



Appeal Decision

Inquiry held 9-12 April 2024

Site visit made on 8 and 10 April 2024

by D M Young JP BSc (Hons) MA MRTPI MIHE

an Inspector appointed by the Secretary of State

Decision date: 9th May 2024

Appeal Ref: APP/A1910/W/23/3333545

Rectory Farm, Kings Langley, Hertfordshire, Dacorum, WD4 8HG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by CALA Homes and Angle Property against the decision of Dacorum Borough Council.
 - The application Ref is 22/01836/MFA.
 - The development proposed is a comprehensive development comprising 135 residential units, new community buildings (including cafe and farm shop, cycle hub, repair shed, meeting & office space) creation of new public open space and play space, provision of new vehicular and pedestrian access from Hempstead Road, provision of cycle and car parking and associated works.
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Decision

1. The appeal is allowed, and planning permission is granted for a comprehensive development comprising 135 residential units, new community buildings (including cafe and farm shop, cycle hub, repair shed, meeting and office space) creation of new public open space and play space, provision of new vehicular and pedestrian access from Hempstead Road, provision of cycle and car parking and associated works at Rectory Farm, Hertfordshire, WD4 8HG in accordance with the terms of the application, Ref 22/01836/MFA, subject to the conditions in the attached schedule.

Preliminary Matters

2. The Inquiry sat for 4 days between 9-12 April. I undertook unaccompanied site visits before and during the Inquiry. With the agreement of the main parties, a formal site visit after the Inquiry had closed was not deemed necessary.
3. Two Statements of Common Ground (SoCG) relating to planning and housing land supply were submitted prior to the Inquiry¹. I have had regard to these in reaching my decision.
4. Rule 6 status was granted to the Joint Objectors Group² (JOG) who gave evidence on Green Belt as well as landscape and visual matters.
5. A signed and dated agreement under s106 of the Town and Country Planning Act was submitted after the close of the Inquiry. Amongst other things this contains provisions in respect of affordable housing, on-site community

¹ CD: 9.11A and B

² Kings Langley and District Residents Association and the Hertfordshire Branch of CPRE, the Countryside Charity.

facilities, open space, transport, drainage and biodiversity. A draft version³ of the document was discussed at the Inquiry. All the proposed contributions would need to be assessed against the statutory Community Infrastructure Levy tests, a matter I will return to later in my report.

6. As is customary, an unsigned version of the Unilateral undertaking (UU) was discussed at the Inquiry. The UU contains a single obligation relating to the provision of Suitable Alternative Natural Greenspace (SANG). Following the submission of a completed version after the close of the Inquiry, the Council submitted an objection to the UU⁴. That is despite the final UU being substantially the same document as the draft version discussed at the Inquiry. The Council's letter also raised various other points unrelated to the UU and in that regard, it represented a re-running and/or re-visiting of arguments made at the Inquiry. I afforded the Appellant the opportunity to respond to the Council's submission and I have taken its letter dated 8 May 2024 into account.

Main Issues

7. The application was refused for four reasons. Reasons 3 and 4 relate to the absence of a suitable legal mechanism to secure the necessary infrastructure and transport contributions. The s106 agreement would secure the contributions sought from the Council (and Hertfordshire County Council as Highway Authority). Accordingly, I am satisfied that reasons for refusal 3 and 4 have been adequately addressed.
8. The first reason for refusal concerns inappropriate development in the Green Belt. The second pertains to the lack of mitigation for the Chilterns Beechwoods Special Area of Conservation (SAC).
9. There is no dispute between any of the parties that the development would be inappropriate development in the Green Belt. However, the SoCG confirms that should the SAC mitigation be secured then very special circumstances would exist and the development would constitute sustainable development⁵. Accordingly, and subject to the resolution of the SANG issue, reasons one and two would fall away.
10. JOG contended that the level of Green Belt harm particularly in relation to openness and purposes was higher than that agreed between the Council and the Appellant. Moreover, it considered that other harms in the form of landscape and visual impacts resulted in the Appellant being unable to demonstrate very special circumstances. There was thus a clear distinction between the Council's case and that of JOG.
11. The main issues in this appeal are therefore:
 - 1) Whether the proposal would secure the necessary SANG mitigation such that I can be satisfied there would be no adverse effect on the integrity of the SAC, and
 - 2) Whether the harm by reason of inappropriateness, and any other relevant harm, is clearly outweighed by other considerations, so as to amount to the

³ CD9.28

⁴ Letter dated 30 April 2024

⁵ SoCG paragraphs 7-9-7.11.

very special circumstances necessary to justify development in the Green Belt.

Appeal Site and Background

12. The appeal site is described in Section 2 of the SoCG. Put simply the site comprises the balance of the Rectory Farm site⁶. The site is greenfield and abuts the settlement boundary of Kings Langley to both the south and west. It slopes down from Hempstead Road in the west to the Grand Union Canal in the east. The site is contained by established hedgerows and trees along Hempstead Road. The site is bounded to the north by Kings Langley Football Club.
13. As explained in paragraphs 6.15-17 of the SoCG, the appeal site was a proposed allocation⁷ in the draft Local Plan following a Green Belt Review undertaken by Arup on behalf of the Council⁸. However, the site was later removed in the Revised Strategy for Growth published in October 2023⁹. As the Regulation 19 version of the emerging local plan has yet to be published, it carries very limited weight at this time.

Reasons

SAC Mitigation

14. There are large areas of agreement between the Council and the Appellant. Of particular importance, it is agreed that the appeal site is located within the Zone of Influence of the SAC and that the impact of the scheme on the SAC in terms of additional recreational disturbance would be satisfactorily mitigated through the allocation of SANG credits. This is reflected in the SAC Mitigation Strategy which acknowledges that adverse impacts on the SAC can be mitigated through proportionate contributions towards SANG which need to be delivered ahead of occupation of the development.
15. Further evidence of the acceptability of SANG as effective mitigation, is provided in paragraph 4.13 of NE's Appeal Statement¹⁰ which states:
"Development in accordance with the Chilterns Beechwoods SAC Mitigation Strategy would not be likely to have an adverse impact on the SAC because such development would provide, or make an appropriate contribution to, acceptable avoidance and mitigation measures. The planning authority can therefore grant planning permission to such developments in accordance with the Habitats Regulations."
16. The Appellant's Statement of Case¹¹ identifies two off-site options for securing SANG. The first is Council-led SANG and the second, a private SANG at Westbrook Hay owned by the Boxmoor Trust (BMT).
17. Although there is no dispute about the suitability of SANG as effective mitigation, the Council has a clear preference for option 2. This is reflected in the drafting of the UU.

⁶ LPA Ref: 4/02282/18/MOA

⁷ Site KL2, Policy SP26 CD6.2

⁸ CDs 5.25-27

⁹ CD6.3

¹⁰ CD10.2

¹¹ CD9.9

18. Natural England's (NE) has a holding objection to the scheme due to the lack of certainty regarding the delivery of a SANG solution. However, their Appeal Statement confirms that they consider either of the two options proposed by the Appellant to be acceptable provided the SANG is secured in perpetuity¹².
19. Accordingly, rather than the form of mitigation, it is the mechanism by which the SANG is secured that is the issue¹³. I deal with each of the Appellant's proposed options below.

Strategic SANG

20. The Council argued that the allocation of strategic SANG to the development, would not be in accordance with the Allocations Protocol due to; a) the site's Green Belt location, b) the scheme comprises inappropriate development and c) the finite capacity of the Council-led SANG sites.
21. Dealing with c) first, the Appellant argued that there is adequate capacity at the Council-led SANG sites to accommodate the appeal scheme and that the Allocations Protocol contained within the Mitigation Strategy for the SAC¹⁴ states that capacity will be retained for those schemes allowed at appeal.
22. The appeal site is within the catchment of two sites at Bunkers Park and Chipperfield Common. Both have capacity at the time of writing with a combined spare capacity of 40.13% which equates to 1,518 residential units. If credits were allocated to the appeal scheme, the residual balance would be 37% or 1,383 units. The Appellant's witness confirmed that Chipperfield Common alone has sufficient capacity to accommodate the delivery of small sites over a five-year period.
23. The Council raised generic concerns about finite capacity at strategic SANG sites but did not produce its own capacity analysis to repudiate the Appellant's evidence. Under cross-examination, the Council's planning witness conceded that it had not used its early warning system to indicate to developers any imminent capacity constraints¹⁵. I am thus satisfied that there is sufficient capacity at Council-led SANG sites to accommodate the proposed development without prejudicing the delivery of future development in the borough.
24. Turning to the Council's argument that the site is inappropriate development in the Green Belt, it is worth setting out what the Mitigation Strategy says about the approach to be taken in Dacorum. At paragraph 7.1.1 it advises that the allocation of Council-led SANG will be managed through the Allocations Protocol. Paragraph 7.1.5 states that strategic SANG capacity will not be allocated for proposals that are appealed. However, this is qualified in footnote 12 which states that the Council will seek to retain SANG capacity for schemes that are allowed on appeal.
25. At paragraph 7.1.8, the Mitigation Strategy goes on to state that while the Council will '*do all it can*' to make the capacity of its strategic SANGs available to developments, capacity is limited, and those schemes which best deliver the Council's spatial strategy and policy objectives will be prioritised¹⁶.

¹² CD10.2 para 6.12

¹³ SoCG paragraph 8.1

¹⁴ CD5.31

¹⁵ See paras 7.1.13 and 14 of the Mitigation Strategy

¹⁶ The provision of a mix of new homes sufficient to meet the needs of the population is identified as a Strategic Objective in the Dacorum Borough Council Core Strategy 2013.

26. The Council accepted that the appeal scheme falls within a category of development that will be prioritised, albeit it has the lowest priority out of six categories. Accordingly, and given the Council has not implemented its early warning system nor produced any of its own evidence to demonstrate imminent capacity constraints at its own SAMNG sites, the Council should be doing "*all it can*" to make strategic SANG available to the appeal scheme in accordance with paragraph 7.1.8. That very clearly has not happened in this instance.
27. To support its Green Belt concerns set out in paragraph 18 above, the Council relies on paragraph 7.1.5 of the Mitigation Strategy. This states, "*Where it is determined that a proposal constitutes inappropriate development in the Green Belt, it will not be allocated any Strategic SANG capacity*¹³". I have two principal concerns about the Council's reliance on this paragraph.
28. First, the drafting is manifestly incomplete with footnote 13 missing. While I cannot say with absolute certainty what the missing footnote referred to, I find it highly probable that it would have exempted proposals that demonstrated very special circumstances. Any other explanation would put the Allocations Strategy in direct conflict with established national planning policy as well as the Council's own Development Plan¹⁷. I cannot accept that any responsible local authority would deliberately draft a document in this way.
29. Notwithstanding the missing footnote, the final bullet to paragraph 7.1.5 directly contradicts footnote 12 which states that SANG will be retained for schemes that are allowed on appeal. No explanation was provided by the Council to explain why it decided to rely on the (incomplete) final bullet to paragraph 7.1.5, when it could have relied on footnote 12. Had it done so and made the necessary SANG credits available to the Appellant, there would have been no need for a Grampian condition, the UU or for that matter, the appeal itself. In that scenario the Council's argument c) would also fall away as the Council already accept that absent the SANG issue, very special circumstances have been demonstrated¹⁸.
30. The Council also directed me to paragraph 7.1.11 of the Mitigation Strategy which makes clear it has absolute discretion in how it allocates its Strategic SANG capacity to future developments. However, the reason why the Council decided not to exercise its discretion to allocate SANG credits for a scheme which its planning witness accepted would otherwise be sustainable development, remains altogether unclear.
31. The Council's refusal to exercise its discretion as well as its reliance on paragraph 7.1.5 must be seen in the context of this being a borough with a systemic and acute housing shortfall¹⁹. Accordingly, one would expect there to be a real drive and determination on the part of the planning department to address the issue by adopting a positive "*all it can*" approach as required by the Mitigation Strategy and Framework.
32. Based on the above considerations, I am satisfied that following a grant of planning permission, the allocation of Council-led SANG to the appeal scheme would be in accordance with the SAC Mitigation Strategy. While the Council is

¹⁷ Policy CS5 of the Dacorum Borough Council Core Strategy 2006-2031

¹⁸ SoCG paragraphs 7-9-7.11.

¹⁹ As per paragraph 1.9 of the SoCG on Housing Land Supply, it is agreed that the Council has a 1.69 year supply.

correct to say it cannot be compelled to release SANG credits to the Appellant, I consider a continued refusal to do so in light of a grant of planning permission and given my findings above would be the epitome of unreasonableness.

Private SANG

33. NE has approved the Management Plan for the private SANG at Westbrook Hay. This identifies the site to have a capacity of 3,029 SANG credits. The BMT received board approval in November 2023 to negotiate the sale of SANG credits to the appeal scheme and legal agreements between the trust, Council and Appellant are progressing well and the Council anticipate completion of its legal agreement by around June 2024²⁰.
34. The only real issue between the Council and Appellant in respect of Westbrook Hay is the delivery mechanism. The Appellant favours the use of a Grampian condition which would restrict occupation until the necessary credits have been secured. Appeal decisions where Inspectors have accepted such an approach were discussed at the Inquiry. There is little utility in carrying out a forensic examination of these decisions given they all turn on their individual facts. Nonetheless, they do at least demonstrate that the use Grampian conditions in relation to SANG is not something new or novel.
35. The Council argued that a Grampian condition would be unlawful because there is no certainty that credits from Westbrook Hay will come forward and therefore it has not been demonstrated that the mitigation would be delivered within the two-year lifetime of the permission.
36. At this point it is important to acknowledge the distinction between the test for Grampian conditions in the Planning Practice Guidance (PPG) and the test under regulation 63 of the Habitats Directive. The latter requires that a competent authority may only agree to a plan or project "*having ascertained that it will not affect the integrity of the European Site*". The precautionary approach requires the decision maker to be sure there is no reasonable scientific doubt, that a scheme will not affect the integrity of the site.
37. The PPG test relates to the imposition of Grampian conditions and states that it will be unreasonable to impose a pre-commencement where there are no prospects at all of the action in question being performed within the time-limit imposed by the permission - where there is some prospect, a pre-commencement condition will be reasonable²¹. In short, 'certainty' is required in relation to the Regulation 63 test, whereas 'reasonable prospect' relates to the imposition of a Grampian condition.
38. NE's flow chart²² states that permission may be granted provided it can be ascertained that the proposal would not adversely affect the integrity of the SAC. The Council's planning witness accepted that a negatively worded Grampian condition preventing occupation until the SANG mitigation is secured, would ensure no adverse effects on the SAC. There is no logical basis on which I can conclude otherwise. I am thus satisfied that option 2 put forward by the Appellant removes all reasonable scientific doubt of adverse effects on the SAC. The Regulation 63 test is therefore met.

²⁰ CD9.5

²¹ PPG paragraph 21a-009-20140306

²² CD10.2, Figure 1 (boxes 6 and 7)

39. In the absence of any evidence to the contrary and considering the November 2023 board approval, there appears to me to be a very real prospect that the Appellant will be able to secure SANG credits at Westbrook Hay within the lifetime of the permission. That is sufficient to satisfy the PPG test.
40. Even if I were to accept the Council's submission that PPG paragraph 10²³ is more applicable, I am satisfied that the circumstances of this case are exceptional and that the delivery of the development and therefore much needed housing would be at risk without the condition.
41. The Council also raised concerns about compliance with the tests set out in paragraph 57 of the National Planning Policy Framework (the Framework) which requires conditions to be enforceable, precise and reasonable.
42. In terms of enforceability, the condition prevents the commencement of development until details of the SANG mitigation have been approved by the Council. In that regard the condition is just as enforceable as any other pre-commencement condition. In the unlikely event that development was to commence before the condition has been discharged, then a breach of planning control would be self-evident, and the Council could take action to stop the development. The condition would therefore be enforceable.
43. The Grampian condition makes it clear what the Appellant must do to discharge it and is specific in this regard. This contrasts with the Brockenhurst Road scheme²⁴ where no specific SANG sites were identified. I am thus satisfied that the Grampian condition would be sufficiently clear and precise.
44. I have already found that there is a reasonable certainty that the Appellant would be able to comply with the condition's requirements and that these are reasonable and necessary. The proposed Grampian condition therefore meets the relevant statutory tests.

Appropriate Assessment

45. Under Regulation 63 of the Conservation of Habitats and Species Regulations 2017 (as amended) as competent authority I am required to undertake an Appropriate Assessment of the development on the basis of its Likely Significant Effects on the SAC as a European Site.
46. The appeal site lies within the 12.6km zone of influence of the SAC. The qualifying features are defined by NE as being semi-natural dry grasslands and scrubland facies; dry grasslands and scrublands on chalk or limestone; Beech forests on neutral to rich soils; and the presence of the Stag Beetle.
47. All public bodies have a duty to take reasonable steps to further the conservation and enhancement of this designated area. NE advises that there is the potential for significant impacts on the SAC as a result of any net increase in residential development within the zone of influence. This is due to pressures on the site by reason of its attractiveness as a location for recreation. I am satisfied that without mitigation there would be an adverse effect on the integrity of SAC.
48. The mitigation proposed to address these effects are the provision of SANG and Strategic Access Management and Monitoring (SAMM). Having regard to the

²³ PPG Paragraph: 21a-010-20190723

²⁴ PINS Ref: APP/T0355/W/22/3307946

submissions of NE and relevant planning policy, including the Council's SAC Mitigation Strategy, I consider that the provision of SANG and SAMP would adequately mitigate the recreational effects of the proposed scheme, either alone or in combination with other plans and projects, so that there would be no adverse effect upon the integrity of the SAC.

49. As discussed above, the SAMP mitigation would be secured and managed via the s106 Agreement. The SANG mitigation which would be secured through a Grampian condition.
50. NE was consulted as part of the appeal and confirmed that it is content with the option 1 (off-site Council SANG) and option 2 (Westbrook Hay SANG) subject to the SANG being secured in perpetuity. NE also confirmed that its objection is based on the lack of certainty regarding how and when the SANG would be secured.
51. For the reasons set out above, I have found that the specific options identified by the Appellant are capable of being secured by the Grampian condition. As this would prevent occupation of the development until the SANG has been delivered, the proposed development would be in accordance with the SAC Mitigation Strategy and also NE's Figure 1 '*Flowchart of the whole decision-making process under the conservation of habitats and species regulations 2017*'.
52. In accordance with paragraph 188 of the Framework, I therefore conclude that the proposed development would not adversely affect the integrity of the designated habitats sites alone or in combination with other plans or projects and I consider it to be acceptable under the tests of the Habitats Regulations.

Openness and Green Belt Purposes

53. The Council and Appellant agree on the following matters:
 - The proposed development would be inappropriate development in the Green Belt and should therefore only be approved if the harm to the Green Belt, and other harm, is clearly outweighed by "other considerations".
 - There would be limited harm to the Green Belt purpose c) encroachment on the countryside and visual openness.
 - In the event of a SANG solution being provided, very special circumstances would be demonstrated that would outweigh the Green Belt harm and justify approval of the proposed development.
54. The JOG sees things differently in relation to the second and third bullets. In their Statement of Case²⁵ it is argued that the scheme would have a marked spatial and visual impact on the openness of the Green Belt as well as greater harm to Green Belt purposes b) and c) than agreed between the Council and Appellant.
55. The appeal site has been subject to a number of Green Belt studies as part of the Council's emerging plan. In Arup's 2016 Stage 2 Green Belt Review²⁶ the site forms part of a larger tract of land known as KL-A1a. In relation to

²⁵ CD9.10

²⁶ CD5.26

purpose b (preventing neighbouring towns merging into one another) the review found:

"Although the gap between Kings Langley and Hemel Hempstead is narrow here, the release of the refined sub-area would have no impact, neither in physical nor perceptual terms, given the settlement already extends alongside the parcel on its western edge."

56. In relation to purpose c) the review found:

"Although the refined sub-area remains largely open, it has weak linkage with the wider countryside and is subject to urbanising influences on its southern and western edges. Additionally, it is highly visually enclosed along the River Gade to the east. Its release would have no impact on the ability of the wider Green Belt to meet this purpose."

57. The Stage 3 Green Belt Review, Final Report (Augst 2020)²⁷ sought to review Green Belt boundaries, in relation to potential housing and employment site allocations. Within that document only the appeal site (part of site 97) was identified as a preferred site around Kings Langley and is described as forming a narrow, isolated finger of Green Belt, that contributes 'least' to the Green Belt purposes and aims. The Stage 3 review went on to highlight the site's containment by established built form to the south, east and west and concluded that the site's release would not compromise the ability of the wider Green Belt to check urban sprawl, prevent coalescence or safeguard the countryside from encroachment.

58. It should be noted that the Miller Homes development has been completed in the time since the above assessments were carried out. In my view this further weakens the potential harm to purposes b) and c). From my own observations, I find it difficult to disagree with the findings of the Stage 2 and 3 reviews. The site undoubtedly benefits from a high degree of visual containment such that only the tops of the tallest buildings would be visible in public views from Hempstead Road. Consequently, I find that the degree of harm to visual openness under purpose c) would be limited.

59. Annex A to the Stage 3 review recommended that if the site were to be released, the northern boundary should be strengthened to provide a defensible Green Belt boundary, something that is undoubtedly absent in the Miller Homes scheme. The Appellant's witness pointed out that the appeal scheme would meet this recommendation by providing an "*enduring, permanent and defensible Green Belt boundary*"²⁸. I accept that screening is not shown on the proposed plans perhaps as well as it could have been, nonetheless, this is a matter that could be addressed by the landscaping condition.

60. In terms of purpose b) there would of course be some infilling of the open space between Kings Langley and Hemel Hempstead. However, the appeal site does not itself adjoin the settlement boundary of Hemel Hempstead and as such the proposed development would not physically unify or merge the two settlements. Given the extent of development to the west along Hempstead Road, the scheme would also not extend Kings Langley further towards Hemel Hempstead than it already is.

²⁷ CD5.27A

²⁸ Morton PoE paragraph 3.32

61. Notwithstanding the proposed mitigation, there would be significant harm to the spatial dimension of openness that comes with the construction of a large residential development of this type and the loss of 7.17ha of open countryside. In my view the loss of spatial openness would be substantial.
62. Bringing all these threads together, I find there would be limited harm to Green Belt purposes b) and c). There would be limited harm to visual openness and significant harm to spatial openness. I therefore pitch the overall level of harm to purposes and openness as moderate. The balancing exercise required by paragraph 153 of the Framework is carried out in the Planning Balance below.

Landscape and Visual Impacts

63. The application was accompanied by a Landscape and Visual Appraisal²⁹ (LVIA) which assessed the likely landscape and visual effects of the development. Whilst I have had regard to this document, my assessment is ultimately informed by my observations on the site visits undertaken before and during the Inquiry, the latter with the benefit of having heard the evidence of the relevant expert witnesses.
64. In terms of landscape Impacts, the LVIA identifies the site as having some valuable existing landscape features including the Grand Union Canal, established boundary hedgerows and a significant number of mature trees, the majority of which are protected by Tree Preservation Orders. As these features would be retained, I consider there would be limited landscape harm.
65. JOG presented a detailed picture of the landscape and visual impacts, and I heard from a number of people with a long-standing and intimate knowledge of the appeal site. From this, it was clear that the appeal site contributes to a pleasant open, rural setting to the north of Kings Langley albeit substantially enclosed behind mature hedgerows. Although views of the site are strictly limited over a wider area³⁰, it is evidently valued locally on account of the fact that it forms part of a larger tract of open land providing separation between Kings Langley and Hemel Hempstead to the north.
66. The Council and Appellant agree that the level of landscape and visual harm would be low on account of the site's visual containment. Although JOG does not disagree with the methodology of the LVIA, its submissions challenged the level of weight which has been placed on landscape and visual harm arising at a number of visual receptors. Allied to this, JOG raised concerns about the accuracy of some of the wireline images used in the LVIA particularly those that depict the visual impact from viewpoints on Hempstead Road.
67. In terms of the latter, the Appellant's witness confirmed that the verified views used in the LVIA were undertaken using a worst-case scenario which involve looking directly at the development on a winters day and without showing any of the landscape mitigation. I am thus satisfied the images are fit for purpose.
68. In respect of the specific visual receptors identified by JOG, it is the viewpoints from the west that are of particular concern. There is no dispute between any of the parties that the upper portions of some of the 3-4 storey buildings would

²⁹ CD1.16

³⁰ See views LVIA views 9-13 CD9.15B

- be visible above the landscaping from Hempstead Road and particularly those residential properties which are set at a higher level than the road itself³¹.
69. Having carefully considered the site sections³², I consider the landscaping and topography would combine to screen most built development from receptors along Hempstead Road. In coming to that view, I accept the point that the hedge across the road frontage would need be cut back to the fence line within the site. However, even accounting for this, I consider the hedge would continue to provide a formidable visual screen along Hempstead Road.
70. It should be noted that the wireline images do not account for the effects of the proposed multi-functional landscaping scheme³³. Although this would take time to mature, I concur that the visual impact of the development would soften over time. Nonetheless, there would be inevitable views through the site access as well as over and through the landscaping from Hempstead Road and the canal towpath respectively. However, I do not consider that the larger buildings would be an unduly prominent feature on the skyline. JOG's contention that the development would create a tunnel effect along Hempstead Road is in my view, overplayed.
71. I acknowledge that views of the larger buildings would be more pronounced from residential properties along Hempstead Road. The Appellant acknowledges this impact. However, there is no suggestion that the encroachment into private views would be at a level to cause an unacceptable loss of residential amenity. It is of course well established that there is no right to a view.
72. While there would be views of the development from the canal towpath, even in winter these would be heavily filtered. The proposed area of public open space and buffer zone in the eastern portion of the site would safeguard the rural setting of the canal at this point and would not materially affect the public's enjoyment of the route. For these reasons, I disagree that that there would be a severe impact from viewpoint 2.
73. While the development would be visible in views from the east such as viewpoints 9 and 14, the wireframe images demonstrate that the built form would sit well below the houses to the west. I do not therefore accept there would be any material impact on longer distance views from the east. From viewpoint 11 on Public Footpath 19, the development would be screened by the topography of the valley and intervening tree cover. While it might be possible to gain a fleeting glimpse through the tree cover in winter, one would need to know exactly where to look. I consider the development would not be visible to the ordinary passer-by nor could it reasonably be described as prominent.
74. JOG drew attention to view 11³⁴ which is from the south-west corner of the site. There can be no dispute that the scheme would impose a considerable extent of built development on the land which would have a significant visual effect within the site boundaries.
75. Overall, there would be limited visual harm arising from the loss of the site's open and undeveloped character. There would be some views of upper

³¹ See Griffiths PoE Image 5, CD9.20C

³² CD1.15

³³ The objectives of the landscape strategy are set out in paragraph 4.12 to Mr Grierson's PoE CD9.15A

³⁴ Griffiths PoE Appendix 2 CD9.20C

sections of the apartment buildings from Hempstead Road and also fleeting views through the access points. There would also be views of the development from windows in the houses on the western side of Hempstead Road. However, these would be local and, in most cases, private rather than longer distance public views.

76. Over time, views from these receptors would soften as the structural landscaping matures such that the visual effects of the development would be limited. Overall, I conclude there would be very limited landscape and visual harm arising from the proposal.

Planning Obligations

77. With the exception of the Grampian condition and SANG obligations in the UU, the conditions³⁵ and obligations were generally agreed between the parties. Nonetheless, I must be satisfied they meet the statutory tests as set out in paragraph 57 of the Framework.
78. The bilateral s106 agreement, contains obligations relating to affordable housing (Schedule 1), community facilities (Schedule 2), open space (Schedule 3), fire hydrants (Schedule 4), transport (Schedule 5), SAMMS and off-site sport facilities (Schedule 6), sustainable drainage (Schedule 7) and biodiversity (Schedule 8). Having regard to the Council's CIL compliance statement, I am satisfied in all cases that the obligations meet the statutory tests.
79. Although two draft UUs were discussed at the Inquiry, only one was subsequently executed. This contains a requirement for the Appellant to pursue all reasonable endeavours with the BMT to secure SANG at Westbrook Hay (hereafter I refer to this as the 'BMT first' approach). If after 12 months those reasonable endeavours have failed, then the Appellant would be entitled to make a SANG contribution to the Council.
80. The obligation contained in the UU needs to be considered alongside the Grampian condition. While I have already found that a Grampian condition would meet the relevant tests in the PPG and Habitat Regulations, various versions of the of the condition are before me. Options A and B were discussed at the Inquiry, but these were superseded by two conditions in the final list submitted after the close of the Inquiry.
81. While I appreciate that the Council's prefers the BMT first approach, the case and evidence presented by the Appellant was that either of the two options presented in paragraph 16 are acceptable solutions. That also appears to be the position of NE who have not indicated a preference. As is evident from my decision, I have found there are no significant capacity constraints at the relevant Council-led SANG sites. Moreover, the allocation of Council SANG would be in accordance with the SAC Mitigation Strategy when read fairly and as a whole. I also found there is a reasonable certainty that the Appellant would be able to secure credits from the BMT within the lifetime of the permission.
82. The evidential position is therefore that both of the SANG options are acceptable and there is nothing which leads me to favour one over the other. To the extent that the obligation in the UU references the 'BMT first' approach, I consider it fails the test of necessity.

³⁵ CD9.22

83. The suggested Grampian condition in the final list of conditions does not adopt a 'BMT first' approach and in that respect avoids the same issue. However, it fails to identify the specific SANG options contained in paragraph 16 of this decision and, in that regard, I am concerned it would not be sufficiently precise thereby potentially falling into the same pitfalls as the condition in the Brockenhurst Road scheme.
84. To resolve these issues, I have amended the wording of conditions 26 and 27 so they reflect my conclusions on the evidence, namely that both SANG options would secure the necessary mitigation for the SAC and there being no justification on the evidence for a preferential approach.

Planning Conditions

85. The parties have suggested a number of planning conditions which I have considered against the advice in the PPG. In some instances, I have amended the conditions in the interests of brevity, to avoid repetition or to ensure compliance with the PPG.
86. Given the number of pre-commencement conditions including those discussed above, a one-year time limit condition would be unreasonable. With the agreement of the Appellant, I have therefore imposed a two-year time limit condition to ensure the development comes forward at the earliest opportunity [Condition 1]. I have imposed a condition specifying the approved plans to provide certainty [Condition 2].
87. Land contamination conditions are necessary to ensure the land is suitable for a residential use [Conditions 3-5]. Noise conditions are necessary to protect the amenity of future residents [Conditions 6]. Drainage and flood prevention conditions are necessary to ensure satisfactory drainage and future maintenance of the site in the interests of flood prevention [Conditions 7-11]. A Construction Management Plan is necessary to ensure all aspects of the construction adhere to best practice and do not adversely affect the amenity of local residents [Condition 12]. I have however added additional requirements including the submission of details relating to drainage and waste to be exported off-site. Separate conditions covering these matters are thus unnecessary.
88. Conditions relating to materials, boundary treatments landscaping, tree protection and the canalside buffer zone are necessary to ensure the satisfactory layout and appearance of the development [Conditions 13-15 and 25]. A Landscape and Ecological Management Plan is necessary to ensure the development delivers a net-gain for biodiversity [Condition 16]. Conditions covering broadband, water consumption and low carbon infrastructure are all necessary to ensure compliance with the Council's sustainability objectives in these areas [Conditions 17-19].
89. Highway conditions are necessary to ensure, inter alia, that the impact of the development on crossing movements across Hempstead Road are properly mitigated, that adequate parking and circulation areas are provided and retained within the site and that the site access is constructed to the appropriate standard [Conditions 20-23]. I am not persuaded that a condition requiring all garages to be kept free for parking of vehicles is enforceable. I have therefore amended the wording of the condition to ensure that the garages cannot be converted to living accommodation without planning

permission [Condition 24]. Finally, and as previously discussed, I have imposed Grampian conditions in relation to SANG albeit I have amended the wording to reflect my conclusions on the evidence [Conditions 26 & 27].

90. Conditions 3, 7, 8, 9, 12, 14, 15, 16, 20 and 26 are 'pre-commencement' form conditions and require certain actions before the commencement of development. In all cases the conditions were agreed between the main parties and address matters that are of an importance or effect and need to be resolved before construction begins.

Other Matters

91. The PPG states that Inspectors may use their powers to make an award of costs where they have found unreasonable behaviour, including in cases where no application has been made by another party³⁶. I have given serious thought to exercising these powers in this instance given the Council's:

- failure to adduce any positive evidence of its own to support its case that there are, or would be, capacity constraints at Council-led SANG sites;
- reliance on parts of the SAC Mitigation Strategy which it knew were either incomplete or inconsistent with national policy and its own Development Plan;
- refusal of planning permission on a planning ground capable of being dealt with by conditions, and
- submission of an objection letter after the close of the Inquiry in relation to the UU, which was essentially the same document as discussed at the planning obligations round-table. Moreover, the objection letter revisited and sought to tweak various aspects of the Council's case and did not therefore confine itself solely to the UU. The submission of the 30 April letter was thus procedurally inept.

92. Because of these failings, the Council has come perilously close to crossing the 'unreasonable behaviour' threshold. Nevertheless, I have exercised my discretion not to initiate an award of costs on this particular occasion. The Council should however take very careful note of these comments to avoid any prospect of such an award being made in the future.

Planning Balance and Conclusions

93. I have found that the development would be inappropriate development in the Green Belt. I have also found moderate harm to openness and Green Belt purpose c) safeguarding the countryside from encroachment. I have also found very limited landscape and visual harm. I am satisfied that all other matters weighing against the proposal, including mitigation for the SAC, could satisfactorily be addressed by conditions and/or obligations.

94. The identified harms must be afforded substantial weight, and planning permission should only be granted if very special circumstances have been demonstrated. Very special circumstances can only exist if the harm identified is clearly outweighed by other considerations.

³⁶ PPG paragraph: 16-036-20140306 [see also 16-029-20140306].

95. The benefits of the scheme are set out in paragraph 5.99 of the Appellant's Planning Proof of Evidence³⁷ and comprise:

- 1) The provision of housing (135 dwellings) to contribute to housing needs in an authority that is unable to demonstrate a five-year supply of housing.
- 2) The provision of affordable housing (54 dwellings/40%) in excess of the policy requirement in an authority that has fallen significantly below the identified affordable housing target.
- 3) Public access to the appeal site providing opportunities for outdoor recreation and alleviating recreational pressure on the SAC through:
 - i. The provision of 2.56 hectares of public open space, in excess of local requirements, in the form of a new canalside park, intended to serve the development and wider Kings Langley community;
 - ii. New cycle and pedestrian routes to encourage sustainable means of travel through the site, connecting the existing settlement to the south and west and the football club to the north;
- 4) Community facilities designed for Sunnyside Rural Trust comprising:
 - i. Relocation and enhancement of existing allotments within the site;
 - ii. A community orchard;
 - iii. A Local Equipped Area of Play;
 - iv. Fishing and viewing platforms to the canal;
 - v. A 461m² community facility which it is proposed would be owned and managed by Sunnyside Rural Trust, a registered charity in the local area that support young people and adults with learning disabilities;
- 5) Biodiversity Net Gain of 15.35% exceeding development plan policy requirements of 10%, and
- 6) Economic benefits during the construction phase of the development and support of existing local services and facilities post-occupation.

96. In my view the delivery of 135 dwellings, 54 of which would be affordable, in an area where there is a chronic under supply of housing and staggering levels of affordability³⁸, is the weightiest consideration in the planning balance. I attach very substantial weight to these benefits.

97. The opening up of large parts of the site for public access and outdoor recreation as well as relieving recreational pressure on the SAC are benefits which attract significant weight. The benefits associated with the community facilities attract significant weight. I also attach significant weight to the 15% biodiversity net-gain which exceeds policy requirements. Finally, I attach significant weight to the economic benefits.

³⁷ CD9.12A

³⁸ See Stacey and Harris PoE CD9,16A & CD9.17 and Housing Land Supply SoCG CD9.11B

98. Based on the foregoing, it is evident that the benefits or 'other considerations' listed above are of such magnitude that they clearly outweigh the identified harms. On a further matter of judgement, I conclude that very special circumstances exist, which justify permitting the proposed development in the Green Belt. Accordingly, the proposal would accord with Policy CS5 of the Dacorum Borough Core Strategy (2013) and national Green Belt policy in Section 13 of the Framework.

99. For the reasons given above the appeal should be allowed.

D. M. Young

INSPECTOR

APPEARANCES

Dacorum Borough Council

Annabel Graham Paul of Counsel, she called:

Robert Freeman BA MRTPI	Lead Planning Officer, Dacorum Borough Council
Victoria Searle	Browne Jacobson LLP
Alistair Taylor	Browne Jacobson LLP

Joint Objectors Group

Joseph Thomas of Counsel, he called:

Jed Griffiths MA DipTP FRTPI	Griffiths Environmental Planning
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Appellant

Guy Williams KC, he called:

Edward Ledwidge BA Hons Dip TP MRTPI	Montagu Evans LLP
Rupert Grierson BA (Hons) LA PGDip CMLI	Macgregor Smith
James Morton BA (Hons) MA CMLI	Aspect Landscape Planning
Stephen Kirkpatrick BSc BLD CMLI	Scarp Landscape Architecture Ltd
Sam Levy	Bryan Cave Leighton Paisner LLP

Interested Parties

Irene McGregor	Local Resident
Michael Bouvier	Local Resident
John Ingleby	Local Resident

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than 2 years from the date of this decision.
- 2) The development hereby approved shall be carried out in accordance with the following plans and documents:

01943_S01 P1, 01943_MP01 P6, 01943_MP02 P3, 01943_MP03 P2, 01943_MP04 P2, 01943_MP05 P2, 01943_SS_00 P3, 01943_SS_04 P3, 01943_SS_05 P2, 01943_SS_06 P2, 01943_HT_BEE_00 P3, 01943_HT_ELD_00 P3, 01943_HT_ELD_01 P2, 01943_HT_EVE_00 P2, 01943_HT_EVE_01 P2, 01943_HT_EVE_04 P2, 01943_HT_EVE_05 P1, 01943_HT_FIR_00 P2, 01943_HT_FIR_01 P2, 01943_HT_FIR_02 P2, 01943_HT_FIR_03 P2, 01943_HT_FIR_04 P2, 01943_HT_HA2_00 HA2 P2, 01943_HT_HA7_01 P2, 01943_HT_HAW_00 P3, 01943_HT_HAW_01 P2, 01943_HT_HAW_02 P1, 01943_HT_HAW_03 P1, 01943_HT_HOR_00 P2, 01943_HT_HOR_01 P2, 01943_HT_HOR_0 P2, 01943_HT_LAR_00 P3, 01943_HT_LAR_01 P3, 01943_HT_LAR_02 P3, 01943_HT_LAU_00 P2, 01943_HT_LAU_01 P2, 01943_HT_LAU_02 P3, 01943_HT_LAU_03 P2, 01943_HT_LAU_04 P2, 01943_HT_LAU_05 P2, 01943_HT_LAU_06 P2, 01943_HT_LAU_07 P2, 01943_HT_LAU_08 P2, 01943_HT_TWI_00 P3, 01943_HT_TWI_01 P3, 01943_HT_TWI_02 P3, 01943_HT_TWI_03 P3, 01943_HT_TWI_04 P3, 01943_HT_TWI_05 P2, 01943_HT_TWI_06 P2, 01943_HT_WAL_00 P2, 01943_HT_WAL_01 P2, 01943_G_00 P2, 01943_G_01 P3, 01943_G_02 P2, 01943_G_03 P2, 01943_G_04 P1, 01943_HT_BA_00 P3, 01943_HT_BA_01 P3, 01943_HT_BA_02 P3, 01943_HT_BA_03 P3, 01943_HT_BA_04 P3, 01943_HT_BA_05 P3, 01943_HT_BB_00 P4, 01943_HT_BB_01, 01943_HT_BB_02 P4, 01943_HT_BB_03 P4, 01943_HT_BC_00 P4, 01943_HT_BC_01 P4, 01943_COM_00 P2, 01943_COM_01 P2, 01943_COM_02 P2, 01943_COM_03 P2, 01943_COM_05 P2, 1250-001 P3, 1250-002 P3, 1250-003 P3, 1250-004 P3, 1250-005 P3, 1250-006 P3, 1250-007 P3, 1250-008 P3, 1250-009 P3, 1250-010 P3, 1250-202 P3, 1250-203 P3, 1250-204 P3, 1250-205 P3, 1250-206 P3, 1250-207 P3, 1250-208 P3, 1250-209 P3, 1250-401 P1, 1250-402 P1 and the Energy Statement by Briar Energy dated September 2022
- 3)
 - a) No development approved by this permission including excavations shall commence prior to the submission to, and agreement of the Local Planning Authority of a written Preliminary Environmental Risk Assessment Report containing a Conceptual Site Model that indicates sources, pathways and receptors. It should identify the current and past land uses of this site (and adjacent sites) with view to determining the presence of contamination likely to be harmful to human health and the built and natural environment and should establish whether the provision and design of any foundations for the development are likely to displace any shallow contamination to a greater depth.
 - b) If the Local Planning Authority in consultation with Affinity Water is of the opinion that the report which discharges condition (a), above, indicates a reasonable likelihood of harmful contamination then no development approved by this permission shall be commenced until an Intrusive Site Investigation Risk Assessment Report has been submitted to and approved by the Local Planning Authority which includes:

- (i) A full identification of the location and concentration of all pollutants on this site and the presence of relevant receptors, and;
- (ii) The results from the application of an appropriate risk assessment methodology. The Risk Assessment should identify both the aquifer and the abstraction point(s) as potential receptor(s) of contamination and appropriate techniques to avoid displacing any shallow contamination to a greater depth.
- iii) A Method Statement detailing the depth and type of excavations (e.g. piling) to be undertaken including mitigation measures (appropriate piling design, off site monitoring boreholes etc.) to prevent and/or minimise any potential migration of pollutants to public water supply.

Any excavations must be undertaken in accordance with the terms of the approved method statement.

c) No development approved by this permission (other than that necessary for the discharge of this condition) shall be commenced until a Remediation Method Statement report; if required as a result of (b), above; has been submitted to and approved by the Local Planning Authority.

- 4) This site shall not be occupied, or brought into use, until:
 - (i) All works which form part of the Remediation Method Statement report pursuant to the discharge of condition 3 above have been fully completed and if required a formal agreement is submitted that commits to ongoing monitoring and/or maintenance of the remediation scheme.
 - (ii) A Remediation Verification Report confirming that the site is suitable for use has been submitted to, and agreed by, the Local Planning Authority.
- 5) If, during development, contamination not previously identified is found to be present at the site, then no further development shall be carried out until a Remediation Strategy detailing how this contamination will be dealt with has been submitted to and approved in writing by the Local Planning Authority in consultation with Affinity Water. The remediation strategy shall be implemented as approved with a robust pre and post monitoring plan to determine its effectiveness.
- 6) The development hereby approved shall not be occupied until full details of an acoustic screen including a technical specification, siting and design for the acoustic screen have been submitted to and approved in writing by the Local Planning Authority.

The development, hereby approved, shall not be occupied until the approved acoustic screen and all other mitigation measures identified in the Noise Impact Assessment by Hepworth Acoustics Ltd and dated May 2022 (P21-431-RO1v3) have been implemented. These noise mitigation measures shall thereafter be retained.
- 7) Prior to the commencement of the development, detailed design and supporting evidence for the sizing and location of the overland flow route culvert shall be submitted and agreed in writing by the Local Planning Authority. The information shall include hydrological and hydraulic modelling to demonstrate that proposed culvert of 375mm is of sufficient size and is tested in a blockage scenario along with surcharging on the

- watercourse. Engineering drawings will be required to be submitted to show that the culvert can be constructed without conflict of other infrastructure and appropriate easements can be implemented. This includes but not limited to, foundations of housing, surface water drainage network, swale and existing Thames Water Services foul sewer. Following this assessment, any upsizing of the culvert shall be implemented and maintained in perpetuity for the lifetime of the development unless agreed in writing by the Local Planning Authority
- 8) Prior to the commencement of the development details of all flood resilient and resistant measures shall be submitted to and approved in writing by the Local Planning Authority. This includes all new residential dwellings to have a finished floor level raised a minimum of 300mm above design flood levels of all sources of water (including the proposed surface water flow path) and at least the 150mm above the surrounding proposed ground level unless otherwise first approved in writing by the Local Planning Authority. The agreed measures shall then be installed and maintained in perpetuity.
 - 9) Prior to the commencement of development, construction drawings of the surface water drainage network, associated sustainable drainage components and flow control mechanisms (outfall to the canal limited to 4.4l/s) and a construction method statement shall be submitted and agreed in writing by the Local Planning Authority. The scheme shall then be constructed as per the agreed drawings, method statement, based on the FRA & Drainage Strategy (Flood Risk, SuDS and Foul Drainage Assessment by Simpson TWS, Ref: P21-243, rev. 3, dated 25 May 2023). The surface water drainage network will remain in perpetuity for the lifetime of the development unless agreed in writing by the Local Planning Authority. No alteration to the agreed drainage scheme shall occur without prior written approval from the Local Planning Authority.
 - 10) The development hereby approved shall not be occupied until details of the maintenance and management of the sustainable drainage scheme have been submitted to and approved in writing by the Local Planning Authority. The drainage scheme shall be implemented prior to the first occupation of the development hereby approved and thereafter managed and maintained in accordance with the approved details in perpetuity. The Local Planning Authority shall be granted access to inspect the sustainable drainage scheme for the lifetime of the development. The details of the scheme to be submitted for approval shall include:
 - i. a timetable for its implementation.
 - ii. details of SuDS feature and connecting drainage structures and maintenance requirement for each aspect including a drawing showing where they are located.
 - iii. a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the sustainable drainage scheme throughout its lifetime. This will include the name and contact details of any appointed management company.
 - 11) Upon completion of the surface water drainage system, including any SuDS features, and prior to the first use of the development; a survey

and verification report from an independent surveyor shall be submitted to and approved in writing by the Local Planning Authority. The survey and report shall demonstrate that the surface water drainage system has been constructed in accordance with the details approved pursuant to condition. Where necessary, details of corrective works to be carried out along with a timetable for their completion, shall be included for approval in writing by the Local Planning Authority. Any corrective works required shall be carried out in accordance with the approved timetable and subsequently re-surveyed with the findings submitted to and approved in writing by the Local Planning Authority.

- 12) Prior to the commencement of any development, a Construction Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The construction of the development shall only be carried out in accordance with the approved Construction Management Plan which shall include details of:
- i. construction vehicle numbers, type and routing and hours of site deliveries;
 - ii. traffic management requirements;
 - iii. construction and storage compounds (including areas designated for car parking);
 - iv. siting and details of wheel washing facilities;
 - v. cleaning of site entrances, site tracks and the adjacent public highway;
 - vi. provision of sufficient on-site parking prior to commencement of construction activities;
 - vii. the post construction restoration/reinstatement of the working areas and temporary access to the public highway;
 - viii. construction or demolition hours of operation;
 - ix. details of measures to reduce the amount of waste produced at the application site during construction;
 - x. details of interim and temporary drainage measures, and
 - xi. dust and noise control measures.
- 13) No development above slab level shall take place until full details of both hard and soft landscape works has been submitted to and approved in writing by the Local Planning Authority. These details shall include:
- all external hard surfaces within the site;
 - other surfacing materials;
 - means of enclosure;
 - design and appearance of acoustic screens
 - finished levels and contours in relation to existing site levels, eaves and ridge heights of neighbouring properties,
 - minor artefacts and structures (e.g. furniture, play equipment, signs, refuse or other storage units, etc.);
 - details of service routes including broadband provision and

The planting shown on drawings 1250-202, PLANTING PLAN 1 OF 8 P3, 1250-203 , PLANTING PLAN 2 OF 8 P3, 1250-204 PLANTING PLAN 3 OF 8 P3, 1250-205 PLANTING PLAN 4 OF 8 P3, 1250-206 PLANTING PLAN 5 OF 8 P3, 1250-207 PLANTING PLAN 6 OF 8 P3, 1250-208 PLANTING PLAN 7 OF 8 P3 and 1250-209 PLANTING PLAN 8 OF 8 P3 must be carried out within one planting season of completing the development.

Any tree or shrub which forms part of the approved landscaping scheme which within a period of 5 years from planting fails to become established, becomes seriously damaged or diseased, dies or for any reason is removed shall be replaced in the next planting season by a tree or shrub of a similar species, size and maturity.

- 14) No development shall take place until a scheme for the provision and management of a 10-metre-wide buffer zone alongside the River Gade/Grand Union Canal has been submitted to, and approved in writing by, the Local Planning Authority. The development shall be carried out in accordance with the approved details and thereafter retained.

The buffer zone scheme shall be free from built development including lighting, domestic gardens and formal landscaping. The scheme shall include:

- i. plans showing the detailed extent and layout of the buffer zone.
 - ii. details of any proposed planting.
 - iii. details demonstrating how the buffer zone will be protected during development and managed over the longer term including adequate financial provision and named body responsible for management plus production of detailed management plan.
 - iv. details of any proposed footpaths and fencing.
 - v. details of the proposed swales within the buffer zone including a platform drawing, cross sections and details of planting and management.
 - vi. details of the proposed fishing platforms.
 - vii. details of the proposed viewing platforms, ensuring these do not encroach on the natural buffer zone or over the watercourse.
- 15) No development shall take place until the measures for the protection of trees have been provided in accordance with the Tree Protection Plan within the submitted Tree Survey Report and Arboricultural Impact Assessment (May 2022) prepared by RPS. The fencing shall remain in-situ and be free from the storage of construction material, plant and machinery for the duration of the construction period.
- 16) No development shall take place until a landscape and ecological management plan, including long-term design objectives, management responsibilities and maintenance schedules for all landscaped areas (except privately owned domestic gardens), has been submitted to, and approved in writing by, the Local Planning Authority.

The scheme shall include the following elements:

- i. details of maintenance regimes
- ii. details of any new habitat created on-site

- iii. details of treatment of site boundaries and/or buffers around water bodies
- iv. details of management responsibilities

The landscape and ecological management plan shall be carried out as approved and any subsequent variations shall be agreed in writing by the Local Planning Authority.

- 17) No development above slab level shall take place until details of proposed sustainability measures within the development shall be submitted to and agreed in writing by the Local Planning Authority. These details shall include the technical specification and details of siting of Air Source Heat Pumps and Photovoltaic panels including elevations as may be necessary. The development shall be carried out in accordance with the approved details.
- 18) The dwelling(s) shall be constructed to meet as a minimum the higher Building Regulation standard Part G for water consumption limited to 110 litres per person per day using the fittings approach.
- 19) The development hereby approved shall not be occupied until provisions have been made to secure superfast broadband to all properties, including commercial and community buildings.
- 20) Prior to commencement of development, details/specifications of the site's vehicular access (in general accordance with drawing ref. MBSK220928 02- Appendix E: Proposed Highways Improvement Plans of Transport Assessment, dated September 2022) should be submitted to and approved in writing by the Local Planning Authority. The vehicular access shall be completed prior to occupation and thereafter retained.
- 21) Notwithstanding the details indicated on the submitted drawings no on-site works above slab level shall commence until a detailed scheme for the offsite highway improvement works has been submitted to and approved in writing by the Local Planning Authority.

The off-site highway works shall be provided in accordance with the approved details prior to the occupation of the development hereby approved.
- 22) The development hereby approved, shall not be used, until the means of access, parking and circulation areas have been provided fully in accordance with the approved plans.
- 23) Prior to the first occupation of the flats and community buildings hereby permitted a scheme for the parking of cycles including details of the design, level and siting of the proposed parking shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be fully implemented before the development is first occupied or brought into use and thereafter retained for this purpose.
- 24) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) (or any Order revoking or re-enacting that Order with or without modification) the garages shall not be converted or adapted to form living accommodation without planning permission.

- 25) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking and re-enacting that Order with or without modification), there shall be no development falling within Schedule 2 Part 2 Class A (Gates, Fences and Walls) in respect of the following plots without the express grant of planning permission by the Local Planning Authority.

Plots 1-6 (inclusive)

Plots 61-64 (inclusive)

Plots 84-88 (inclusive)

Plots 100-106 (inclusive)

No fences, gates or walls shall be erected within the curtilage of any dwellinghouse forward of any wall of that dwellinghouse which fronts onto a road or upon any designated open space area.

- 26) No development shall take place until full details of the suitable alternative natural greenspace (SANG) that will be secured via one of the following have been submitted to and approved in writing by the Local Planning Authority:
- a) A financial contribution towards the maintenance and improvement of the Westbrook Hay SANG or,
 - b) A financial contribution at appropriate Council-led strategic SANG sites under the approved Chilterns Beechwoods Special Area of Conservation Mitigation Strategy
- 27) Prior to first occupation of any dwelling or building, the allocation of SANG approved pursuant to condition 26 shall be secured through a legally binding agreement details of which shall be submitted to and approved by the Local Planning Authority.

DOCUMENTS SUBMITTED DURING THE INQUIRY

CD12 Inquiry Documents	
12.1	Opening Statement from Appellant, 09 April 2024
12.2	Opening Statement from Council, 09 April 2024
12.3	Opening Statement from Rule 6 Party, 09 April 2024
12.4	Irine McGregor Interested Party Statement, 09 April 2024
12.5	Michael Bouvier Interested Party Comments, 09 April 2024
12.6	John Ingleby Interested Party Comments, 09 April 2024
12.7	Millar Homes Scheme Planning Statement (DBC ref: 4/02282/18/MOA)
12.8	Written Ministerial Statement on Green Belt, published 17 January 2014
12.9	Overview Table of Appeal Schemes, 12 April 2024
12.10	Closing Statement from Rule 6 Party, 12 April 2024
12.11	Closing Statement from Council, 12 April 2024
12.12	Closing Statement from Appellant, 12 April 2024