
summary

Irreplaceable
habitats summary

Unit shortfall
summary

Oakleigh Farm, Welwyn
Headline Results
Scroll down for final results ▲

Return to results menu

On-site baseline	Habitat units	1.90	
	Hedgerow units	0.36	
	Watercourse units	0.00	
On-site post-intervention (Including habitat retention, creation & enhancement)	Habitat units	2.67	
	Hedgerow units	2.35	
	Watercourse units	0.00	
On-site net change (units & percentage)	Habitat units	0.77	40.62%
	Hedgerow units	1.99	553.60%
	Watercourse units	0.00	0.00%

Off-site baseline	Habitat units	0.00	
	Hedgerow units	0.00	
	Watercourse units	0.00	
Off-site post-intervention (Including habitat retention, creation & enhancement)	Habitat units	0.00	
	Hedgerow units	0.00	
	Watercourse units	0.00	
Off-site net change (units & percentage)	Habitat units	0.00	0.00%
	Hedgerow units	0.00	0.00%
	Watercourse units	0.00	0.00%

Combined net unit change (Including all on-site & off-site habitat retention, creation & enhancement)	Habitat units	0.77	
	Hedgerow units	1.99	
	Watercourse units	0.00	
Spatial risk multiplier (SRM) deductions	Habitat units	0.00	
	Hedgerow units	0.00	
	Watercourse units	0.00	

FINAL RESULTS		
Total net unit change (Including all on-site & off-site habitat retention, creation & enhancement)	Habitat units	0.77
	Hedgerow units	1.99
	Watercourse units	0.00
Total net % change (Including all on-site & off-site habitat retention, creation & enhancement)	Habitat units	40.62%
	Hedgerow units	553.60%
	Watercourse units	0.00%
Trading rules satisfied?	No - Check Trading Summaries ▲	

Unit Type	Target	Baseline Units	Units Required	Unit Deficit	
Habitat units	10.00%	1.90	2.09	0.00	No additional area habitat units required to meet target ✓
Hedgerow units	10.00%	0.36	0.40	0.00	No additional hedgerow units required to meet target ✓
Watercourse units	10.00%	0.00	0.00	0.00	No additional watercourse units required to meet target ✓

Input errors/rule breaks present in metric ▲

Return to results menu

Trading summary area habitats

Trading summary watercourses

Trading Summary		
Distinctiveness Group	Trading Rule	Trading Satisfied?
Very High	Same habitat required =	Yes ✓
High	Like for like or better	Yes ✓
Medium	Same distinctiveness or better habitat required	Yes ✓
Low	Same distinctiveness or better habitat required	Yes ✓
Very Low	Same distinctiveness or better habitat required	Yes ✓

Very High Distinctiveness			
Habitat group	On-site unit change	Off-site unit change	Project-wide unit change
Species-rich native hedgerow with trees - associated with bank or ditch	0.00	0.00	0.00
	0.00	0.00	0.00

Very High Distinctiveness Summary	
Very High Distinctiveness Units available to offset lower distinctiveness deficit	0.00
Remaining losses: Like for like not satisfied	0.00

High Distinctiveness			
Habitat group	On-site unit change	Off-site unit change	Project wide unit change
Species-rich native hedgerow with trees	2.35	0.00	2.35 ✓
Species-rich native hedgerow - associated with bank or ditch	0.00	0.00	0.00
Native hedgerow with trees - associated with bank or ditch	0.00	0.00	0.00
	2.35	0.00	2.35

High Distinctiveness Summary	
High Distinctiveness Units available to offset lower distinctiveness deficit	2.35 ✓
High Distinctiveness losses to be offset for trading rate	0.00
Higher Distinctiveness surplus units minus any high distinctiveness deficit	0.00

Medium Distinctiveness			
Habitat group	On-site unit change	Off-site unit change	Project wide unit change
Species-rich native hedgerow	0.00	0.00	0.00
Native hedgerow - associated with bank or ditch	0.00	0.00	0.00
Native hedgerow with trees	0.00	0.00	0.00
Environmentally valuable line of trees	0.00	0.00	0.00
Environmentally valuable line of trees - associated with bank or ditch	0.00	0.00	0.00
	0.00	0.00	0.00

Medium Distinctiveness Summary	
Units available from higher distinctiveness habitats	0.00 ✓
Medium Distinctiveness net change in units	0.00
Cumulative availability of units	2.35 ✓

Low Distinctiveness			
Habitat group	On-site unit change	Off-site unit change	Project wide unit change
Native hedgerow	-0.35	0.00	-0.35 ⚠
Line of trees	0.00	0.00	0.00
Line of trees - associated with bank or ditch	0.00	0.00	0.00
	-0.35	0.00	-0.35

Low Distinctiveness Summary	
Low Distinctiveness net change in units	-0.35 ⚠
Cumulative availability of units	1.99 ✓

Very Low Distinctiveness			
Habitat group	On-site unit change	Off-site unit change	Project wide unit change
Non-native and ornamental hedgerow	0.00	0.00	0.00
	0.00	0.00	0.00

Very Low Distinctiveness Summary	
Very Low Distinctiveness net change in units	0.00
Cumulative availability of units	1.99 ✓

Project Name: Calishah Falls Wetlands - Map Reference: A-1 On-Site Habitat Baseline		2016 Habitat Summary	
Calishah Falls Wetlands		Wet Area: 0.172	Wet Area: 0.172
Wet Area: 0.172		Wet Area: 0.172	Wet Area: 0.172
1	Wetland	Wetland	Wetland
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Project Name: Oakleigh Park, Weyraya

Map Reference: A-2 On-Site Habitat Creation

Coordinates / Show Outline

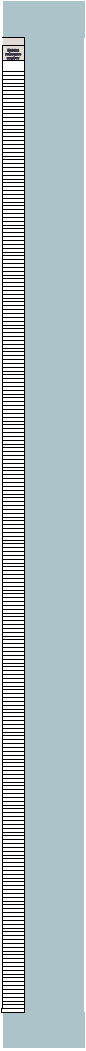
Coordinates / Show Rows

Map Menu

Area habitat summary	
Total Net % Change	0.77
Total Net % Change	69.05%
Trading Value Potential	Trading Value Potential: 4
Area Check	Area: Assessable: 7

Post Intervention habitat														Comments			
Ref	Broad habitat	Proposed habitat	Area (hectares)	Disturbance		Condition	Strategic significance		Temporal multiplier		Difficulty	Habitat value delivered	Comments				
				Disturbance	Condition		Strategic significance	Standard or adjusted time to target condition	Final time to target condition (years)	Final difficulty of creation			User comments	Planning authority comments	Habitat reference number		
1	Urban	Overdeveloped land, sealed surface	0.48	V-Low	N/A	Other	Reinstatement not to level strategy/ no break ability	Standard time to target condition applied	0	Low	0.00						
2	Urban	Vegetated garden	0.23	Low	Condition Assessment 200	Other	Reinstatement not to level strategy/ no break ability	Standard time to target condition applied	1	Low	0.56						
3	Urban	Intervened site	0.05	Low	Condition Assessment 200	Other	Reinstatement not to level strategy/ no break ability	Standard time to target condition applied	1	Low	0.03						
4	Grassland	Other rural or grassland	0.1	Medium	Moderate	Other	Reinstatement not to level strategy/ no break ability	Standard time to target condition applied	5	Low	0.51						
5	Shrubland and shrubs	Mixed scrub	0.11	Medium	High	Other	Reinstatement not to level strategy/ no break ability	Standard time to target condition applied	1	Low	0.42						
6	Individual trees	Urban trees	0.03	Medium	Moderate	Other	Reinstatement not to level strategy/ no break ability	Standard time to target condition applied	27	Low	0.08						
7																	
8																	
9																	
10																	
11																	
Total habitat area			1.08								1.78						
Site Area (including area of individual trees, green walls, intertidal hard structures)														0.27			
3P to breeder conversion tool:														Reinstatement	High	Medium	Low

Kategorie 1										Kategorie 2										Kategorie 3										Kategorie 4										Kategorie 5										Kategorie 6										Kategorie 7										Kategorie 8										Kategorie 9										Kategorie 10										Kategorie 11										Kategorie 12										Kategorie 13										Kategorie 14										Kategorie 15										Kategorie 16										Kategorie 17										Kategorie 18										Kategorie 19										Kategorie 20										Kategorie 21										Kategorie 22										Kategorie 23										Kategorie 24										Kategorie 25										Kategorie 26										Kategorie 27										Kategorie 28										Kategorie 29										Kategorie 30										Kategorie 31										Kategorie 32										Kategorie 33										Kategorie 34										Kategorie 35										Kategorie 36										Kategorie 37										Kategorie 38										Kategorie 39										Kategorie 40										Kategorie 41										Kategorie 42										Kategorie 43										Kategorie 44										Kategorie 45										Kategorie 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