



Ministry of Housing,  
Communities &  
Local Government

Mr Ben Kelly  
Pegasus Group  
33 Sheep Street  
Cirencester  
Gloucestershire  
GL7 1RQ

Our ref: APP/P1940/W/24/3346061  
Your ref: 23/1068/OUT

12 May 2025

Dear Ben Kelly,

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78  
APPEAL MADE BY GREYSTOKE LAND LTD  
LAND OFF BEDMOND ROAD, ABBOTS LANGLEY  
APPLICATION REF: 23/1068/OUT**

*This decision was made by Parliamentary Under-Secretary of State for Housing and Local Government, Baroness Taylor of Stevenage, on behalf of the Secretary of State*

1. I am directed by the Secretary of State to say that consideration has been given to the report of Thomas Hatfield BA (Hons) MA MRTPI, who held a public local inquiry on 8-11 October, 15 October and 23 October 2024 into your client's appeal against the decision of Three Rivers District Council to refuse your client's application for planning permission for demolition and clearance of existing buildings and hardstandings to allow for the construction of a data centre of up to 84,000 sqm (GEA) delivered across 2no. buildings, engineering operations and earthworks to create development platforms, site wide landscaping and the creation of a country park. The data centre buildings include ancillary offices, internal plant and equipment and emergency back-up generators. Other works include an ancillary innovation, education and training centre of up to 300 sqm, internal roads and footpaths, cycle and car parking, hard and soft landscaping, security perimeter fence, lighting, drainage, substation, and other associated works and infrastructure, in accordance with application Ref. 23/1068/OUT, dated 23 June 2023, and amended as set out in paragraph 5 below.
2. On 8 July 2024, this appeal was recovered for the Secretary of State's determination, in pursuance of section 79 of, and paragraph 3 of Schedule 6 to, the Town and Country Planning Act (TCPA) 1990.

**Inspector's recommendation and summary of the decision**

3. The Inspector recommended that planning permission for the development be granted subject to conditions.
4. For the reasons given below, the Secretary of State agrees with the Inspector's conclusions, except where stated, and agrees with his recommendation. She has

Ministry of Housing Communities & Local Government      Email: PCC@communities.gov.uk  
Laura Webster, Decision Officer  
Planning Casework Unit  
3rd Floor Fry Building  
2 Marsham Street  
London SW1P 4DF

decided to grant outline planning permission and allow the appeal. The Inspector's Report (IR) is attached. All references to paragraph numbers, unless otherwise stated, are to that report.

### **Procedural matters**

5. The Secretary of State notes at IR5 that the description of development within the IR, and at paragraphs 1 and 64 of this letter, differs from that provided on the planning application form due to the removal of proposed diesel storage areas from the scheme, and that the revised description is agreed by both the Council and the Appellant.
6. As set out by the Inspector at IR10-15, the appeal site comprises two parcels of land. Parcel 1 is bounded by Bedmond Road to the west and the M25 motorway to the north, while Parcel 2 is surrounded by open countryside. The proposal is for a hyperscale data centre on Parcel 1, and a country park on Parcel 2. The Secretary of State's conclusions relate to Parcels 1 and 2 individually where stated; references to 'the site' refer to the entire appeal site.

### **Matters arising since the close of the inquiry**

7. A revised version of the National Planning Policy Framework (the Framework) was published on 12 December 2024 and updated on 7 February 2025. The Secretary of State notes at IR9 that this introduced a number of changes to national planning policy that are of relevance to this appeal, including in relation to both Green Belt policy and data centres. She also notes that the Council and the Appellant were given the opportunity to make written submissions on the revised Framework, which the Inspector has taken into account in preparing the IR.
8. Revised Planning Practice Guidance (PPG) relating to the Green Belt was published on 27 February 2025. On 11 March 2025, the Secretary of State wrote to the main parties to afford them an opportunity to comment on the changes to the PPG. This letter also gave parties the opportunity to comment on the further update to the Framework on 7 February 2025<sup>1</sup>.
9. A list of representations received in response to this letter is at Annex A. These representations were circulated to the main parties on 27 March 2025 and 9 April 2025. The issues raised have been taken into account by the Secretary of State when reaching conclusions on green belt matters. No other new issues were raised in this correspondence to warrant further investigation or necessitate additional referrals back to parties.
10. A list of other representations which have been received since the inquiry is at Annex A. The Secretary of State is satisfied that the issues raised do not affect her decision, and no other new issues were raised in this correspondence to warrant further investigation or necessitate additional referrals back to parties. Copies of these letters and those referred to at paragraph 9 may be obtained on request to the email address at the foot of the first page of this letter.

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<sup>1</sup>[Updates – National Planning Policy Framework](#): 'This version of the National Planning Policy Framework was amended on 7 February 2025 to correct cross-references from footnotes 7 and 8, and amend the end of the first sentence of paragraph 155 to make its intent clear. For the avoidance of doubt the amendment to paragraph 155 is not intended to constitute a change to the policy set out in the Framework as published on 12 December 2024.'

## **Policy and statutory considerations**

11. In reaching her decision, the Secretary of State has had regard to section 38(6) of the Planning and Compulsory Purchase Act (PCPA) 2004 which requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise.
12. In this case the development plan consists of the Three Rivers Core Strategy 2011–2026 (adopted October 2011), the Three Rivers Site Allocations Local Development Document (LDD) (adopted November 2014), and the Three Rivers Development Management Policies LDD (adopted July 2013). The Secretary of State considers that relevant development plan policies include those set out at IR18-19, as well as Development Management Policy DM3.
13. Other material considerations which the Secretary of State has taken into account include the Framework published on 12 December 2024 and updated on 7 February 2025, and associated planning guidance (the Guidance), as well as those documents listed at IR20 and IR22, excluding the draft consultation text of the Framework which is superseded by the revised published Framework.
14. In accordance with section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act (LBCA) 1990, the Secretary of State has paid special regard to the desirability of preserving those listed buildings potentially affected by the proposals, or their settings or any features of special architectural or historic interest which they may possess.

### ***Emerging plan***

15. The emerging plan comprises the Three Rivers Local Plan to 2041. This is yet to reach Regulation 19 stage.
16. Paragraph 49 of the Framework states that decision makers may give weight to relevant policies in emerging plans according to: (1) the stage of preparation of the emerging plan; (2) the extent to which there are unresolved objections to relevant policies in the emerging plan; and (3) the degree of consistency of relevant policies to the policies in the Framework.
17. For the reasons given at IR236-239, the Secretary of State agrees with the Inspector's conclusions at IR238 that the emerging plan is at an early stage of preparation, and agrees that it should be given little weight.

## **Main issues**

### ***Landscape and visual impact***

18. For the reasons set out at IR182-187, the Secretary of State agrees that the introduction of 2 large data centre buildings of up to 20 metres in height would result in a substantial change to the character of Parcel 1 that could not be fully mitigated, with a substantial adverse effect on the character of Parcel 1 itself. She also agrees that the impact on the wider landscape would be more limited given that Parcel 1 is separated from much of the surrounding countryside by the M25, Bedmond Road, and the settlement edge (IR184).
19. For the reasons set out at IR188, the Secretary of State considers that harm arising from loss of open views from Ovaltine Dairy Cottages would be limited, and agrees with the Inspector that a planted buffer would screen the development to a significant degree and

would provide an acceptable outlook to occupiers of those properties. For the reasons set out at IR189 the Secretary of State considers that harm to Notley Court would be limited. She agrees that the planted buffer would be capable of forming an attractive edge to the development that would mitigate the visual impact of the data centre buildings.

20. For the reasons set out at IR190-201, the Secretary of State agrees with the Inspector at IR199 that whilst there would be significant visual effects arising during the construction process, these would be short-term in nature. Like the Inspector, she is satisfied that a sympathetic design for the country park is capable of being secured at reserved matters stage that would be in keeping with the surrounding agricultural landscape (IR200). The Secretary of State agrees with the Inspector's conclusions at IR201 that overall, the effect of the development on the landscape character of Parcel 1 would be significant. She further agrees that the visual effect of the development would be relatively localised given its size, which would limit how the resulting landscape harm would be perceived. Overall, she gives significant weight to landscape harm.
21. For the reasons set out above, the Secretary of State therefore agrees at IR202 and IR266 that the proposed development would result in conflict with Core Strategy Policy CP12 with regard to landscape and visual harm. She considers that this conflict is partial and limited to CP12 a). She also considers that this would result in slight conflict with Development Management Policy criterion DM7 b) which requires proposals to make a positive contribution to the surrounding landscape, as well as criterion f) of the overall spatial strategy (Core Strategy Policy CP1) which requires development to take into account the need to protect and enhance the natural environment.
22. The Secretary of State has considered whether there is accordance with Development Management Policy DM7. She has taken into account the relatively localised landscape impacts as set out at paragraph 20 of this letter; the fact that the detailed design and layout of the scheme is capable of being addressed at reserved matters stage; and the fact that the Council raises no objection on design related grounds, subject to the imposition of planning conditions (IR23). She agrees with the main parties at IR23 that materials would be important in reducing a sense of mass and scale, providing visual interest and reducing visual prominence. Overall, the Secretary of State considers that the proposed development would not unacceptably harm the character of the landscape in terms of siting, scale, design or external appearance, and concludes the proposed development is therefore in overall accordance with Development Management Policy DM7. The Secretary of State's conclusion on overall policy accordance with Core Strategy Policy CP1 is at paragraph 50.

#### *Need and alternatives*

23. For the reasons set out at IR203-222 and IR225, and taking into account submitted evidence on the importance of load balancing between each Availability Zone (AZ) (CD.C20A), as well as local policy support for further development of economic clusters, the Secretary of State agrees that there is a very significant level of demand in the Hemel Hempstead AZ (IR209) and that there is a need for this additional capacity to be provided in this AZ (IR210).
24. The Secretary of State notes that the development would provide around 3% of the forecasted growth in data centre capacity need across London between 2004 and 2029, and around a third of the need in the Hemel Hempstead AZ (IR220), and agrees at IR225 that a failure to provide enough sites to meet the need for new data centres could result in investment being lost to other well-established markets outside the UK. Overall, the

Secretary of State agrees at IR220 that there is a clear and pressing need for new data centre capacity in the London Availability Region and the Hemel Hempstead AZ, and that this attracts significant weight.

25. National planning policy on economic development has changed since the adoption of the development plan documents, including the Site Allocations LDD. Paragraph 86 c) of the updated Framework now requires planning policies to identify suitable locations for uses such as laboratories, gigafactories, data centres, digital infrastructure, freight and logistics. The Secretary of State considers that the economic objectives within Policy CP6 of the Core Strategy remain fundamentally in accordance with national planning policy and therefore does not consider this policy to be out of date. However, she considers that the Site Allocations LDD document is not fully up to date, as it makes no provision for data centres within the District and does not reflect the support for this type of development in the updated Framework. The Secretary of State has considered the proposal against national policy as set out in paragraphs 85-87 of the Framework and considers that it derives support from these elements of national policy.
26. For the reasons set out at IR211-220, and in the circumstances of this case, the Secretary of State agrees at IR220 that insufficient suitable alternative sites are available to meet need, and that this should carry significant weight.

#### *Benefits of the proposal*

27. For the reasons set out at IR223-224, the Secretary of State agrees at IR224 that significant weight should be attached to the size of the proposed investment, and both the economic and employment benefits that it would bring. For the reasons set out at IR226, she agrees that temporary construction employment should carry limited weight.
28. The Secretary of State has considered the Inspector's conclusions at IR227 regarding the absence of a plan-led solution to the need for data centres. She has concluded at paragraph 25 of this letter that in this respect the Site Allocations LDD is not fully up to date. The Secretary of State considers that this reduces the weight given to that element of the development plan, and has taken that into account in her overall conclusions. In reaching her conclusions on the lack of alternative sites she has taken into account national planning policy support for the proposal (paragraph 25 above). She has attributed little weight to the emerging plan (paragraph 17 above). Overall, she does not consider that in the circumstances of this case, the lack of a current or emerging plan-led solution carries separate weight in favour of the proposal.
29. For the reasons set out at IR228-229, the Secretary of State agrees with the Inspector at IR229 that the country park would accord with paragraph 151 of the Framework, which states that local planning authorities should seek to enhance the beneficial use of Green Belts, including seeking opportunities to access outdoor recreation. She agrees at IR229 that it would significantly increase public accessibility and would also provide a different role from the nearby Leavesden Country Park. She further agrees at IR229 that the proposed country park would be a major benefit of the scheme to which significant weight should be attached. For the reasons set out at IR230-231, she gives moderate weight to Biodiversity Net Gain (BNG) uplift.
30. For the reasons set out at IR241, the Secretary of State agrees that limited weight is attached to the potential for a district heating network.

## *Heritage*

31. For the reasons set out at IR232-233, the Secretary of State agrees with the Inspector that harm to the significance of the two nearby listed buildings, the Tithe Barn and Mansion House Farmhouse, would be at the lower end of the spectrum of 'less than substantial harm'. In accordance with paragraph 212 of the Framework, she gives great weight to this harm to the significance of designated heritage assets.
32. For the reasons set out at IR234, the Secretary of State agrees that there would be harm to the significance of the non-designated Ovaltine Dairy Cottages and the proposed development would negatively affect the way they are perceived in public views. Taking into account her conclusions at paragraph 19 of this letter, she gives limited weight to this harm.
33. As a result of harm to both designated and non-designated heritage assets, the Secretary of State considers that the proposed development would result in limited conflict with Policy DM3 a) of the Development Management Policies LDD as it fails to sustain and conserve the setting of heritage assets. It would also result in very limited conflict with Policy CP12 b) of the Core Strategy.

## *Green Belt*

34. Both parcels of land which form the appeal site are located in the Green Belt.
35. National Green Belt policy has changed since the adoption of the development plan documents, including the introduction of policy on grey belt. The Secretary of State notes that Policy CP11 of the Core Strategy and DM2 of the Development Management Policies LDD reference national Green Belt policy. She agrees with the Inspector at IR181 that Development Management Policy DM2 provides guidance on some national policy exceptions but is not intended to be exhaustive. The Secretary of State considers that local Green Belt policies remain broadly consistent with the Framework, and are hence broadly up to date. However, as the local policies do not spell out all the elements which are set out in national policy, she has considered the proposed development against Green Belt policy in the Framework at paragraphs 36-49 below.
36. The Secretary of State notes at IR23 that the Statements of Common Ground signed by the parties include agreement that the proposed country park (Parcel 2) would not constitute inappropriate development in the Green Belt as it would comply with paragraph 154 h) of the Framework (provided what comes forward does in fact preserve openness) and would not conflict with any purpose of including land within the Green Belt. Having given regard to the parameter plans submitted by the appellant, which indicate no built development on Parcel 2, the Secretary of State considers that the proposed country park on Parcel 2 would preserve openness. She has further taken into account the Inspector's conclusion at IR200 that a sympathetic design is capable of being secured at reserved matters stage that would be in keeping with the surrounding agricultural landscape. For this reason she concludes that the country park (Parcel 2) would comply with paragraph 154 h) of the Framework and would therefore not constitute inappropriate development in the Green Belt.
37. The Secretary of State has gone on to consider whether Parcel 1 meets the definition of grey belt, as set out in the glossary to the revised Framework, and, giving regard to the Inspector's analysis at IR175-179, has considered whether it meets the relevant criteria set out in paragraph 155 of the revised Framework.

38. The Secretary of State has considered whether Parcel 1 contributes strongly to purpose a), to check the unrestricted sprawl of large built-up areas. She notes that the Green Belt studies for Three Rivers District and Watford Borough (CD.E3 and CD.E4, dated 2017 and 2019 respectively) do not include Abbots Langley on the list of large built-up areas. She has also given regard to the Inspector's assessment at IR176. She agrees that Parcel 1 is well contained by the M25 motorway to the north, and Bedmond Road to the west, but does not fully agree at IR176 that Parcel 1 is well contained by the existing settlement edge. She has taken into account the Council's view (representation received 25 March 2025) that the contribution of the site to this purpose is moderate rather than strong, due to the presence of the M25 to the north and the small areas of previously developed land on the appeal site. Overall, and having given regard to the PPG on purpose a) of the Green Belt, the Secretary of State agrees with the Inspector and the Council that Parcel 1 does not contribute 'strongly' to checking the unrestricted sprawl of large built-up areas (IR176).
39. The Secretary of State has considered whether Parcel 1 contributes strongly to purpose b), to prevent neighbouring towns merging into one another. She notes at IR175 that it is common ground between the main parties that the site does not contribute to purpose b), because the appeal site is not located in a narrow gap between existing towns that are at risk of coalescence. However, she also notes the representation from the Council, following the update to the PPG, which argues that the contribution that the site makes to purpose b) is strong, based on the gap between Watford and Hemel Hempstead. The Secretary of State has given regard to the guidance within the PPG on contribution to the Green Belt purposes and the illustrative features of assessment areas which make a strong, moderate or weak contribution to purpose b). Based on this guidance, overall, the Secretary of State considers that Parcel 1 does not form a substantial part of a gap between towns, and its development would not be likely to result in the loss of visual separation between towns. She considers that Parcel 1 does not contribute strongly to purpose b).
40. The Secretary of State has considered whether Parcel 1 contributes strongly to purpose d), to preserve the setting and special character of historic towns. She notes that the Stage 2 study did not identify any historic towns which can be considered relevant to the assessment of this Green Belt purpose, and considers that it does not strongly contribute to this purpose.
41. Overall, the Secretary of State agrees with the Inspector's conclusion at IR179 and IR180 that Parcel 1 does not strongly contribute to Green Belt purposes a), b), or d).
42. Given her conclusions on heritage at paragraphs 31-33 and paragraph 61 of this letter, the Secretary of State also agrees with the Inspector at IR174 that the application of policies referred to at footnote 7 of the Framework (other than Green Belt) do not provide a strong reason for refusal. She therefore agrees with the Inspector's conclusion at IR179 that Parcel 1 constitutes grey belt land.
43. The Secretary of State has gone on to consider whether all the applicable criteria in paragraph 155 of the Framework are met.
44. The Secretary of State has considered whether the development would fundamentally undermine the purposes (taken together) of the remaining Green Belt across the area of the plan (paragraph 155(a) of the Framework). She agrees with the Inspector at IR180 that the size and physical containment of Parcel 1 would ensure that it would not fundamentally undermine the remaining Green Belt with regard to purpose c). She

agrees with the parties (IR180) that the site does not contribute to purpose e) 'to assist in urban regeneration, by encouraging the recycling of derelict and other urban land', and would therefore not fundamentally undermine this purpose. The Secretary of State has taken these conclusions into account when reaching her conclusion at paragraph 45 below on whether the development would fundamentally undermine the purposes taken together.

45. With regard to purposes a), b), and d), the Secretary of State notes that the Stage 2 Green Belt Assessment 2019 (CD.E4) concluded that there would be no or negligible impact on the adjacent Green Belt from release of parcel AL3, with no significant change in boundary strength. While the Secretary of State agrees overall with the Inspector at IR178 that the findings of two LPA Green Belt studies (CD.E3 and CD.E4) relate to wider areas of land and do not necessarily reflect the particular circumstances of the appeal site, the Secretary of State considers that the evidence regarding impact of release on adjacent Green Belt remains relevant in this instance, as any impact from development of the full parcel would be greater than from development of Parcel 1. Based on this evidence, and taking into account the provision of a country park on Parcel 2 (IR176) which she agrees would restrict any further outward encroachment to the east, the Secretary of State concludes that the development would not fundamentally undermine the purposes (taken together) of the remaining Green Belt across the area of the plan. She considers that criterion 155(a) is therefore met.
46. For the reasons set out at paragraphs 23-25 of this letter, the Secretary of State agrees with the Inspector at IR180 that there is a demonstrable unmet need for the development. She considers that criterion 155(b) is therefore met.
47. The Secretary of State notes at IR180 that it is common ground that the development would be in a sustainable location. In reaching her conclusion on this matter, she has taken into account the definition of Abbots Langley in the Spatial Strategy within the Core Strategy as a key centre, and that the Spatial Strategy describes these and the Principal Town as the most sustainable locations in the District. She has also taken into account the Council's statement at IR85 that, had the appeal site been allocated for housing, this would be sustainably located on the edge of a growth settlement. In the light of paragraphs 110 and 115 of the Framework and the planning obligation's sustainable travel contributions, she considers that opportunities for sustainable transport modes have been taken up and the site is well placed to take advantage of opportunities to walk to local facilities and to cycle/use public transport to reach higher order facilities. Overall, the Secretary of State considers that Parcel 1 is in a sustainable location and criterion 155(c) is therefore met.
48. Accordingly, the Secretary of State agrees with the Inspector's conclusion at IR180 that the development meets the relevant tests at paragraph 155 and should not be regarded as inappropriate development in the Green Belt.
49. The Secretary of State notes at IR36 and IR101 that both main parties consider the development would result in harm to openness of the Green Belt, both spatially and visually. Taking into account her conclusions on landscape and visual impacts at paragraphs 18-22 of this letter, the Secretary of State agrees that the proposed development of Parcel 1 would result in harm to openness, both spatially and visually. In accordance with footnote 55 of the Framework, it is not required to give substantial weight to any harm to the Green Belt, including harm to its openness, given the conclusion at paragraph 48 that development is not inappropriate.



50. The Secretary of State agrees with the Inspector at IR181 that the proposed development would accord with local Green Belt policy CP11 and would not be in conflict with Policy DM2. Furthermore, taking into account her conclusions on landscape at paragraphs 18-22 of this letter, heritage at paragraphs 31-33, and Green Belt at paragraphs 34-49 above, the Secretary of State agrees with the Inspector at IR270 that the proposal would not be inappropriate development in the context of the spatial strategy and is therefore in overall accordance with Core Strategy Policy CP1.

### **Other matters**

51. For the reasons set out at IR240, the Secretary of State agrees that limited weight should be given to loss of arable land.

52. The Secretary of State agrees with the Inspector's analysis and conclusions on amenity impacts, environmental health, traffic, car parking and water supply matters at IR242-243, IR245-246, and IR248-252. She agrees with the Inspector at IR247 that there is no reason to doubt the availability of an adequate power supply, and notes that the development would have access to dedicated fibre optic links which would be sufficient to serve it.

53. The Secretary of State has agreed with the Inspector at paragraph 17 above that the emerging plan carries little weight (IR236-238). She therefore considers that the proposed housing allocation (IR244) also carries little weight. She agrees at IR239 that there was no evidence before the Inspector that the allocation of the appeal site for housing development would be necessary in order for the Council to meet its local housing need figure, and further agrees at IR244 that it is unlikely that the proposed data centre buildings would significantly affect the development of the adjacent land given they would be cut into the slope and positioned away from the southern site boundary. For the reasons set out at IR236-239 and IR244, she considers that these matters do not weigh against the scheme.

### **Planning conditions**

54. The Secretary of State had regard to the Inspector's analysis at IR259-265, the recommended conditions set out at the end of the IR and the reasons for them, and to national policy in paragraph 57 of the Framework and the relevant Guidance. She is satisfied that the conditions recommended by the Inspector comply with the policy test set out at paragraph 57 of the Framework and that the conditions set out at Annex B should form part of her decision.

55. The Secretary of State is also satisfied that the suggested conditions referred to at IR264-265, for the reasons given by the Inspector, should not form part of her decision.

### **Planning obligations**

56. The Secretary of State has had regard to the Inspector's analysis at IR253-258, the planning obligation dated 28 November 2024, paragraph 58 of the Framework, the Guidance and the Community Infrastructure Levy (CIL) Regulations 2010, as amended. For the reasons given at IR257 the Secretary of State agrees that the Local Training and Skills Fund and the Local Training and Skills Scheme would not meet the tests set out at Regulation 122 of the CIL Regulations 2010. She has not taken these obligations into account in reaching her decision. For the reasons given at IR253-256, she agrees with the Inspector's conclusion that the obligations in the Unilateral Undertaking, excluding the

Local Training and Skills Fund, and the Local Training and Skills Scheme, comply with Regulation 122 of the CIL Regulations 2010 and the tests at paragraph 58 of the Framework.

### **Planning balance and overall conclusion**

57. For the reasons given above, the Secretary of State considers that the appeal scheme is not fully in accordance with Core Strategy Policies CP1 f) and CP12 a) and b), and Development Management Policies DM3 a) and DM7 b), but is in accordance with the development plan overall. She has gone on to consider whether there are material considerations which indicate that the proposal should be determined other than in line with the development plan.
58. Weighing in favour of the proposal is a clear and pressing need for new data centre capacity which carries significant weight, a lack of sufficient suitable alternative sites available to meet need which carries significant weight, the scale of investment, with economic and employment benefits, which carries significant weight, creation of a country park which carries significant weight, BNG uplift which carries moderate weight, temporary construction employment which carries limited weight, and potential for a district heating network which carries limited weight.
59. Weighing against the proposal is landscape and visual harm which carries significant weight, harm to the settings of designated heritage assets which carries great weight, harm to the setting of non-designated heritage assets which carries limited weight, and loss of arable land which carries limited weight.
60. The Secretary of State has concluded that the proposal is not inappropriate development in the Green Belt, and in line with paragraph 153 and footnote 55 of the Framework, she is not required to give substantial weight to any harm to the Green Belt, including harm to its openness.
61. In line with the heritage balance set out at paragraph 215 of the Framework, the Secretary of State has considered whether the identified 'less than substantial' harm to the significance of the designated heritage assets is outweighed by the public benefits of the proposal. Taking into the account the public benefits of the proposal as identified in this decision letter, overall, the Secretary of State agrees with the Inspector at IR235 that the benefits of the appeal scheme are collectively sufficient to outbalance the identified less than substantial harm to the significance of the Tithe Barn and Mansion House Farmhouse. She considers that the balancing exercise under paragraph 215 of the Framework is therefore favourable to the proposal.
62. Overall, in applying s.38(6) of the PCPA 2004, the Secretary of State considers that the overall accordance with the development plan and the material considerations in this case indicate that permission should be granted.
63. The Secretary of State therefore concludes that the appeal should be allowed and outline planning permission granted.

### **Formal decision**

64. Accordingly, for the reasons given above, the Secretary of State agrees with the Inspector's recommendation. She hereby allows your client's appeal and grants planning permission subject to the conditions set out in Annex B of this decision letter for: demolition and clearance of existing buildings and hardstandings to allow for the

construction of a data centre of up to 84,000 sqm (GEA) delivered across 2no. buildings, engineering operations and earthworks to create development platforms, site wide landscaping and the creation of a country park. The data centre buildings include ancillary offices, internal plant and equipment and emergency back-up generators. Other works include an ancillary innovation, education and training centre of up to 300 sqm, internal roads and footpaths, cycle and car parking, hard and soft landscaping, security perimeter fence, lighting, drainage, substation, and other associated works and infrastructure, in accordance with application Ref. 23/1068/OUT, dated 23 June 2023, and amended as set out in paragraph 5 above.

65. This letter does not convey any approval or consent which may be required under any enactment, bye-law, order or regulation other than section 57 of the TCPA 1990.

### **Right to challenge the decision**

66. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged. This must be done by making an application to the High Court within 6 weeks from the day after the date of this letter for leave to bring a statutory review under section 288 of the TCPA 1990.

67. An applicant for any consent, agreement or approval required by a condition of this permission for agreement of reserved matters has a statutory right of appeal to the Secretary of State if consent, agreement or approval is refused or granted conditionally or if the Local Planning Authority fail to give notice of their decision within the prescribed period.

68. A copy of this letter has been sent to Three Rivers District Council, and notification has been sent to others who asked to be informed of the decision.

Yours faithfully

Laura Webster  
Decision officer

*This decision was made by Parliamentary Under-Secretary of State for Housing and Local Government, Baroness Taylor of Stevenage, on behalf of the Secretary of State, and signed on her behalf*

## **Annex A Schedule of representations**

### **SCHEDULE OF REPRESENTATIONS**

#### **General representations**

| <b>Party</b>                             | <b>Date</b>                                       |
|------------------------------------------|---------------------------------------------------|
| Pegasus Group                            | 5 March 2025                                      |
| Pegasus Group on behalf of the Appellant | 11 March 2025 enclosing a document dated 10 March |
| J Felstead                               | 13 March 2025                                     |
| M Allum                                  | 18 March 2025                                     |

**Representations received in response to the Secretary of State's letter of 11 March 2025, which attached the document dated 10 March from Pegasus Group on behalf of the Appellant, received in correspondence dated 11 March**

| <b>Party</b>                                     | <b>Date</b>                                         |
|--------------------------------------------------|-----------------------------------------------------|
| Enplan on behalf of the Local Planning Authority | 25 March 2025 enclosing a document dated March 2025 |
| Pegasus Group on behalf of the Appellant         | 2 April 2025 enclosing a document dated 31 March    |

## **Annex B List of conditions**

- 1) Details of the access, appearance, landscaping, layout and scale (hereinafter called the 'reserved matters') shall be submitted to and approved in writing by the Local Planning Authority before any part of the development is commenced.
- 2) Any application for the approval of the reserved matters shall be made to the Local Planning Authority within three years of the date of this permission.
- 3) The development shall commence within two years from the date of approval of the last of the reserved matters.
- 4) The reserved matters application(s) shall be substantially in accordance with the following parameter plans:
  - Land Use Parameter Plan (20208.301 Rev E)
  - Development Zones Parameter Plan (20208.302 Rev E)
  - Building Heights Parameter Plan (20208.303 Rev F)
  - Building Lines Parameter Plan (20208.304 Rev E)
  - Indicative Green Infrastructure Parameter Plan (20208.305 Rev F)
  - Access and Movement Parameter Plan (20208.306 Rev E)

### **Pre-commencement conditions**

- 5) No development shall take place until a surface water drainage scheme that accords with the submitted Flood Risk Assessment and Drainage Strategy (Delta Simons, 21 June 2023), including a timetable for its implementation, has been submitted to and approved in writing by the Local Planning Authority. This scheme shall include:
  - i. Detailed infiltration testing in accordance with BRE Digest 365 (or equivalent) along the length and depth of the proposed infiltration feature(s). If infiltration is proven to be unfavourable, then the drainage design shall use 11.7l/s (Greenfield QBAR) out falling to the watercourse. The discharge location for surface water runoff shall connect to the wider watercourse network.
  - ii. Provision of surface water attenuation storage designed to accommodate the volume of water generated in all rainfall events up to and including the critical storm duration for the 3.33% Annual Exceedance Probability ('AEP') and 1% AEP rainfall events (both including allowances for climate change).

- iii. Detailed designs, modelling calculations, and plans of the drainage conveyance network in the:
  - 3.33% AEP critical rainfall event plus climate change to show no flooding outside the drainage features on any part of the site; and
  - 1% AEP critical rainfall plus climate change event to show the depth, volume and storage location of any flooding outside the drainage features, ensuring that flooding does not occur in any part of a building or any utility plant susceptible to water (e.g. pumping station or electricity substation) within the site. This shall demonstrate that no runoff during such an event will leave the site uncontrolled.
- iv. The design of any infiltration/detention basin shall incorporate an emergency spillway and any drainage structures shall include appropriate freeboard allowances. Plans shall be submitted that show the management of exceedance surface water flow routes that minimise the risk to people and property during rainfall events in excess of 1% AEP plus climate change allowance.
- v. Details to show how all surface water management features are to be designed in accordance with The SuDS Manual (CIRIA C753, 2015) including appropriate treatment stages for water quality prior to discharge.

The surface water drainage scheme shall be implemented as approved in accordance with the approved timetable.

- 6) No development shall take place until a Construction Management Plan ('CMP') has been submitted to and approved in writing by the Local Planning Authority. The CMP shall include:
  - i. Access arrangements to the site;
  - ii. Construction and storage compounds (including areas designated for car parking, loading/unloading, and turning areas);
  - iii. Siting and details of wheel washing facilities;
  - iv. Cleaning arrangements for the site entrances;
  - v. Delivery and construction working hours. Delivery times shall avoid school pick up/drop off times;
  - vi. Provision of sufficient on-site parking prior to commencement of construction activities;
  - vii. A Site Waste Management Plan that includes details of the management of construction waste; and
  - viii. Details of best practicable means to be employed to minimise dust caused by the construction process.

The approved CMP shall be adhered to throughout the construction period for the development.

- 7) No development shall take place until a Remediation Strategy, including a timetable

for its implementation, to deal with the risks associated with contamination at the site has been submitted to and approved in writing by the Local Planning Authority. This shall include:

- i. A Preliminary Risk Assessment that identifies:
  - all previous uses;
  - potential contaminants associated with those uses;
  - a conceptual model of the site indicating sources, pathways and receptors; and
  - potentially unacceptable risks arising from any contamination at the site.
- ii. A Site Investigation Scheme based on i) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off-site.
- iii. The results of the site investigation and risk assessment referred to in ii) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
- iv. A Verification Plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in iii) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

The site shall be remediated in accordance with the approved strategy and implementation timetable.

- 8) No development shall take place until the following details have been submitted to and approved in writing by the Local Planning Authority:
- i. An Intrusive Ground Investigation to identify the current condition of the site and appropriate techniques to avoid displacing any shallow water contamination to a greater depth.
  - ii. A Remediation Strategy, including a timetable for its implementation, detailing how any water contamination will be dealt with if this is found to be necessary following the results of the Intrusive Ground Investigation.
  - iii. A Piling Risk Assessment identifying both the aquifer and the abstraction point(s) as potential receptor(s) of contamination.
  - iv. A Foundations Method Statement detailing the depth and type of foundations to be undertaken including any necessary mitigation measures to prevent and/or minimise any potential migration of pollutants (including turbidity or existing contaminants) to the public water supply.

The development shall thereafter be implemented in accordance with the approved details.

- 9) No development shall take place until a scheme to manage surface water during the construction phase has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented prior to the commencement of any works that would lead to an increase in surface water run-off from the site during the construction phase.
- 10) No development shall take place until a Written Scheme of Investigation ('WSI') has been submitted to and approved in writing by the Local Planning Authority. This shall include an assessment of significance and research questions, and:
  - i. The programme and methodology of site investigation and recording;
  - ii. The programme for post investigation assessment;
  - iii. Provision to be made for analysis of the site investigation and recording;
  - iv. Provision to be made for publication and dissemination of the analysis and records of the site investigation;
  - v. Provision to be made for archive deposition of the analysis and records of the site investigation; and
  - vi. Nomination of a competent person or persons/organisation to undertake the works set out within the WSI.

Development shall take place in accordance with the approved WSI.

- 11) No development shall take place until a Biodiversity Net Gain ('BNG') Plan has been submitted to and approved in writing by the Local Planning Authority demonstrating that a BNG uplift of least 135% (using Biodiversity Metric 4.0) can be achieved on the site. This shall include:
  - i. A proposed Habitat Plan and details of what will be created. This plan should clearly show what existing habitat is being retained and what new habitat will be created.
  - ii. A Biodiversity Metric that can be cross referenced with the submitted Habitat Plan;
  - iii. Clear, measurable, ecological objectives;
  - iv. Remedial measures if these objectives are not met;
  - v. An Implementation Plan that includes a timetable for implementation; and
  - vi. A BNG Management and Monitoring Plan.

The BNG Plan shall be implemented as approved in accordance with the approved Implementation Plan and maintained in accordance with the approved BNG

Management and Monitoring Plan for at least 30 years.

- 12) No development shall take place until an updated Noise Assessment and Report has been submitted to and approved in writing by the Local Planning Authority. This shall demonstrate that the rating noise level from any fixed or mobile mechanical plant within the site shall not exceed 5 dB above the background sound level (representative of the period being assessed, or 45 dB(A) during the day/40 dB(A) at night, whichever is higher) at noise sensitive receptors that have first been submitted to and approved in writing by the Local Planning Authority. The Noise Assessment shall be carried out in accordance with the methodology in BS4142:2014+A1:2019. The development shall thereafter be implemented and operated in accordance with the approved Noise Assessment and Report.

Prior to the submission of any reserved matters application

- 13) Prior to the submission of any reserved matters application, the development shall be subject to a design review by an independent design review panel, the report of which shall be submitted to and approved in writing by the Local Planning Authority. The reserved matters application(s) shall thereafter be informed by the approved report of the independent design review panel.
- 14) Prior to the submission of any reserved matters application, an Environmental Colour Assessment ('ECA') shall be submitted to and approved in writing by the Local Planning Authority. The approved ECA and associated colour palettes shall determine the selection and application of all external materials, perimeter/boundary treatments, 'street furniture', and hard and soft landscaping.

Prior to development above ground level conditions

- 15) No development shall take place above slab level until a timetable for the implementation of, and provision of public access to, the proposed country park has been submitted to and approved in writing by the Local Planning Authority. The country park shall thereafter be implemented, and public access provided, in accordance with the approved timetable.

Pre-occupation conditions

- 16) Prior to the first occupation of the development, details of the long term management and maintenance arrangements for the proposed country park (for a period of 30 years) shall be submitted to and approved in writing by the Local Planning Authority. The country park shall thereafter be managed and maintained in accordance with the approved details.
- 17) Prior to the first occupation of the development, a whole-life management and maintenance plan for the site surface water drainage scheme shall be submitted to and approved in writing by the Local Planning Authority. This shall include any arrangements for adoption by a public body or statutory undertaker. The plan shall thereafter be implemented as approved.
- 18) Backup generator testing shall be limited to 12 hours per year and should be undertaken in accordance with a routine testing regime that shall be submitted to and approved in writing by the Local Planning Authority prior to the first occupation



of the development.

- 19) The specification of any generator installed shall be equal to or better than that described in Appendix 3 of the submitted Air Quality Assessment (Air Quality Consultants, June 2023) unless alternative details have first been submitted to and approved in writing by the Local Planning Authority. An abatement system for all generators shall be installed prior to the first occupation of the development and shall thereafter be maintained.

#### Other conditions

- 20) Prior to the creation of any borehole on the site, a scheme for managing boreholes installed for the investigation of soils, groundwater, or for geotechnical purposes shall be submitted to and approved in writing by the Local Planning Authority. This scheme shall provide details of how redundant boreholes are to be decommissioned and how any boreholes that are to be retained for monitoring purposes will be secured, protected and inspected. The scheme shall be implemented as approved.
- 21) Any contamination that is found during the course of construction of the development that was not previously identified shall be reported immediately to the Local Planning Authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the Local Planning Authority. Where unacceptable risks are found remediation and verification schemes shall be submitted to and approved in writing by the Local Planning Authority. These approved schemes shall be carried out before the relevant phase of development is resumed or continued.
- 22) The development shall be used as a data centre and for no other purpose including any other purpose in Class B8 of the Town and Country Planning (Use Classes) Order 1987 (as amended), or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification.
- 23) The development shall be carried out in accordance with the ecological mitigation and compensation measures described in sections 9.3.1–9.3.4 of the submitted Ecological Impact Assessment (Bioscan, June 2023).



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# **Report to the Secretary of State for Housing, Communities and Local Government**

**by Thomas Hatfield BA (Hons) MA MRTPI**

**Inspector appointed by the Secretary of State**

**Date 11 February 2025**

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**TOWN AND COUNTRY PLANNING ACT 1990**

**THREE RIVERS DISTRICT COUNCIL**

**GREYSTOKE LAND LTD**

Inquiry Held on 8-11 October, 15 October, and 23 October 2024

Land off Bedmond Road, Abbots Langley

File Ref: APP/P1940/W/24/3346061

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## GLOSSARY

|        |                                                                     |
|--------|---------------------------------------------------------------------|
| AI     | Artificial Intelligence                                             |
| AOD    | Above Ordnance Datum                                                |
| AZ     | Availability Zone                                                   |
| BNG    | Biodiversity Net Gain                                               |
| CD     | Core Document                                                       |
| CIL    | Community Infrastructure Levy                                       |
| FTE    | Full-time Equivalent                                                |
| GEA    | Gross External Area                                                 |
| GVLIA3 | Guidelines for Landscape and Visual Impact Assessment Third Edition |
| GVA    | Gross Value Added                                                   |
| Ha     | Hectares                                                            |
| LCA    | Landscape Character Area                                            |
| LDD    | Local Development Document                                          |
| LVIA   | Landscape and Visual Impact Assessment                              |
| MS     | Milliseconds                                                        |
| MW     | Megawatt                                                            |
| PRoW   | Public Right of Way                                                 |
| S106   | Section 106 of the Town and Country Planning Act 1990               |
| SuDS   | Sustainable Drainage Systems                                        |

**File Ref: APP/P1940/W/24/3346061**

**Land off Bedmond Road, Abbots Langley**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
- The appeal is made by Greystoke Land Ltd against the decision of Three Rivers District Council.
- The application Ref 23/1068/OUT, dated 23 June 2023, was refused by notice dated 25 January 2024.
- The development proposed is described as *“demolition and clearance of existing buildings and hardstandings to allow for the construction of a data centre of up to 84,000 sqm (GEA) delivered across 2no. buildings, engineering operations and earthworks to create development platforms, site wide landscaping and the creation of a country park. The data centre buildings include ancillary offices, internal plant and equipment and emergency back-up generators. Other works include an ancillary innovation, education and training centre of up to 300 sqm, internal roads and footpaths, cycle and car parking, hard and soft landscaping, security perimeter fence, lighting, drainage, substation, and other associated works and infrastructure”*.

**Summary of Recommendation: That planning permission for the development be granted subject to conditions.**

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**Procedural Matters**

1. The appeal proposal is in outline with all matters reserved for future consideration. However, a series of parameter plans have been submitted that are intended to guide the submission of reserved matters. These are as follows:
  - Land Use Parameter Plan – Ref 20208.301 Rev E
  - Development Zones Parameter Plan – Ref 20208.302 Rev E
  - Building Heights Parameter Plan – Ref 20208.303 Rev F
  - Building Lines Parameter Plan – Ref 20208.304 Rev E
  - Indicative Green Infrastructure Parameter Plan - 20208.305 Rev F
  - Access and Movement Parameter Plan - Ref 20208.306 Rev E
2. Adherence to the principles set out in the above plans is capable of being secured by condition. All other submitted plans are treated in this report as being for illustrative purposes only.
3. The appeal has been recovered for the Secretary of State's determination. The reason given for this is that the proposal is for a significant development in the Green Belt, as was confirmed in a letter to the parties dated 8 July 2024.
4. A screening opinion was issued by the Council on 17 April 2023. This advises that the development would be unlikely to give rise to significant environmental effects and would therefore not be Environmental Impact Assessment development. This is also agreed between the Council and the Appellant in the Planning Statement of Common Ground (CD.C14). A further screening was undertaken by the Planning Inspectorate (on behalf of the Secretary of State) and reached the same conclusion.

5. The description of development given above omits some of the text from the description provided on the planning application form. The omitted text simply states “*and associated fuel storage*”, which refers to diesel storage areas that were deleted from the scheme at application stage. The revised description is agreed by both the Council and the Appellant.
6. The Council's Decision Notice identified the lack of a financial contribution towards improvements to cycling and walking routes in the vicinity as a reason for refusal. However, the submitted Unilateral Undertaking would provide a financial contribution to address this matter. The Council accepts that this would overcome its concerns in this regard, and I have determined the appeal on that basis. Accordingly, the development would not conflict with Policies CP8 or CP10 of the Three Rivers Core Strategy (2011).
7. My attention has been drawn to a recent dismissed appeal decision<sup>1</sup> (CD.G1) at Woodlands Park Landfill Site, Land South of Iver Road, Iver that was determined by the Secretary of State. That proposal also related to a data centre in the Green Belt, in the neighbouring County of Buckinghamshire. Given the similarities between the proposals I have considered that Inspector's and the Secretary of State's findings carefully in making my recommendation.
8. I have received a signed and dated Unilateral Undertaking made under s106 of the Town and Country Planning Act 1990. This covers the following matters: payments towards sustainable transport improvements, local training and skills, and the monitoring of the Travel Plan. I assess the undertaking's compliance with the Community Infrastructure Levy Regulations 2010 and paragraph 58 of the National Planning Policy Framework ('the Framework') later in this report.
9. Following the close of the Inquiry, a revised version of the Framework was published (on 12 December 2024). This introduced a number of changes to national planning policy that are of relevance to this appeal, including in relation to both Green Belt policy and data centres. The Council and the Appellant were given the opportunity to make written submissions on the revised Framework, and I have taken those submissions into account in preparing this report. All paragraph references in this report relate to the latest version of the Framework.

## **The Site and Surroundings**

10. The appeal site is located to the north east of Abbots Langley and is approximately 31 ha in size. It consists of two parcels of land. Parcel 1 is a roughly rectangular piece of land that is bounded by Bedmond Road to the west and the M25 motorway to the north. Its south western corner adjoins Abbots Langley, and it is separated from Parcel 2 by East Lane, which is a traditional wooded holloway. Parcel 1 is enclosed by mature trees and hedgerows along most of its boundaries and its topography slopes away towards the M25 to the north. There is an existing building and area of hardstanding in the centre of the parcel, but it is otherwise in agricultural use. However, given the proximity of the M25 and the settlement edge, the parcel has an urban fringe character.
11. Parcel 2 is a large roughly triangular piece of agricultural land that is surrounded by open countryside. It is crossed by the Hertfordshire Way footpath, and other

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<sup>1</sup> Ref APP/N0410/W/22/3307420

footpaths and public rights of way run along its boundaries. The parcel slopes away from Abbots Langley towards the north east. It is more detached from the settlement edge and the M25 than Parcel 1, and it has a more rural character.

12. The Grade II\* Listed Tithe Barn is located approximately 95 metres to the west, and the Grade II Mansion House Farm approximately 115 metres to the south, of Parcel 1. In addition, the Ovaltine Dairy Farm Buildings, which are non-designated heritage assets, are located immediately to the west of Parcel 1. East Lane Cemetery, a historic and secluded cemetery associated with the former Leavesden Asylum/Hospital, is located immediately to the south of Parcel 2.
13. Both Parcels 1 and 2 are within the designated Green Belt. The surrounding countryside consists mainly of arable farmland and is crossed by footpaths and sunken lanes. Noise and moving traffic associated with the M25 are prominent features in the landscape. To the south of Parcel 2 is Leavesden Country Park, a large and well-used facility between Watford and Abbots Langley. It consists of open spaces, landscaped walking routes, play areas and sports facilities, and is served by car parking and a café.
14. The appeal site is located near to the Hertfordshire settlements of Watford and Abbots Langley to the south and south west, and the village of Bedmond to the north. Hemel Hempstead and the edge of Greater London are located beyond these settlements, to the north and south respectively.

## **The Proposal**

15. The proposal is for a hyperscale data centre of up to 84,000 square metres (GEA) on Parcel 1, and a country park on Parcel 2. Whilst the appeal proposal is in outline with all matters reserved, the parameter plans (listed at para 1, above) indicate the scale and layout of the development. These plans show 2 large data centre buildings that would each be up to 20 metres in height, topped with flues that would be up to a further 5 metres in height. In addition, 2 smaller ancillary buildings are shown close to the southern boundary of Parcel 1 that would be up to 7 metres in height. With regard to the country park, the parameter plans indicate new footpaths, proposed wetland/attenuation areas, buffer planting, and ecological enhancements. Both the Council and Appellant agree that a condition should be imposed requiring the reserved matters application(s) to be substantially in accordance with the parameter plans.

## **Planning History**

16. It is common ground between the main parties that there is no planning history at the site that is of relevance to this appeal.

## **Planning Policies and Guidance**

### ***The development plan***

17. The development plan for the area comprises the Three Rivers Core Strategy 2011–2026 (adopted October 2011), the Three Rivers Site Allocations Local Development Document ('LDD') (adopted November 2014), and the Three Rivers Development Management Policies LDD (adopted July 2013).
18. The development plan policies referenced in the Council's Decision Notice were:

- Policy CP1 of the Three Rivers Core Strategy – requires development to contribute to the sustainability of the District.
- Policy CP8 of the Three Rivers Core Strategy – requires development to contribute towards relevant infrastructure and services through a planning obligation.
- Policy CP10 of the Three Rivers Core Strategy – states that development proposals will be expected to contribute to the delivery of transport and travel measures identified as being necessary for the development.
- Policy CP11 of the Three Rivers Core Strategy – sets out the approach to the control of development within the Green Belt.
- Policy CP12 of the Three Rivers Core Strategy – requires that development proposals have regard to the local context and conserve or enhance the character, amenities and quality of an area.
- Policy DM2 of the Three Rivers Development Management Policies LDD – relates to new buildings and other proposals that are not considered to be inappropriate development in the Green Belt.
- Policy DM7 of the Three Rivers Development Management Policies LDD – requires development proposals to make a positive contribution to the surrounding landscape.

19. In addition, the following policies were referred to in evidence presented to the Inquiry:

- Policy PSP2 of the Three Rivers Core Strategy – identifies Abbots Langley as one of 6 Key Centres in the District and seeks to focus development primarily within the urban area and on previously developed land.
- Policy CP6 of the Three Rivers Core Strategy – provides support for employment and economic development that meet the listed criteria.
- Policy CP9 of the Three Rivers Core Strategy – seeks a net gain in the quality and quantity of green infrastructure.

20. Other relevant local documents that do not form part of the development plan:

- Three Rivers District Council & Watford Borough Council Green Belt Review: Strategic Analysis (August 2017)
- Stage 2 Green Belt Assessment for Three Rivers District and Watford Borough (October 2019)
- Strategic Housing and Employment Land Availability Assessment Addendum (October 2023)
- Landscape Sensitivity Assessment Addendum: Potential Allocation Sites for the Three Rivers New Local Plan (July 2020)
- Landscape Character Assessment for Dacorum (May 2004)
- Leavesden Country Park Management Plan 2021-2031
- South West Herts Economic Study Update (September 2019)



- Hertfordshire Local Industrial Strategy: draft for consultation (September 2019)
  - Hertfordshire Enterprise and Innovation Strategy 2021-2025 (July 2021)
21. In terms of national planning policy and guidance, the Framework and the Planning Practice Guidance are of relevance to this recommendation.
22. A number of other national policy documents and guidance were referred to by the parties. These include:
- National Planning Policy Framework: draft text for consultation (July 2024)
  - Proposed reforms to the National Planning Policy Framework and other changes to the planning system (September 2024)
  - Ministerial Statement 'Building the homes we need' made on 30 July 2024
  - King's Speech (July 2024)
  - Community Infrastructure Levy Regulations 2010
  - Letter from Department of International Trade to Buckinghamshire Council (January 2023)
  - Landscape Institute Technical Guidance Note 02/21: Assessing landscape value outside national designations (May 2021)
  - Guidelines for Landscape and Visual Impact Assessment ('GLVIA3') (Landscape Institute and Institute of Environmental Management & Assessment, April 2013)
  - Landscape Institute Technical Guidance Note LITGN-2024-01: Notes and Clarifications on Aspects of Guidelines for Landscape and Visual Impact Assessment Third Edition (GLVIA3) (August 2024)
  - GLVIA3 Statement of Clarification 1/13 (June 2013)
  - Landscape Institute Technical Information Note 04/2018: Environmental Colour Assessment (November 2018)
  - National Character Area Profile: 110 Chilterns (NE406) (Natural England, February 2013)
  - National Character Area Profile: 111 Northern Thames Basin (NE466) (Natural England, July 2013)
  - Natural England Technical Information Note TIN066 - Arable Reversion to Species Rich Grassland: Site Selection and Choice of Methods (June 2010)
  - Living with Beauty: Promoting Health, Well-being and Sustainable Growth (Building Better, Building Beautiful Commission, January 2020)
  - National Data Strategy Consultation (DCMS, December 2020)
  - UK Digital Strategy (DCMS, June 2022)
  - Industrial Strategy: Building a Britain Fit for the Future (White Paper) (HM Government, November 2017)

- National Cyber Strategy (HM Government, December 2022)

### **Matters Agreed Between the Appellant and the Council**

23. Statements of Common Ground relating to landscape (CD.C15), need and economic benefits (CD.C16), and planning (CD.C14) were signed by the parties prior to the Inquiry and include the following areas of agreement:

#### ***Green Belt***

- The site does not contribute to the setting and special character of an historic town (Green Belt purpose d).
- The development would not undermine urban regeneration (Green Belt purpose e).
- Increased public access, landscape enhancement, and biodiversity enhancement are consistent with the objectives of paragraph 151 of the Framework.
- The proposed country park would not constitute inappropriate development in the Green Belt as it would comply with paragraph 154 h) of the Framework (provided what comes forward does in fact preserve openness) and would not conflict with any purpose of including land within the Green Belt.
- The Council previously considered the removal of Parcel 1 from the Green Belt to allocate it for residential purposes as part of the emerging Local Plan. The site was considered to be suitable for housing development (although the level of harm to the Green Belt from the release of the wider Parcel AL3 was considered to be moderate–high). However, it was not available for that purpose as the promoter withdrew it to pursue the data centre proposal.
- 77% of Three Rivers District is Green Belt land.

#### ***Landscape and visual impact***

- The 5 km study area boundary adopted in the Landscape and Visual Impact Assessment ('LVIA') is sufficient for the purposes of this exercise.
- The methodology used for the LVIA has been informed by GLVIA3.
- The viewpoints identified and assessed in the LVIA are sufficient for the purposes of this exercise, although other viewpoints and view routes exist.
- The appeal site is not a 'valued landscape' in the context of para 180 a) of the Framework.
- The proposed data centre would give rise to direct 'significant' (Very Substantial) adverse effects on the character of Parcel 1, which are not capable of being mitigated.
- The proposed data centre would give rise to indirect Moderate levels of adverse effects on local landscapes, and indirect Minor Adverse effects on wider rural landscapes (in general, levels of landscape effect would decrease gradually with distance).

- The direct landscape effects arising from the replacement of a greenfield site with built form cannot be mitigated by screen planting.
- The proposed reduction in land levels would assist with mitigating the height and scale of the building.
- Visual effects arising from the introduction of new large-scale buildings cannot and should not be fully mitigated by screen planting.
- Materials would be important in reducing a sense of mass and scale, providing visual interest and reducing visual prominence.
- At year 1, certain visual receptors would experience 'significant' (Very Substantial, Substantial, and Moderate to Substantial) adverse visual effects. These are identified in the Appellant's LVIA.
- The highest levels of visual effects would be experienced by visual receptors on and/or in close proximity to the site, and these levels would decrease gradually with distance.

### ***Heritage***

- There are no designated heritage assets within the appeal site.
- The proposal would result in less than substantial harm to the following designated heritage assets due to a change of setting:
  - less than substantial harm at the lowermost end of the spectrum to the heritage significance of the Grade II\* Tithe Barn.
  - less than substantial harm at the lowermost end of the spectrum to the heritage significance of the Grade II Listed Mansion House Farmhouse.
- The public benefits that are proposed would outweigh the identified heritage harms in accordance with paragraph 215 of the Framework.
- The Council raises no objection on archaeology grounds, subject to the imposition of planning conditions.

### ***Ecology***

- Subject to securing the recommended mitigation through conditions, the proposal would not have an unacceptable impact on protected species or habitats within the site.
- The proposal would deliver at least 135% Biodiversity Net Gain ('BNG').

### ***Highways***

- The proposal would not have a severe residual adverse impact on the local highway network or give rise to an unacceptable impact on highway safety for the purposes of paragraph 116 of the Framework.
- The proposal can provide for a safe and suitable means of access and would enhance pedestrian safety for existing users.

- Opportunities for sustainable transport modes have been taken up and the site is well placed to take advantage of opportunities to walk to local facilities and to cycle/use public transport to reach higher order facilities.
- There is no objection on traffic or transportation grounds from either the Highway Authority, National Highways, or Active Travel England, subject to a planning obligation and the imposition of planning conditions.

### ***Flood risk and drainage***

- Any new built development on the site would be located entirely within Flood Zone 1.
- The development would not be at risk of flooding, nor would it increase flood risk off site.
- There is no objection to the development from either the Lead Local Flood Authority, Affinity Water, Thames Water or the Environment Agency, subject to the imposition of planning conditions.

### ***Residential amenity***

- The Council raises no objection with regards to unacceptable impacts on residential amenity.

### ***Contaminated land***

- Any issues relating to potential contamination can be addressed by the imposition of planning conditions.

### ***Air quality and noise***

- The Council raises no objection on air quality or noise grounds, subject to the imposition of planning conditions.

### ***Prematurity***

- There are no grounds to refuse planning permission based on prematurity having regard to paragraphs 49 and 50 of the Framework.

### ***Design***

- The detailed design and layout of the scheme is capable of being addressed at reserved matters stage were the appeal to be allowed. The Council raises no objection on design related grounds, subject to the imposition of planning conditions.

### ***Infrastructure***

- No statutory consultee has identified any insurmountable infrastructure capacity concerns that could not be resolved through conditions or a planning obligation.
- The proposal would not have any unacceptable adverse impact on local infrastructure.

### ***Agricultural land***

- Neither the Council nor Natural England raise an objection with regards to the loss of agricultural land.

### ***Minerals safeguarding***

- The Council raises no concerns in relation to minerals safeguarding.

### ***Other considerations***

- There is an identified need for data centres and the appeal proposal would contribute towards meeting that need.
- The grant of planning permission would further the Government's aim of being at the forefront of the global digital economy.
- The letter from the Department for International Trade dated 9 January 2023 is further independent evidence of the need for data centres.
- Hyperscale data centres have specific locational requirements which mean that they can only be sited in particular locations. These locational requirements include availability of fibre, reliable power, stable ground conditions and being outside of zones at risk from factors such as flooding.
- There is no locational requirement for data centres to be located in the Green Belt or on open land.
- The Council does not dispute the concept of 'availability zones'.
- It is agreed that there is an established availability zone at Hemel Hempstead (the 'Hemel Hempstead Availability Zone').
- The appeal site is located within the Hemel Hempstead Availability Zone.
- The Council has no evidence of its own to dispute the Appellant's evidence that the scheme would have a construction cost in the order of £700 to £800 million (at 2024 prices). It is further agreed that this figure does not represent the total value of the investment as it excludes the cost of the computing, networking, and communications equipment necessary for the proposed data centre to function. This is likely to bring the total cost to around £1 billion. The Council is not in a position to contest these figures.
- The inward investment, creation of new jobs and multiplier effects that would arise from the development would positively align with the spatial strategy and the economic objectives of the development plan.
- The Appellant has presented evidence that around 5,600 person years of direct employment would be associated with the construction (both on and off-site). Spread across an assumed 2.5 year build out this would equate to around 2,200 full-time equivalent ('FTE') jobs over this period.
- The Appellant has presented evidence that the development would generate a total of around 9,300 person years across the UK economy or 3,700 FTE jobs over this 2.5 year period, taking into account supply chain and multiplier effects.

- The development would generate 170-260 FTE jobs, with a mid-range of 210 FTE jobs, and an annual wage bill of between £9m and £11m.
- The Gross Value Added ('GVA') contribution to the Three Rivers and Hertfordshire economy would be between £84m and £126m.
- Taking into account wider economic effects, the data centre would support in the order of £230m to £300m in annual GVA and from 400 FTE up to 1,300 FTE extra jobs across London and the wider East/South East region.
- The average wage levels associated with those working in the development (ranging from £45,000 to £54,000 per FTE job) would be significantly above current average wage levels in the Hertfordshire economy.
- The economic benefits would be spread and would benefit other areas outside of Three Rivers District.
- The proposed ecological enhancements would result in a BNG of at least 135%.
- There would be some benefit associated with the provision of a new publicly accessible country park.

### **The Case for the Council**

24. This section is based largely on the Council's closing submissions, its Proofs of Evidence, and its further written submission following the publication of the revised Framework in December 2024.

### **Green Belt**

#### Whether Parcel 1 comprises grey belt

25. The Government has stated that it will release updated Planning Practice Guidance relating to Green Belt reviews in January 2025. When this guidance is published, the Council will progress its own Green Belt review. The Council expects it to be necessary for this review to consider the impact of releasing sites upon the remaining Green Belt, in accordance with guidance in the Framework. The Green Belt review will identify boundary changes as well as land that is considered to be grey belt in accordance with the definition set out at Annex 2 of the Framework. There is no indication at this stage as to what findings will be made in respect of the appeal site and it would be inappropriate for the Council to predetermine this.
26. Two previous Green Belt reviews were undertaken on behalf of Three Rivers District Council and Watford Borough Council in 2017 (CD.E3a and CD.E3b) and in 2019 (CD.E4a and E4b). These reviews remain the most up-to-date independent and objective studies available to inform this appeal, prior to the Green Belt review programmed for spring/summer 2025.
27. The initial 2017 study considered the appeal site (both Parcels 1 and 2) as part of assessed site N12. Site N12 is described as *"part of open countryside between Watford and Hemel Hempstead, and between St Albans, Hemel Hempstead and Watford, contributing to the prevention of their merger, but also preventing sprawl and encroachment in this locality"*. The assessment also found that it made a 'significant contribution' to purpose a) 'to check the unrestricted sprawl

- of large built-up areas' and purpose c) 'to assist in safeguarding the countryside from encroachment'. Overall, the site was found to make a 'significant contribution' to the purposes of the Green Belt. It is noted that site N12 was one of only 8 sites in the study which were assessed as making a 'significant contribution' to purpose a) relating to sprawl.
28. The Stage 2 Green Belt Assessment undertaken in 2019 considered Parcel 1 of the appeal site as part of assessed site AL3. The study found that this site made a 'relatively significant' contribution to purposes a) and c). With regard to the impact on adjacent Green Belt land, the study considered that there would be no significant change. In terms of the harm to the Green Belt, the study found that AL3 would have a 'moderate-high' impact if released for residential development. In respect of purpose a) under the 'relatively significant' category it stated as follows: *"development would constitute relatively significant sprawl as the land is close to the large built-up area and contains very limited urban development and has a strong sense of openness. It relates more strongly to the wider countryside"*.
29. With regard to purpose a), only a small part of the southern boundary of the site abuts the existing built form of the settlement, with the remainder of the southern boundary and all of the eastern boundary of Parcel 1 abutting open countryside. To the west of Bedmond Road is further countryside. The M25 is located on the site's northern boundary but its presence is not a dominant urbanising influence. By contrast, the appeal proposal would introduce large-scale development into this area of open countryside which has many positive aesthetic and perceptual qualities. The development would significantly extend the built form of Abbots Langley and would therefore harm this purpose of the Green Belt.
30. The Appellant seeks to argue that Abbots Langley, despite being a settlement with a population of some 22,000, is not a 'large built up area' and that, in any event, the development is not 'unrestricted sprawl' because it would be bounded by the M25. It is also argued that the Green Belt assessment looked at a wider area of land and so is somehow to be applied differently in respect of the appeal site. On the first point, there is no definition of 'large built up area' in national policy, and this is a matter of judgment. Abbots Langley, whilst historically a village, is by any account large and built up. On the second point, the position in relation to the motorway bears a striking resemblance to that in Woodlands Park (CD.G1). As was the case in that appeal, the development would extend outwards from a defined settlement boundary. It was also argued at Woodlands Park that the M25 would limit any further expansion. However, as that Inspector stated, the motorway is a relatively new piece of infrastructure and should not be regarded as the new urban edge.
31. It is clear from the assessments already undertaken, that the appeal site (even as part of larger areas) makes a strong contribution to at least purpose a) of the Green Belt. The site also performs strongly in terms of its openness. Accordingly, the appeal site is not considered, on the independent, objective evidence as it stands today, to be a candidate as grey belt.
32. On the basis of the current evidence, and without pre-determining any future Green Belt studies, the appeal proposals remain inappropriate development within the Green Belt. The Council's position therefore also remains that the



harm to the Green Belt resulting from the development, together with harm to openness and landscape character, are not outweighed by other considerations.

Green Belt - other

33. The development is of a significant scale. The two buildings alone would occupy around 42% of Parcel 1 (excluding the substation and education/training building) with each building providing some 42,000 square metres of floorspace across two floors in each building. This also excludes the proposed access, internal roads, parking areas and structures required for security such as perimeter fencing and lighting. It is also noted that, due to the topography of Parcel 1, the development requires the creation of platforms with associated engineering works and retaining structures. Whilst the details of those elements would be provided at reserved matters stage, the illustrative masterplan, parameter plans, and visualisations provide a reasonable indication of the extent of new built form.
34. The development would be clearly visible from a number of viewpoints to the north, south, west and east of the site. The southern and eastern views (viewpoints 3 and 4 of the visualisations) are from two of the public rights of way that are part of a network of well used routes, providing a variety of recreational walks for local residents. The proposed country park is located within this open countryside from which the development would be seen rising above existing woodland, such is the scale of the proposed buildings.
35. It is also noteworthy that the development would effectively be operating 24 hours a day, seven days a week, compared to the current relatively low use, albeit there is some activity and vehicular traffic associated with the equestrian and commercial businesses on the site.
36. Overall, the proposal would, through the extent of new development and the levels of activity, significantly harm the openness of the Green Belt in this location, both spatially and visually.
37. The harm that would arise to Green Belt purpose a) 'to check the unrestricted sprawl of large built-up areas' is described above. With regard to purpose c) 'to assist in safeguarding the countryside from encroachment', the proposal would introduce extensive urbanising features including two large buildings, other buildings, a new vehicular access, parking areas, perimeter fencing and lighting. These would represent an encroachment of built form into the countryside that would harm this Green Belt purpose.
38. In respect of safeguarding the countryside, this is active agricultural land, not poor grade previously developed land. The Appellant's planning witness accepts that this area performs moderately against purpose c) and the development would cause moderate harm. Accordingly, even on the Appellant's assessment, there would be harm and there is not a major difference between the Appellant's assessment of moderate harm and the Council's significant harm. The Council's assessment is however consistent with the independent Green Belt studies and so should be preferred to the Appellant's assessment which has no peer review or other external support.
39. In view of the impacts that are identified, the Council considers that substantial weight should be given to the harm to these Green Belt purposes.



40. The fact that there was at one stage a proposal to release this land for housing in the emerging Local Plan makes no difference to the contribution made to Green Belt purposes or the impacts of this development. Housing and affordable housing are acutely needed and, in an area such as Three Rivers which is heavily constrained by Green Belt, much will inevitably have to be delivered on Green Belt land, even if it is of high quality and contributes strongly to one or more purposes. That was the case here and the housing allocation (which was withdrawn by the promoter) was noted to give rise to *“moderate to high harm if released”*.

### **Landscape character**

41. There is no dispute that the proposed data centre would give rise to direct very substantial adverse effects on the character of Parcel 1, which could not be mitigated, and would endure for the lifetime of the operation. At year 1 it is also agreed that certain visual receptors would experience significant very substantial, substantial, and moderate to substantial adverse visual effects from the development. These include the residents and users of Bedmond Road and the motorway bridge, residents of Notley Court, users of East Lane, and users of other public rights of way, in particular the popular Hertfordshire Way.
42. The proposed data centre site is an agricultural field. It is not a ‘valued landscape’ in the context of paragraph 187 of the Framework but is a good example of its type, has many positive aesthetic qualities, and performs several valuable functions, for example as an urban rural buffer/transition zone. It is historically a traditional agricultural landscape, and this form of modern industrial development would be entirely at odds with it. The presence of the M25 is a landscape detractor but it is not a dominant urbanising influence. Motorways are infrastructure corridors and features of many countryside locations, and this section runs through a very wide and long open swathe of countryside, where large-scale built form is entirely absent; it is well-wooded, and partly in cutting. The presence of and noise from the motorway is not disturbing; indeed, parts of the site are surprisingly tranquil.
43. Proposed within this landscape are two very large box-like, utilitarian buildings around 20m high with protruding chimneys of a further 5m in height, along with a sub-station, and associated access roads, parking, lighting, all surrounded by high-security fencing. The buildings would dominate Parcel 1 to the extent that there is no opportunity to make this a landscape-led scheme and all SuDS mitigation and a most of the BNG has to necessarily be provided on Parcel 2. Notably, due to the sloping nature of the site, the buildings have to be ‘cut into’ the landscape. This is a necessity to create a flat site and has nothing to do with landscape mitigation. On the contrary, while the ‘cut’ may reduce the height of the buildings from some areas, they are artificially built up in others, so that users of East Lane, for example, would be confronted with an almost vertical ‘wall’ along that path and the maximum height would be 20m plus 12-14m AOD.
44. The proposals to retain and enhance existing boundary hedging where possible, plant trees, and clad parts of the buildings with living green walls can only do so much. It is agreed that visual effects arising from the introduction of new large-scale buildings cannot and should not be fully mitigated by screen planting. The proposed screening is an attempt at mitigation, and it should not be viewed in any way as an enhancement to the existing situation.

45. There is a dispute between the Council's and the Appellant's landscape witnesses as to the year 15 effects on views. Even if the development could be completely screened, the residual level of visual effect would remain very substantial adverse due to the total loss of the view from the Ovaltine Farm Cottages, Bedmond Road and other locations. In any event, the prospect of total screening now appears to be impossible, certainly from the Hertfordshire Way as shown in viewpoint 4. The Appellant's corrected image shows very little change from this location in year 15 from year 1, with the data centre building remaining strikingly visible in the existing hedgerow gap, and thus there must be, as a minimum, significant adverse effects remaining in year 15 from that position. Moving further to the east, viewpoint 3 indicates that the scale of the development rises above the existing woodland areas at year 1 and this would not change at year 15. This is a longer distance view and indicates that the long-term significant adverse landscape impacts would extend well beyond the immediate experience of the site.
46. Due to the lack of remaining space on Parcel 1, it would be necessary to construct the SuDS on neighbouring sloping land on Parcel 2, with an apparent pipe running under East Lane (with unknown effects), as well as wetland ponds to contribute to BNG. These would be water features constructed on slopes. To retain water on a slope would require some sort of artificial engineering. The details are unknown at present and would be for reserved matters. However, there is at least a risk that these would cause significant adverse visual and landscape effects in and of themselves. Whilst this was clearly not the Council's primary concern in refusing permission on landscape grounds, it is an additional matter which adds to the difficulties arising from seeking to fit this vast development onto a constrained sloping site.
47. If the proposed country park, which is currently a pleasant agricultural field containing a number of public rights of way were to contain 'suburban style' park features such as litter bins, benches, paths etc, then that would also be adverse. The Appellant's landscape witness sought to suggest that this is not what was being proposed and the country park would be grassland and mown paths, a matter to be taken forward at reserved matters. Be that as it may, Parcel 2 simply does not need changing, and is perfectly fine in landscape terms as it is. The only reason it is being tampered with is to make up for the inability of Parcel 1 to provide the necessary SuDS and BNG. There are also practical issues with seeking to establish a species-rich wildflower meadow (which requires low-fertility soil) on productive arable land (with high-fertility soils).
48. Overall, it is common ground that the landscape harm would be very substantial adverse. In the Council's view it would remain so in year 15 and beyond. This is the highest level of harm in LVIA terms and arises from poor site selection. Whilst the Appellant's landscape witness's opinion is that significant adverse visual effects could be adequately mitigated by year 15, Ms Tinkler's position should be preferred. In most cases, visual effects would remain significant adverse at year 15 and beyond due to factors such as screening resulting in the total loss of a view, the proposed buildings remaining visible above existing mature trees (e.g. viewpoint 3), or proposed buildings remaining visible due to the inability to provide meaningful screening (e.g. corrected viewpoint 4).
49. Other concerns relating to the proposed data centre include potential adverse effects on water quality resulting from construction works, and the risk of

pollutants entering watercourses/aquifers during operation (especially if battery energy storage systems are proposed). The development could also harm recreational and residential receptors due to noise, lighting, and disturbance which could potentially occur day and night.

***Data centre need and alternative sites***

50. The Council recognises that there is an overwhelming and urgent need to provide more data centres in the UK generally and that the provision of 96 MW of capacity is a matter to be afforded significant positive weight along with the economic benefits that come with it.

51. Data centre locational requirements are not in dispute and are relatively straightforward, as summarised in the Appellant's Alternative Sites Assessment:

- A reliable source of high-level power supply (typically at 132KV);
- High quality fibre connectivity; and
- A site that is physically large enough and flat enough to accommodate the development.

52. Notably, whilst the Appellant clearly believes the Abbots Langley site can be made to function for a data centre development, it is actually far from ideal so far as these basic requirements are concerned:

- The site has no power supply and thus requires a new power connection from the Watford South substation (which is not even its nearest sub-station). No details have been provided as to how this would be achieved in practice, although Mr Collins sought to re-assure the inquiry that the power would be available by the time the development is built. No supporting evidence was provided for this fact. There is no local renewable energy source it can benefit from.
- The site has no existing fibre connections and thus requires new fibre to be put in place, as shown in the Found Digital report (CD.A30) and confirmed by Mr Hutchison.
- The site is sloping in topography and thus requires very extensive cut and fill engineering operations to create a flat platform for the large buildings.

53. The Appellant seeks to justify the inappropriate development of this land by saying there is simply no alternative place this data centre can go. It further states that if not granted permission, a billion pounds of investment would be lost, and UK economic growth and IT capabilities would be severely hampered. However, as the exploration of the evidence at the inquiry has shown, it is not that straightforward. Whilst there is clearly a very strong market demand from the US hyperscalers to occupy London's Green Belt for their commercial ends, that does not equate to a planning necessity for this location. To simply accept that hyperscalers can locate wherever they like would be a short-sighted and unsophisticated response that would be damaging in visual, spatial and landscape terms. It could also undermine future planned delivery of other elements of growth, such as housing.

54. Data centres do not need to be in rural locations or on greenfield land or next to existing settlements, such as Abbots Langley; all features of this site which might

make it appropriate for other forms of development. The only special thing about this site so far as data centres are concerned is that it is within striking distance of four existing data centres in the well-established industrial estate in Hemel Hempstead. The existence of more than 3 data centres near to each other creates an 'Availability Zone' ('AZ') whereby each can rely on the others for resilience (so if, for example, power to one goes down the others can pick up the load). We are told this is essential for a public cloud data centre, the type which is proposed here (albeit the planning application does not specify the type of data centre). This sets the proposal apart from other data centre developments which can be stand-alone such as the largest data centre in Europe in Cardiff and the recently permitted AI data centre in Immingham in Humber. The need to locate this data centre in an AZ is accepted.

55. However, there is no industry or other verifiable document to support the Appellant's position that hyperscale public cloud data centres can only locate in an existing AZ, as opposed to leading the creation of a new AZ campus. Indeed, the Department for International Trade document 'Data Centres Sector Proposition' (CD.I15) states that large US cloud companies, such as Amazon, Google, IBM and Microsoft, tend to acquire large parcels to develop data centre campuses and favour locations with low cost, renewable power and plenty of suitable development space. These exact same comments also find form in the 'Tech UK' document mentioned above. This suggests there is nothing to stop these companies from forming new AZs by way of campuses and, if they do, it is reasonable to assume that the places which are low cost with renewable power and plenty of space are unlikely to be in London. It is submitted that the Appellant's locational focus on an existing AZ is therefore unduly restrictive, and indeed it appears that new AZs are being formed at Didcot Power Station, at Cheshunt, and potentially at South Mimms.
56. In terms of existing AZs, there are a number established in the London region in addition to Hemel Hempstead: Slough, Hayes, North Acton and London Docklands. The large number in London is a result of history or, as the 'Tech UK' document states: age, beauty and experience. By being first, London attracted key players and around them a complex ecosystem has developed. Beauty is the attractiveness of London for investors and for skilled staff seeking a career in the sector. Experience is London's world class expertise in investment, finance, design, engineering, construction, technical brokerage, etc. However, aside from history and population size, there is nothing special about London in being more suitable for data centres than anywhere else in the UK.
57. The Appellant's position is staunchly London-centric to the extent that its economic benefits witness said that, despite there already being around 40 data centres in Manchester, it cannot be classified as an AZ and is "*not attractive to large hyperscale data centres wishing to locate in the UK*". Its data centre witness stated that Manchester is an "*emerging*" AZ but is still too commercially risky to attract big US hyperscalers. The Appellant's somewhat depressing position is that, at least for the foreseeable future, all hyperscale public cloud data centres can only be located in the London region, notwithstanding the relative economic advantages for the UK of locating them in areas that are more in need of foreign investment.
58. The Council acknowledges that it may be more convenient for US hyperscalers to focus only on London in the context of global expansion, however a non-London

location could have wider benefits not only for the UK economy but also in terms of improving connectivity for other major urban centres such as in Scotland and the North of England. These are really wider policy points for the Government to consider in the future and the Council acknowledges that there is in any event some need in the London region. However, in the context of this appeal, it should not be assumed that, if permission is refused for a data centre in the London region, that the UK would be completely abandoned by the US tech giants. It may simply be that, in what is an entirely market driven industry, if Government steps in and regulates its land-use, the market will adapt.

59. As well as stating that this type of data centre can only be located in the London region, the Appellant goes further and states that it can only be located in the Hemel Hempstead AZ. Their position as to why this is so has shifted. In the Found Digital report (CD.A30) which formed the basis of the Alternative Sites Assessment (CD.A19), it was stated that there must be 'equivalence of scaling' between Slough and Stockley Park and Hemel Hempstead: in other words, servicing growth within Slough or Stockley Park and not being in a position to service equivalent growth/scale in Hemel Hempstead impacts the entire region because it results in loss of fault tolerance of the overall system. It was further stated that the demand within the Hemel Hempstead AZ is likely to be at a very different inflection point to Slough and Stockley Park. The Appellant's data centre witness also referred to the concept of 'load balancing' to suggest that every AZ must grow at the same rate.
60. This is not, however, what has happened on the ground historically, as Dr Ford noted. Indeed, the Found Digital report itself observes that: *"The bulk of the London area's data centre investment over the course of the last 36 months has focused on developments coinciding with a westerly lateral from Park Royal (Powergate) in the eastern extreme, incorporating Hayes and Stockley Park and then extending out towards Slough in the west"*. Whilst it may be that 'on paper' every AZ would be in an ideal world the same size, that is not, and can never be, what happens in reality because there are market forces at play, availability of land, power etc and, indeed, planning constraints. In the end, the Appellant's data centre witness stated in oral evidence, perhaps mindful of the fact that significant data centre development is also proposed in the Slough AZ which may 'out balance' Hemel Hempstead, that there was so much demand that every AZ must grow as much as possible. There is thus, in the Council's submission, no technical reason why this data centre needs to be located in Hemel Hempstead as opposed to in Slough or any other London AZ.
61. Turning to the market, there is a statement in the Found Digital report that this data centre must be located in Hemel Hempstead because it is a specific 'child' data centre to an unspecified 'Hyperscaler A' who is already located in Hemel Hempstead. Particular facts about 'Hyperscaler A' were relied on to justify the location of this 'child', such as that *"Hyperscaler A specifies that the optical route lengths must be no greater than 11 km"*. This raises the question: who is Hyperscaler A and why this specific parent/child relationship? The Appellant's data centre witness stated that there was no official agreement between any existing data centre in Hemel Hempstead for a parent/child relationship, but any existing data centre would inevitably be prepared to be the parent. It was stated that 'Hyperscaler A' could be any of the NTT data centres already in Hemel Hempstead or the AWS data centre. Given that the specific identity of the 'parent' operator appears to be at large, that calls into question any suggestion



that Hemel Hempstead is a necessity due to a particular relationship with an existing data centre there.

62. In the Woodlands Park appeal decision, the Inspector noted in his reasoning that the Council had agreed that it had not identified any alternative sites for a hyperscale data centre. However, no analysis of sites that might be located in other AZs in London had been undertaken. The (then) Secretary of State took into account that there are other AZs within London which are not within the Green Belt and that no analysis of sites that might be located in other AZs in London had been undertaken. It was on that basis that he gave no more than moderate weight to the absence of an identified and readily available alternative site for a hyperscale data centre in the Slough AZ.
63. Mindful of that decision, and the need for decision-makers to act consistently, it is incredible that the Appellant has not carried out a London region-wide alternative sites assessment or sought to explain why the Secretary of State was wrong to expect a London-wide search. In oral evidence, the Appellant's planning witness stated that the Secretary of State simply did not understand the way data centres work. With respect, the Inspector and Secretary of State were not wrong, and a consistent approach should be adopted.
64. In order genuinely to rely on an absence of alternative sites, the Appellant needs to look to at least the London region for a hyperscale cloud data centre, and not just to this particular AZ. As set out above, there is no technical reason why a data centre of this kind cannot be located in any of the London AZs. There are many areas of London which are not in the Green Belt, and indeed include significant portions of brownfield land begging for regeneration. A refusal to consider prioritising such sites is a serious failing.
65. Even adopting a Hemel-centric constrained approach, the Appellant's Alternative Sites Assessment is seriously flawed. The most obvious failing is the imposition of a hard-line 8 km search radius around the existing data centres in the Hemel Hempstead industrial estate. This 8 km radius arises from the Found Digital report. The Report states that, for parent-child data centre relationships, a below 11 km to 19 km optical fibre route length (on both primary and diverse paths) is required but that, in this instance, 'Hyperscaler A' specifies that the optical route lengths must be no greater than 11 km.
66. The Appellant's data centre witness sought to suggest in oral evidence that the quoted 11 km to 19 km figures should mean 'there and back' so the actual fibre length is 5.5 km to 9.5 km, although he said that the 11 km figure given by Found Digital is one way. That simply cannot be right. Not only does it go against the natural reading of Found Digital's text, but also, adjusting for typical fibre routing being 1.3 – 1.8 times the direct line of sight (as the crow flies), it actually puts this proposal too far out of the Hemel Hempstead parents in terms of typical routing lengths. It is also inconsistent with the practical reality of new data centres coming forward in this area. The Appellant's data centre witness stated in his Proof that the London Colney permission which includes a data centre is within the Hemel Hempstead AZ. Yet, it is agreed that this data centre proposal is outside the search area adopted by the Appellants. In oral evidence, the Appellant's planning witness suggested that the London Colney permission is an anomaly or might not even work as a data centre. There is no evidence of this, and it is simply not a credible position to take.

67. The reality of what has happened is that typical fibre routing lengths have been ignored in order to impose a hard limit of 11 km, apparently at the behest of 'Hyperscaler A', scaled down to 8 km to take into account routing. The problem, however, is that 'Hyperscaler A' is not a specified parent and, as we know, could be either NTT or AWS or any other data centre which comes forward in Hemel Hempstead and so there is no evidence to support an artificially constrained radius on account of the parent's individual requirements. The Appellant relies on the fact that at Woodlands Park the search area was a 7.5 km radius, but the accuracy of this was simply not tested at that inquiry. It is thus not a sound precedent.
68. Ultimately, as the Appellant says, the maximum distance between parent and child is dictated by ensuring that a 2 millisecond 'ping time' is achieved from the parent data centre. However, it has provided no evidence whatsoever that that cannot be achieved using the typical optical fibre lengths in this case. Adopting typical optical lengths would give a much larger radius and potential scope for site search within the Hemel Hempstead AZ. Just looking at a map, one can see urban areas within that wider scope. It cannot be assumed that no other sites outside the Green Belt would have been located if a proper methodology using the Appellant's own stated typical fibre lengths had been used.
69. Further artificial restrictions have been placed on the site search. The Appellant looked only for sites which were 5 ha or more. This assumes that the data centre could only come forward in exactly the same form as that proposed. Whilst an alternative site must be suitable for the development as proposed, there is still a requirement for flexibility and realism. The Appellant could have looked at smaller brownfield sites bearing in mind the data centre could be multi-storey or looked at more than one site by disaggregating the buildings. That would have opened up the possibility of alternative sites outside of the Green Belt.
70. For these reasons, even if the Secretary of State was wrong to criticize the lack of a London-region wide alternative sites search in the Woodlands Park decision, the artificially constrained nature of the Hemel Hempstead search undertaken should still lead to the same conclusion that no more than moderate weight can be afforded to the apparent absence of alternatives in this case.
71. Although the level of need for data centres is not disputed, it is worth putting this in some context. First, there is no independent objective assessment of exactly what the need is. The Appellant itself has produced conflicting need figures. The Alternative Sites Assessment submitted with the planning application stated that the need in the Hemel Hempstead AZ is 500 MW equating to a need to find more than 5 sites of the equivalent size of the appeal scheme. However, the Appellant's data centre witness stated that the need is actually more likely to be 352 MW by 2029 based on calculations which were accepted, in the context of the Slough AZ, in the Woodlands Park appeal. There was no testing of these figures at Woodlands Park and this inquiry has not been provided with the raw data. The Appellant acknowledges that there is a degree of uncertainty in such estimates. However, they appear to over-estimate the level of historic growth in London and the exact level of need is therefore difficult to be precise about.
72. Second, it is impossible to predict the need beyond 2029. This is not just because property predictions struggle over a longer period. It is also because, as the 'Tech UK' report states, *"Looking ahead in an industry characterised by*

*disruptive technology is tricky. What we can say confidently is that it will change*". 'Change' does not necessarily mean that the demand will continue to go up and up indefinitely. There are a number of things that could happen. Human behaviour may change if a 'ceiling' in demand for public cloud data storage is reached. Technology may advance so that such large buildings are no longer needed for data centres. Solutions may evolve to enable public cloud data storage in more environmentally suitable locations, as is happening with AI data centres. The future is unknown and so no reliance can be placed on any long-term need. This is particularly important in a Green Belt case where the consequences of building on this land would be permanent and irreversible.

73. Third, the need is for data centres generally, and not just for this specific type of hyperscale cloud data centre and thus can and will be met elsewhere and in other forms. This particular development can only meet a certain portion of the general overall need.
74. For these reasons, significant weight should be afforded to the provision of 96 MW of capacity to meet the need for data centres, but no more than significant. Moderate weight should be afforded to the apparent absence of alternative locations to meet the need given the flaws in the Alternative Sites Assessment and the failure to look across the London region.
75. The Appellant's suggestion that an apparent policy failure should weigh in favour of granting permission for data centre applications generally should be given no more than limited weight. Whilst the Council strongly encourages further guidance from the Government on the need for data centres and where they should go, this is not a situation where a Council should be punished for not having site-specific allocations in its Local Plan for data centres. Very few, if any, Councils do quite simply because, so little is known about the entirely market-driven requirements. Until such time as there is either a national strategy for or national guidance on data centre development, each application must be determined on its own merits, bearing in mind the wider picture set out above.

### **Other considerations**

76. In terms of the proposed country park, this appears to have been an idea alighted upon with little input from the community or those responsible for the neighbouring Leavesden Country Park, to which it is described as an extension. It is neither needed nor wanted. Leavesden has excellent facilities and Parcel 2 itself is already accessible to the public through a multitude of public rights of way ('PRoW'). As Ms Tinkler explained, who actually (unlike the Appellant) has spoken to users of the PRoWs in and around Parcel 2, people value the fact that Parcel 2 is rural and is not a park. The provision of access to walk all over the field as opposed to on the existing PRoWs is not a major benefit of the scheme. Accordingly, only limited weight should be afforded to the provision of the country park, and there are no landscape benefits associated with it.
77. The appeal proposal would comprise a significant investment to the economy of Three Rivers District. A range of high quality permanent jobs would be created. The development would also result in additional support for local businesses as well as education and employment in the associated training centre. The overall economic benefits arising from the creation of permanent jobs associated with the development should be given significant weight.



78. With regard to the employment generated during the construction phase of the development, this would be temporary and should therefore be afforded only moderate weight.
79. With regard to the contribution the development would make to telecommunication connectivity, this is not unique to this proposal, and the Council would give this only limited weight.
80. The BNG is well in excess of the required minimum 10% for habitat and hedgerow units. This should be afforded moderate weight although it is noted that the majority of the BNG would be secured within the country park.
81. With regard to heat capture for a district heating system, the Appellant provides no detail on how this is a practical benefit. There is no evidence to support this purported planning benefit. Accordingly, it should be afforded limited weight.
82. The Appellant cites the absence of a plan-led solution as a benefit of the scheme, but it is unclear how this would constitute a benefit. A planning application in a policy vacuum is simply an opportunity for a developer to put forward a scheme to be assessed on its own merits. The review of the Local Plan will include the identification of sites for housing and commercial uses, some of which will involve the release of Green Belt land. However, there is no intention for this site to be released from the Green Belt and it would not, in the Council's view, qualify as grey belt. Accordingly, no weight should be given to this purported benefit.
83. The changes to the Framework in respect of the release of Green Belt land, namely boundary reviews and the identification of grey belt land, are directed mainly towards providing additional housing. The revised Framework also seeks to support other elements of the economy, including the provision of data centres, in recognition of the important role that they play. However, there is no suggestion that these elements of the economy are to take priority over meeting housing needs.
84. Councils such as Three Rivers will potentially have to release significant amounts of Green Belt land in sustainable locations to meet housing need, which is now 832 dwellings per annum according to the standard method, equating to more than 13,000 homes over the new plan period. This will be a step change for the Council, but one that it will be required to provide through its new Local Plan. Sites such as Parcel 1 have already been considered by the Council as potentially appropriate for housing and are likely to be again as part of the plan review.
85. Housing in this location would be sustainably located on the edge of a growth settlement. Granting permission for a data centre would have the effect of meeting a data centre need at the expense of meeting a housing need on this site. If it is relevant at all, the backdrop of a potential release of the land for housing should, contrary to the Appellant's arguments of support, actually be a matter which weighs against granting permission for a data centre.

### ***Planning balance***

86. The Framework states that inappropriate development in the Green Belt is harmful by definition and that substantial weight should be given to any harm to the Green Belt. The development would harm fundamental aims of Green Belt policy, namely preventing urban sprawl and keeping land permanently open. It would also harm the openness of the Green Belt both spatially and visually. In

addition, there would be harm to Green Belt purposes a) and c). Overall, there would be significant harm to the Green Belt and substantial weight should be given to this harm in accordance with the Framework.

87. Para 153 of the Framework states that “*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*”. The Appellant has put forward a number of other considerations in order to seek to justify the development. In the Council’s view, the only ones which go to the principle of the development are the need for data centres, the ability of this scheme to meet that need, the economic benefits that would arise from the scheme, and the lack of alternative sites. The other considerations cited by the Appellant (BNG, heat capture, climate change, building beautiful, etc) are effectively either add-ons or requirements that any scheme would need to deliver, and these would not justify the development alone.
88. Whilst the need for additional data centre capacity is accepted, in the Council’s view, the Appellant has not demonstrated that a Green Belt site is the only option for delivering this need. Furthermore, the level of harm to the Green Belt in this location is significant as well as the landscape and visual harms.
89. Overall, therefore, the Council does not consider that the very special circumstances required to justify this development have been demonstrated.

### **Conclusion**

90. The Inspector and Secretary of State are urged to act in accordance with long established Green Belt policy and general principles of sound planning in this appeal and refuse planning permission.

### **The Case for the Appellant**

91. This section is based largely on the Appellant’s closing submissions, its Proofs of Evidence, and its further written submission following the publication of the revised Framework in December 2024.

### **Green Belt**

#### **Whether Parcel 1 comprises grey belt**

92. The revised Framework has introduced a new exception to inappropriate development in the Green Belt. That is where development would utilise grey belt land, and where other specified criteria are met. It was the Appellant’s evidence to the inquiry that the site would potentially constitute grey belt based on the wording of the draft Framework and the supporting consultation document. Whilst the tests in the revised Framework have changed since the draft version of the Framework the Appellant remains of the view that the appeal site comprises grey belt land.
93. The appeal site is not previously developed land. However, it can be seen that the definition of grey belt given in Annex 2 of the Framework also includes “*any other land*” that does not strongly contribute to Green Belt purposes a), b), or d). The policy is therefore engaged in this case.
94. It is already agreed that the site does not contribute to Green Belt purpose d) and so this does not require any further analysis. As set out in the Appellant’s

closing submissions, the Council initially sought to contend that the development would conflict with purpose b) of 'preventing neighbouring towns from merging into one another'. However, this argument was ultimately withdrawn, as:

- Council Officers did not cite any conflict with this Green Belt purpose;
  - Reason for Refusal 1 expressly noted two conflicts with Green Belt purposes, which did not include this one;
  - The Council's Statement of Case did not cite conflict with this Green Belt purpose;
  - The Council's own Landscape Sensitivity Assessment Addendum (CD.H1) stated expressly that development of the appeal site "*will not contribute to coalescence of settlements*";
  - Neither of the Council's Green Belt Studies include Abbots Langley in its list of neighbouring towns at risk of coalescence; and
  - Abbots Langley is not a town, but a village.
95. With regard to Green Belt purpose a), 'to check the unrestricted sprawl of large built-up areas', both the Council's Green Belt studies contain lists of 'large built-up areas'; however, neither of these lists include Abbots Langley. That is because Abbots Langley is a free-standing village surrounded on all sides by undeveloped Green Belt land. It does not (and cannot) therefore make any contribution to purpose a), since it does not relate to a large built-up area. Even if the Inspector and Secretary of State were to disagree and find that Abbots Langley is part of a defined large built-up area, the Appellant still believes that the contribution Parcel 1 makes to purpose a) is limited. That is because the M25 to the north would serve to 'control' development with a strong and prominent, physical and visual boundary, so that it could not properly be regarded as 'uncontrolled'.
96. The Council points to the output of the Green Belt Studies, which both recorded the relevant parcels as contributing to this purpose (whether Parcel N12 in CDE3a, which recorded a 'significant contribution', or Parcel AL3 in CDE4b, where the impact on the contribution to this purpose was 'relatively significant'). The latter conclusions were reached assuming that the whole of this much wider parcel was released for development. However, even then it still did not reach the higher bar of 'significant impact' on the contribution which the Appellant would expect if it was making a 'strong contribution' to this purpose (as required for the purposes of the grey belt definition). In any event, Parcel 1 comprises only a fraction of those parcels considered in the Green Belt studies.
97. The Council also points to the Woodlands Park appeal, in which the Secretary of State concluded that that appeal site made a contribution to the Green Belt purpose regarding urban sprawl. However, the factual matrix in the present case (Green Belt Studies exclude the settlement from lists of 'large built-up areas') and the arguments put forward in the present case are different to those in Woodlands Park.
98. The proposals would not fundamentally undermine the purposes of the remaining Green Belt across the area of the plan. This is supported by the fact that the Council was previously proposing to allocate the site for residential development

through its emerging Local Plan. It is also supported by the fact that the Stage 2 Green Belt Study found that releasing the entirety of parcel AL3 would only have a negligible impact on the adjacent Green Belt.

99. The Statement of Common Ground on Need and Economic Benefits (CD.C16) records that there is an identified need for the proposed development. The Planning Statement of Common Ground (CD.C14) also records that the site is in a suitable location. The 'Golden Rules' only apply to housing and are therefore not applicable to the appeal proposal. Moreover, there are no footnote 7 policies that provide a strong reason for refusal.
100. In view of the above, it has been demonstrated that the appeal site constitutes grey belt land. Should this matter be accepted by the Inspector/Secretary of State, that would have significant consequences for the appeal. In particular, it would mean that the appeal proposal no longer comprises inappropriate development for the purposes of national Green Belt policy, such that there would no longer be any requirement for the Appellant to demonstrate 'very special circumstances' in order to justify a grant of planning permission.

#### Green Belt - other

101. It is agreed that the development would result in 'harm to the openness' of the Green Belt, both visually and spatially, since it would introduce substantial built form onto the appeal site, which is currently open.
102. With regard to purpose c), 'to assist in safeguarding the countryside from encroachment', it is noted that the land is not free of urban influences at present. These include, the heavily trafficked M25, Bedmond Road, the existing settlement edge, and the large stable building, menage and associated parking within the site. The site is also contained by the M25 to the north, and Bedmond Road to the west. Whilst there would be physical encroachment into the countryside, given the extent to which the land exhibits a countryside character, the harm to this Green Belt purpose would be moderate.
103. The Council sought to make much of the fact that the Appellant points to a need for further development of data centres in the AZ, beyond that now proposed. In this regard, it was alleged that the scheme would serve as a 'precedent' with the Green Belt effectively 'surrendered' to whichever development proposal was promoted in whatever location, regardless of harm. However, the only proposal before this Inquiry, is this scheme. Promoters of other proposals will have to find other sites if those proposals are to come forward. Indeed, planning authorities will need to identify those sites, according to the provisions proposed in the draft Framework. Accordingly, data centres will not come forward anywhere, but on other appropriate sites. In each instance, the merits of the position will no doubt be scrutinised. There is no question of 'abandoning the Green Belt', and to present the promotion of this scheme as requiring a 'last stand', invoking the history of the Green Belt, is to mispresent matters dramatically.

#### ***Landscape character***

104. The appeal site does not form part of a nationally designated landscape or 'valued landscape'. Part b) of paragraph 187 of the Framework applies and it requires planning policies and decisions to recognise the intrinsic character and

beauty of the countryside. The appeal site is fairly representative of the wider undeveloped landscape, with its undulating landform, hedgerows and trees. However, the character of Parcel 1 is influenced by the large scale M25 motorway structures, gantries and bridges which immediately adjoin the site.

105. The site is also adjacent to the existing settlement edge and is influenced by the highway activity associated with Bedmond Road. These are also detractors to the rural character of the immediate landscape to the site. Overall, the landscape of the site is assessed to be ordinary farmland, of medium low sensitivity that lies between the existing settlement edge and the M25 motorway corridor. The Framework does not require landscape character to be conserved or enhanced only that development should recognise the intrinsic character and beauty of the countryside. The appeal proposals would achieve this through incorporating a comprehensive scheme of mitigation that assimilates the development into both the settlement edge and the wider rural landscape.
106. It is accepted that the necessary scale and mass of a data centre development is likely to give rise to landscape and visual effects in the host landscape. To limit potential residual effects, a landscape led approach has been taken with the design of the outline proposals. This design approach has sought to minimise harm to landscape character and visual amenity, and at the same time sought opportunities for enhancement of local green infrastructure, potential habitats, and associated public benefits.
107. The outline nature of the planning application means that detailed landscape proposals would need to be submitted and agreed at reserved matters stage. This would allow the Council to exercise control over the final design proposals. However, the application landscape strategy sets out a clear approach to the landscape design which addresses the following requirements:
- Conservation of site landscape features and their meaningful integration into a broader landscape strategy;
  - Landscape and visual mitigation measures to reduce potential effects of the appeal proposals, particularly when experienced from Bedmond Road and public rights of way within the wider landscape;
  - Seeking to maintain the perception of openness of the landscape; and
  - Strengthening local green infrastructure and improving public access to the countryside.
108. The retention and restoration of existing hedges and trees would provide an important element in mitigating the effects of development in a relatively short period of time as they are already established. This would be reinforced with new strategic tree and hedge planting to establish new green infrastructure that would achieve the following objectives:
- Screen views of the new buildings and site activities from visual receptors on Bedmond Lane including road users and residents immediately west of the site. This is intended to maintain a green entrance to the settlement at this location, conserving the landscape character along Bedmond Road.
  - Soften and filter views of the site and site buildings as seen from Bedmond Road north of the motorway.

- Soften views experienced by road users along the M25 motorway in either direction by establishing trees on the northern site boundary to soften or filter views towards the proposed data centre buildings.
  - Soften and filter views from residential properties immediately to the south of the site (off Bedmond Road).
  - Ensure full screening of the development proposals from the main residential areas to the south of the site.
  - To screen or significantly filter views of new buildings experienced by walkers using public rights of way to the north and east of the site.
  - To screen or significantly filter views of new buildings seen from the new country park (Parcel 2).
  - Screen potential views of new buildings in long distance views from the east and north east.
  - Screen potential views of new buildings in long distance views from the west and north west.
109. The proposal is not reliant only on existing or new tree and hedge planting to screen the data centre buildings. A key element of the mitigation is the setting of proposed buildings on new development platforms set at a lower level into the site than the existing pastures. This would also reduce the visibility of the proposed buildings in longer distance views from the east and west. Excavated material would be used on site to balance cut and fill and so avoid the need to transfer this material from the site along the public highway, limiting the potential for nuisance during the construction phase.
110. It is accepted that the scale and mass of the buildings means that they cannot be fully screened from the motorway corridor. However, the illustrative masterplan suggests living green walls to soften the appearance of building façades seen from the motorway corridor. Living green walls would not screen the form of the buildings but are intended to soften the scale and mass of the façades as seen from the motorway and from Bedmond Road to the north.
111. It is also accepted that the introduction of the data centre buildings would result in a loss of openness to Parcel 1. Moreover, the open views to the east across Parcel 1 from Bedmond Road would be reduced to short views of a well treed eastern margin to the road. In this respect there would be a reduction in the visual openness of Parcel 1. However, the new buildings would be screened in views from the east upon establishment of mitigation landscaping, retaining the impression that this is well treed but undeveloped land.
112. The proposed country park on Parcel 2 would not be an isolated resource but would form an extension to an existing country park that extends from Leavesden. Leavesden Country Park consists of 27 ha of parkland that extends up to East Lane, where it adjoins the southern boundary of Parcel 2. The new country park would be designed at reserved matters stage to provide habitats within an informal grassland site with hedgerow restoration and supplementary tree planting. Access to the new country park is already provided by established PRowS which provide direct links from the settlement area of Abbots Langley. The link with Leavesden Country park would extend the potential for wider public



- access and would provide strategic green infrastructure that would contribute to the settlement's eastern interface with the agricultural landscape.
113. The Appellant does not anticipate the creation of an 'urban' park in the manner of Leavesdon Country Park on Parcel 2. Rather, instead of built form, formal play equipment areas and sports pitches, there would be open grassland and meadow. Paths would be mown grass, and the only structures would comprise the occasional bench and/or litter bin. The facility would therefore have a 'rural' feel. Whilst there is access to the area at present, this is confined to linear routes around the edge of Parcel 2, or else crossing it (in the manner of the Hertfordshire Way). The establishment of the country park would provide for full access throughout the 21 ha facility, significantly enhancing public recreational access to this part of the Green Belt.
114. The proposal to provide an attenuation pond by way of a SuDS facility was well known to Council Officers (including landscape officers). Those proposals have not been the subject of detailed design as yet, but suitably qualified officers are content that they would be effective. They would not need to sit in the precise location/form of the pond shown in the parameter plans; rather, they could be designed to work with the contours of the landscape and would not need to have any significant landscape impact. Similarly, the proposed wetland scrapes would be delivered in a way that works with the natural contouring of the land and would have no adverse landscape impacts.
115. Whilst it is accepted that there would be substantial landscape and visual effects during the construction phase, that is due to the scale and nature of the construction works and because mitigation measures would not yet be established. These effects would result in harm to the character and appearance of the landscape, but this harm would be localised to the site and adjacent areas and would be temporary.
116. In terms of the operational phase, the LVIA identifies a number of substantial adverse visual effects at year one to visual receptors with clear views towards Parcel 1. This reflects the position that buildings and activities would have been introduced, but that landscaping would not have sufficiently established to mitigate visual effects. The assessment identifies that by year 15 landscaping would have established sufficiently to screen and filter views into the site so reducing the level of adverse visual effects.
117. A moderate adverse visual effect is recorded at year 15 for users of the M25, users of Bedmond Road adjacent to the site, as well as residents at Notley Court and immediately to the west of Bedmond Road. This adverse effect arises from the change to the view and a loss of openness. The introduction of new tree planting and management of boundary hedges would successfully screen views of the new buildings and site activities from Bedmond Road and residential properties, establishing a verdant backdrop to these views. Views from the motorway corridor cannot be fully screened and so a combination of green living walls and tree planting would be used to achieve a softer appearance to mitigate transient views experienced by road users.
118. The Council asserts that planting would not adequately screen the development, stating that whips and feathers planted at year 1 would be no more than 5-6m by year 15. However, it would not only be whips and feathers that are planted. Instead, a range of different trees can be planted in combination,

with different ages; the precise details of which could be secured at reserved matters stage. Some of the specimens planted can – at year 1 – already be as high as 8m. This more constructive and ambitious approach to landscaping would deliver precisely the type of benefits which have been identified. At year 15 therefore, visual impacts would have softened, and the development would cease to have significant adverse effects.

119. There would be a moderate beneficial effect to site trees and hedges through restoration and long term management. The establishment of Parcel 2 as a country park would also result in a moderate beneficial effect through its improvement and the contribution it would make to the elements which inform the character of the wider rural landscape.
120. Overall, the development would result in harm to the immediate character of the site and to the character of the immediately adjoining countryside. However, the motorway and associated features are already a detractor to the landscape character in this location and landscape effects would be localised and contained by the proposed green infrastructure.

### ***Data centre need and alternative sites***

121. Perhaps the most fundamental consideration in the context of this appeal is that of 'need' for data centres; in particular the national, regional and local need for new hyperscale data centres in connection with public cloud provision.
122. The development is situated within one of London's established data centre submarkets in Hemel Hempstead, known as an Availability Zone ('AZ'). The Hemel Hempstead AZ includes data centre cloud operators such as Amazon Web Services and NTT, who together offer extensive network and robust connectivity options including high-speed fibre connections. AZs are the key building block of cloud computing as they allow the cloud scale without compromising service quality. AZs are localised clusters of data centres, each equipped with independent power, cooling, and networking infrastructure, located within a defined radius dictated by latency. This proximity is necessary to transfer information instantaneously between data centres and provide near 100% uptime for digital services. Participating data centres in an AZ connect to each other over a redundant, high-speed, low-latency private network link.
123. The physical distance between data centres within an AZ is limited by the speed of light to a maximum of 7-10 km fibre distance. This distance is centred at the parent site, which is where hyperscalers first deployed internet capacity in the AZ. The distance between sites drives what is referred to as 'latency' or lag. Latency is defined by the round-trip time between sites, which is the time, in milliseconds, it takes for a network request to go from a starting point to a destination, and then back again. AZs are connected by a high-performance network with a round-trip latency of less than 2 ms.
124. Within the AZ, data will continuously and in real-time be transmitted between data centres to carry out processing operations and ensure that services can be provided seamlessly to customers without delay. Moreover, if connectivity at one data centre within the AZ is breached, other data centres within the AZ are able to 'kick-in' and provide continued service delivering near 100% uptime. This creates a tight radius within which additional sites can be located to allow the expansion of the AZ through the addition of new data centres. If the sites are



not within this distance, the AZ is not able to function, services would experience lag and the likelihood of a fault or disruption is high. Demand for additional services from a particular zone can therefore only be met within that AZ.

125. Together, the separate AZs at Slough, Hayes, Hemel Hempstead, North Acton and the London Docklands form the London Availability Region. London is currently the pre-eminent data centre location in Europe, and it accounts for the majority of data centre capacity in the UK. The UK is a globally important data centre market (holding 6% of the world market share), home to the largest data centre market in Europe (holding 42% of market share), and the world's second-largest commercial cluster. However, other European centres, particularly Frankfurt and Paris, are experiencing rapid growth in the supply of data centres and, to some degree, are catching up to London. There is therefore a national need to deliver data centre development in order for the UK to stay competitive, and this capacity must be accommodated in the London market/region. If further data centre growth is constrained in the UK, investment will be diverted to other European markets which will severely restrict the UK's ability to meet the need for IT services.
126. AZs are designed to be independent and geographically separate from one another within a specific region. AZs within a region are connected by low-latency, high-throughput networking to provide fast data transfer and replication between zones. The replication between AZs is monitored through load balancing to ensure that no single AZ becomes overwhelmed and to ensure that the ones within a region are able to offer complete fault tolerance. For load balancing to work efficiently, each point of the AZ should grow at a similar rate and as there is a growing need for data centres, this growth will be focussed on the established AZs as the most effective and efficient location to direct new growth. If one data centre point lags behind, the overall performance and availability of the system is compromised.
127. It is important to stress that 95% of demand is cloud related and as such the various AZs in the London region must continue to grow in order to meet the identified need and these are the only specific areas that meet all the unique requirements of the data centre operators. However, whilst this means that – for example – Slough, Hayes or Docklands need to continue to grow in order to meet the need and demand, this is not instead of, or at the expense of another AZ, such as Hemel Hempstead. In this respect, sites outside of the Hemel Hempstead AZ and sites within other AZs do not address the specified need in Hemel Hempstead in order to create a balanced load.
128. The exponential growth in data usage globally is driven by several key forces, including the rise of cloud computing, the proliferation of connected devices through the 'internet of things', and the increasing digitalisation of industries. As more businesses, governments, and individuals rely on data for decision-making, communication, and operations, the demand for robust infrastructure to store, process, and analyse this data has surged. Given this exponential growth in data creation, hyperscale data centres are needed for housing the storage and computing capabilities required to monetise the data and deliver the services we have come to expect. Indeed, hyperscale data centres are the most efficient and sustainable way to meet this growth in demand.

129. Utilising the conservative view of a continued market share as at present, the Appellant has produced evidence to show that there is a need in the Hemel Hempstead AZ of around 258 MW to 354 MW (with a central estimate of 306 MW) of additional required capacity between 2024 and 2029. This does not include an allowance for the historical shortfall in the past two years (an additional 42-66 MW). However, this analysis clearly points to a very substantial level of demand for new capacity in the Hemel Hempstead AZ area by 2029.
130. In assessing the need for data centres, reliance is placed upon the previous research undertaken by JLL, which supported the application in the recovered Woodlands Park appeal (CD.G1). Both the Planning Inspector and Secretary of State accepted the need figures presented by JLL in that appeal in concluding that there was significant and substantial demand for new data centres. Reference is also made to research by CBRE, Knight Frank and Savills who are respected agents in this sector.
131. The projected need for IT capacity represents a need to build multiple hyperscale data centres to support demand. If we assume each hyperscale data centre has a similar IT Load capacity to the appeal proposal (around 100 MW), then within the Hemel Hempstead AZ alone, a further three will be needed in the next 5-year period in addition to the appeal site. Addressing this demand in the Hemel Hempstead AZ is essential for the UK to retain its competitive edge and appeal to data centre investments, as well as to uphold our top position in the European digital economy. Due to the magnitude of the growth, hyperscale data centres are the primary way to effectively meet this need.
132. The appeal site offers an ideal opportunity to develop a cloud based hyperscale data centre campus. The fundamental requirements for such a development - adequate power supply, high-speed fibre connectivity, protection from flooding, and freedom from other significant risks - have been met in full, making this location ideally suited for a large-scale facility. It is located in close proximity to existing facilities operated by NTT and Amazon Web Services, a factor that plays a significant role in its strategic value. The presence of these established data centres satisfies a key requirement for clustering within an AZ, where multiple data centres operate in tandem to ensure high availability, redundancy, and low-latency performance. By situating the new hyperscale data centre near these 'parent' sites, the development would benefit from existing fibre and power infrastructure and would create a seamless extension of the AZ's capabilities. This clustering would allow the new facility to act as a 'child' data centre, integrating into the broader ecosystem to support scalable workloads while maintaining the resilience needed for mission-critical services.
133. National policy does not require an assessment of alternative sites to demonstrate that a development could not be located outside of the Green Belt. However, the Appellant conducted an Alternative Sites Assessment (CD.A19) in support of the planning application. This was not contested by the Council at application stage. The main findings of this Assessment were as follows:
- The identified need in the Hemel Hempstead AZ means that there is a need to find at least five sites of an equivalent size to the application site (or a larger number of sites of at least 5 ha which could sum to and exceed that level of need).

- The scope of the Alternative Sites Assessment is based on the evidence provided by Foundigital (CD.A30) and the geographical extent is dictated by the distance from an existing hyperscale data centre within the AZ.
  - There is no evidence to suggest that there is scope to meet the identified need for the development on allocated sites in the development plans of the area and the Council has thus far presented no competing evidence.
  - No sites have been identified with extant planning permission that would present an alternative location for the development.
  - There are no sites identified in the Brownfield Registers of the respective local authority areas that would meet the needs of the development.
  - Most of the land outside of the built-up areas is either located within the Green Belt, a National Landscape, or both and this therefore further limits the potential to locate the development outside of the Green Belt.
134. The Great Boughton appeal (CD.G8) is an example of a Green Belt case where the lack of alternative sites figured heavily in the decision. The appeal related to a development for a care home, but the principles are relevant here. That Inspector attached substantial weight to the Appellant's evidence relating to alternative sites, and the likelihood of the need identified being met in the short to medium term within defined settlements. The same approach should apply to the current appeal scheme - the lack of an alternative site should weigh heavily in favour of the development.
135. The evidence shows that there is a national, regional and local need for data centre development. The fact that the Government is proposing changes to the Framework to amplify the need for this type of development puts the question of need beyond doubt. It is critical infrastructure. The need is urgent, and it is overwhelming in scale. The proposals would make a significant contribution to meeting needs at the right time and in the right location. This should be afforded very substantial weight.

### ***Other considerations***

136. The development would be a very substantial capital investment. The full scheme would have a construction cost alone of around £785 million and a total project value of well over £1 billion (in 2024 prices). Putting that into context, of the around 1,000 foreign investments made in the UK during the period 2023/24 with which the Department of Business and Trade were involved, the average economic impact was just £6 million. In these circumstances, an investment of £1 billion is clearly of huge importance to the wider economy.
137. Assuming a build out period of 2.5 years, the design and construction of the data centre would support around 2,500 FTE jobs directly over this period and around 4,000 FTE jobs in total across the wider economy.
138. The fully completed development would support significant numbers of well paid jobs in Hertfordshire that would be accessible to residents of Three Rivers and the surrounding districts. A mid-range, cautious estimate is that the completed development would support 210 FTE jobs, an annual wage bill of around £9-11 million, and an annual direct economic contribution of some £100 million in GVA. Many of these jobs would be in highly skilled IT and engineering

- roles with average salaries significantly above those in the Hertfordshire economy. Taking into account wider economic effects via suppliers and spend of wages in the local economy, the proposed data centre would also support in the order of £230-300 million in GVA and 400-1,300 FTE jobs across the London, the East, and South East economies.
139. The high productivity associated with the data centre would help bolster local and Hertfordshire-wide productivity levels which have been slipping behind.
140. The development would support and strengthen the existing cluster and digital eco-system related to data centres and associated digital technologies that has developed in and around London. It would therefore support key sectors which are targets for export growth and inward investment. It would also support the development of the digital sector in Hertfordshire - an important local priority.
141. If the development does not take place, an investment of over £1 billion would be lost with the associated investment and jobs that are sorely needed by the UK economy. Data centre providers continually consider locations across Europe and indeed globally. If this investment does not occur, then there is a clear risk that a hyperscale data centre would be developed somewhere else in Europe. This would likely be at one of the four other well-established European data centre hubs, which are; Frankfurt, Amsterdam, Paris and Dublin. This could lead to both a loss of investment and, critically, the loss of much needed extra data centre capacity in the UK.
142. A failure to provide additional capacity would restrict the growth of our increasingly data driven economy. There is a need for UK based capacity to meet data storage and regulatory requirements as well as to provide proximity to data for sectors where real time access is critical. There are key sectors of the economy that are critical for future growth and that are highly data dependent including, but by no means limited to, financial services. The ability of these sectors/businesses to operate competitively and to grow will be impacted by any deficiency in data storage capacity (such as higher latency, increased costs etc).
143. More broadly, the UK's aspiration to be a global leader in data and innovation is at risk if the necessary digital infrastructure is not provided, including sufficient data centre capacity. The UK currently punches above its weight in terms of its digital infrastructure and data centre provision. However, other European countries are keen to catch up (and indeed overtake) the UK; they are looking to take market share, and a refusal to consent this scheme would facilitate that.
144. In addition to the economic benefits, data centres also provide vitally important social benefits that underpin modern day living. In this regard, social communications, medical, legal, transport, media and many other systems are grounded in the digital infrastructure on which society now fundamentally depends. The Council asserts that since those benefits are already available, nothing more would be secured by the development. However, this position is untenable; the demand for data driven services is rising sharply, and if further infrastructure is not provided, then these services would not be available, or alternatively they would be available only in a partial, rudimentary manner, that would frustrate the proper functioning of society.
145. It is agreed that the development plan does not provide any site allocations that are required to meet the identified need for data centres. There is therefore

no plan led solution that addresses the growing need for such development in this area. The age of the development plan means that it does not address this important development need. There is also no imminent solution in the form of an emerging plan to provide any plan-led solution in the foreseeable future. The operation of the development management system is therefore necessary to ensure that much needed development is delivered now and is not delayed.

146. In terms of the proposed country park, this would deliver significant benefits and enhancements to this part of the Green Belt. Those benefits align with the Government's long standing objectives for the use of land within the Green Belt, as set out at paragraph 151 of the Framework:

*"Once Green Belts have been defined, local planning authorities should plan positively to enhance their beneficial use, such as looking for opportunities to provide access; to provide opportunities for outdoor sport and recreation; to retain and enhance landscapes, visual amenity and biodiversity; or to improve damaged and derelict land" (emphasis added)*

147. The proposed country park would represent a significant addition to local recreational opportunities (at 21 ha) and would allow for public access across the whole of Parcel 2, which is not currently available. There would also be meaningful enhancements to the landscape and visual amenity through new planting and long term management, and a substantial BNG of at least 135%.
148. Climate change is a key issue for the achievement of sustainable development and new data centres have an important direct and indirect role to play. The proposed data centre would be highly efficient. Technological advances and the move towards hyperscale data centres has helped ensure that whilst data infrastructure has increased 15 fold, energy use has remained relatively flat. The operation of data centres also means that people can make more sustainable choices about where they work which can reduce the need to travel. This also has an indirect effect on climate change. This consideration should be afforded significant weight.
149. A further relevant consideration is the future of the appeal site in the event that permission is refused. In this regard, the land that would accommodate the proposed data centre (Parcel 1) was previously identified by the Council as a housing allocation in its emerging Local Plan. That was in the context of a Regulation 18 plan that was seeking to meet only 90% of the housing need. The Council subsequently consulted on a Part 4 Regulation 18 Plan, which opted for a 'low growth' strategy of 270 dwellings per annum to meet just 42% of its then housing need, with the intention of protecting more of the Green Belt. However, Parcel 1 was not proposed as an allocation at that stage because the site was withdrawn from promotion; not because it was regarded as unsuitable.
150. Under the revised Framework, the standard method housing need figure for Three Rivers is now 832 dwellings per annum. In these circumstances, it is virtually inconceivable that the appeal site would not come forward for development in any event. Accordingly, there is a strong prospect that the site would not remain open agricultural land were the appeal to be dismissed – rather, it would likely be brought forward for housing development. This puts the Council's Green Belt objections about saving this part of the Green Belt into proper perspective. Come what may, the appeal site is extremely unlikely to remain 'open', or 'greenfield'.



151. The revised Framework has now confirmed that there is a requirement to undertake Green Belt reviews where needs cannot be met outside the Green Belt. This was not a requirement under the previous version of the Framework. Importantly, the policy is not just limited to housing but also refers to the need for commercial and other development, which includes data centres. Therefore, when looking to allocate sites for data centres through its Local Plan, the Council will need to consider opportunities within the Green Belt such as the appeal site.
152. The revised Framework also has a requirement for Local Plans to set criteria and identify sites for inward investment, and to meet anticipated needs over the plan period. Paragraph 86 requires that planning policies should:
- “b) set criteria, and identify strategic sites, for local and inward investment to match the strategy and to meet anticipated needs over the plan period;”*  
(emphasis added)
153. It then goes on to say that “*particular regard*” should be paid to facilitating development to meet the needs of the modern economy, with specific reference being made to data centres:
- “c) pay particular regard to facilitating development to meet the needs of a modern economy, including by identifying suitable locations for uses such as laboratories, gigafactories, data centres, digital infrastructure, freight and logistics”* (emphasis added)
154. This change to national policy is not just because something new has recently come to the attention of Government. It is a clear indication that the planning system was not working and that it was not doing enough to facilitate this type of development or to recognise its importance to the wider economy. It also means that delivery of data centres is not just left to the discretion of Councils. It is no longer a matter of choice. Instead, Councils must now plan for this type of development. The concerns raised about creating some form of precedent for further data centre development in the area must be viewed in this context.
155. At the Inquiry there was also much discussion about the extent to which the development plan for the area is ‘out of date’. The absence of policies and allocations for data centres is obviously now a further reason why the development plan is inconsistent with national policy and out of date. The fact that the development plan is not consistent with national policy in respect of the very form of development, which is the subject of this appeal, is a significant change in the policy position from how matters stood at the close of the Inquiry; it represents a material change which is of direct relevance to the appeal.

### **Planning balance**

156. If the Inspector/Secretary of State do not agree that the site constitutes grey belt land, then the exercise to be undertaken is to carry out the ‘very special circumstances’ test. That process involves weighing the material harm to Green Belt and landscape, and very limited harm to heritage assets, against those considerations which point in favour of the grant of permission. Such considerations are numerous, and powerful. In particular, matters of need, economic benefit and the consequences of not permitting the scheme are particularly prominent. The Appellant recognises that very special circumstances will only exist where the positive considerations clearly outweigh the harms

identified. However, the fact is, in the present case, those positive considerations do not just clearly outweigh the harms, they outweigh them so comprehensively that the effect is overwhelming.

### ***Planning obligation***

157. The Appellant has included within the planning obligation clauses which provide for the creation of an 'education fund' of some £12 million, and which provide also for certain priorities to be given to local people in terms of the employment opportunities which the scheme would provide. The Appellant is content to make such commitments, and notes that similar provisions were made at the Woodlands Park appeal in the Slough AZ.

158. However, the Appellant is adamant that any permission which is granted by the Secretary of State should be as robust as possible. Accordingly, and recognising a degree of doubt/concern as to whether these provisions would satisfy the test of necessity set out in Regulation 122 of the CIL Regulations, the Appellant asks that neither matter be taken into account by the Inspector or Secretary of State in making their recommendation/decision. Accordingly, the only commitments to which the Appellant contends that regard should be had in the determination of the appeal, are those regarding sustainable transport.

159. To be clear, this does not mean that the Appellant would not be bound by the requirements to provide the education fund, or support local employment, it is only that it asks that such matters be excluded from the planning balance. What may be included in the planning balance, should the Inspector or Secretary of State deem it appropriate, is the weight that could be attached to the benefit comprised in a skills/education scheme, secured by way of planning condition.

### ***Conclusion***

160. If the Inspector/Secretary of State do not agree that the site constitutes grey belt land, then the Appellant maintains its evidence has demonstrated that very special circumstances manifestly exist in the present case. Accordingly, the Appellant submits that the Inspector should recommend, and that the Secretary of State should ultimately determine, that planning permission should be granted.

### ***Inquiry Appearances – Opposing the Proposal***

161. Chris Berry of CPRE Hertfordshire appeared at the Inquiry and spoke in support of the Council's decision to refuse planning permission. He expressed concerns regarding the impact of the development on the Green Belt and its effect on the open countryside. South Hertfordshire was described as being under unrelenting pressure for development of all types, the need for which should be addressed through the strategic planning process.

162. Additional points raised in Mr Berry's written representation to the Inquiry are summarised as follows:

- Historically, Green Belt has been a key component of the planning system in Hertfordshire, and in terms of the first Green Belt purpose, its primary function has been to control the outward sprawl of London.



- The third Green Belt purpose 'to safeguard the countryside from encroachment' is the most significant concern in this case, particularly in the context of challenging the permanence of the Green Belt and the clear loss of openness that would result. The development would encroach severely into an area of open countryside adjacent to Abbots Langley.
- The development would result in a complete loss of Green Belt openness, contrary to the fundamental aim set out at paragraph 142 of the Framework. No amount of screening or planting could compensate for the introduction of this development, which would completely change the character of the area.
- The series of provisions proposed by the Appellant would not normally amount to 'very special circumstances' when much of what is being promoted would be expected of a significant development in any location.
- The arguments used by the Appellant are frequently applied by developers to urban edge sites in the Green Belt. However, if accepted they form a circular argument; the site is released from Green Belt and the next site then becomes the urban edge, and the same argument can be applied, and the Green Belt is constantly eroded.
- The Framework is clear that alterations to Green Belt boundaries should only take place through the Local Plan process, and not by individual planning applications. The constant pressure of applications on designated protected land is in danger of bringing the planning system into disrepute.
- This proposal would have a substantial impact on the openness of the Green Belt. The provision of a country park is not relevant as this would be on land that is already open countryside, and thus already fulfilling the purposes of the Green Belt.
- Other factors that are argued to provide very special circumstances include employment provision, building quality, social benefits, climate change and the lack of alternative sites. However, the majority of these factors would equally apply to a non-Green Belt location, and they should not be regarded as having significant weight in this case.
- CPRE Hertfordshire believes that this proposal constitutes highly inappropriate development of a type which Green Belt legislation was designed to prevent. The intention of the Government to protect the Green Belt is clear and that there are no very special circumstances related to this location for a development of this nature.
- The recent Regulation 18 public consultation on the Three Rivers Local Plan received a record-breaking number of responses, overwhelmingly rejecting the allocation of Green Belt sites for development. This has led Three Rivers District Council to delay the programme for publication of the Local Plan for further review. Significant progress has been made by the Council on amendments to the emerging Local Plan which reduce considerably the protected land proposed to be allocated for housing development. As a responsible Local Planning Authority, the Council rightly wishes its Local Plan to reflect local community concerns and aspirations, as required by

the Framework, and in any event, decisions should be made based on the adopted Core Strategy and Site Allocations Development Plan Document.

163. Simon Andrews of DLA Town Planning appeared at the Inquiry on behalf of the landowner of an adjacent site. That site is proposed as a housing allocation in the Council's Regulation 18 draft Local Plan (published in October 2023) for around 133 dwellings. The chief concern expressed was the relationship of the appeal development to the adjacent proposed housing allocation. In this regard, the impact of the development on the living conditions of the future residential occupiers of the adjacent site ought to be properly assessed, including in relation to noise and outlook, given the use and size of the appeal development. It was also asserted that the Council is due to publish its Regulation 19 Local Plan in October 2024, at which point it would attract more weight.

164. Additional points raised in Mr Andrews' written representation to the Inquiry are summarised as follows:

- If a data centre were being brought forward through the Local Plan process, it would be easy to consider implications – positive or negative – from one allocation to another. The dangers of designating, for example, noisy commercial uses alongside residential properties would be evident. One of the consequences of this data centre being brought forward outside of the Local Plan process is that such cross-consideration is more difficult.
- The submitted Acoustics Assessment (CD.A17) does not consider the impact of the proposed data centre on future residents of the proposed housing allocations. It is likely that the data centre would have an impact on these proposed allocations, which need to be fully assessed.
- The development would have substantial landscape impacts which appear to be understated in the submitted LVIA. In particular, there is no assessment of the impact on views from the adjacent proposed housing allocations. This should be addressed by additional viewpoint analysis.
- The Council's Stage Two Green Belt Review (CD.E4a and CD.E4b) concluded that the release of the appeal site would cause "*moderate-high*" harm to the Green Belt. It concluded that release of the appeal site was more harmful to Green Belt purposes than land to the rear of Notley Court (sites CFS6 & PCS21), which were judged to cause only "*moderate*" harm. Moreover, the Green Belt implications of two buildings of up to 20m in height would be very different from the residential development envisaged in the Green Belt Review.
- The 'Building Heights Parameter Plan' establishes the proposed maximum height of buildings across the site. However, it is not clear how these heights relate to the existing topography. There is a considerable slope from south to north across the site and it is not clear whether the "*up to 15 metres*" height limit would be measured from the bottom of the slope, the top, or somewhere in the middle. There is an estimated height difference of around 7.5m from one side of the "*up to 15 metres*" zone to the other. This uncertainty is also relevant for the other technical reports. For example, has the impact on nearby listed buildings been based on a proper calculation of the proposed height? Equally, has the noise model

properly accounted for the proposed building height? Moreover, has the LVIA properly considered the proposed height?

165. Ward Councillor Vicky Edwards also addressed the Inquiry and spoke in opposition to the development. She stated that Abbots Langley is a traditional village, and that the fields surrounding it are part of its fabric. Were the development to proceed then the village would lose open fields for an industrial complex. The data centre would tower over the properties at nearby Notley Court, dominating the views and becoming the main feature of the landscape for those residents. The noise from the cooling systems and the 24/7 lighting and security would turn what is currently the quiet edge of the village into a noisy industrial centre.
166. Notley Court is a relatively new development that comprises 12 shared ownership homes. Cllr Edwards has spoken to some of the residents there. One family told her that they wanted to raise their family in a village with the benefits of countryside on the doorstep, and so Notley Court was ideal. They never thought that a data centre could be built next to them and now the thought of it fills them with dread, and they feel trapped.
167. The economic and case-on-need put forward by the Appellant has been contorted, and the site is unsuitable for a data centre. Firstly, it is asserted that the data centre needs to be near London, despite data centres being built and planned all over the country. Secondly, it is asserted that it needs to be in the Hemel Hempstead AZ, yet data centres have been approved outside of AZs such as at Cheshunt. Thirdly, data centres consume vast amounts of power, yet the site is not close to any renewable energy source or new power station. It would therefore be a huge burden on the local grid. The site is also on a protected water source which means the Environment Agency has resisted the use of diesel back-up generators, which are standard for most UK data centres (a suitable alternative has not been ascertained). Finally, data centres are noisy and require 24/7 security and lighting, which is not appropriate next to people's homes.
168. The community was not consulted prior to the application being lodged. Whilst a country park is being offered, there is already a country park nearby at Leavesden. Hertfordshire Highways has requested a contribution of just £100,000 to the improvement of walking and cycling routes, but contributions should go much further towards improving other paths around the village.
169. The need for data centres nationally is acknowledged, but there is no need for one in Abbots Langley. Data centres are already being built on brownfield or industrial sites to provide the data storage needed for the future. If the proposal does not go ahead then the capacity will be built elsewhere. But if this proposal does go ahead, it will ruin the lives of those living in the nearby area and damage the character of the village forever.
170. Additional points raised in Cllr Edwards' written representation to the Inquiry are summarised as follows:
- The illustrations provided with the planning documents are deceptive, suggesting that the data centre would be much further away from the residential area than is possible due to the space available.

- The LVIA submitted with the application does not consider the extent to which the data centre would be visible throughout the village.
- The data centre would generate a lot of noise due to the ventilation and cooling systems used to keep the servers cool. The promoter submitted an Acoustic Report (CD.A17) on the noise impact which identified "adverse" noise impacts on some nearby residents. However, the exact ventilation and cooling system to be used hasn't been identified, so the Acoustic Report is based on poor assumptions and should be ignored.
- The promoter has not explained why it cannot build clusters of data centres in industrial areas of the country, away from residential areas.
- The draft Local Plan does not include any proposed data centre allocations in this area, or at all. The impact of the data centre proposal, housing allocations, and associated infrastructure should be considered together.
- Granting permission for this development would undermine the Local Plan process and also the ethos underlying the draft Local Plan which is to concentrate development on brownfield land and some lower quality areas of the Green Belt.

### **Written Representations**

171. A number of objections were lodged to the proposal at the application and the appeal stages. In addition to the main issues considered in this report, a number of other concerns were raised, as follows:

- Noise and light pollution associated with the development.
- Loss of privacy and daylight to nearby residential properties.
- Noise, disruption, and traffic associated with the construction process.
- The proposed substation and backup generators pose potential health risks to nearby residents due to noise pollution and EMF radiation.
- The development would cause traffic problems that would negatively affect nearby residential properties and the school.
- Inadequate car parking is proposed.
- The scale of the development is out of keeping with its surroundings.
- Possible detrimental effects on water supply and energy supply.
- The development would cause flood risk issues.
- The development should be located on brownfield land or within an existing industrial estate.
- The appeal site supports numerous species of wildlife.
- The development would have a substantial environmental impact.
- The development would dramatically increase noise and public footfall to this tranquil area and could reduce the value and security of nearby properties.

- The Appellant has made public statements which show a dismissive attitude towards the Green Belt.
- Local communities already host an existing national infrastructure burden in the form of the M25 and its associated noise and pollution. With the data centre being added to this, they are being made to pay twice.
- Hyper-scale data centres could become obsolete in the future with advances in miniaturisation and smaller, local data facilities.
- Data centres typically employ relatively few specialised workers and so the prospect of local people gaining high wage employment is low.
- It is unclear which of the major data centre operators is collaborating and has indicated viability in this location.
- The Appellant has never developed a data centre before. There is no guarantee that it has the necessary funding to build the data centre, any experience in operating data centres, or whether it would be able to sign up any customers.
- How will power be supplied when the location is not close to the National Grid's backbone? Are there fibre optic trunk routes near this location?
- Data centres are known for their substantial energy consumption, primarily sourced from fossil fuels. This contradicts sustainable development principles and contributes to carbon emissions.

### **Conditions**

172. A roundtable discussion was held during the Inquiry regarding potential conditions that could be imposed were planning permission to be granted. I assess whether these conditions meet the tests set out at paragraph 57 of the Framework later in this report at paragraphs 259-265.

## Inspectors' Conclusions

### Main considerations

173. Based on the evidence, policy, and the areas of agreement/disagreement, the main considerations in this case are:

- (a) Whether the proposal would constitute inappropriate development in the Green Belt;
- (b) The effect of the proposal on the character and appearance of the area;
- (c) Whether any harm arising from the proposal would be outweighed by other considerations so as to justify the development.

### Green Belt

174. The revised Framework (published in December 2024) introduced a new category of 'grey belt' land. This is defined as *"land in the Green Belt comprising previously developed land and/or any other land that, in either case, does not strongly contribute to any of purposes (a), (b), or (d) in paragraph 143"*. This definition excludes land where the application of policies referred to at footnote 7 of the Framework (other than Green Belt) would provide a strong reason for refusing permission. However, that is not the case here.

175. Whilst the appeal site is not previously developed land, the definition of grey belt also extends to land that does not strongly contribute to Green Belt purposes a), b), or d). In this regard, it is common ground between the main parties that the site does not strongly contribute to purpose d) 'to preserve the setting and special character of historic towns'. It is also common ground that the site does not contribute to purpose b) 'to prevent neighbouring towns merging into one another'. That is because the appeal site is not located in a narrow gap between existing towns that are at risk of coalescence. In this regard, the settlement of Bedmond to the north is a village rather than a town.

176. In terms of Green Belt purpose a), this is 'to check the unrestricted sprawl of large built-up areas'. Regardless of whether Abbots Langley constitutes a 'large built up area', Parcel 1 is well contained by the M25 motorway to the north, Bedmond Road to the west, and the existing settlement edge to the south west. These existing features contain the site to a significant degree and would act as a strong physical boundary to any further outward encroachment [29,95]. Moreover, the creation of a country park on Parcel 2 would restrict any further outward encroachment to the east. In these circumstances, I am satisfied that Parcel 1 does not contribute 'strongly' to checking unrestricted sprawl.

177. My attention has been drawn to the Woodlands Park appeal decision (CD.G1), which also related to a Green Belt site bounded by the M25 motorway. In that case, the Inspector considered that the motorway would not serve to limit further outward sprawl. However, the Green Belt boundary in that location was already defined by a strong physical feature in the form of the River Colne. That is not the case here, where the existing Green Belt boundary is weakly defined. Regardless of whether it was correct for the Woodlands Park Inspector to characterise the M25 as a *"relatively new piece of infrastructure"* it is a prominent and likely permanent physical feature that, together with Bedmond Road and the new country park, would effectively contain the proposed data centre buildings [30,97].



178. My attention has also been drawn to 2 Green Belt studies commissioned by the Council in 2017 and 2019 (CD.E3 and CD.E4). However, I note that Parcel 1 formed part of the much larger Parcels N12 and AL3 in the 2017 and 2019 studies respectively. Accordingly, the findings of those studies relate to wider areas of land and do not necessarily reflect the particular circumstances of the appeal site [26-30, 96]. I have therefore come to my own view on Parcel 1's contribution to the purposes of including land in the Green Belt rather than relying on the findings of these previous studies.
179. As the site does not strongly contribute to Green Belt purposes a), b), or d), it therefore constitutes grey belt land. Whilst the Council states that it intends to undertake its own assessment of which sites in the District comprise grey belt, Annex 2 of the Framework is clear that this can be determined through the decision making process [25,162].
180. Paragraph 155 of the Framework states that commercial development in the Green Belt should not be regarded as inappropriate where it would utilise grey belt land; would not undermine the purposes of the wider Green Belt; where there is a demonstrable need for the development; and where it is in a sustainable location. As set out above, I consider that the appeal site is physically well contained and does not strongly contribute to Green Belt purposes a), b), or d). It is also common ground that the site does not contribute to purpose e) 'to assist in urban regeneration, by encouraging the recycling of derelict and other urban land'. Given the site does not contribute strongly to these purposes, the development would not fundamentally undermine the remaining Green Belt in the District in these respects. Its size and physical containment would also ensure that it would not fundamentally undermine the remaining Green Belt with regard to purpose c) 'safeguarding the countryside from encroachment'. As set out below, there is a demonstrable need for the development, and it is common ground that it would be in a sustainable location. Accordingly, the development meets the relevant tests at paragraph 155 and should not be regarded as inappropriate development in the Green Belt.
181. The Council's Decision Notice identifies a conflict with Policy CP11 of the Core Strategy in relation to Green Belt. This policy states that there is "*a general presumption against inappropriate development that would not preserve the openness of the Green Belt, or which would conflict with the purpose of including land within it*". However, as I have found that the development would not be inappropriate development in the Green Belt, it would accord with this policy. The Decision Notice also refers to conflict with Policies CP1 and CP12 of the Core Strategy in relation to Green Belt policy. However, neither Policy CP1 or CP12 refer to the Green Belt and so they are not relevant to this main issue. Conflict is also alleged with Policy DM2 of the Development Management Policies LDD, which provides guidance on proposals that are not considered to be inappropriate development in the Green Belt. Whilst this policy does not refer to grey belt land, it states that it provides guidance on "*some*" of the exceptions set out in national policy, and so it is not intended to be exhaustive. Accordingly, the development would not be in conflict with this policy.

### **Character and appearance**

182. Both Parcel 1 and Parcel 2 are located within the Bedmond Plateau Landscape Character Area ('LCA'), as defined in the Dacorum Landscape Character



Assessment (CD.H4). The LCA is described as a gently undulating plateau of small to medium-sized agricultural fields, containing discrete areas of woodland. The landscape has a mature settled appearance arising from a number of traditional farms, and it contains a series of narrow lanes. The LCA is set within the Northern Thames Basin National Character Area, which encompasses a much wider area extending from Watford in the west to Clacton-on-Sea in the east.

183. Parcel 1 is located to the north east of Abbots Langley, between the settlement edge and the M25 motorway. It comprises open agricultural land that slopes away from Abbots Langley towards the north. The M25 is a prominent feature in the landscape, and it forms the northern boundary to the site. Whilst the motorway is partly in cutting, its gantries, signage, and lighting columns are clearly visible in views of the site [42,105]. Bedmond Road also forms the western boundary of Parcel 1, which is a busy route connecting Abbots Langley to both the village of Bedmond and Hemel Hempstead. Together, these features, and the presence of the settlement edge, contain Parcel 1 and give it an urban fringe character. In this regard, I agree with the submitted LVIA that the site has a medium-low landscape value and a medium-low landscape sensitivity. I further note that the Council's Landscape Sensitivity Assessment Addendum (CD.H1) also assessed Parcel 1 as having a medium-low landscape sensitivity.
184. The introduction of 2 large data centre buildings of up to 20 metres in height would result in a substantial change to the character of Parcel 1 that could not be fully mitigated. In this regard, its open agricultural character would be displaced by the engineered form of the development, and this would have a 'substantial adverse' effect on the character of Parcel 1 itself. However, the impact on the wider landscape would be more limited given that Parcel 1 is separated from much of the surrounding countryside by the M25, Bedmond Road, and the settlement edge. In this regard, I concur with the LVIA that the effect at year 15 on the LCA and the wider rural landscape would be 'minor adverse', and the effect on local landscape character would be 'moderate adverse'.
185. Given the footprint of the proposed buildings and the topography of Parcel 1, it would be necessary to cut into the slope in order to create a level development platform. This would be achieved through cut and fill of material on-site to avoid the need to import significant volumes of material. The illustrative masterplan (CD.A10) indicates that this development platform would be set at 112 metres AOD, which would require a cutting of up to 8 metres into the existing slope [164].
186. The submitted LVIA (CD.A43) identifies a number of key views in the surrounding area from where the proposed data centre buildings would be visible. The development would be particularly prominent in views from along Bedmond Road to the west, especially at year 1 before new landscaping had matured. In this regard, clear views of the buildings would be available from the northern side of the M25 and from along the bridge that crosses the motorway. From these positions, the development would appear as a large and dominant feature extending along the motorway edge, as is illustrated in the LVIA Viewpoint 2 visualisations (at Appendix E). Given the topography, these views would largely remain at year 15. However, the motorway is prominent in the foreground of such views, and in any case, they would largely be experienced by pedestrians, motorists, and cyclists who would generally be focussed on the highway corridor. Moreover, clear views from Bedmond Road to the north of the M25 and along the

bridge crossing the motorway are available from only a relatively short section of the road, and views further to the north are obscured by mature trees and planting.

187. To the south of the M25, existing open views across the site from Bedmond Road would be removed and replaced at year 1 with views of the proposed data centre buildings, as shown in the LVIA Viewpoint 1 visualisations. These buildings would inevitably be seen as a large imposing feature set in from the road. However, the buildings would be cut into the slope, which would reduce their perceived height. Moreover, as new landscaping matured, such views could be largely obscured and replaced with a dense planted screen, as is shown in the LVIA visualisations [111]. In this regard, the parameter plans indicate that sufficient space would be available to the west of the proposed buildings to accommodate a significant landscaped buffer to supplement the existing boundary hedge. Moreover, as such views would be experienced by passing motorists, cyclists, and pedestrians, they would be largely transitory in nature.
188. The development would also remove open views across the site that are currently available to residents of Ovaltine Dairy Cottages, on the western side of Bedmond Road. The LVIA identifies that these (more sensitive) receptors would experience a 'very substantial adverse' visual effect at year 1, but that this would reduce to 'moderate adverse' at year 15 once new planting within the site had matured. The Council argues that the residual effect at year 15 should in fact remain 'very substantial adverse' as the LVIA methodology identifies that the *"total loss or very substantial alteration of key views"* should result in a 'high' magnitude of change. In this regard, the existing open views from Ovaltine Dairy Cottages would still be lost even once the new landscaping had matured [45]. However, even if the effect at year 15 were considered to be 'very substantial adverse', the planning harm arising from this would be modest in my view. In this regard, a planted buffer would screen the development to a significant degree and would provide an acceptable outlook to occupiers of those properties.
189. Similarly, the loss of open views across the site from Notley Court would also result in only modest planning harm. Such views are mainly experienced from the street given that the houses front onto one another and do not contain windows that directly face the site. These existing views would be replaced by a planted buffer at year 15 that would largely screen the proposed data centre buildings. This would be capable of forming an attractive edge to the development that would mitigate the visual impact of the data centre buildings. The proposed ancillary buildings and any boundary fencing would also be modest in scale and could be appropriately designed at reserved matters stage [165].
190. The M25 motorway and its associated gantries and lighting columns are prominent in existing views across Parcel 1 from both Bedmond Road and Notley Court. Long distance views of the countryside are also restricted from these positions. Accordingly, I consider these views to be of limited quality.
191. The data centre buildings would also be prominent from along a short section of the M25 itself and would be seen by large numbers of passing motorists and passengers. However, the speed of passing vehicles and the constrained visibility of the proposed buildings beyond the immediate approaches would limit their prominence in such views, which would in any case be transitory in nature. Moreover, the development would be seen in the context of the motorway itself,

- Bedmond Road bridge, and the settlement edge. Any visual harm arising to views from the M25 would therefore be no more than moderate adverse by year 15 once new landscaping had matured. A visually attractive scheme is also capable of being secured at reserved matters stage.
192. Other than the near distance views described above, the development would have limited visibility from either the north, south, or west. This is due to the topography of the area and the presence of intervening buildings and trees. However, longer distance views of the proposed data centre buildings would be available from the network of public footpaths to the east, as is illustrated in document ID.7. These footpaths are well used and are set within an open agricultural landscape where the settlement edge is largely concealed from view by intervening trees and planting.
193. Viewpoint 3 in the LVIA visualisations shows a view of the proposed data centre buildings from a point at the junction of the St Stephen 071 public footpath and the St Stephen 004 bridleway. This viewpoint is located on rising ground around 500 metres to the east of Parcel 1. From this position, the top half of the data centre buildings are shown as being visible above the tree line at Year 15. In this regard, the visualisations are at odds with Table 7 of the LVIA which states that the development would not be visible from along these routes. Were the impact shown in the visualisations to transpire then this would result in a permanent visual intrusion into this open agricultural landscape, that would be experienced over a moderate-to-long distance and would remain at year 15 [45].
194. However, Viewpoint 3 is in an elevated position, and any visibility of the development from the footpaths to the south west of this point would be far more restricted. Moreover, once this path crosses the M25 (via a footbridge) there is limited visibility of the site from the other side of the motorway. Accordingly, the visual effect at Viewpoint 3 would be experienced from only a relatively small section of the footpath network. This viewpoint is also in close proximity to the M25 motorway, which would be visible (and audible) together with the development in this view. Accordingly, the planning harm that would arise from this would be no more than moderate in my view.
195. Viewpoint 4 in the LVIA visualisations is from the Hertfordshire Way footpath, approximately 200 metres to the south east of Parcel 1. This viewpoint is located within a field that is almost entirely enclosed by mature trees, which serve to restrict longer distance views across the open countryside. The only gap in the trees is at the north west corner of the field, through which the proposed data centre buildings would be visible. At present, this gap offers views across Parcel 1 to the M25, and moving traffic along the motorway is visible through it. At year 1, the side of the easternmost data centre building would be prominent through this gap. Moreover, the updated Viewpoint 4 visualisations which were submitted during the Inquiry (ID.12), show that direct views of the building would remain at year 15 [45].
196. However, views of the proposed data centre from Viewpoint 4 would be visible from only a short section of the route and would be seen in the context of a field that is already enclosed on all sides by mature trees. Mitigation in the form of new planting and a potential green wall (as shown in the visualisations) could also be secured at reserved matters stage. Moreover, given the view through the

existing gap features traffic moving along the M25, I consider that any harm arising from its loss would be limited.

197. The development would also result in the loss of filtered views across Parcel 1 from East Lane, which is a traditional sunken lane that is lined with trees and hedgerows. It forms the eastern boundary to Parcel 1 and enters into a tunnel beneath the M25 at the north eastern corner of the site. At present, the open views across the site contribute to East Lane's traditional rural feel, albeit such views are filtered by planting. The development would entirely remove these views and would replace them with a planted buffer that over time would enclose East Lane along this side. At year 1, the easternmost data centre building would loom over East Lane and dominate views to the west. Moreover, in order to create a level development platform across the site, it would be necessary to create an engineered embankment towards the eastern edge of the site, as is indicated on the Illustrative Proposals Masterplan (CD.A10). At the Inquiry, it emerged that this would be around 12 metres high near to parts of East Lane, which would raise the perceived height of the easternmost building to over 30 metres in places [43].
198. However, by year 15 new planting would have matured that would largely enclose East Lane along this side. This would result in a wooded character that is similar to other nearby sections of East Lane that are enclosed by trees and planting. Moreover, the greatest impact on East Lane (where the building would be nearest, and the embankment at its highest) would be at the north east corner of Parcel 1, just before it enters an engineered concrete tunnel beneath the M25. The parameter plans also show that sufficient space would be available to establish a planted screen alongside East Lane, and an appropriate treatment to the embankment is capable of being secured at reserved matters stage. Accordingly, the impact on East Lane would diminish by year 15, and whilst the development would result in the loss of open views across the site, a solution that limits this harm and respects the character of East Lane is capable of being secured.
199. Other views of the proposed data centre buildings from the rural footpaths to the east would be limited. In this regard, the overall visual envelope from which the development would be seen would be relatively localised given its size. Moreover, whilst there would be significant visual effects arising during the construction process, these would be short-term in nature.
200. At appeal stage, the Council also raised a number of detailed concerns about the visual and landscape impact of the proposed country park at Parcel 2. These related to the potential urbanising effect of features such as litter bins, benches, paths and lighting, and also to the landscape impact of the proposed attenuation pond and wetland mosaic [46-47]. However, I am satisfied that a sympathetic design is capable of being secured at reserved matters stage that would be in keeping with the surrounding agricultural landscape. In this regard, it is intended to create mown paths throughout the country park, and different management options are available to create the grassland environment indicated in the parameter plans. Moreover, the SuDS would not have to be provided in the form of an attenuation pond cut into the slope and other options, including an engineered solution within Parcel 1, would also be achievable.

201. Overall, the effect of the development on the landscape character of Parcel 1 would be significant, and whilst this could be partially mitigated by new planting and design measures, the residual effect at year 15 would still be 'substantial adverse'. However, whilst the character of Parcel 1 would be substantially altered, this would be seen mainly in near views from around the site edge. In this regard, its visibility in longer views would be restricted to relatively short sections of the footpath network to the east, and to the M25. The visual effect of the development would therefore be relatively localised given its size, which would limit how the resulting landscape harm would be perceived.
202. As there would be landscape and visual harm arising from the development, it would conflict with Policy CP12 of the Core Strategy. This policy seeks to ensure, amongst other things, that new development has regard to the local context and conserves or enhances the character, amenities and quality of an area. Separately, Policy CP1 of the Core Strategy requires that development take account of the need to protect and enhance the natural environment from inappropriate development. Policy DM7 of the Development Management Policies LDD also states that proposals that would unacceptably harm the character of the landscape in terms of siting, scale, design or external appearance will be refused. I return to whether the harm in this case is either "*inappropriate*" or "*unacceptable*", and to the conflict with Policy CP12, in the 'planning balance' section of this report, below.

### **Other considerations**

#### The need for data centres and the availability of alternative sites

203. It is common ground between the Council and the Appellant that there is an urgent and overwhelming need to provide additional data centre capacity in the UK. The Council also accepts that the provision of 96 MW of capacity, as is proposed here, is a matter that should be afforded significant weight. In this regard, paragraph 87 of the Framework states that planning policies and decisions should make provision for clusters or networks of knowledge and data-driven, or high technology industries; and for new facilities and infrastructure that are needed to support the growth of these industries, including data centres.
204. The appeal proposal is for a hyperscale data centre that would provide public cloud computing services. Cloud computing operates through interconnected data centres that allow seamless sharing of information and applications. This enables users to access and share digital resources over networks, providing fast, secure access to data and applications. A hyperscale cloud data centre is a large-scale facility designed to support the needs of cloud-based businesses and applications. These data centres provide digital infrastructure capable of hosting IT applications and managing large volumes of data.
205. There are also several other types of data centre that perform different roles and functions. These include enterprise data centres (which are owned by an individual company for its own purposes), disaster recovery data centres (which provide a backup facility), and AI data centres (for AI learning).
206. Cloud data centres have specific locational requirements, including proximity to other cloud data centres within an 'availability zone' ('AZ'). These zones are linked by low-latency networks to enable near real-time information transfer and backup. If one data centre fails, another is able to seamlessly take over the



workload without interruption, ensuring 100% uptime. The Council's closing submissions accept that the development needs to be located in an AZ, and that one such AZ is based in Hemel Hempstead.

207. London is currently the largest cloud data centre market in Europe (holding 42% of market share) and is the second largest market in the world after North Virginia in the United States. The other major western European markets are at Frankfurt, Amsterdam, Paris, and Dublin. There are several AZs in and around London, including at Slough, Hayes, Hemel Hempstead, North Acton and at London Docklands that together form the London Availability Region. The Appellant's evidence describes how load balancing is used to distribute incoming network traffic across these AZs, enhancing fault tolerance and availability. In this regard, if one AZ experiences an outage or degraded performance, the load balancer can route traffic to another AZ.
208. There is currently no centrally produced figure for data centre need at either the national or the regional level. However, the Appellant has presented an assessment of the need for data centres in the London Availability Region in its Data Centres Proof of Evidence (CD.C20a). This is based on an assessment of need that was accepted by the Inspector and the previous Secretary of State in the Woodlands Park appeal (CD.G1), projected forward to 2029. It indicates a very substantial growth in the need for data centre capacity across London, with a central forecast of 3,824 MW during the period 2024-2029, 95% of which is for public cloud data centres. These needs figures are not disputed, as is set out in the Statement of Common Ground on Need and Economic Benefits (CD.C16).
209. The Hemel Hempstead AZ currently accounts for around 8% of the total capacity across the London Availability Region. Assuming this market share were to continue, then that would translate into a need of between 258 MW to 354 MW (with a central forecast of 306 MW) of additional capacity between 2024 and 2029. This indicates a very significant level of demand in the Hemel Hempstead AZ, and the appeal proposal (at 96 MW) would meet around a third of this.
210. This level of need is below the 500 MW of need identified in the FoundDigital report (CD.A30) that was submitted at application stage. However, that report adopted a slightly different methodology and assumed that the Hemel Hempstead AZ would need to grow in order to balance the distribution of workloads across the London Availability Region. In this regard, the assessment that the Appellant seeks to rely on adopts a more conservative approach. Moreover, it does not include any allowance for the significant under provision against the assessed need in 2022 and 2023. In my view, this is a robust approach, and I accept that there is a need for this additional capacity to be provided in the Hemel Hempstead AZ [71,129].
211. The Appellant has produced an Alternative Sites Assessment (CD.A19) that looked at the potential availability of alternative sites within the Hemel Hempstead AZ. This sought to identify suitable sites of at least 10 ha in size that were either allocated for employment development, had planning permission for a B8 use, or were listed in the Councils' Brownfield Registers. No such sites were found to be available. However, this assessment did not look to identify any sites outside of the Hemel Hempstead AZ, including within the other AZs in the London Availability Region. This approach was based on the need to ensure that load balancing between the respective AZs is maintained.

212. It has been drawn to my attention that the Secretary of State in the Woodlands Park appeal attached moderate weight to the absence of a readily available alternative site, as no analysis had been undertaken of potential sites in the other London AZs. That is also the case here. However, it is unclear precisely what evidence was before that Inspector and Secretary of State. In this regard, the evidence before me is that there is a need across the London Availability Region for a significant increase in data centre capacity. If this is to be met, it will necessitate the identification of a number of additional sites in each AZ. In this regard, were a suitable alternative site to be identified in another AZ it is likely that it would be required as well, rather than instead of, the appeal site. Moreover, I note that the Inspector in the Woodlands Park appeal found that there were no alternative sites available within the Slough AZ at that time. Given the scale of need across the London Availability Region, and the need for load balancing to work efficiently, I consider that the Alternative Sites Assessment was justified in only looking at sites within the Hemel Hempstead AZ [62-64]. Whilst it is argued that take-up in recent years has not been evenly distributed amongst the respective London AZs, and has been modest in scale, that may simply reflect the availability of sites and planning constraints [59-60,71]. In this regard, the Hemel Hempstead AZ is significantly constrained by Green Belt and National Landscape designations.
213. In setting an area of search within the Hemel Hempstead AZ, the Alternative Sites Assessment adopts an 8 km radius. This is intended to reflect the need for data centres within an AZ to be connected by a high-performance network with a round-trip latency of less than 2 ms. This latency requirement allows for data and processing operations to be transferred instantaneously and for data centres within the AZ to take over from one another in the event of a failure, without experiencing lag or disruption. However, a relatively close proximity between data centres is required to achieve this latency. In this regard, the 8 km radius is based on a maximum distance of 11 km to achieve the required 2 ms latency but revised down to take account of inefficiencies. Such inefficiencies may include the need to route the cable around physical obstacles such as rivers, buildings, infrastructure, etc, and the need for the signal to switch between networks. Whilst the Council asserts in its closing submissions that the use of typical optical lengths would allow for a larger area of search [68], that was not a point raised by its data centre witness, nor was the Appellant's witness questioned on this point. I further note that a similar radius appears to have been accepted in the Woodlands Park appeal. The precise distance may vary from location to location in order to achieve the 2 ms latency, however, based on the evidence before me I consider that an 8 km radius is robust for the purposes of identifying an area of search. I further note that there is a relatively direct fibre route between the appeal site and 'Hyperscaler A' at the heart of the AZ.
214. It is argued that there is an inconsistency in the Appellant's figures, as the FoundDigital Report refers to a requirement for a below 11-19 km optical fibre route length for parent-child data centre relationships. However, the Appellant's data centre witness explained at the Inquiry that this distance is "*there and back*" and so is consistent with the 8 km search radius. Whilst the submitted Economic Needs and Benefits Report (CD.A22) states that typically an optical fibre distance of 10-20 km is required, that document is not primarily a technical data centre report. Instead, it is an assessment of economic benefits arising from the development. In any case, this range is relatively broad and would be consistent



either with the maximum 11 km distance specified in the FoundDigital Report, or the 'there and back' range of 11-19 km [66-68].

215. My attention has also been drawn to a recent planning permission at London Colney (Ref 5/2022/2966) in St Albans District. At the Inquiry, it was clarified that this site is located outside of the 8 km radius area of search used by the Appellant. However, that permission is in outline and the application details do not specify the type of data centre proposed. Moreover, it is located on a much smaller 0.49 ha site and is described as having a capacity of just 5 MW, which is significantly smaller than is proposed here. In this regard, it would be incapable of being a hyperscale cloud data centre, and there is no evidence before me that it could achieve a latency of less than 2 ms. Accordingly, this permission does not undermine the identification of an 8 km search radius.
216. The Alternative Sites Assessment also uses a minimum size threshold of 5 ha, which is around half the size of Parcel 1. This would allow for some level of disaggregation once parking, landscaping, fencing and ancillary structures have been accounted for. However, the appeal proposal is for a hyperscale data centre and there are clear efficiencies associated with providing this on a single site, including in relation to energy use and power/fibre supplies. I further note that none of the potential alternative sites alluded to in evidence by the Council's data centre witness were less than 5 ha in size. In these circumstances, I consider a 5 ha size threshold to be appropriate. Separately, I do not consider it necessary for the Alternative Sites Assessment to have considered the possibility of multi-storey data centres. In this regard, the proposed buildings are already 20 metres in height and given the weight of the equipment and the requirements of the cooling systems, a multi-storey arrangement is likely to be impractical [69].
217. As a public cloud data centre, the appeal proposal would be distinct from the example highlighted at Cardiff, which is a disaster recovery data centre. Similarly, the Cheshunt data centre is a private (rather than public) cloud facility for storing secure information such as Government records, and the Didcot data centre is to serve the science and research cluster based in Oxford. Eggborough, Skelton Grange, Immingham, and Cambois are all AI data centres. Accordingly, none of these examples are comparable to the appeal proposal, which requires a location within an AZ [54,167]. Moreover, from the information before me, it is unclear which type of data centre was approved at Saunderton, or what will be proposed at Havering. The Havering proposal also appears to be at an early stage of preparation, and it is unclear whether a planning application has been submitted.
218. It is argued that the development could be located outside of an established AZ and become the nucleus for a new AZ [55]. However, AZs operate on the principles of resilience and redundancy, i.e. the ability of the system to continue operating smoothly even if some parts fail. This could not be achieved by a single cloud data centre as there would be no back up were it to experience an unexpected failure or outage. Moreover, were the proposed data centre to be located further afield, such as in Manchester, it would not be capable of achieving the required latency to serve the London Availability Region [56-58].
219. It is also argued that technological solutions may develop in the future that could allow public cloud data storage in other locations outside of an AZ [72].

However, that is largely speculative at this stage. I therefore consider that little weight should be attached to this possibility, which may or may not materialise.

220. For the above reasons, I consider that there is a clear and pressing need for new data centre capacity in both the London Availability Region, and the Hemel Hempstead AZ. In my view, significant weight should be attached to this need. In this regard, the development would provide around 3% of the forecasted growth in data centre capacity need across London between 2004 and 2029, and around a third of the need in the Hemel Hempstead AZ. Moreover, there are insufficient suitable alternative sites available to meet this need, and significant weight should also be attached to this consideration in my view.
221. Separately, it is asserted that the Appellant has never developed a data centre before [171]. However, that is not a reason to withhold planning permission, and in any case, the Appellant has stated that they do not intend to operate the data centre themselves. Whilst the eventual operator was not disclosed at the time of the Inquiry, that is unsurprising given that the development did not benefit from planning permission at that stage.
222. It is also asserted that the appeal proposal would be disproportionate as a 'child' to the smaller 'parent' data centre at the heart of the AZ. However, the parent-child relationship is sequential in nature, rather than being based on size.

#### Economic benefits and job creation

223. The development would represent a capital investment of around £1 billion. This includes a construction cost of around £785 million as well as the cost of servers, data storage equipment, networking devices, professional fees, landscaping, new roads and other services.
224. Once operational, the development would generate around 210 FTE jobs, many of which would be highly skilled IT and engineering roles. These would have an annual wage bill of around £9-11 million and an economic contribution of around £100 million in GVA per annum. The development would also support between 400 and 1,300 FTE jobs across the wider London, East and South East economies that would generate around £230-300 million per annum in GVA. Whilst these jobs would not necessarily be taken by Hertfordshire residents, there is no requirement that such opportunities be restricted to local people only. In this regard, even if newly arising jobs were taken by those residing in London or the wider South East, that would still represent a clear benefit of the development. Overall, I consider that significant weight should be attached to the size of the proposed investment, and both the economic and employment benefits that it would bring [136-138].
225. Were the appeal to be dismissed, then this investment and its associated benefits would not be secured. Furthermore, a failure to provide enough sites to meet the need for new data centres could result in investment being lost to other well-established markets such as Frankfurt, Amsterdam, Paris and Dublin. Over time, this could undermine London's pre-eminent position in the European data centre market [141-143].
226. Separately, the development would support around 2,500 FTE jobs during the construction period, and around 4,000 FTE jobs in total across the wider

economy. However, as these jobs would be temporary in nature, I consider that they should carry only limited weight in favour of the development [78].

#### Absence of a plan led solution

227. Paragraph 86 c) of the Framework states that planning policies should pay particular regard to facilitating development to meet the needs of a modern economy, including identifying suitable locations for data centres. In this regard, there are currently no allocations specifically identified for new data centres in Three Rivers District. Moreover, no data centre allocations were proposed in the most recent Regulation 18 version of the Local Plan, and submission of a Regulation 19 version is likely to be some way off. There is also no evidence before me of any joint working with other Districts within the Hemel Hempstead AZ to identify such sites. Accordingly, there is no current or emerging plan-led solution to meet the need for data centres in this location. This consideration carries significant weight in favour of the appeal proposal [75,82,145].

#### The proposed country park and biodiversity enhancements

228. The development would create a new publicly accessible country park on Parcel 2 of around 21 ha in size. Whilst the full details of this would be provided at reserved matters stage, the submitted parameter plans and other details indicate that it would comprise a meadow with footpath routes across it. In this regard, the development would allow for public access across the entirety of Parcel 2, which is not currently available. It would also contain ecological enhancements, and long term management arrangements could be secured by condition. This would accord with paragraph 151 of the Framework, which states that local planning authorities should seek to enhance the beneficial use of Green Belts, including seeking opportunities to access outdoor recreation [146].
229. At present, there are existing footpaths around the edge of Parcel 2, and the Hertfordshire Way runs across part of the site. It is therefore already partly accessible and is experienced as part of the wider agricultural landscape from the surrounding countryside. However, the proposed country park would significantly increase public accessibility and would create new footpaths within the site, as is shown on the parameter plans. It would connect to existing walking routes in the surrounding area and would be accessible from a number of directions. Whilst it is likely that such a facility would be used mainly by people undertaking longer countryside walks given the lack of car parking or built facilities, that does not significantly diminish its value in my view. In this regard, it would also provide a different role from the nearby Leavesden Country Park which does have such facilities. It is also evident that the paths around the site are well used, as I observed during my site visits. Any concerns about the creation of an 'urban' facility akin to Leavesden Park are capable of being addressed at the detailed design phase. In my view, the proposed country park would be a major benefit of the scheme to which significant weight should be attached [76,147].
230. It is asserted that the creation of a species rich grassland would be difficult to achieve given that these require relatively poor soils in order to establish [47]. However, the full details of the proposed habitats and management arrangements could be secured at reserved matters stage. In this regard, there are different approaches that could be taken to achieve the desired effect.

231. The development would also deliver ecological improvements to Parcel 2 that would result in an overall BNG of at least 135%. This would be achieved through converting the current arable field into a meadow, introducing buffer planting, wetlands, and other ecological enhancements. These measures would result in a significant BNG uplift, which I consider should carry moderate weight [80,147].

#### Harm to heritage assets

232. It is common ground between the main parties that the development would result in less than substantial harm to the setting of two nearby listed buildings. The Grade II\* Tithe Barn is a timber framed 15<sup>th</sup> century building located around 95 metres to the west of Parcel 1. Its heritage significance derives mainly from its architectural form and its historic interest as an example of a 15<sup>th</sup> century tithe barn, albeit with later alterations. The Grade II Listed Mansion House Farmhouse is a 17<sup>th</sup> century former red brick farmhouse located around 115 metres to the south of Parcel 1. It has an unusual form with staggered roof heights and is set back from Bedmond Road. Its heritage significance derives primarily from its architectural and artistic interest, and its historic interest as an example of a traditional farmhouse of this period.
233. Whilst Parcel 1 is not adjacent to either listed building, it is historically associated agricultural land which forms part of their wider historic setting. There is also some intervisibility between both listed buildings and Parcel 1, which provides an appreciation of their historic context and function. The development would have some detrimental effect on the physical surroundings in which the listed buildings are experienced, although this would be low given the separation distances and presence of intervening structures. The Council and the Appellant agree that the harm to the significance of these listed buildings would be at the lower end of the spectrum of 'less than substantial harm', and I concur with that assessment.
234. The development would also be in close proximity to the Ovaltine Dairy Farm Buildings, which are non-designated heritage assets located on the opposite side of Bedmond Road. These buildings comprise the thatched Ovaltine Dairy Cottages and the circular former milking parlour to the rear (known as Antoinette Court). These are characterful thatched buildings that were built as a model dairy in 1931. Their significance derives from the buildings' architectural and historic interest, including their association with the Ovaltine Factory in Kings Langley. Whilst there is limited intervisibility between the appeal site and Antoinette Court, the Ovaltine Dairy Cottages look out directly across Parcel 1, and the site forms part of the rural backdrop within which they are experienced. By removing this setting, and enclosing the buildings to the east, the proposed data centre would harm the significance of the Ovaltine Dairy Cottages and negatively affect the way they are perceived in public views.
235. The Council and the Appellant agree that the public benefits associated with the development would outweigh the harm to the settings of both the nearby listed buildings and the non-designated heritage asset. Those benefits are summarised elsewhere in this report and include the pressing need for additional data centre capacity, the economic and other benefits that would arise from the development, and the provision of a new country park. In my view, these benefits would clearly outweigh the harm to the significance of both the designated and non-designated heritage assets.

The future of the appeal site should the appeal be dismissed

236. The appeal site was previously identified as a housing allocation in a Regulation 18 version of the emerging Local Plan. However, it was subsequently removed in a later Regulation 18 version published in October 2023, as it had been withdrawn from consideration by the promoter. That latter version of the Plan also proposed a 'low growth' strategy that sought to meet less than half of the (then) standard method local housing need figure, in order to protect more of the Green Belt.
237. The Council has recently resolved to delay production of the Regulation 19 version of its Local Plan. In this regard, a report to its Local Plan Sub-Committee (ID.6) states that a revised Regulation 19 Plan will be brought to Full Council in February 2026. This delay is intended to allow time for more evidence to be produced, including in relation to the effect of meeting development needs on the Green Belt as a whole.
238. The emerging Local Plan is therefore at an early stage of preparation and the form it will eventually take, including any proposed site allocations, is currently unknown [149-154, 162,164,170]. Accordingly, little weight can be attached to it at this stage.
239. Separately, there is no evidence before me that the allocation of the appeal site for housing development would be necessary in order for the Council to meet its local housing need figure. Moreover, to the extent that the Council has sought to argue this point, it would seem to undermine its case in relation to landscape and visual impact as the development of the site for housing would also harm its rural character in views from around the site periphery [84-85].

Other benefits/harms

240. The development would result in the loss of arable land, which is described as being Grade 3 'good to moderate quality agricultural land' in the Planning Committee Report (CD.F2). However, this does not appear to be based on any soil analysis, and it is also unclear whether the land is considered to be Grade 3a or 3b. If the land were Grade 3a, then it would comprise 'best and most versatile' agricultural land. However, given this uncertainty, and the relatively modest amount of arable land that would be lost, only limited weight should be attached to any loss of best and most versatile agricultural land in this case.
241. It is asserted that the development could be designed to capture and harness air heated by the servers so that it could be used as part of a district heating network. However, few details of how this would work have been submitted, and there are currently no specific plans for a district heating system to be implemented in the area [81]. Accordingly, I consider that only limited weight should be attached to this purported benefit at this stage.

**Other matters**

242. The application details indicate that the data centre buildings would be cut into the slope of Parcel 1, which would reduce the perceived height of the buildings when viewed from Notley Court. This, together with the intervening distances and the provision of boundary planting, would ensure that there would be no unacceptable overbearing effect on the occupiers of those properties. I further



- note that the main windows to properties on Notley Court face inwards rather than towards the appeal site [165,171].
243. Potential noise and light pollution arising from the development is capable of being controlled through planning conditions and through details submitted at reserved matters stage. The Council's Environmental Health Officer also considered that these matters could be addressed by way of planning conditions (CD.B17) [49,164,165,171].
244. As set out above, the Council has resolved to delay the publication of its Regulation 19 Local Plan. Accordingly, only limited weight should be attached to the proposed housing allocation on adjacent land in the most recent Regulation 18 version of the Local Plan. In any case, it is unlikely that the proposed data centre buildings would significantly affect the development of this adjacent land given they would be cut into the slope and positioned away from the southern site boundary (as is shown in the parameter plans) [163].
245. There is no indication that the development would lead to pollutants entering the watercourses or aquifers, and this matter is capable of being controlled through planning conditions and details submitted at reserved matters stage. I further note that the Environment Agency did not object to the development on these grounds (CD.B5c) [49,171].
246. Whilst the proposed country park would attract more walkers to Parcel 2 and its surroundings, new footpaths could be routed so as to avoid any detrimental effect on East Lane Cemetery in terms of noise and disturbance. There is also no indication that the country park would lead to an increased risk of vandalism, and the cemetery would remain in a relatively secluded location.
247. The Appellant states that an agreement is in place in order to provide power to the development should the appeal be allowed. This matter was not disputed in the Council's written submissions, and the Appellant's data centre witness was not questioned on this point. Accordingly, I see no reason to doubt the availability of an adequate power supply. Moreover, the development would have access to dedicated fibre optic links which would be sufficient to serve it [52].
248. The application was supported by a Transport Statement (CD.A31), which indicates that the additional traffic associated with the development would be relatively limited. This would not result in "severe" residual cumulative impacts on the road network, which is the threshold set by the Framework for refusing planning permission on highway grounds. Moreover, the site is capable of accommodating a safe and suitable access onto Bedmond Road, the details of which could be secured at reserved matters stage [171]. I further note that neither the Highway Authority (CD.B6b) nor National Highways (CD.B8f) object to the development on safety or network capacity grounds.
249. Layout is a reserved matter and so the precise level of car parking and where this would be located within the site is unknown at this stage. However, I am satisfied that there is sufficient space within the site to accommodate an appropriate level of car parking [171].
250. There is no indication that the development would lead to water supply issues in the local area. In this regard, I note that neither Thames Water (CD.B3) nor Affinity Water (CD.B11b) object to the development on these grounds [171].

251. Any disturbance or disruption during the construction period would be short-term and could be mitigated by careful construction management. This is capable of being controlled by planning condition [171].
252. It is a long-established principle that the planning system does not exist to protect private interests such as the value of land and property [171].

### ***Planning obligation***

253. A signed and dated Unilateral Undertaking has been submitted that would secure payments towards sustainable transport improvements, and local training and skills. It contains further provisions relating to the submission, approval and review of a Travel Plan and the payment of a contribution to evaluate and support the Travel Plan. It also includes both a local training and skills fund and scheme that would maximise employment and training opportunities for the local community.
254. With regard to the Sustainable Transport Contribution, this is necessary to improve local walking and cycling routes within the locality to ensure that the site is accessible by these modes. It relates to improvements in the local area and is fairly and reasonably related in scale and kind to the development.
255. The Travel Plan provisions are necessary to ensure that a Travel Plan is secured and implemented so that the development is accessible by means other than the private car. The Travel Plan monitoring contribution is necessary to ensure that the Travel Plan is monitored and delivered. It is set in accordance with a standard formula used by the Council and is directly related and fairly and reasonably related in scale and kind to the development.
256. The proposed monitoring contribution is also fairly and reasonably related in scale and kind and does not exceed the Council's estimate of its monitoring costs over the lifetime of the obligation.
257. With regard to both the Local Training and Skills Fund, and the Local Training and Skills Scheme, it is common ground between the main parties that these should be given no weight in the planning balance. This is due to uncertainty as to how the proposed fund of £12 million has been calculated, what it would be spent on, and whether it would therefore be reasonably related in scale and kind to the development. It is also unclear whether a contribution of this magnitude is necessary to make the development acceptable in planning terms. I agree that these uncertainties mean that both the Local Training and Skills Fund and the Local Training and Skills Scheme would not meet the tests set out at Regulation 122 of the CIL Regulations. Accordingly, no weight should be attached to these provisions.
258. Were the Secretary of State minded to allow the appeal, and also to find that no weight should be given to the Local Training and Skills Fund and the Local Training and Skills Scheme, then these provisions would still apply. This is because the Unilateral Undertaking specifically excludes them from the 'blue pencil clause' provisions set out at clause 2.5.

### ***Conditions***

259. A schedule of conditions was agreed before the Inquiry, and I have edited some of these for clarity and enforceability. In addition to the standard outline



conditions, I have recommended imposing conditions that require the development to accord with the principles set out in the parameter plans. Whilst scale, layout, and appearance are reserved matters, these conditions are necessary to ensure an acceptable visual and landscape impact and to ensure a high quality development.

260. I have recommended imposing conditions requiring the submission and approval of a surface water drainage scheme, and a scheme to manage surface water during the construction phase. These are necessary to ensure that the development is appropriately drained and does not increase flood risk elsewhere. A condition requiring the submission and approval of a Construction Management Plan, including a Site Waste Management Plan, is also necessary in the interests of highway safety and residential amenity. Further conditions relating to land and water contamination are necessary to protect water quality and to ensure that the site is appropriately remediated. A condition requiring the submission and approval of a Written Scheme of Investigation is also necessary to ensure that any archaeological remains are analysed and recorded. Other conditions relating to BNG, and requiring the submission and approval of an updated noise assessment, are necessary to deliver the proposed BNG uplift and to ensure that appropriate mitigation is secured in relation to noise and disturbance. These conditions are pre-commencement in nature as they will either inform the entire construction process, relate to works below ground level, or are benchmarked against the existing ecological baseline.
261. I have recommended that conditions be imposed requiring that the design be guided by an Environmental Colour Assessment and be subject to a design review by an independent Design Panel. These are necessary to ensure an acceptable design that mitigates the visual impact of the development and its effect on the surrounding landscape. It is also necessary that these be submitted and approved before the submission of reserved matters so that they can guide the final design of the scheme. As required by Section 100ZA(5) of the Town and Country Planning Act 1990, the Appellant has agreed to all of the attached pre-commencement conditions in writing.
262. It is recommended that 2 conditions be imposed requiring the submission and approval of an implementation timetable and management and monitoring arrangements for the proposed country park. These are necessary in order to ensure that the country park is delivered within an appropriate timescale and is thereafter managed and maintained. Other pre-occupation conditions would secure management and maintenance arrangements for the surface water drainage scheme, a regime of backup generator testing, and emissions standards for the proposed generators. These are necessary to ensure that the drainage scheme is appropriately maintained, to ensure that residential amenity is not harmed by way of noise and emissions, and in the interests of air quality.
263. Other conditions relating to bore holes and unanticipated contamination are necessary to ensure that redundant boreholes are secured and do not cause groundwater pollution, and that any unanticipated contamination is remediated. A further condition requiring the implementation of the ecological mitigation and compensation measures outlined in the submitted Ecological Impact Assessment is necessary in the interests of biodiversity. Finally, a condition restricting the use of the building to a data centre is necessary as I have recommended that significant weight be attached to the need for such a facility.

264. Separately, a suggested condition that would require the submission and approval of highways details is unnecessary as this relates to matters that are reserved. Another suggested condition requiring the submission and approval of a substance storage strategy/report is unnecessary as this element of the scheme was removed at application stage. A suggested condition requiring the submission, approval, and implementation of a Travel Plan is also unnecessary, as this is addressed in the Unilateral Undertaking. Moreover, a condition relating to access and management details for the proposed footpaths/cycleways is unnecessary as it would duplicate the requirements of another condition relating to the proposed country park. A further suggested condition relating to a skills/education scheme [159] appears to relate to the proposed planning obligation, and it is not clear that this would meet the test of necessity.
265. A condition was also suggested that would have required the upgrading of Public Right of Way 29 to a bridleway. However, no local definition of the word 'bridleway' was provided during the Inquiry and so it is unclear precisely what this would entail. Moreover, the existing footpath is narrow, relatively steep in places, and much of it runs between 2 mature hedgerows. It is unlikely that the widening or resurfacing of this path could be undertaken without cutting into these hedgerows or their root systems. Any resultant loss or damage to these hedgerows could have a significant detrimental effect on the character and appearance of the area. From the information before me, it is also unclear whether land on either side of this route is available in order to facilitate any widening or replacement planting. In these circumstances, I consider that it would be unreasonable to impose such a condition.

### ***Planning balance***

266. As set out above, the development would result in both landscape and visual harm in the surrounding area. Whilst this would reduce by year 15, some harm would remain in perpetuity. The development would be contrary to Policy CP12 of the Core Strategy in this regard. In addition, the development would result in less than substantial harm to the significance of both the Grade II\* Tithe Barn and Grade II Listed Mansion House Farmhouse by virtue of harm to their settings. It would also result in harm to the setting of Ovaltine cottages, which are non-designated heritage assets. Furthermore, the development would result in the loss of arable farmland, which may constitute 'best and most versatile' agricultural land.
267. Set against this, the development would provide 96 MW of data centre capacity that would help to meet the pressing need for such facilities in both the Hemel Hempstead AZ and the wider London Availability Region. There are currently no suitable alternative sites available in the Hemel Hempstead AZ, and there is no plan-led solution for meeting this need. In addition, the development would represent an investment of around £1 billion and would generate around 210 FTE jobs, many of which would be in highly skilled positions. It would also support between 400 and 1,300 FTE jobs across the wider economy and would have significant economic and other benefits. Moreover, the proposed country park would provide a new facility that would allow for public access across the entirety of Parcel 2, as well as providing a BNG of at least 135%.

268. Separately, the appeal proposal would not be inappropriate development in the Green Belt and there would be no conflict with either local or national Green Belt policy in this regard.
269. When taken together, I consider that the other considerations in this case would clearly outweigh the landscape and heritage harm that would arise, as well as the loss of any best and most versatile agricultural land. Whilst there would be some conflict with the development plan, the material considerations in this case indicate that planning permission should be granted.
270. In that context, there would be no conflict with Core Strategy Policy CP1 as the proposal would not be “*inappropriate development*” which criterion f) of that policy seeks to resist. Nor would there be any conflict with Policy DM7 of the Development Management Policies LDD, as it would not “*unacceptably*” harm the character of the landscape.

**Recommendation**

271. That planning permission be granted subject to the conditions listed in Appendix D.

*Thomas Hatfield*

INSPECTOR

## **Appendix A: Appearances**

### **FOR THE APPELLANT:**

Alexander Booth KC

instructed by Pegasus Group

He called:

Stephen Nicol BA MA Econs

Managing Director, Nicol Economics

Ashley Collins MTCP MRTPI

Partner, Montagu Evans

Paul Harris CMLI

Director, MHP Design

David Hutchison BSc (Hons)

Executive Director, Pegasus Group

Dip TP, MRTPI

### **FOR THE LOCAL PLANNING AUTHORITY:**

Annabel Graham Paul Counsel

instructed by Three Rivers District Council

She called:

Dr Christopher Ford BA (Hons)

Independent Planning and Development  
Consultant

MBA MDS PhD MRTPI

Carly Tinkler BA CMLI FRSA MIALE

Independent Landscape Consultant

Martin Carpenter BA (Hons) MRTPI

Director, Enplan

### **INTERESTED PARTIES**

Chris Berry BA (Hons) Dip TP MRTPI Planning Manager, CPRE Hertfordshire

Simon Andrews BSc (Hons)

Strategic Planning Manager, DLA Town Planning

MPhil TP MRTPI

Cllr Vicky Edwards

Ward Councillor

### **ADDITIONAL CONTRIBUTORS TO THE ROUND TABLE SESSION ON THE PLANNING OBLIGATION**

Matthew Barnes LLB (Hons)

Solicitor, Three Rivers District Council

Cathy Fishenden AssocRTPI

Planner, Enplan

## **Appendix B: Inquiry Documents**

- ID.1 List of appearances on behalf of the Local Planning Authority
- ID.2 Opening submissions of the Appellant
- ID.3 Opening statement on behalf of the Local Planning Authority
- ID.4 Statement to the Inquiry by Cllr Vicky Edwards
- ID.5 List of appearances on behalf of the Appellant
- ID.6 Local Plan Sub-Committee Report for meeting on 17 October 2024
- ID.7 Agreed walking route for Inspector's site visit
- ID.8 Note on planning application Ref 24/02039/MOA for a data centre in Hemel Hempstead
- ID.9 List of 3 further agreed conditions
- ID.10 CIL Compliance Statement
- ID.11 Updated list of draft conditions
- ID.12 Updated LVIA Viewpoint 4
- ID.13 Council's response to updated LVIA Viewpoint 4
- ID.14 Appellant's comments on the Council's response to updated LVIA Viewpoint 4
- ID.15 Note on the distance of the London Colney Site in relation to the Hemel Hempstead Availability Zone
- ID.16 Council's closing submissions
- ID.17 Appellant's closing submissions
- ID.18 Final signed version of the Unilateral Undertaking
- ID.19 Council's statement on the revised Framework
- ID.20 Appellant's statement on the revised Framework

## **Appendix C: Core Documents**

### *Planning Application Documents*

|        |                                                                                                                   |
|--------|-------------------------------------------------------------------------------------------------------------------|
| CD.A1  | Covering Letter, prepared by Pegasus Group, dated 23rd June 2023                                                  |
| CD.A2A | Application Form (including completed ownership certificate), dated 23rd June 2023                                |
| CD.A2B | Copy of Notices, dated 22nd June 2023                                                                             |
| CD.A3  | Site Location Plan, prepared by MHP, reference 20208.901 Rev B, dated 29th March 2023                             |
| CD.A4  | Land Use Parameter Plan, prepared by MHP, reference 20208.301 Rev E, dated 6th April 2023                         |
| CD.A5  | Development Zones Parameter Plan, prepared by MHP, reference 20208.302 Rev E, dated 6th April 2023                |
| CD.A6  | Building Heights Parameter Plan, prepared by MHP, reference 20208.303 Rev F, dated 6th April 2023                 |
| CD.A7  | Building Lines Parameter Plan, prepared by MHP, reference 20208.304 Rev E, dated 6th April 2023                   |
| CD.A8  | Indicative Green Infrastructure Parameter Plan, prepared by MHP, reference 20208.305 Rev F, dated 11th April 2023 |
| CD.A9  | Access and Movement Parameter Plan, prepared by MHP, reference 20208.306 Rev E, dated 6th April 2023              |
| CD.A10 | Illustrative Proposals Masterplan, prepared by MHP, reference 20208.211 Rev H, dated 3rd April 2023               |
| CD.A11 | Landscape Strategy, prepared by MHP, reference 20208.221 Rev E, dated 21st April 2023                             |
| CD.A12 | Topographical Survey (Sheet 1), prepared by Monument Geomatics, reference MG2236_S1, dated September 2021         |
| CD.A13 | Topographical Survey (Sheet 2), prepared by Monument Geomatics, reference MG2236_S2, dated September 2021         |
| CD.A14 | Planning Statement, prepared by Pegasus Group, dated 23rd June 2023                                               |
| CD.A15 | Design and Access Statement, prepared by Pegasus Group, dated June 2023                                           |
| CD.A16 | Statement of Community Involvement, prepared by Pegasus Group, dated June 2023                                    |



- CD.A17 Acoustics Assessment, prepared by M-EC Consulting Ltd, dated June 2023
- CD.A18 Air Quality Assessment, prepared by Air Quality Consultants Ltd, dated June 2023
- CD.A19 Alternative Sites Assessment, prepared by Pegasus Group, dated June 2023
- CD.A20 Arboricultural Impact Assessment, prepared by Barton Hyett Associates, dated June 2023
- CD.A21 Ecological Impact Assessment (incorporating BNG Statement and Metric, Bird Survey, and Protected Species Survey), prepared by Bioscan (UK) Ltd, dated June 2023
- CD.A22 Economic Benefits and Needs Assessment Report, prepared by Nicol Economics, dated June 2023
- CD.A23 Energy Statement, prepared by Ensphere Group Ltd, dated June 2023
- CD.A24 Flood Risk Assessment and Drainage Strategy, prepared by Delta-Simons Ltd, dated June 2023
- CD.A25 Framework Travel Plan, prepared by DTA Transportation, dated June 2023
- CD.A26 Fuel Storage Report, prepared by Future-tech SCI Ltd, dated May 2023
- CD.A27 Heritage Statement, prepared by Pegasus Group, dated June 2023
- CD.A28 Landscape and Visual Impact Assessment, prepared by MHP Design dated June 2023
- CD.A29 Lighting Assessment, prepared by M-EC Consulting Ltd, dated June 2023
- CD.A30 Technical and Market Assessment, prepared by FoundDigital DS, dated June 2023
- CD.A31 Transport Statement, prepared by DTA Transportation, dated June 2023
- CD.A32 Waste Management Plan, prepared by Pegasus Group, dated June 2023
- CD.A33 Minerals Safeguarding Assessment, prepared by MEWP Ltd, dated June 2023
- CD.A34 Amended Framework Travel Plan, prepared by DTA Transportation, dated 8th August 2023
- CD.A35 DTA Response to Active Travel England
- CD.A36 Transport Note – National Highways, prepared by DTA Transportation, dated 17th August 2023

- CD.A37 Transport Note – Hertfordshire County Council, prepared by DTA Transportation, dated 17th August 2023
- CD.A38 Addendum Planning Statement, prepared by Pegasus Group, dated 1st September 2023
- CD.A39 Backup Power Solutions for Hyper-Scale Data Centres Report, prepared by Future Tech, dated 18th July 2023
- CD.A40 Response to Affinity Water Objection to Development, prepared by Mabbett, dated 1st September 2023
- CD.A41 Preliminary Contamination Risk Assessment (Contamination), prepared by Mabbett, dated 28th August 2023
- CD.A42 Transport Note – National Highways, prepared by DTA Transportation, dated 21st September 2023
- CD.A43 Amended Landscape and Visual Impact Assessment and Appendices, prepared by MHP Design, reference V4, dated October 2023 (incorrectly dated on the front page but subsequently correctly dated in the footer)
- CD.A44 Hydrological Risk Assessment, prepared by JH Groundwater Ltd, dated 10th October 2023
- CD.A45 Hydrological Risk Assessment (Response to Affinity Water), prepared by Mabbett, dated 20th October 2023
- CD.A46 Transport Note – National Highways, prepared by DTA Transportation, dated 8th November 2023

*Application Consultation Responses (Consultees)*

- CD.B1A HCC Minerals & Waste, dated 30th June 2023
- CD.B1B HCC Minerals & Waste, dated 19th July 2023
- CD.B2A St Albans City and District Council, dated 5th July 2023
- CD.B2B St Albans City and District Council, dated 18th August 2023
- CD.B3 Thames Water, dated 10th July 2023
- CD.B4 British Pipeline Agency Ltd
- CD.B5A Environment Agency, dated 18th July 2023
- CD.B5B Environment Agency, dated 21st September 2023
- CD.B5C Environment Agency, dated 16th November 2023

|         |                                                                          |
|---------|--------------------------------------------------------------------------|
| CD.B6A  | Herts Highways, dated 29th June 2023                                     |
| CD.B6B  | Herts Highways, dated 17th August 2023                                   |
| CD.B7   | Leisure Development Manager, dated 18th July 2023                        |
| CD.B8A  | National Highways (Cover Note), July 2023                                |
| CD.B8B  | National Highways, dated 20th July 2023                                  |
| CD.B8C  | National Highways, dated 4th September 2023                              |
| CD.B8D  | National Highways (Cover Note), October 2023                             |
| CD.B8E  | National Highways, dated 18th October 2023                               |
| CD.B8F  | National Highways, dated 9th November 2023                               |
| CD.B9   | CPRE Hertfordshire, dated 19th July 2023                                 |
| CD.B10A | Active Travel England, dated 19th July 2023                              |
| CD.B10B | Active Travel England Appraiser Report, dated 11th July 2023             |
| CD.B10C | Active Travel England, dated 13th September 2023                         |
| CD.B11A | Affinity Water, dated 19th July 2023                                     |
| CD.B11B | Affinity Water, September 2023                                           |
| CD.B12  | Watford Environmental Health Team, dated 25th July 2023                  |
| CD.B13  | Historic Environment Team, dated 31st July 2023                          |
| CD.B14  | Abbots Langley Parish Council, August 2023                               |
| CD.B15  | Herts Growth and Infrastructure, dated 9th August 2023                   |
| CD.B16  | Herts Archaeology, dated 23rd August 2023                                |
| CD.B17  | Environmental Health Officer, August 2023                                |
| CD.B18  | Local Plan and Planning Policy Comments, dated 6th October 2023          |
| CD.B19A | Lead Local Flood Authority, dated 13th October 2023                      |
| CD.B19B | Lead Local Flood Authority (Technical Response), dated 12th October 2023 |
| CD.B20  | Herts Ecology, dated 8th November 2023                                   |
| CD.B21  | Trees & Landscapes Officer, November 2023                                |

*Planning Appeal Documents*

|         |                                                                                              |
|---------|----------------------------------------------------------------------------------------------|
| CD.C1   | Pre-Notification of Appeal                                                                   |
| CD.C2   | List of Plans and Docs Submitted as Part of the Original Submission                          |
| CD.C3   | List of Plans and Docs Submitted                                                             |
| CD.C4   | Appeal Form                                                                                  |
| CD.C5   | Start Letter                                                                                 |
| CD.C6   | LPA Appeal Questionnaire                                                                     |
| CD.C7   | CMC Agenda                                                                                   |
| CD.C8   | Pre-CMC Note                                                                                 |
| CD.C9   | CMC Summary Note                                                                             |
| CD.C10  | *NOT USED*                                                                                   |
| CD.C11  | Appellant's Statement of Case                                                                |
| CD.C12  | LPA Statement of Case                                                                        |
| CD.C13  | Third Party Appeal Representations (Compiled)                                                |
| CD.C14  | Planning Statement of Common Ground                                                          |
| CD.C15  | Landscape and Visual Statement of Common Ground                                              |
| CD.C16  | Need and Economic Benefits Statement of Common Ground                                        |
| CD.C17  | *NOT USED*                                                                                   |
| CD.C18A | Proof of Evidence for the Appellant on Landscape and Visual Matters – Paul Harris            |
| CD.C18B | Summary of Proof of Evidence for the Appellant on Landscape and Visual Matters – Paul Harris |
| CD.C19A | Proof of Evidence for the Appellant on Economic Benefits – Stephen Nicol                     |
| CD.C19B | Summary of Proof of Evidence for the Appellant on Economic Benefits – Stephen Nicol          |
| CD.C20A | Proof of Evidence for the Appellant on Date Centres – Ashley Collins                         |

- CD.C20B Summary of Proof of Evidence for the Appellant on Date Centres – Ashley Collins
- CD.C21A Proof of Evidence for the Appellant on Planning Matters – David Hutchison
- CD.C21B Summary of Proof of Evidence for the Appellant on Planning Matters – David Hutchison
- CD.C22A Proof of Evidence for the LPA on Landscape and Visual Matters – Carly Tinkler
- CD.C22B Summary of Proof of Evidence for the LPA on Landscape and Visual Matters – Carly Tinkler
- CD.C23 Proof of Evidence for the LPA on Need – Christopher D Ford
- CD.C24A Proof of Evidence for the LPA on Planning Matters – Martin Carpenter
- CD.C24B Appendix 1 to Proof of Evidence for the LPA on Planning Matters – Martin Carpenter
- CD.C25 Draft Conditions dated (including Inspector's comments)
- CD.C26 Draft Unilateral Undertaking

*National Planning Policy, Guidance and Legislation*

- CD.D1 National Planning Policy Framework (December 2023)
- CD.D2 National Planning Practice Guide
- CD.D3 Proposed reforms to the National Planning Policy Framework and other changes to the planning system (Published 30th July 2024)
- CD.D4 National Planning Policy Framework: draft text for consultation July 2024
- CD.D5 Building the homes we need, Ministerial Statement made on 30 July 2024, Statement UIN HCWS48
- CD.D6 Department of International Trade, letter to Buckinghamshire Council 9th January 2023
- CD.D7 King's Speech on 17 July 2024

*Local Planning Policy, Evidence Base, Guidance and other related Documents*

- CD.E1 Three Rivers Core Strategy adopted Oct 2011
- CD.E2 Three Rivers Development Management Policies adopted July 2013

- CD.E3A TRDC & WBC Green Belt Review Strategic Analysis (Stage 1) Aug 2017
- CD.E3B TRDC & WBC Green Belt Review Strategic Analysis (Stage 1) Appendix B4  
Parcels N1-N16
- CD.E4A Stage-2-Green Belt Assessment for TRDC and WBC 2019
- CD.E4B Stage-2-Green Belt Assessment for TRDC and WBC 2019 – Appendices
- CD.E5 Strategic Housing and Employment Land Availability Assessment  
Addendum October 2023
- CD.E6 Emerging Local Plan Regulation 18 Part 1 Preferred Policy Options  
Consultation June 2021
- CD.E7 Emerging Local Plan Regulation 18 Part 2 Sites for Potential Allocation  
June 2021
- CD.E8 Emerging Local Plan Regulation 18 Part 2 Map of Sites for Potential  
Allocation June 2021 Appendix-6b
- CD.E9 Emerging Local Plan Regulation 18 Part 3 Additional Sites Consultation  
January 2023
- CD.E10 Emerging Local Plan Regulation 18 Part 4 Consultation Document October  
2023
- CD.E11 Emerging Local Plan Regulation 18 Part 4 Consultation Document  
Appendix 4 - North East Area map October 2023

#### *Decision Notice and Committee Report*

- CD.F1 Decision Notice
- CD.F2 Officer Report to Committee

#### *Appeal and Case Law Decisions*

- CD.G1 Woodlands Park, Iver appeal decision APP/N0410/W/22/3307420
- CD.G2 \*NOT USED\*
- CD.G3 Palmer - [2016] EWCA Civ 1061
- CD.G4 Bramshill v SoS, Hart District Council, HE and NT
- CD.G5 Turner v SSCLG 2016 EWCA Civ 466
- CD.G6 Wealden judgement [2017] EWCA Civ 39

- CD.G7 Telford & Wrekin Council v SSCLG [2016] EWHC 3073
- CD.G8 Great Boughton Appeal Decision APP/A0665/W/18/3203413
- CD.G9 Woodlands Park, Iver (appeal APP/N0410/W/22/3307420, application PL/21/4429/OA) Parameter Plans and Design and Access Statement

### *Landscape*

- CD.H1 Three Rivers District Council Landscape Sensitivity Assessment Addendum, July 2020
- CD.H2 Landscape Institute Technical Guidance Note 02/21 Assessing landscape value outside national designations
- CD.H3 Guidelines for Landscape and Visual Impact Assessment (GLVIA3), LI/IEMA, 2013
- CD.H4 Dacorum Landscape Character Assessment – Area 10 St Stephen’s Plateau
- CD.H5 Dacorum Landscape Character Assessment – Area 9 Bedmond Plateau
- CD.H6 Natural England, National Character Area Profile, 111 Northern Thames Basin
- CD.H7 National Character Area (NCA) profiles 110 Chilterns and 111 Northern Thames Basin
- CD.H8 Hertfordshire LCA profiles for local LC Areas 009 and 010
- CD.H9 Leavesden Country Park Management Plan
- CD.H10 Natural England’s TIN 066 Arable reversion to species-rich grassland: site selection and choice of methods
- CD.H11 LI Technical Information Note (TIN) 04/2018 Environmental Colour Assessment
- CD.H12 LI TGN-2024-01 Notes and Clarifications on aspects of the 3rd Edition Guidelines on Landscape and Visual Impact Assessment (GLVIA3)
- CD.H13 LI GLVIA3 Statement of Clarification 1/13 10-06-13
- CD.H14 Living with Beauty: the report of the Building Better, Building Beautiful Commission, January 2020

### *Need and Economics*

- CD.I1 UK National Data Strategy, Consultation, DCMS



|           |                                                                                         |
|-----------|-----------------------------------------------------------------------------------------|
| CD.I2     | UK Digital Strategy                                                                     |
| CD.I3     | Data Economy Report, Digital Realty                                                     |
| CD.I4     | Industrial Strategy: Building a Britain fit for the future, HM Government               |
| CD.I5     | National Cyber Strategy                                                                 |
| CD.I6     | Economic and fiscal outlook, March 2024, OBR                                            |
| CD.I7     | European Data Centre 2020: a tipping point for the industry, Savills                    |
| CD.I8     | 2023 Data centre cost index extracts, Turner & Townsend                                 |
| CD.I9     | Data Centers – Jobs and Opportunities in Communities Nationwide, US Chamber of Commerce |
| CD.I10    | South West Herts Economic Study Update: a Final Report, September 2019                  |
| CD.I11    | Hertfordshire Local Industrial Strategy Draft for consultation, September 2019          |
| CD.I12    | Hertfordshire Enterprise and Innovation Strategy 2021-2025, July 2021                   |
| CD.I13    | Consultation on future Hertfordshire economic strategy, July 2024                       |
| CD.I14    | Labour's Industrial Strategy, September 2023                                            |
| CD.I15    | Data Centres Sector Proposition Department for International Trade                      |
| CD.I16    | Perfectly Placed for Business: The refreshed Strategic Economic Plan: 2017–2030         |
| CD.I17    | 2022 Northern Virginia Data Centre Report Menon Economics                               |
| CD.I18    | DBT inward investment results 2023 to 2024                                              |
| CD.I19-30 | *NOT USED*                                                                              |
| CD.I31    | Broxbourne Council Planning Application ref. 07/18/1181/0 – Planning Statement          |
| CD.I32    | North Lincolnshire Council Planning Application ref. PA/2024/584– Planning Statement    |
| CD.I33    | Data Centre Magazine, AWS building data centre in Didcot. 2021                          |
| CD.I34    | Buckinghamshire Council Planning application 22/06872/VCDN. Officer Report              |
| CD.I35    | Digital Reef. East Havering Data Centre Campus. Councillors' Briefing                   |

- CD.I36 NTT – Hemel Data Centres Fact Sheets for Hemel2, Hemel3 and Hemel4
- CD.I37 Microsoft - Eggborough datacentre project updates, 2024
- CD.I38 Harworth Group – Land sale at Skelton Grange, 2024
- CD.I39 QTS – Data Centre Campus, Cambois Northumberland, EIA Scoping Report. 2024
- CD.I40 Ofcom, cloud services market study. October 2023
- CD.I41 Financial Times. How Lidl accidentally took on the big guns of cloud computing. 2024
- CD.I42 Booth J. UK Data Centres – Carbon Neutral by 2030? UK ERC, 2020
- CD.I43 DESNZ, Digest of UK Energy Statistics, Chapter 5. July 2024
- CD.I44 DESNZ, New Great British Energy partnership to turbo energy independence. 25 July 2024
- CD.I45 AECOM. Hertfordshire Renewable and Low Carbon Energy Technical Study. 2010
- CD.I46 RPS. Project Saracen, Broxbourne Utilities Report, 2018
- CD.I47 TechUK UK data centre market overview, 2020
- CD.I48 Policy Lab, National Data Strategy - Review of commonly quoted statistics, June 2019
- CD.I49 Knight Frank - EMEA Everything About Data Centres 2023 Q2
- CD.I50 JLL EMEA Data Centre Report Q4 2023
- CD.I51 CBRE Global Data Center Trends 2024
- CD.I52 Knight Frank - EMEA Everything About Data Centres 2023 Q4
- CD.I53 Regions and Zones - Amazon Elastic Compute Cloud
- CD.I54 Azure network round-trip latency statistics - Microsoft Learn

*Miscellaneous Documents*

- CD.J1 DLA Objection Letter

## **Appendix D: Recommended Conditions**

- 1) Details of the access, appearance, landscaping, layout and scale (hereinafter called the 'reserved matters') shall be submitted to and approved in writing by the Local Planning Authority before any part of the development is commenced.
- 2) Any application for the approval of the reserved matters shall be made to the Local Planning Authority within three years of the date of this permission.
- 3) The development shall commence within two years from the date of approval of the last of the reserved matters.
- 4) The reserved matters application(s) shall be substantially in accordance with the following parameter plans:
  - Land Use Parameter Plan (20208.301 Rev E)
  - Development Zones Parameter Plan (20208.302 Rev E)
  - Building Heights Parameter Plan (20208.303 Rev F)
  - Building Lines Parameter Plan (20208.304 Rev E)
  - Indicative Green Infrastructure Parameter Plan (20208.305 Rev F)
  - Access and Movement Parameter Plan (20208.306 Rev E)

### Pre-commencement conditions

- 5) No development shall take place until a surface water drainage scheme that accords with the submitted Flood Risk Assessment and Drainage Strategy (Delta Simons, 21 June 2023), including a timetable for its implementation, has been submitted to and approved in writing by the Local Planning Authority. This scheme shall include:
  - i) Detailed infiltration testing in accordance with BRE Digest 365 (or equivalent) along the length and depth of the proposed infiltration feature(s). If infiltration is proven to be unfavourable, then the drainage design shall use 11.7l/s (Greenfield QBAR) out falling to the watercourse. The discharge location for surface water runoff shall connect to the wider watercourse network.
  - ii) Provision of surface water attenuation storage designed to accommodate the volume of water generated in all rainfall events up to and including the critical storm duration for the 3.33% Annual Exceedance Probability ('AEP') and 1% AEP rainfall events (both including allowances for climate change).
  - iii) Detailed designs, modelling calculations, and plans of the drainage conveyance network in the:
    - 3.33% AEP critical rainfall event plus climate change to show no flooding outside the drainage features on any part of the site; and
    - 1% AEP critical rainfall plus climate change event to show the depth, volume and storage location of any flooding outside the drainage features, ensuring that flooding does not occur in any part of a building or any utility plant susceptible to water (e.g.

pumping station or electricity substation) within the site. This shall demonstrate that no runoff during such an event will leave the site uncontrolled.

- iv) The design of any infiltration/detention basin shall incorporate an emergency spillway and any drainage structures shall include appropriate freeboard allowances. Plans shall be submitted that show the management of exceedance surface water flow routes that minimise the risk to people and property during rainfall events in excess of 1% AEP plus climate change allowance.
- v) Details to show how all surface water management features are to be designed in accordance with The SuDS Manual (CIRIA C753, 2015) including appropriate treatment stages for water quality prior to discharge.

The surface water drainage scheme shall be implemented as approved in accordance with the approved timetable.

- 6) No development shall take place until a Construction Management Plan ('CMP') has been submitted to and approved in writing by the Local Planning Authority. The CMP shall include:
  - i) Access arrangements to the site;
  - ii) Construction and storage compounds (including areas designated for car parking, loading/unloading, and turning areas);
  - iii) Siting and details of wheel washing facilities;
  - iv) Cleaning arrangements for the site entrances;
  - v) Delivery and construction working hours. Delivery times shall avoid school pick up/drop off times;
  - vi) Provision of sufficient on-site parking prior to commencement of construction activities;
  - vii) A Site Waste Management Plan that includes details of the management of construction waste; and
  - viii) Details of best practicable means to be employed to minimise dust caused by the construction process.

The approved CMP shall be adhered to throughout the construction period for the development.

- 7) No development shall take place until a Remediation Strategy, including a timetable for its implementation, to deal with the risks associated with contamination at the site has been submitted to and approved in writing by the Local Planning Authority. This shall include:
  - i) A Preliminary Risk Assessment that identifies:
    - all previous uses;
    - potential contaminants associated with those uses;
    - a conceptual model of the site indicating sources, pathways and receptors; and
    - potentially unacceptable risks arising from any contamination at the site.

- ii) A Site Investigation Scheme based on i) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off-site.
- iii) The results of the site investigation and risk assessment referred to in ii) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
- iv) A Verification Plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in iii) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

The site shall be remediated in accordance with the approved strategy and implementation timetable.

- 8) No development shall take place until the following details have been submitted to and approved in writing by the Local Planning Authority:
- i) An Intrusive Ground Investigation to identify the current condition of the site and appropriate techniques to avoid displacing any shallow water contamination to a greater depth.
  - ii) A Remediation Strategy, including a timetable for its implementation, detailing how any water contamination will be dealt with if this is found to be necessary following the results of the Intrusive Ground Investigation.
  - iii) A Piling Risk Assessment identifying both the aquifer and the abstraction point(s) as potential receptor(s) of contamination.
  - iv) A Foundations Method Statement detailing the depth and type of foundations to be undertaken including any necessary mitigation measures to prevent and/or minimise any potential migration of pollutants (including turbidity or existing contaminants) to the public water supply.

The development shall thereafter be implemented in accordance with the approved details.

- 9) No development shall take place until a scheme to manage surface water during the construction phase has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented prior to the commencement of any works that would lead to an increase in surface water run-off from the site during the construction phase.
- 10) No development shall take place until a Written Scheme of Investigation ('WSI') has been submitted to and approved in writing by the Local Planning Authority. This shall include an assessment of significance and research questions, and:
- i) The programme and methodology of site investigation and recording;
  - ii) The programme for post investigation assessment;
  - iii) Provision to be made for analysis of the site investigation and recording;

- iv) Provision to be made for publication and dissemination of the analysis and records of the site investigation;
- v) Provision to be made for archive deposition of the analysis and records of the site investigation; and
- vi) Nomination of a competent person or persons/organisation to undertake the works set out within the WSI.

Development shall take place in accordance with the approved WSI.

- 11) No development shall take place until a Biodiversity Net Gain ('BNG') Plan has been submitted to and approved in writing by the Local Planning Authority demonstrating that a BNG uplift of least 135% (using Biodiversity Metric 4.0) can be achieved on the site. This shall include:
- i) A proposed Habitat Plan and details of what will be created. This plan should clearly show what existing habitat is being retained and what new habitat will be created.
  - ii) A Biodiversity Metric that can be cross referenced with the submitted Habitat Plan;
  - iii) Clear, measurable, ecological objectives;
  - iv) Remedial measures if these objectives are not met;
  - v) An Implementation Plan that includes a timetable for implementation; and
  - vi) A BNG Management and Monitoring Plan.

The BNG Plan shall be implemented as approved in accordance with the approved Implementation Plan and maintained in accordance with the approved BNG Management and Monitoring Plan for at least 30 years.

- 12) No development shall take place until an updated Noise Assessment and Report has been submitted to and approved in writing by the Local Planning Authority. This shall demonstrate that the rating noise level from any fixed or mobile mechanical plant within the site shall not exceed 5 dB above the background sound level (representative of the period being assessed, or 45 dB(A) during the day/40 dB(A) at night, whichever is higher) at noise sensitive receptors that have first been submitted to and approved in writing by the Local Planning Authority. The Noise Assessment shall be carried out in accordance with the methodology in BS4142:2014+A1:2019. The development shall thereafter be implemented and operated in accordance with the approved Noise Assessment and Report.

Prior to the submission of any reserved matters application

- 13) Prior to the submission of any reserved matters application, the development shall be subject to a design review by an independent design review panel, the report of which shall be submitted to and approved in writing by the Local Planning Authority. The reserved matters application(s) shall thereafter be informed by the approved report of the independent design review panel.
- 14) Prior to the submission of any reserved matters application, an Environmental Colour Assessment ('ECA') shall be submitted to and approved in writing by the Local Planning Authority. The approved ECA and associated colour palettes shall determine the selection and application of

all external materials, perimeter/boundary treatments, 'street furniture', and hard and soft landscaping.

Prior to development above ground level conditions

- 15) No development shall take place above slab level until a timetable for the implementation of, and provision of public access to, the proposed country park has been submitted to and approved in writing by the Local Planning Authority. The country park shall thereafter be implemented, and public access provided, in accordance with the approved timetable.

Pre-occupation conditions

- 16) Prior to the first occupation of the development, details of the long term management and maintenance arrangements for the proposed country park (for a period of 30 years) shall be submitted to and approved in writing by the Local Planning Authority. The country park shall thereafter be managed and maintained in accordance with the approved details.
- 17) Prior to the first occupation of the development, a whole-life management and maintenance plan for the site surface water drainage scheme shall be submitted to and approved in writing by the Local Planning Authority. This shall include any arrangements for adoption by a public body or statutory undertaker. The plan shall thereafter be implemented as approved.
- 18) Backup generator testing shall be limited to 12 hours per year and should be undertaken in accordance with a routine testing regime that shall be submitted to and approved in writing by the Local Planning Authority prior to the first occupation of the development.
- 19) The specification of any generator installed shall be equal to or better than that described in Appendix 3 of the submitted Air Quality Assessment (Air Quality Consultants, June 2023) unless alternative details have first been submitted to and approved in writing by the Local Planning Authority. An abatement system for all generators shall be installed prior to the first occupation of the development and shall thereafter be maintained.

Other conditions

- 20) Prior to the creation of any borehole on the site, a scheme for managing boreholes installed for the investigation of soils, groundwater, or for geotechnical purposes shall be submitted to and approved in writing by the Local Planning Authority. This scheme shall provide details of how redundant boreholes are to be decommissioned and how any boreholes that are to be retained for monitoring purposes will be secured, protected and inspected. The scheme shall be implemented as approved.
- 21) Any contamination that is found during the course of construction of the development that was not previously identified shall be reported immediately to the Local Planning Authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the Local Planning Authority. Where unacceptable risks are found remediation and verification schemes shall be submitted to and approved in writing by the Local Planning Authority. These approved schemes shall be carried out before the relevant phase of development is resumed or continued.



- 22) The development shall be used as a data centre and for no other purpose including any other purpose in Class B8 of the Town and Country Planning (Use Classes) Order 1987 (as amended), or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification.
- 23) The development shall be carried out in accordance with the ecological mitigation and compensation measures described in sections 9.3.1–9.3.4 of the submitted Ecological Impact Assessment (Bioscan, June 2023).



# Ministry of Housing, Communities & Local Government

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## RIGHT TO CHALLENGE THE DECISION IN THE HIGH COURT

**These notes are provided for guidance only and apply only to challenges under the legislation specified. If you require further advice on making any High Court challenge, or making an application for Judicial Review, you should consult a solicitor or other advisor or contact the Crown Office at the Royal Courts of Justice, King's Bench Division, Strand, London, WC2 2LL (0207 947 6000).**

The attached decision is final unless it is successfully challenged in the Courts. The Secretary of State cannot amend or interpret the decision. It may be redetermined by the Secretary of State only if the decision is quashed by the Courts. However, if it is redetermined, it does not necessarily follow that the original decision will be reversed.

### SECTION 1: PLANNING APPEALS AND CALLED-IN PLANNING APPLICATIONS

The decision may be challenged by making an application for permission to the High Court under section 288 of the Town and Country Planning Act 1990 (the TCP Act).

#### Challenges under Section 288 of the TCP Act

With the permission of the High Court under section 288 of the TCP Act, decisions on called-in applications under section 77 of the TCP Act (planning), appeals under section 78 (planning) may be challenged. Any person aggrieved by the decision may question the validity of the decision on the grounds that it is not within the powers of the Act or that any of the relevant requirements have not been complied with in relation to the decision. An application for leave under this section must be made within six weeks from the day after the date of the decision.

### SECTION 2: ENFORCEMENT APPEALS

#### Challenges under Section 289 of the TCP Act

Decisions on recovered enforcement appeals under all grounds can be challenged under section 289 of the TCP Act. To challenge the enforcement decision, permission must first be obtained from the Court. If the Court does not consider that there is an arguable case, it may refuse permission. Application for leave to make a challenge must be received by the Administrative Court within 28 days of the decision, unless the Court extends this period.

### SECTION 3: AWARDS OF COSTS

A challenge to the decision on an application for an award of costs which is connected with a decision under section 77 or 78 of the TCP Act can be made under section 288 of the TCP Act if permission of the High Court is granted.

### SECTION 4: INSPECTION OF DOCUMENTS

Where an inquiry or hearing has been held any person who is entitled to be notified of the decision has a statutory right to view the documents, photographs and plans listed in the appendix to the Inspector's report of the inquiry or hearing within 6 weeks of the day after the date of the decision. If you are such a person and you wish to view the documents you should get in touch with the office at the address from which the decision was issued, as shown on the letterhead on the decision letter, quoting the reference number and stating the day and time you wish to visit. At least 3 days notice should be given, if possible.