



Residential Development of Up To 200 Dwellings Including Affordable Housing, Infrastructure, Public Open Space, Local Equipped Area for Play, Biodiversity Enhancement, Habitat Creation and Public Right of Way Improvements.

Land at Horsley Road, Kilburn, Belper

Supporting Planning Statement

August 2025

Wheeldon Brothers Ltd

18.044

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APPENDICES

Appendix 1 – Assessment of Amber Valley Borough Council's Five Year Housing Land Supply

Quality Control

Project No.	18.044			
Client	Wheeldon Brothers Ltd			
Title	Supporting Planning, Design and Access Statement			
Location	Land at Horsley Road, Kilburn, Belper.			
File Ref	18.044 Land at Horsley Road Kilburn – Planning Statement			
Issue	Date	Prepared By	Reviewed By	Authorised By
1.	14.08.2025	DCR	BW	BW

1 INTRODUCTION

- 1.1 This supporting Planning Statement has been prepared by Planning and Design Group (UK) Limited ('P&DG') on behalf of Wheeldon Brothers Limited ('the applicant') in support of an outline planning application for the residential development of up to 200 dwellings, including Affordable Housing (up to 70 dwellings), Infrastructure, Public Open Space, a Local Equipped Area for Play ('LEAP'), Biodiversity Enhancement, Habitat Creation, and Public Right of Way Improvements on land at Horsley Road, Kilburn, Belper ('the site').
- 1.2 This application is to be submitted to Amber Valley Borough Council ('the Council').
- 1.3 The application is made in direct response to the Government's drive to significantly boost the supply of new homes and to address the recognised shortfall in housing land supply (including) affordable housing needs in the Borough of Amber Valley, as evidenced within this statement. The site is within the Green Belt and is therefore brought forward on the basis of the recently updated National Planning Policy Framework ('the NPPF') (December 2024).
- 1.4 The applicant's primary position is that the application site constitutes Grey Belt land, and the proposals accord with all of the policy criteria set out in Paragraphs 155, 156, and 157 of the NPPF. However, it is also considered that, even when applying traditional Green Belt policy, 'very special circumstances' exist because the potential harm to Green Belt purposes would be limited and clearly outweighed by other considerations.
- 1.5 The purpose of this statement is to outline the context within which the application is made, describe the proposal, and provide a detailed assessment of the main planning considerations, together with a reasoned justification of the merits of the scheme when assessed against relevant national and local planning policy, policy guidance, and other material considerations.
- 1.6 The statement concludes that the proposal represents sustainable development that is in accordance with the Development Plan and all other material considerations. Consequently, there are no reasons why the proposed development should not be permitted.

2 THE SITE

- 2.1 The application site comprises an irregular-shaped parcel of land that totals approximately 9.88 hectares. The land is bordered by existing residential dwellings to the north (Woodhouse Road) and west (Horsley Road). For ease of reference, the land subject to this application has been highlighted in red below.



Figure 1 : Site Identification (Google Maps, 2025).

- 2.2 The site lies outside the built framework of Kilburn and is within an area of open countryside that falls within the Nottingham-Derby Green Belt.
- 2.3 We consider the site to be adjacent to a highly sustainable location for new residential development. The Council has identified Kilburn as a 'Key Village' as part of their emerging Local Plan. These 'Key Villages' are a focus for the Council when considering the spatial location for development outside of main urban areas.
- 2.4 From the site, local services and facilities — including public transport stops (Notts & Derby Buses Route 138, connecting Kilburn — and therefore the site — with Belper, Bargate, Holbrook Moor, Kilburn Toll Bar, Horsley, Horsley Woodhouse, Denby, Heanor, and Langley), the local primary school, village hall, Post Office, and convenience store — are all accessible within a 10–15-minute walk and are less than 1 km from the centre of the site.

- 2.5 The site has most recently been in agricultural use (ALC Grade 4 – Poor) and is free from built form or associated agricultural structures. It is considered that the site is a combination of six field parcels, each encircled by existing hedgerow, with a number of trees interspersed.
- 2.6 The site, whilst located immediately adjacent to the built framework of Kilburn, falls within the boundaries of Horsley Parish (majority: 5 field parcels) and Kilburn (minority: 1 field parcel — the easternmost field). Consequently, the public right of way that connects Kilburn and Horsley (south), in a north–south orientation, is detailed as Kilburn Footpath 44 between the residential dwellings of Woodhouse Road before being retitled as Horsley Footpath 6.



Figure 2: Public Rights of Way (Addland Software, 2025).

- 2.7 There are no listed buildings located within the site or within the immediate surrounding area that would be affected by the proposed redevelopment. The site is also not located within a Conservation Area.
- 2.8 The site is located within Flood Zone 1 and is therefore considered to be at low risk of fluvial flooding. The site is also at a very low risk of surface water flooding, as per Environment Agency Flood Risk data.
- 2.9 There are no known Tree Preservation Orders associated with the site.

3 PLANNING HISTORY

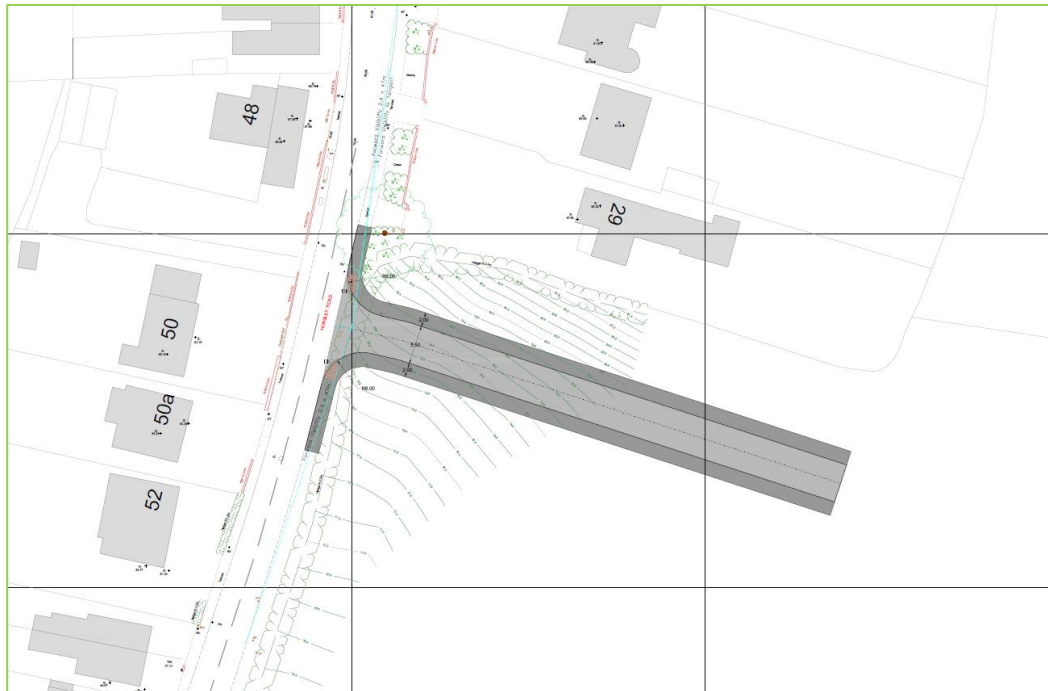
- 3.1 There is no relevant planning application history relating to the site.
- 3.2 The site was previously assessed as part of the Council's 2018 Strategic Housing Land Availability Assessment ('SHELAA'). The land was referenced as AVBC-2018-006 and included a total of 2no. dwellings which fronted Woodhouse Road (these two dwellings do not form part of the site).
- 3.3 The only reason that the site was not considered suitable for residential development was its location within the Green Belt. The site was otherwise recognised as being available and achievable. It should be noted that the SHLAA Assessment was undertaken prior to the updated NPPF (December 2024) and as such, the Council did not assess whether the site could constitute 'Grey Belt' land.

4 PROPOSED DEVELOPMENT

- 4.1 The following section should be read in conjunction with the submitted plans and other supporting technical documents that accompany this application.
- 4.2 This application seeks outline planning permission with all matters reserved except access arrangements, for up to 200 dwellings, including Affordable Housing, Infrastructure, Public Open Space, a Local Equipped Area for Play, Biodiversity Enhancement, Habitat Creation, and Public Right of Way improvements
- 4.3 It is proposed that up to 70 dwellings will be affordable (35% of the proposed total — see later sections for more information regarding this provision).
- 4.4 The total area of the site comprises 9.88 hectares. The total developable area is considered to be approximately 4.75 hectares. Consequently, we propose that the residential development will be delivered at a density of approximately 42 dwellings per hectare, along with 4.25 hectares of Public Open Space, Green Infrastructure, and Structural Landscaping. (See Figure 3 below — Illustrative Masterplan, P&DG 2025)



- 4.5 The proposed development will be accessed via a priority junction onto Horsley Road (west). This site benefits from a frontage on the eastern side of Horsley Road, where a new single point of vehicular access is proposed via a priority junction located a short distance to the south of number 29. The proposed layout can be seen at Drawing W154/101/P (see Figure 4 below — Access Layout, Armstrong Stokes & Clayton Limited 2025). As shown, the proposed access layout incorporates a 5.5 m carriageway width, 6 m corner radii, and 2 m wide footways arranged on either side. A footway provision within the development is also promoted on the Illustrative Masterplan, which provides pedestrian connectivity to the existing footway provision on Horsley Road, enabling access to existing bus stops on Horsley Road and the Kilburn local facilities to the north.



- 4.6 The proposed development would include a broad range of housing types, including 1- to 4-bedroom dwellings, to meet the identified local needs of the Borough. The final mix and layout of the proposed development will be subject to future reserved matters.

5 PLANNING POLICY CONSIDERATIONS

5.1 In line with Section 38(6) of the Planning and Compulsory Purchase Act 2004, planning applications should be determined in accordance with the Development Plan unless material considerations indicate otherwise.

5.2 The planning system is underpinned by a presumption in favour of sustainable development, as set out in the National Planning Policy Framework 2024 ('NPPF'). For decision-taking this means:

'Approving development proposals that accord with an up-to-date development plan without delay; or

Where there are no relevant development plan policies, or the policies which are most important for determining the applications are out-of-date, granting planning permission unless:

- i) The applications of the policies in the Framework that protect areas or assets of particular importance provides a strong reason for refusing the development proposal; or*
- ii) Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, assessed against the policies of the framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination. '*

5.3 This section identifies national and local policy and guidance relevant to the proposal.

National Planning Policy Framework ('NPPF') (December 2024)

5.4 The NPPF sets out the Government's planning policies for England and how these should be applied. The NPPF must be taken into account in preparing the Development Plan and is a material consideration in planning decisions. Planning policies and decisions must also reflect relevant international obligations and statutory requirements.

5.5 The purpose of the planning system is to contribute to the achievement of sustainable development, including the provision of homes, commercial development, and supporting

infrastructure in a sustainable manner.

- 5.6 Achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives):

an economic objective – to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure;

a social objective – to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering well-designed, beautiful and safe places, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being; and

an environmental objective – to protect and enhance our natural, built and historic environment; including making effective use of land, improving biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy.

- 5.7 These objectives should be delivered through the preparation and implementation of plans and the application of the policies in the Framework; they are not criteria against which every decision can or should be judged. Planning policies and decisions should play an active role in guiding development towards sustainable solutions, but in doing so should take local circumstances into account to reflect the character, needs, and opportunities of each area
- 5.8 A presumption in favour of sustainable development is at the heart of the NPPF (Paragraphs 10 and 11). As such, this presumption underpins all the policies within the NPPF. Paragraph 11(c) specifically requires Local Planning Authorities (LPAs) to approve "development proposals that accord with an up-to-date development plan without delay". Paragraph 11(d) then states that "where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date", then LPAs should grant permission unless (1) the development would be in conflict with NPPF policies protecting

designated assets, or (2) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits.

Development Plan – Amber Valley Local Plan (2006)

- 5.9 The Development Plan in this case comprises the Amber Valley Local Plan ('AVLP'), adopted in 2006. As the Local Plan was adopted in 2006, the weight to be given to the policies within this Plan must be considered in accordance with Paragraph 232 of the NPPF, where it states that existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of the NPPF. Due weight should be given to them according to their degree of consistency with this Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given).
- 5.10 We understand, from a review of the associated Officer report to planning application AVA/2025/0073 (a further site submitted to the Council by the applicant), that the Council openly state that "the most important development plan policies for determining the application are out-of-date" and therefore, "it is appropriate to consider the development against the three objectives of sustainability set out in para 8 of the NPPF for the purposes of paragraph 11.d) of the NPPF".
- 5.11 It is the applicant's position that the Development Plan is significantly out of date, and the provisions of the NPPF carry significant weight in the determination of this planning application.
- 5.12 Section 8 of this Statement considers the proposed development against national and local policies and other material considerations.

Emerging Development Plan – Amber Valley Borough Local Plan 2022 - 2040

- 5.13 The Council is in the process of preparing a new Local Plan, which sets out a vision and a framework for the future development of the borough up to 2040 and includes policies and proposals to address needs and opportunities in relation to housing, the economy, community facilities, and infrastructure, and to safeguard the environment.
- 5.14 This emerging Local Plan has gone through the Regulation 19 stage public consultation. The Council has reviewed and responded to the representations and formally submitted their

Local Plan for examination by the Secretary of State's Planning Inspectorate on 29th July 2024.

- 5.15 The Examination sessions commenced in December 2024 for a period of two weeks, with the appointed Inspectors conducting a virtual closing meeting with the Council on 20th December 2024.
- 5.16 We acknowledge that the Council may give weight to relevant policies in an emerging plan according to the stage of the plan's preparation (the more advanced its preparation, the greater the weight that may be given). At this time, whilst examination sessions have taken place, certain concerns regarding the soundness of the Council's submitted plan were raised. We highlight that, as submitted, the Inspectors consider the plan "as submitted is not sound and that additional work will be required to address our concerns". Accordingly, at present, we consider it appropriate to attribute limited weight to policies within the emerging Local Plan.

Neighbourhood Plan

- 5.17 There is no adopted Neighbourhood Plan for the Parish of Horsley or the Parish of Kilburn.

6 THE COUNCIL'S HOUSING LAND SUPPLY POSITION – JULY 2025

- 6.1 To support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed, and that land with permission is developed without unnecessary delay. The overall aim should be to meet an area's identified need, including an appropriate mix of housing types for the local community.
- 6.2 The December 2024 update to the NPPF introduced significant changes in housing policy, particularly focusing on the creation of a new standard housing method and a significant softening of the restrictive Green Belt policies. This update is part of the UK Government's ongoing effort to address housing supply challenges while ensuring sustainable development practices across England.
- 6.3 The new standard method aims to provide a more transparent, data-driven approach to calculating housing need at the national and local levels. It factors in demographic trends, household growth, and economic indicators to generate a more accurate and fair representation of housing demand across regions.
- 6.4 Paragraph 78 requires Local Planning Authorities to provide a minimum of five years' worth of housing against their housing requirement. The Council is currently unable to do so on the basis of allocated land and other 'deliverable' sites.
- 6.5 Footnote 8 of the NPPF advises that 'out-of-date', for the purposes of paragraph 11, includes 'for applications involving the provision of housing, situations where: the local planning authority cannot demonstrate a five-year supply of deliverable housing sites (with the appropriate buffer as set out in paragraph 78); or where the Housing Delivery Test indicates that the delivery of housing was substantially below (less than 75% of) the housing requirements over the previous three years.'
- 6.6 Prior to the December 2024 iteration of the NPPF, the Council could demonstrate approximately 8.71 years' supply as of 1st April 2024, as confirmed by the Council's Housing Land Supply Position Statement dated April 2024. This satisfied its requirement to provide a five-year supply of such land.

- 6.7 According to their supply position as of 1st April 2025, the Council maintains that it has an adequate housing supply over the next five years. The calculations total 7.44 years of housing supply for the period 1st April 2025 to 31st March 2030. This supply is calculated using an annual requirement of approximately 424 dwellings per annum, which has been agreed — for the purposes of plan-making (see paragraph 234(b) of the NPPF (2024)) — by the appointed Local Plan Inspectors.
- 6.8 However, with reference to paragraphs 231, 232, and 233 of the NPPF (2024), we consider that this housing supply position requires further exploration. We reason that such exploration is necessary because of the current status of the Council’s emerging Local Plan and the fact that the adopted Local Plan is almost 20 years old. The appointed Local Plan Inspectors made it clear on 31st January 2025 that “the plan as submitted is not sound and that additional work will be required to address our concerns”
- 6.9 Consequently, for the purposes of decision-making, according to paragraph 231, the policies of the December 2024 NPPF “*are material considerations which should be taken into account in dealing with applications from the day of its publication.*”
- 6.10 We have identified that the new standard method sets an annual requirement for the Council of approximately 615 dwellings per annum — a 95% increase when compared to the current annual requirement (315 dpa) set out in the adopted Local Plan, and a 45% increase compared to the agreed 424 dwellings per annum (paragraph 234(b)) of the emerging Local Plan. Consequently, with direct reference to paragraph 231 of the NPPF, the emerging Local Plan’s annual housing requirement should not be used to calculate the Council’s current housing supply. In advance of the Local Plan’s adoption, and for the purposes of decision-making, the Council’s annual housing requirement is 615 dwellings per annum — not the published 424.
- 6.11 The applicant has conducted a thorough review of the Council’s Housing Trajectory and carried out a revised calculation. This review is based on publicly available April 2025 data, revising the annual housing requirement from 424 dpa to the necessary 615 dpa. It is noted that the Council’s calculations included a ‘windfall allowance’ of approximately 170 dwellings (85 dwellings per year in years 4 and 5 of the supply trajectory). This figure, as detailed by the Council, is an estimate based on assumptions. Paragraph 75 of the NPPF states that where an

allowance is made for windfall sites as part of an anticipated supply, there should be compelling evidence that they will provide a reliable source of supply.

- 6.12 Due to the total being an estimate based on assumptions, the applicant has recalculated the Council's delivery, excluding the 170 dwellings. In addition, the applicant has scrutinised the Council's Housing Trajectory and considers that certain details forming the basis of their calculation are questionable, due to the status of planning applications, commencement of development, and the total completions of dwellings on certain sites. Appendix 1 sets out our understanding of the Council's Housing Trajectory and forms the basis of these recalculations.
- 6.13 We conclude that the Council, based on the new standard method (excluding any unmet need from neighbouring authorities), can demonstrate only 4.24 years of deliverable housing sites. See Appendix 1 (Table 2) for the applicant's calculations. In light of these revised calculations, it is considered that the strategic policies most important for determining the development (e.g., Local Plan Policies H3, H5, and EN1) are out-of-date. In accordance with paragraph 11(d) of the NPPF, a 'tilted balance' now applies — favouring a presumption in favour of sustainable development.

7 GREEN BELT – GREY BELT ASSESSMENT

- 7.1 The application site lies beyond the built framework of Kilburn and falls within an area that is, therefore, Open Countryside and designated as Green Belt.
- 7.2 NPPF paragraph 143 states the five purposes the Green Belt serves:
- “a) to check the unrestricted sprawl of large built-up areas;
 - b) to prevent neighbouring towns merging into one another;
 - c) to assist in safeguarding the countryside from encroachment;
 - d) to preserve the setting and special character of historic towns; and
 - e) to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.”
- 7.3 When considering any application, paragraph 153 states that “substantial weight is given to any harm to the Green Belt, including any harm to its openness. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in ‘Very Special Circumstances’.” However, Footnote 55 to the NPPF sets out that development is not considered inappropriate on previously developed land or grey belt. This land is excluded from the policy requirement to give substantial weight to any harm to the Green Belt, including its openness.
- 7.4 This is consistent with rulings from the courts on these matters: where development (of any kind, now including development on grey belt or previously developed land) is not considered inappropriate in the Green Belt, it follows that the test of impacts to openness or Green Belt purposes is addressed and that the proposal does not need to be justified by “very special circumstances”.
- 7.5 The site has been readily available and suitable for development for many years (see previous sections highlighting the site’s submission to the Council’s 2018 SHELAA and its conclusions), with the only matter preventing the site from coming forward being its designation within the Green Belt. It has been long-standing that the development of new homes in the Green Belt should be considered ‘inappropriate development’ unless very special circumstances are demonstrated. However, the NPPF (December 2024) introduced a fundamental change to

Green Belt policy that now offers support for the proposed residential development of the site.

7.6 Indeed, the updated NPPF (Paragraph 155) states that the development of homes in the Green Belt should not be regarded as inappropriate where the following apply:

- a) The development would utilise grey belt land and would not fundamentally undermine the purposes (taken together) of the remaining Green Belt across the area of the plan;
- b) There is a demonstrable unmet need for the type of development proposed;
- c) The development would be in a sustainable location with particular reference to paragraphs 110 and 115 of this Framework; and,
- d) Where applicable the development proposed meets the 'Golden Rules' requirements set out in paragraphs 156-157.

7.7 The starting point, therefore, is to assess whether this site meets the definition of 'Grey belt' set out in Annex 2: Glossary of the NPPF. The definition reads as follows:

Grey belt: For the purposes of plan-making and decision-making, 'grey belt' is defined as land in the Green Belt comprising previously developed land and/or any other land that, in either case, does not strongly contribute to any of purposes (a), (b), or (d) in paragraph 143. 'Grey belt' excludes land where the application of the policies relating to the areas or assets in footnote 7 (other than Green Belt) would provide a strong reason for refusing or restricting development.

7.8 To support this definition, the Government updated the Green Belt sections of the Planning Practice Guidance ('the PPG') in February 2025. Their guidance is "relevant to those authorities ... otherwise required to determine whether land constitutes grey belt in decision-making".

7.9 The PPG is clear that "where grey belt is identified, it does not automatically follow that it should be allocated for development, released from the Green Belt, or for development proposals to be approved in all circumstances. The contribution Green Belt land makes to Green Belt purposes is one consideration in making decisions about Green Belt land. Such decisions should also be informed by an overall application of the relevant policies in the NPPF."

7.10 The PPG continues that *“In order to assess the Green Belt authorities will need to 1) identify the location and appropriate scale of the area to be assessed; 2) evaluate the contribution each assessment area makes to Green Belt Purposes (a), (b) and (d), using the criteria below; 3) consider whether applying the policies relating to the areas or assets of particular importance in [footnote 7 to the NPPF](#) (other than Green Belt) would potentially provide a strong reason for refusing or restricting development of the assessment area; 4) identify grey belt land; and 5) identify if the release or development of the assessment area/s would fundamentally undermine the five Green Belt purposes (taken together) of the remaining Green Belt when considered across the area of the plan”*. (paragraph: 003 Reference ID: 64-003-20250225)

The Applicants Green Belt – Grey Belt Assessment

7.11 It is our professional judgement that to successfully conduct a Grey Belt Assessment, the land must be assessed at a micro level solely based on the contribution the site makes to the purposes of the Green Belt. Historically, the Green Belt within the Borough has been assessed at a macro level (AVBC Green Belt Review 2018). Therefore, this assessment — based on the guidance set out in the PPG — assesses the site individually for its contribution to Green Belt purposes.

When making judgements as to whether land is grey belt, we are required to consider the contribution the land makes to Green Belt purposes (a), (b), and (d). The applicant has undertaken an assessment of the land. To inform this assessment, we have referred explicitly to the NPPG and set out our conclusions below, based on that guidance.

Table 1: Purpose A – to check the unrestricted sprawl of large built-up areas.

Contribution	Illustrative Features (taken from the PPG)
Strong	<p>Assessment areas that contribute strongly are likely to be free of existing development and lack physical feature(s) in reasonable proximity that could restrict and contain development.</p> <p>They are also likely to include all of the following features:</p> <ul style="list-style-type: none"> - be adjacent or near to a large built-up area

	- if developed, result in an incongruous pattern of development (such as an extended “finger” of development into the Green Belt)
Moderate	<p>Assessment areas that contribute moderately are likely to be adjacent or near to a large built-up area, but include one or more features that weaken the land’s contribution to this purpose a, such as (but not limited to):</p> <ul style="list-style-type: none"> - having physical feature(s) in reasonable proximity that could restrict and contain development - be partially enclosed by existing development, such that new development would not result in an incongruous pattern of development - contain existing development - being subject to other urbanising influences.
Weak or None	<p>Assessment areas that make only a weak or no contribution are likely to include those that:</p> <ul style="list-style-type: none"> - are not adjacent to or near to a large built-up area - are adjacent to or near to a large built-up area but containing or being largely enclosed by significant existing development.

7.12 The site is immediately adjacent to the built framework of Kilburn. A ‘Key Village’ in the emerging Local Plan. The land is free from existing development and not in reasonable proximity to physical features that could restrict or contain development which are examples of ‘moderate’ contributions. However, Kilburn is identified by the Council as a ‘key village’. The PPG makes clear in the supportive text that “villages should not be considered as large built-up areas”. Consequently, the land is not adjacent to or near to a large built-up area.

7.13 This conclusion is supported by the recent Planning Appeal Case - [APP/M1520/W/24/3351658](#) – the Inspector reaffirmed the PPG by concluding that Daws Heath (a village the Inspector

concluded) should not be considered as a 'large built up'. In paragraph 22 following their judgement the Inspector confirmed that *"With regard to Green Belt purpose a) the Green Belt Planning Practice Guidance states that this purpose relates to the sprawl of large built up areas and crucially, in relation to this appeal, it confirms that villages should not be considered large built up areas. The appeal site cannot therefore strongly contribute to Green Belt Purpose a)"*.

- 7.14 The Council has identified Kilburn as a 'Key Village' (emerging Local Plan) and therefore, taking the conclusions of the above appeal and the commentary provided in the PPG, the site cannot strongly contribute to Green Belt Purpose (a).

Table 2: Purpose B – to prevent neighbouring towns merging into one another.

Contribution	Illustrative Features (taken from the PPG)
Strong	<p>Assessment areas that contribute strongly are likely to be free of existing development and include all of the following features:</p> <ul style="list-style-type: none"> - forming a substantial part of a gap between towns - the development of which would be likely to result in the loss of visual separation of towns
Moderate	<p>Assessment areas that contribute moderately are likely to be located in a gap between towns, but include one or more features that weaken their contribution to this purpose, such as (but not limited to):</p> <ul style="list-style-type: none"> - forming a small part of the gap between towns - being able to be developed without the loss of visual separation between towns. This could be (but is not limited to) due to the presence or the close proximity of structures, natural landscape elements or topography that preserve visual separation
Weak or None	<p>Assessment areas that contribute weakly are likely to include those that:</p> <ul style="list-style-type: none"> - do not form part of a gap between towns, or

	- form part of a gap between towns, but only a very small part of this gap, without contributing to visual separation
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7.15 The site forms part of a gap between two 'villages'. Horsley to the south and Kilburn. The land is free from built form currently but is clearly not forming a separation gap between two towns as required to make a 'strong' and or 'moderate' contribution. Conclusively, since the site lies between villages rather than towns, it cannot strongly contribute to Purpose (b). The purpose would only come into play were Kilburn to be considered a town. The Green Belt PPG clarifies that purpose b) relates to the merging of towns, not villages.

Table 3: Purpose D – to preserve the setting and special character of historic towns

Contribution	Illustrative Features (taken from the PPG)
Strong	<p>Assessment areas that contribute strongly are likely be free of existing development and to include all of the following features:</p> <ul style="list-style-type: none"> - form part of the setting of the historic town - make a considerable contribution to the special character of a historic town. This could be (but is not limited to) as a result of being within, adjacent to, or of significant visual importance to the historic aspects of the town
Moderate	<p>Assessment areas that perform moderately are likely to form part of the setting and/or contribute to the special character of a historic town but include one or more features that weaken their contribution to this purpose, such as (but not limited to):</p> <ul style="list-style-type: none"> - being separated to some extent from historic aspects of the town by existing development or topography - containing existing development - not having an important visual, physical, or experiential relationship to

	historic aspects of the town
Weak or None	<p>Assessment areas that make no or only a weak contribution are likely to include those that:</p> <ul style="list-style-type: none"> - do not form part of the setting of a historic town - have no visual, physical, or experiential connection to the historic aspects of the town

7.16 The 'Key Village' of Kilburn is not considered to be a historic settlement. Once more, the PPG is clear that to make a 'strong' contribution the land must be adjacent to a town or a large built up area. The identification of Kilburn as a 'village' by the Council means that the land cannot strongly contribute to purpose d).

Grey Belt Assessment Conclusion

7.17 According to the PPG, after consideration of the above criteria, any site that does not strongly contribute to purposes (a), (b), or (d) can be identified as grey belt land. We conclude that the land does not strongly contribute to any of these purposes, and, as such, it is our professional judgement that the land subject to this application satisfies the definition of grey belt land.

8 PLANNING ASSESSMENT

- 8.1 This section considers all the national and local planning policy set out in previous sections.
- 8.2 Section 38(6) of the Planning and Compulsory Purchase Act 2004 (as amended) states that planning applications must be determined in accordance with the development plan unless material considerations indicate otherwise. Whilst the site is not currently allocated for development and lies outside the built framework of Kilburn, this section demonstrates that there are compelling reasons why the Council should grant planning permission for the proposal.
- 8.3 We consider there to be certain key material considerations relating specifically to this development proposal. These are:
- Principle of Development and the Council's 5-year Housing Land Supply Position
 - Green Belt / Grey Belt Assessment
 - Countryside
 - Design and Appearance
 - Affordable Housing
 - Other Technical Matters

Principle of Development and the Council's 5-year Housing Land Supply Position

- 8.4 With regard to the Local Plan and its accompanying proposals map, we readily acknowledge that the site lies outside the built framework of Kilburn. Therefore, for the purposes of this application, we consider the land to be in the 'Countryside'. Furthermore, we acknowledge that the site forms part of the Nottingham-Derby Green Belt.
- 8.5 For the purposes of this application, we therefore consider that Policies H3, H5, EN1, and EN2 apply
- 8.6 Policy H3 (Other Housing Development Within Urban Areas and Larger Villages) states that, in addition to certain allocated sites detailed in Policies H1 and H2, opportunities will arise for housing on suitable sites elsewhere within the borough. The most sustainable locations will

be within the built framework of urban areas and larger villages, where there is the greatest concentration of employment, shopping, and community facilities, and where public transport provision is most extensive. Kilburn is identified as a settlement within which planning permission will be granted for housing development.

8.7 Policy H5 (Housing Development Outside Settlements) states that outside the built framework housing development needs to be strictly controlled. Planning permission will not be granted for housing development unless the proposals are in the form of one or more of the following:

1. Extensions to existing dwellings, provided this would result in a significant change to the scale or character of the dwelling and its surroundings
2. Replacement of existing dwellings, providing that the number of dwelling units is not increased
3. New development which can be shown to be necessary for the operation of a rural based activity and where a countryside location is essential.

8.8 The proposed development seeks planning permission for up to 200 dwellings (up to 70 of which would be affordable) on a site that lies outside the built framework of Kilburn. Consequently, we acknowledge that the proposal conflicts **with** policies H3, H5, EN1, and EN2 of the Local Plan.

8.9 However, for the reasons set out in section 6 the Council must take into account the policies in the NPPF when reaching their decision. The NPPF represents a significant material consideration. In particular, it is noted that the December 2024 update of the NPPF introduced a new standard method for calculating local housing need. Prior to the December changes to the NPPF, the Council could demonstrate a satisfactory supply of housing land. However, as a result of the aforementioned changes and a review conducted by the applicant, we conclude that the Council can now only demonstrate 4.24 years of housing land supply.

8.10 As the housing supply figure is now significantly below the minimum requirement of 5 years, it is necessary to have clear regard to paragraph 11 of the NPPF which states that:

Plans and decisions should apply a presumption in favour of sustainable development. For decision-taking this means:

- c) *approving development proposals that accord with an up-to-date development plan without delay; or*
- d) *where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:*
 - i. *the application of policies in this Framework that protect areas or assets of particular importance provides a strong reason for refusing the development proposed; or*
 - ii. *any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination.*

8.11 Footnote 8 of the NPPF advises that 'out-of-date' for the purposes of paragraph 11 includes *'for applications involving the provision of housing, situations where: the local planning authority cannot demonstrate a five year supply of deliverable housing sites (with the appropriate buffer as set out in paragraph 78): or where the Housing Delivery Test indicates that the delivery of housing was substantially below (less than 75% of) the housing requirements over the previous three years.'*

8.12 Consequently, the policies of the Development Plan which relate to the supply of housing (Policies H3, H5 and EN1) are therefore considered out-of-date and the 'tilted balance' towards approval as set out in paragraph 11d of the NPPF should be applied.

8.13 In the case of criterion d) i) of paragraph 11, it is noted that footnote 7 of the NPPF advises that designated sites, such as the Green Belt, are areas of particular importance. Harm to such assets could therefore provide a strong reason to refuse an application for housing even if a 5 year supply of housing land cannot be demonstrated. With regard to criterion d ii), it is necessary to weigh the benefits arising from the scheme, such as the delivery of housing, against the adverse impacts of the proposal. These aspects of the proposal will be addressed

later in this report. However, in the case of criterion d) ii), it is evident that the adverse impacts would have to significantly and demonstrably outweigh the benefits in order for an application to be refused.

- 8.14 With regard to Policies H3 and H5 it is considered that the overarching need to deliver sufficient homes, as set out in the NPPF, should take precedence over the Council's policy to focus development within the built framework of identified settlements. Given the Council's significant shortfall in housing land supply. In light of this shortfall and given the lack of deliverable sites within the built framework, it is considered necessary to provide additional housing, in the near-term, outside the settlement boundaries where this provision accords with the NPPF and relevant policies in the Plan. It is therefore, considered that the weight assigned to Policies H3, H5 and EN1 with regard to the distribution of housing development throughout the borough should be reduced reflecting the Council's lack of sufficient housing supply with respect to the 'tilted balance'.
- 8.15 Kilburn is identified by the Council as a 'Key Village' in their emerging Local Plan. 'Key Villages' are the Council's secondary focus for housing development and therefore, the applicant concludes the site is adjacent to a sustainable settlement for new residential development. The sites immediate adjacency to the current built framework and proposed design also limits the impacts of this countryside encroachment. Therefore, subject to other material considerations to be discussed later, particularly in terms of the Green Belt, the proposal is in a sustainable location and will contribute positively to the housing shortfall in the Borough whilst providing much needed affordable housing. The presumption in favour of sustainable development as set out in paragraph 11.d) applies.

Impact on the Green Belt

- 8.16 The updated NPPF (Paragraph 155) states that the development of homes in the Green Belt should not be regarded as inappropriate where the following apply:
- a) The development would utilise grey belt land and would not fundamentally undermine the purposes (taken together) of the remaining Green Belt across the area of the plan;
 - b) There is a demonstrable unmet need for the type of development proposed;
 - c) The development would be in a sustainable location with particular reference to

paragraphs 110 and 115 of this Framework; and

- d) Where applicable the development proposed meets the 'Golden Rules' requirements set out in paragraphs 156-157.

8.17 Within Section 7 of this Statement, we have concluded that the site does not strongly contribute to the purposes a), b), or d) and as such, we are of the professional judgement that the land subject to this application satisfies the definition of Grey Belt land. On that basis, the proposed residential development of up to 200 dwellings at the site should not be regarded as inappropriate development in the Green Belt, subject to its accordance with the criteria set out in Paragraph 155 of the NPPF. Accordingly, an assessment of the proposed development against each of the criteria set out in Paragraph 155 is as follows:

The development would utilise grey belt land and would not fundamentally undermine the purposes (taken together) of the remaining Green Belt across the area of the plan (NPPF Paragraph 155a)

8.18 Firstly, as detailed above the site is considered to satisfy the definition of 'grey belt' land as set out in Annex 2 of the NPPF. A Green Belt assessment should also consider the extent to which development on the land would fundamentally undermine the purposes (taken together) of the remaining Green Belt across the plan area as a whole. In reaching this judgement, we should consider whether, or the extent to which, the development of Green Belt land would affect the ability of all the Green Belt across the area of the plan from serving all five of the Green Belt purposes in a meaningful way.

8.19 With reference to paragraph 143 of the NPPF the remaining purposes of the Green belt are that of purpose c) - to assist in safeguarding the countryside from encroachment; and purpose e) - to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.

8.20 Immediately, we conclude that purpose e) is not applicable to this site as the development of this site would clearly not undermine urban regeneration elsewhere in the Borough. Next, we consider whether the site, by encroaching into the Countryside to the south of Kilburn would 'fundamentally' undermine the purposes of the remaining Green Belt across the area of the plan.

8.21 The Council's 2018 Green Belt review amalgamated the site into a Macro level area (Land Parcel 23) which was assessed as contributing to the purposes of the Green Belt. Parcel 23 is considered to incorporate all land between the village of Horsley to the south and Kilburn. This proposal will encroach into the Countryside. However, the relevant test is whether the redevelopment of the site would 'fundamentally' undermine the purposes of the Green Belt across the area of the plan.

8.22 This site totals some 9.88 hectares of land. The proposal seeks to develop some 48% of the site for the purposes of residential dwellings. Therefore, maintaining some 52% as Green Infrastructure, accessible Open Space and Infrastructure. The site will not completely erode the separation between Horsley and Kilburn and through the proposals sensitive design it is considered that the *"site's landscape character has the ability to absorb change through the introduction of the proposed development and it is judged that effects, as a result of the proposed development, will not give rise to any unacceptable landscape and visual harm"* (FPCR, 2025). Consequently, it is our position, whilst acknowledging that the development will encroach into the Countryside, that the encroachment is carefully designed and therefore, the redevelopment of the site would not firstly, fundamentally undermine the purpose of Parcel 23 as it will retain a clear separation between Horsley and Kilburn but secondly, and of more importance to the test set out in the NPPF, we do not consider the development to fundamentally undermine the purposes (taken together) of the remaining Green Belt across the area of the plan.

8.23 As such, we conclude that this proposal satisfies paragraph 155 a) of the NPPF.

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

8.24 According to Footnote 56 of the NPPF, in the case of applications involving the provision of housing, demonstrable unmet needs, means the lack of a five-year supply of deliverable housing sites, including the relevant buffer where applicable, or where the Housing Delivery Test was below 75% of the housing requirement over the previous three years.

8.25 Within Section 6 of this Statement, we have identified that the Council are unable to demonstrate a satisfactory five-year supply of deliverable housing sites. Consequently, we conclude that this proposal can demonstrate that there is a demonstrable unmet need for

this type of development and therefore, satisfies paragraph 155 b).

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

- 8.26 According to paragraph 110 of the NPPF *“the planning system should actively manage patterns of growth ... Significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering genuine choice of transport modes”*.
- 8.27 When considering development proposals, paragraph 115 states that: a) sustainable transport modes are prioritised; b) safe and suitable access to the site can be achieved by all users; c) the internal design reflects national guidance; and d) any significant impacts from the development on the transport network, or on highway safety, can be cost effectively mitigated to an acceptable degree through a vision-led approach.
- 8.28 We set out that the site is adjacent to a highly sustainable location for new residential development. It is identified as a ‘Key Village’ by the Council. These Key Villages are a secondary focus for the Council when considering development in and around them.
- 8.29 From the site, local services and facilities including public transport stops ([Notts & Derby Buses Route 138](#) connecting Kilburn and therefore, the site to Belper, Bargate, Holbrook Moor, Kilburn Toll Bar, Horsley, Horsley Woodhouse, Denby, Heanor, and Langley), the local primary school, the village hall, Post Office and convenience store are all accessible within a 10–15 minute walk and are less than 1km from centre of the site. The site, therefore, benefits from access to an established sustainable transport network for future residents to meet their day-to-day needs. This would offer genuine opportunities to reduce the need to travel by car and promote the use of alternative methods of travel in accordance with the aspirations of Paragraphs 110 and 115 of the NPPF.
- 8.30 Furthermore, the site will be accessed by an adoptable priority junction and provide both vehicular and pedestrian access across the site enabling residents to access the local services and facilities to the north and the open countryside to the south and east.
- 8.31 On the basis of the above, the proposed development would, in our professional judgement, be in a highly sustainable location with regard to paragraphs 110–115 of the NPPF.

Consequently, we conclude that this development is in a sustainable location and therefore, satisfies paragraph 155 c).

Where applicable the development proposed meets the 'Golden Rules' requirements set out in paragraphs 156-157 below – NPPF Paragraph 155d

8.32 Paragraph 156 of the NPPF states that where major development, such as this proposal, involving the provision of housing is proposed on sites in the Green Belt subject to a planning application, the following contributions (known as the 'Golden Rules') should be made:

- A higher total of affordable housing provision, which in this case shall reflect paragraph 157 of the NPPF;
- Necessary improvements to local infrastructure; and
- The provision of new, or improvement to existing, green spaces that are accessible to the public.

8.33 In respect of the above, the proposal would, in our professional judgment, satisfy all three limbs of paragraph 157:

- Affordable Housing – we will address Affordable Housing in more detail later in this report. However, to summarise, the proposal will deliver 35% of dwellings (up to 70 dwellings) as Affordable dwellings in accordance with the definition contained within Annex 2 of the NPPF.
- Improvements to Infrastructure – The proposal requires improved infrastructure to facilitate this development. These infrastructure works include the provision of an adoptable highway access arrangement but also includes improved pedestrian footpaths, connecting the site to the village of Kilburn to the north and the areas of Open space within the site and the Open Countryside to the south and east of the site.
- Green Infrastructure — the proposed development will include the provision of new areas of publicly accessible green space along with the creation of green infrastructure corridors and structural landscaping.

8.34 This proposal demonstrates compliance with the Government's 'Golden Rules' for

development within the Green Belt. The site will provide compliant Affordable Housing, improvements to infrastructure and delivers Green Infrastructure.

Overall Conclusion – Compliance of Proposed Development with NPPF Paragraph 155

8.35 On the basis of the above, it is concluded that the proposals accord with all four limbs of Paragraph 155 and as such, the proposed residential development should not be regarded as inappropriate development within the Green Belt. According to paragraph 158 of the NPPF, *“a development which complies with the Golden Rules, should be given significant weight in favour of the grant of permission”*. As such, the principle of the proposed development should be regarded as acceptable.

Green Belt – Very Special Circumstances

8.36 This section sets out the applicant’s alternative position that, even under the application of traditional Green Belt policy, planning permission for the proposed development of up to 200 dwellings (of which 35% will be Affordable Housing) should be granted.

8.37 The NPPF stipulates at Paragraph 153:

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

8.38 Accordingly, if it were concluded that the proposal does not meet the criteria for ‘grey belt’ as set out in the revised NPPF, the proposal should be considered under the traditional Green Belt framework. In doing so, we contend that very special circumstances (VSCs) exist which justify approval. The limited harm to the Green Belt would be clearly outweighed by other material considerations.

8.39 This section of the statement is structured as follows:

- Impact of the Proposed Development on the Green Belt

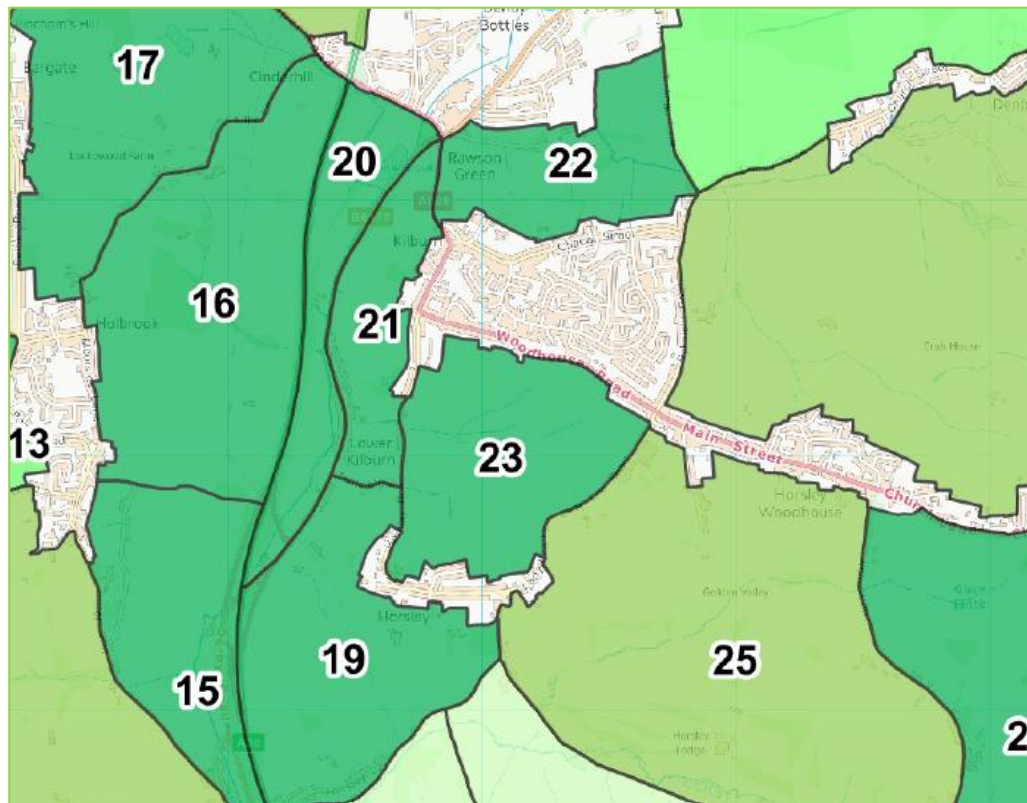
- Very Special Circumstances
 - Progress of the Local Plan;
 - Lack of a five-year housing supply;
 - Extent of affordable housing need;
 - Inevitable need for Green Belt release;
 - Social benefits from affordable housing provision; and
 - Broader social, environmental and economic benefits.

Impact of the Proposed Development on the Green Belt

8.40 Paragraph 143 of the NPPF sets out the five purposes of the Green Belt, which are as follows:

- a) To check the unrestricted sprawl of large-built up areas’;
- b) To prevent neighbouring towns merging into one another;
- c) To assist in safeguarding the countryside from encroachment;
- d) To preserve the setting and special character of historic towns; and
- e) To assist in urban regeneration, by encouraging the recycling of derelict and other urban land.

8.41 The 2018 Green Belt Review (by DLP Planning Ltd for AVBC) assessed the application site as part of Parcel 23, covering land between Kilburn and Horsley. The review, undertaken at a macro-level, concluded that Parcel 23 contributed ‘critically’ to Green Belt purposes. However, this application pertains only to a portion of that parcel.



Parcel Number	Purpose 1 - To check the unrestricted sprawl of large built up areas	Purpose 2 - Prevent Neighbouring Towns from merging into one another	Purpose 3 - To assist in safeguarding the countryside from encroachment	Purpose 3 - To assist in safeguarding the countryside from encroachment, Capacity for change	Purpose 4 - To Preserve the setting and special character of Historic Towns
23	Critical	Critical	Moderate	Little/ None	N/A

- 8.42 We submit that this macro-level designation should not automatically apply to this site. The most appropriate assessment is a micro-level review, in line with recent PPG updates, which was not the case with the 2018 assessment.
- 8.43 As previously detailed, the site does not strongly contribute to purposes (a), (b), or (d) due to Kilburn's status as a village (not a large built-up area). Regarding purpose (c), while some countryside encroachment will occur, the proposed development retains over 50% of the site as open space, maintains separation between Kilburn and Horsley, and integrates with the built framework of Kilburn. The development introduces a defined, defensible boundary to prevent future sprawl.

8.44 With regards to Purpose c), this site totals some 9.88 hectares of land. The proposal seeks to develop approximately 48% of the site for the purposes of residential dwellings. Therefore, maintaining some 52% as Green Infrastructure, accessible Open Space and infrastructure. The site will not completely erode the separation between Horsley and Kilburn and through the proposals sensitive landscape-led design it is considered that the *“site’s landscape character has the ability to absorb change through the introduction of the proposed development and it is judged that effects, as a result of the proposed development, will not give rise to any unacceptable landscape and visual harm” (FPCR, 2025)*. Consequently, it is our position, whilst acknowledging that the development will encroach into the Countryside, that the encroachment is carefully designed and therefore, the redevelopment of the site would not: 1) fundamentally undermine the purpose of Parcel 23 as it will retain a clear separation between Horsley and Kilburn, and 2) provides the Council with a new defined and defensible boundary edge to the built framework of Kilburn. This means that further development south and east would be considered as a significant encroachment into the Countryside and possibly at odds with the built framework unlike the proposed design and layout of this proposal that has a significant relationship with the existing built framework of Kilburn by virtue of it being adjacent to existing development on Horsley Road and Woodhouse Road.

8.45 Taking into account the total area of the Nottingham-Derby Green Belt and the scale and layout of this proposal, we conclude that the site makes only a limited contribution to Green Belt purposes. Any harm is modest and would be outweighed by the broader benefits of the proposal.

The Absence of Progress with The Local Plan

8.46 Paragraph 15 of the NPPF states that the planning system should be genuinely plan-led, with succinct and up-to-date plans that provide a positive vision for the future of each area. Such plans should offer a framework for meeting housing needs and addressing other economic, social, and environmental priorities, while also enabling local people to shape their surroundings.

8.47 The Amber Valley Borough Local Plan (AVBLP) was adopted on 12th April 2006 and set out strategic planning policies for the Borough up to 2011. The plan period has now lapsed by 14 years. A number of policies were ‘saved’ by the Secretary of State on 8th April 2009;

however, the core strategy of the Plan is substantially outdated.

8.48 Crucially, the AVBLP predates the introduction of the NPPF. The planning framework in 2006 did not include key requirements now embedded in national policy, such as significantly boosting the supply of housing, identifying an Objectively Assessed Housing Need (OAN), or applying a presumption in favour of sustainable development. Furthermore, the built framework and site allocations within the AVBLP are based on housing requirements derived from the Derby and Derbyshire Joint Structure Plan, which relied on household projections now more than 20 years out of date.

8.49 The Inspector in considering the appeal in relation to 99 dwellings on Land to the South of B600, Lower Somercotes, Alfreton ([APP/M1005/W/20/3248700](#)) concluded:

“The Local Plan patently does not meet the requirement for the Council to have an up-to-date local plan and is woefully out of date in terms of its purpose, its strategy, content, and it is not a strong foundation upon which to refuse planning permission.”

8.50 The Council is currently preparing the emerging Amber Valley Borough Local Plan 2022–2040, which was submitted to the Secretary of State on 29th July 2024 for independent examination. A series of public examination hearings took place in December 2024. In their post-hearing letter to the Council (dated 7th January 2025), the Inspectors concluded:

“The plan as submitted is not sound and that additional work will be required to address our concerns.”

8.51 The Inspectors required the Council to prepare a schedule setting out the timescales for undertaking the additional work necessary for the Plan to be found sound. The Council’s schedule indicated that this work would be completed by the end of May 2025.

8.52 At the end of July 2025 additional works requested by the Inspector’s was published and Main Modifications identified. The Borough council is now undertaking a six-week consultation on the Proposed Main Modifications to the Local Plan which will end on 5 September 2025. It is clear that there will be outstanding objections to the plan and proposed modifications and that these may necessitate further examination and consideration by the Inspectors. At this point in time there can be no certainty that the additional evidence and

modification will be sufficient to deliver a sound plan and the timescales for adoption of the plan are not known.

- 8.53 It is also notable that the Council previously made significant progress toward adopting a new Local Plan, which was ultimately withdrawn in May 2019 due to political concerns surrounding Green Belt release. Given the extent of Green Belt within the Borough, it is evident that the only realistic way to deliver the required level of housing is through the managed release of Green Belt land. This issue is explored in further detail later in this Statement.
- 8.54 The fact that the Council's Development Plan is substantially out-of-date, predates the NPPF, and that the authority has failed to adopt a new Local Plan, constitutes a very special circumstance that should be afforded significant weight in the determination of this planning application.

The Lack of Five-Year Housing Supply

- 8.55 The NPPF makes clear that, in support of the Government's objective to significantly boost the supply of homes, it is essential that a sufficient amount and variety of land comes forward where it is needed, that the needs of groups with specific housing requirements are addressed, and that land with permission is developed without unnecessary delay (Paragraph 61).
- 8.56 Paragraph 78 of the NPPF requires local authorities to identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing. Where strategic policies are more than five years old, this supply must be measured against the authority's local housing need, calculated using the standard method set out in national planning practice guidance.
- 8.57 As previously noted, the Council's latest Housing Land Supply Position Statement contends that a 7.44-year supply of housing land exists for the period 1st April 2025 to 31st March 2030. This is based on a five-year requirement of 2,226 dwellings, which includes an annual requirement of 424 dwellings and the application of a 5% buffer to ensure choice and competition in the market.
- 8.58 However, this figure is not accurate. The annual requirement of 424 dwellings has been

calculated using the previous standard method and does not reflect the Government's new standard method introduced in the December 2024 revision of the NPPF. While the 424-dwelling figure has been agreed as part of the examination of the emerging Local Plan, this agreement only applies for the purposes of plan-making, in accordance with Paragraph 234(b) of the NPPF.

- 8.59 Given the current status of the emerging Local Plan—as set out earlier in this Statement—and in line with Paragraphs 231 to 233 of the revised NPPF, the updated policies constitute material considerations that must be taken into account in decision-making from the date of the NPPF's publication.
- 8.60 Notably, the revised NPPF introduces a new standard method for calculating housing need, which sets the Council's annual requirement at 615 dwellings per annum. This represents a 95% increase over the current adopted Local Plan figure of 315 dwellings per annum, and a 45% increase over the 424 dwellings per annum proposed in the emerging Local Plan.
- 8.61 Accordingly, and with direct reference to Paragraph 231 of the NPPF, the emerging Local Plan figure should not be used in the calculation of the Council's current housing supply. In advance of the Local Plan's adoption, the appropriate figure for decision-making purposes is 615 dwellings per annum—not the previously used figure of 424 dwellings.
- 8.62 The applicant has undertaken an updated assessment of the Council's five-year housing land supply, using the revised annual requirement of 615 dwellings. This assessment, which is included in Appendix 1 of this Statement, concludes that the Council can demonstrate only 4.24 years of deliverable housing land.
- 8.63 The Council's inability to demonstrate a five-year housing land supply, particularly in the context of a substantial increase in local housing need as a result of the new standard method, constitutes a very special circumstance. This should be afforded substantial weight in the determination of this planning application.

The Extent of Affordable Housing Need

- 8.64 As discussed in more detail in the *Affordable Housing* section below, the Council faces a significant and growing need for affordable housing. This need must be addressed through the delivery of new residential development—particularly the provision of affordable homes.

The proposed development seeks to deliver up to 70 affordable dwellings, a contribution that must be given substantial weight in the determination of this application.

- 8.65 The *Amber Valley Local Housing Needs Assessment* (published in December 2023) sets out the Council's most recent position regarding affordable housing needs within the Borough.
- 8.66 Table 3.20 (Page 14) confirms that the Borough requires 542 affordable dwellings per annum, comprising 401 social/affordable rented dwellings and 141 affordable home ownership dwellings. The assessment therefore concludes that the Council should seek to maximise the delivery of affordable homes whenever opportunities arise (see Paragraph 3.43).
- 8.67 The assessment also confirms that the Borough's affordable housing need is increasing year-on-year. The 2022 Local Housing Needs Assessment previously identified a requirement of 480 affordable dwellings per annum. Given that it has been 18 months since the last update, the current figure is likely to have increased further.
- 8.68 Furthermore, data from the Future Housing Group in Amber Valley shows that 1,932 households are currently on the social housing waitlist. Only 502 new social housing lettings were available during the 2022–2023 period. Assuming no new households join the list, it would take over 3.85 years to meet current demand with existing delivery rates.
- 8.69 The proposed development would deliver up to 70 affordable homes, making a meaningful contribution to addressing the Borough's identified affordable housing need. This constitutes a very special circumstance and should be afforded significant weight in the planning balance.

The Inevitable Need for Green Belt Release

- 8.70 The Borough contains a substantial amount of Green Belt land. Notably, the most sustainable areas within the Borough are largely surrounded by Green Belt. Given this context, it is inevitable that in order to fully meet the Borough's identified housing needs—as calculated using the revised 2024 standard method—the Council will need to consider the release of Green Belt land for residential development.
- 8.71 Indeed, the previously withdrawn emerging Local Plan was paused by the Inspector to allow the Council to undertake a Borough-wide Green Belt review. This was intended to inform the identification and allocation of additional housing sites within the Local Plan. This step was

required to ensure that the Council could demonstrate a five-year housing land supply upon adoption. It was clearly the view of the Inspectors, even as early as 2018, that releasing Green Belt land was necessary to meet the Borough's housing needs over the plan period.

8.72 More than six years have now passed, and as noted above, the Council has yet to adopt a new Local Plan. While the latest emerging Local Plan is at an advanced stage, it does not propose any substantive Green Belt release. However, in a letter dated 7th January 2025, the Inspectors concluded: *"The plan as submitted is not sound and that additional work will be required to address our concerns."*

8.73 Notwithstanding this, the Inspectors also noted that under the provisions of Paragraphs 234 and 236 of the NPPF, the Council will be required to commence preparation of a new Plan immediately upon the adoption of the emerging Local Plan. This review will be necessary to ensure that the Plan addresses both the Borough's housing need and the wider unmet need within the Housing Market Area.

8.74 Importantly, the Borough's Green Belt boundaries have not been reviewed in over 20 years and pre-date the introduction of the NPPF. As such, they do not reflect the current planning framework, which requires authorities to significantly boost housing supply based on objectively assessed need. It is therefore inevitable that some Green Belt land will need to be released to meet the Borough's increasing housing needs.

In conclusion, the Green Belt has become a significant constraint to effective plan-making and the delivery of much-needed housing—including affordable provision—within the Borough. It is evident that Green Belt release will be necessary both now and, in the future, to meet identified housing needs and to accommodate a proportion of the unmet need from the wider Housing Market Area. This context represents a very special circumstance, which should be given substantial weight in the determination of this planning application.

The Social, Environmental And Economic Benefits Of The Development

8.75 There are a number of social, economic, and environmental benefits that would result from the proposed residential development of up to 200 dwellings. These collective benefits should be given significant weight in the determination of this planning application and are relevant to both the Grey Belt and Very Special Circumstances (VSC) positions.

8.76 The benefits are as follows:

- The delivery of 70 affordable dwellings, which will directly address the substantial affordable housing need within the Borough;
- A contribution towards remedying a demonstrable and substantial shortfall in the five-year housing land supply;
- The provision of a broad mix of housing types and tenures to meet the diverse needs of different age groups, household sizes, and housing requirements;
- Economic benefits, including employment during the construction phase and increased long-term household expenditure within the local economy;
- Environmental enhancements, such as biodiversity net gain, the provision of publicly accessible open space, and the enhancement and management of existing habitats, trees, and hedgerows;
- The site's genuinely sustainable location, being in close proximity to the built framework of Kilburn and within walking distance of a range of services, facilities, and established public transport networks;
- All dwellings will be constructed to modern energy efficiency standards in accordance with the latest building regulations.

Overall Conclusion on Very Special Circumstances

8.77 The applicant considers that, even when applying traditional Green Belt policy, the proposed development of up to 200 dwellings—of which up to 70 will be affordable—should be granted planning permission.

8.78 Indeed, in accordance with Paragraph 153 of the NPPF, there are *very special circumstances* that justify the approval of the proposed development. The potential harm to the Green Belt by reason of inappropriateness would be limited and, in any case, would be clearly outweighed by other material considerations.

8.79 The Council's failure to demonstrate a five-year housing land supply, the significant and increasing need for affordable housing, the age of the adopted Local Plan, the lack of progress

and failure to adopt a new emerging Local Plan, the extensive presence of Green Belt (and the resulting inevitable need for its release), as well as the substantial social, economic, and environmental benefits that would arise from the proposed development—all combine to establish very special circumstances. These factors, taken together, justify the grant of planning permission for the proposed development.

Countryside

- 8.80 Chapter 15 of the NPPF, Paragraph 187(b), states that planning decisions should contribute to and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside.
- 8.81 Policy EN1 (Countryside), which is considered to be out of date, states that outside the built framework of settlements, new development will only be permitted where it:
- a) is essential in conjunction with the requirements of agriculture or forestry;
 - b) is necessary within the countryside and cannot reasonably be located within an existing settlement; or
 - c) will improve the viability, accessibility, or community value of existing services and facilities in settlements.
- 8.82 We readily acknowledge that this development proposal conflicts with Policy EN1. We cannot demonstrate compliance with criteria (a) or (c). However, while not entirely compliant with criterion (b), we set out a reasoned argument that the proposed development broadly aligns with criterion (b) for the following specific and unique reasons.
- 8.83 This argument is based on the fact that the Council is unable to demonstrate a satisfactory supply of deliverable housing sites within the built frameworks of sustainable settlements across the Borough. This has been evidenced in previous sections of this Statement. Housing delivery, therefore, is substandard, and in the short term, the delivery of housing needs to include appropriate sites within the countryside, such as this site.
- 8.84 We argue that, in order to support the Council's housing delivery objectives, development proposals such as this are necessary within the countryside and cannot be reasonably located within existing settlements—aligning with the criteria for permitting development in the

countryside. It is evident from the Council's housing trajectory and current detailed supply that there is insufficient land within the built framework of sustainable settlements to accommodate development of up to 200 dwellings (of which 70 will be affordable). Consequently, the only viable alternative for delivering this scale of development is on sites adjacent to existing built frameworks and within the countryside.

- 8.85 To further support this argument, we have identified that the site satisfies the definition of 'Grey Belt' (as set out in Section 7 of this Statement) and have demonstrated an extensive array of 'Very Special Circumstances.' As such, the proposal is not considered to be inappropriate development in the Green Belt. We have also considered how the site and proposal ensure that the five purposes of the Green Belt are not fundamentally undermined and that the proposal aligns with the 'Golden Rules' for development in the Green Belt. Accordingly, we are of the view that significant weight in favour of granting planning permission should be applied, in accordance with Paragraph 158 of the NPPF.
- 8.86 Taking all matters into consideration, while we acknowledge that this development conflicts with Policy EN1, it is considered that the proposal recognises the intrinsic character of the countryside and enhances the natural environment. Furthermore, we have identified that development in the countryside is necessary in the Borough, as development of this scale and public benefit cannot be accommodated within the existing built frameworks of sustainable settlements. On balance, the limited policy conflict is clearly outweighed by the positive benefits of the development, and we contend that planning permission should be granted in this instance.

Design and Appearance

- 8.87 Policy H12 (Quality and Design of Housing Development) of the adopted Local Plan sets out multiple criteria that must be met for housing development to be approved. These include that the design should:
- be of a scale and character consistent with its surroundings;
 - have regard to distinctive landscape features, with appropriate provision of landscaping;
 - provide adequate amenity space for each dwelling;

- avoid unduly affecting the amenities or privacy of adjoining or adjacent properties; and
- ensure the site has satisfactory access to the transport network.

8.88 Policy H12 also requires new housing developments to achieve a minimum net density of 30 dwellings per hectare. In locations with good public transport accessibility, the Council will seek to secure development at higher densities.

8.89 To support this Statement, the applicant has submitted a separate Design and Access Statement, which outlines the design and access principles underpinning the proposed development. In addition, FPCR has been commissioned to undertake a Landscape and Visual Appraisal (LVA) and to develop a site-wide landscape strategy.

8.90 It is our position that the proposal accords with Policy H12 of the adopted Local Plan. The scheme reflects the scale and character of its surroundings and demonstrates a clear regard for the area's distinctive landscape features. Moreover, it will enhance the natural environment through the implementation of a comprehensive landscape strategy. The site can accommodate up to 200 dwellings while ensuring each unit is provided with adequate amenity space and that the privacy and amenity of neighbouring properties are not unduly affected. The design also includes a satisfactory and adoptable access arrangement. Furthermore, the FPCR LVA concludes that:

"The site's landscape character has the ability to absorb change through the introduction of the proposed development, and it is judged that effects, as a result of the proposed development, will not give rise to any unacceptable landscape and visual harm."

8.91 The proposal is therefore considered acceptable in terms of both relevant local and national design policies.

Affordable Housing

8.92 Policy H10 (Affordable Housing) states that the Borough Council will seek on sites of 1 hectare or more (or 25 dwellings or greater), a proportion of affordable housing within the range of 20–30%.

8.93 Paragraph 64 of the NPPF provides that where a need for affordable housing is identified,

planning policies should specify the type of affordable housing required and expect it to be delivered on-site, unless off-site provision or an appropriate financial contribution in lieu can be robustly justified, and the agreed approach contributes to the objective of creating mixed and balanced communities.

- 8.94 Given that the adopted Local Plan and Policy H10 date back to 2006 and are now considered significantly out of date for the purposes of decision-making, we have examined the evidence base supporting the emerging Local Plan and the Affordable Housing Policy it contains.
- 8.95 The Amber Valley Local Housing Needs Assessment (published in December 2023) outlines the Council's most up-to-date position on affordable housing need within the Borough.
- 8.96 Table 3.20 (page 14) confirms a need for 542 affordable dwellings per annum, comprising 401 social/affordable rented dwellings and 141 affordable home ownership dwellings. The report concludes that the Council should seek to maximise the delivery of affordable homes whenever opportunities arise (see Paragraph 3.43).
- 8.97 The assessment also highlights that the Borough's affordable housing need is growing year on year. The 2022 Local Housing Needs Assessment previously identified a need for 480 dwellings per annum. Given that the latest update is now 18 months old, the actual need is likely to have increased further.
- 8.98 Additionally, according to the Future Housing Group in Amber Valley, there are approximately 1,932 households on the waiting list for social housing, with only 502 new lettings made available between 2022 and 2023. This means that, without any new applicants joining the list, it would take over 3.85 years to rehouse every household currently waiting.
- 8.99 There is, therefore, a significant and growing affordable housing need within the Borough—this is a material consideration that should be given substantial weight in support of granting planning permission.
- 8.100 Policy H5 (Affordable Housing) in the emerging Local Plan provides that, based on the defined Housing Value Zone, proposals for housing development of 10 or more dwellings will be expected to deliver the following percentages of affordable housing:

- Higher Value Zone: 40%

- Medium Value zone: 30%
- Lower Value zone: 20%
- Small brownfield sites between 10 and 19 units in the Lower Value Zone: 10%.

8.101 According to the Council's 'Housing Value Zones' map, as embedded in the emerging Local Plan, zone boundaries align with parish boundaries. This site falls within the Parish of Horsley, adjacent to Kilburn, and is therefore categorised as being within a Lower Value Zone. This requires a minimum of 20% of dwellings to be affordable. Based on a development of 200 dwellings, this equates to 40 affordable units. However, to comply with the 'Golden Rules' in Paragraphs 155–157 of the NPPF (2024), a higher provision is required.

8.102 Paragraph 157 of the NPPF states:

"Before development plan policies for affordable housing are updated in line with paragraphs 67–68 of this Framework, the affordable housing contribution required to satisfy the Golden Rules is 15 percentage points above the highest existing affordable housing requirement which would otherwise apply to the development, subject to a cap of 50%. In the absence of a pre-existing requirement, a 50% contribution should apply by default. The use of site-specific viability assessment for land within or released from the Green Belt should follow national planning practice guidance on viability."

8.103 Given the site's location within the Lower Value Zone (20% baseline requirement), the 15% uplift required by the Golden Rules results in a 35% affordable housing provision. Accordingly, this proposal delivers up to 70 affordable dwellings.

8.104 We are therefore of the professional opinion that the proposal complies with both the Golden Rules of the NPPF and Policy H5 of the emerging Local Plan. As such, the delivery of this level of affordable housing should be afforded significant weight in favour of granting planning permission, in accordance with Paragraph 158 of the NPPF.

Technical Matters

Highways – Access Arrangements

8.105 Paragraph 110 of the NPPF states that the planning system should actively manage patterns

of growth, focusing significant development in locations which are, or can be made, sustainable. This involves limiting the need to travel and offering a genuine choice of transport modes. Such an approach helps to reduce congestion and emissions, while improving air quality and public health.

8.106 Paragraph 115 further provides that, when assessing planning applications, it should be ensured that:

- a) sustainable transport modes are prioritised;
- b) safe and suitable access to the site can be achieved for all users;
- c) the design reflects national guidance; and
- d) any significant impacts from the development on the transport network or on highway safety can be cost-effectively mitigated to an acceptable degree, through a vision-led approach.

8.107 Paragraph 118 requires that development which will generate significant amounts of movement should be accompanied by a travel plan and a transport assessment, enabling the likely impacts of the proposal to be assessed and monitored.

8.108 Additionally, paragraph 116 of the NPPF states that *“development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network, following mitigation, would be severe, taking into account all reasonable future scenarios.”*

8.109 Local Plan Policy TP1 (The Impact of Development on the Transport Network) requires that new development must demonstrate satisfactory access, and that any additional traffic generated by the development can be accommodated on the existing transport network. It also requires that proposals generating significant levels of vehicular traffic should be supported by a transport assessment, and, where appropriate, a travel plan.

8.110 In recognition of these requirements, the applicant commissioned Armstrong Stokes and Clayton Limited to advise on access, traffic, and sustainable travel matters. Their report evaluates the accessibility of the site to non-car modes of transport and assesses the proposal against sustainable transport policies set out in the NPPF and Local Plan. The report also

outlines proposed access arrangements, including a new priority junction connecting to the eastern side of Horsley Road. In addition, facilities for pedestrians and cyclists are proposed, linking the site to surrounding residential areas. Traffic impacts have been evaluated through an assessment of local highway conditions during weekday peak periods. The report draws the following conclusions:

- The site is within a reasonable active travel distance to local facilities in Kilburn, including education, employment, leisure, and retail opportunities.
- The site is located within a short walking distance of bus stops providing links to higher-order settlements, including Derby City.
- Suitable vehicular and pedestrian accesses into and across the site are proposed.
- The proposal will not have a detrimental impact on the local highway network.
- There are no significant road safety problems in the vicinity of the site.

8.111 Accordingly, the report concludes that the proposed development is acceptable in transport terms. On this basis, we conclude that the proposal complies with the requirements of Chapter 9 of the NPPF and Local Plan Policy TP1.

Highways – Parking Provision

8.112 Local Plan Policy TP6 (Car Parking) states that, when considering development proposals, the Council will have regard to the maximum parking standards set out in the accompanying appendices. However, the NPPF (Paragraph 113) clarifies that maximum parking standards for residential development should only be applied where there is a clear and compelling justification—either to manage the local road network or to optimise the density of development in city and town centres and other locations that are well served by public transport.

8.113 At this stage, the proposal seeks Outline planning permission for up to 200 dwellings. Technical matters such as the precise parking provision and layout will be addressed at the Reserved Matters stage. However, it is anticipated that the development will incorporate both car and cycle parking in accordance with the relevant adopted standards of the Local Planning Authority. Full details will be provided as part of the subsequent Reserved Matters submission.

Biodiversity

- 8.114 The NPPF states that planning decisions should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (paragraph 187 a)) and minimise impacts on and provide net gains for biodiversity (paragraph 187 d)).
- 8.115 Local Plan policies EN12, EN13, and EN14 seek to ensure the protection of the Borough's natural environment and to secure opportunities wherever possible to enhance biodiversity. Development proposals should ensure they have a minimal impact on biodiversity.
- 8.116 To support the proposal, the applicant commissioned Elton Ecology to undertake a Preliminary Ecological Appraisal (PEA) of the site. The report recommends further ecological surveys to be conducted to inform the impact of the proposed development. These surveys related to Hedgehogs, Breeding Birds, Roosting Bats, and Reptiles.
- 8.117 The applicant is accepting of the report's recommendations and is working proactively with Elton Ecology. Upon completion of these surveys an Ecological Impact Assessment (EclA) will be produced, to assess the impact of the development proposal on ecological features, identify any significant effects or impacts, and detail any mitigation measures required. This EclA will be presented to the Council at the earliest opportunity.
- 8.118 The report also recommends biodiversity enhancements for the site that include enhancements to woodland blocks at the east and south boundaries, planting of new trees and hedgerows, and creating 30m wide wildlife corridors. In addition, it is recommended that there be six generic bird boxes mounted on retained trees and the installation of four external bat boxes, mounted on retained trees. Finally, it was recommended that the proposed landscaping scheme should prioritise native species planting, and planting important for wildlife and pollinator species.
- 8.119 All of the above have been accepted by the applicant and have informed the works of FPCR in their design of the proposals landscaping strategy. To further support this proposal the applicant has undertaken the necessary Biodiversity Net Gain assessments. Elton Ecology, in collaboration with FPCR, have calculated the sites biodiversity net gain following a site visit in May 2025. The statutory Biodiversity Metric is submitted in support of this proposal along

with a Biodiversity Net Gain Report. This report concludes that -

“via the proposed scheme of on-site habitat creation and enhancement, hedgerow creation, and watercourse enhancement assessment has shown that a biodiversity net gain in habitats (11.70%), hedgerows (10.03%), and watercourses (86.72%) can be achieved. Trading rules for habitats, hedgerows, and watercourses were satisfied”.

8.120 These calculations are significant and clearly demonstrate that the proposal can demonstrate the statutory 10% BNG requirement as set out in the Environmental Act 2021. Consequently, through a combination of further surveying and positive landscaping and planting this proposal is in accordance with the NPPF and can demonstrate accordance with Local Plan policies EN12, EN13, and EN14.

Arboriculture

8.121 We share the Government’s position, as outlined in Paragraph 136 of the NPPF, that trees make an important contribution to the character and quality of urban environments and can also help mitigate and adapt to climate change. Planning decisions should ensure that opportunities are taken to incorporate trees within development designs, that measures are in place to secure the long-term maintenance of newly planted trees, and that existing trees are retained wherever possible.

8.122 Policy EN8 (Landscape Features) states that landscape features such as trees, woodlands, hedgerows, and dry stone walls make an important contribution to the character of the Borough. Planning permission will not be granted for development that would damage or destroy significant trees, woodland, hedgerows, dry stone walls, or other key landscape features.

8.123 To support the proposal, the applicant commissioned Outline Trees to undertake arboricultural assessments. The tree survey identified 20 individual trees, 7 tree groups, 6 wooded areas, and 24 sections of hedgerows. The proposed design retains all Category A and B trees and allows for the appropriate placement of protective fencing to ensure their preservation throughout the construction phase, while also maintaining adequate space to facilitate unobstructed construction access.

8.124 While some sections of hedgerow will need to be removed to accommodate the road

network, a significant programme of new planting is proposed as part of a comprehensive site-wide landscaping plan. This is considered to “more than compensate for the loss of canopy cover associated with the project” and will “increase arboricultural interest and diversity compared to the existing baseline” (Outline Trees, 2025).

8.125 In conclusion, Outline Trees state:

“Provided that the arboricultural information presented in this report and any practical recommendations, measures and guidance are adopted throughout the implementation of the project, then there are no objective and demonstrable arboricultural reasons as to why this project cannot be implemented”.

8.126 Accordingly, we conclude that the proposed development, supported by a robust site-wide landscaping strategy, will ensure compliance with Paragraph 136 of the NPPF and Policy EN8 of the adopted Local Plan.

Flood Risk and Drainage

8.127 According to Paragraph 170 of the NPPF, inappropriate development in areas at risk of flooding should be avoided by directing development away from areas of highest risk.

8.128 Policy EN15 (Development and Flood Risk) of the adopted Local Plan states that planning permission will only be granted for development that does not have an adverse effect on the management of flood risk.

8.129 As detailed in the accompanying Flood Risk Assessment (FRA) undertaken by Armstrong Stokes and Clayton Limited, the application site lies within Flood Zone 1 (page 7), which represents land at the lowest risk of flooding. Furthermore, the site is not considered to be at risk from groundwater, surface water, or sewer flooding. By virtue of its location within Flood Zone 1, the development will not displace floodwater in a 1 in 100-year flood event. Therefore, no floodwater storage or mitigation measures are required.

8.130 However, to ensure responsible water management, the proposal incorporates a drainage strategy based on attenuation through a Sustainable Drainage System (SuDS), as detailed in Section 5 of the FRA. This approach is designed to reduce the risk of flooding to surrounding areas by effectively managing post-development surface water runoff.

8.131 Accordingly, it is our professional position that the proposed development avoids land at risk of flooding and will deliver betterment in terms of surface water management. It therefore complies with the flood risk management objectives of both the NPPF and Policy EN15 of the adopted Local Plan.

Agricultural Land

8.132 Policy EN10 of the adopted Local Plan seeks to protect the best and most versatile agricultural land within the Borough. The policy states that planning permission will not be granted for development that would involve the irreversible loss of such land, defined as Grades 1, 2, and 3a of the Agricultural Land Classification.

8.133 As identified earlier in this Statement, the site — previously used for agricultural purposes — is not considered to be best and most versatile agricultural land, as it is classified as Grade 4 according to the Agricultural Land Classification. Consequently, the redevelopment of this land will not result in the irreversible loss of high-quality agricultural land. The proposal, therefore, complies with Policy EN10 of the adopted Local Plan.

Land Contamination

8.134 According to paragraph 196(a) of the NPPF, planning decisions should ensure that a site is suitable for its proposed use, taking into account ground conditions and any risks arising from land instability and contamination. Where a site is affected by such issues, the responsibility for securing a safe development rests with the developer and/or landowner.

8.135 Policy EN16 (Pollution) states that planning permission will not be granted for development that is likely to lead to a material increase in levels of air, water, noise, light, or other forms of pollution.

8.136 Policy EN18 (Derelict, Unstable and Contaminated Land) states that planning permission may be granted for development on land suspected or known to be contaminated, provided a detailed and independent assessment is undertaken to identify the nature and extent of the contamination and any necessary remedial or mitigation measures. The policy further states that planning conditions may be imposed to ensure effective remediation or containment measures are undertaken, to prevent unacceptable risks to future occupiers or the contamination of watercourses or aquifers.

8.137 To assess the condition of the site, the applicant commissioned Geo-Matters Ltd to prepare a Phase 1 Land Contamination Report, which accompanies this Statement. Importantly, no potentially contaminative former land uses have been identified on the site or within influencing distance. Consequently, it is our position that the proposal accords with paragraph 196(a) of the NPPF and Local Plan Policies EN16 and EN18.

Coal Mining Risk Assessment

8.138 As previously mentioned, paragraph 196(a) of the NPPF states that planning decisions should ensure that a site is suitable for its proposed use, taking account of ground conditions and any risks arising from land instability and contamination. This includes risks associated with former mining activity.

8.139 To support this planning application, the applicant has commissioned Geo-Matters Ltd to undertake a Coal Mining Risk Assessment (CMRA), which accompanies this Statement. The CMRA provides the Council with relevant information regarding coal mining and assesses its potential impact on land stability.

8.140 The report concludes that “the site would need to undergo intrusive site investigations, including mine probing works, in order to fully assess the risks from historical mine workings beneath the site.”

8.141 The applicant acknowledges the conclusions of the CMRA and confirms their willingness to accept a suitably worded planning condition requiring the recommended intrusive site investigations to be undertaken, submitted to, and approved by the Council prior to the commencement of development.

Planning Assessment Summary

8.142 The supporting evidence submitted with this application has not identified any significant external impacts arising from the proposed development that would preclude the granting of planning permission.

8.143 The proposal has been assessed in the context of both national and local planning policies, as well as the respective weight that must be attributed to each policy and other material considerations. It is evident that the proposal represents a sustainable form of development

that broadly accords with the relevant provisions of the Development Plan. There is no justification for withholding permission, and the presumption in favour of sustainable development should therefore apply.

9 PLANNING BALANCE & CONCLUSIONS

- 9.1 This Supporting Planning Statement has been prepared on behalf of Wheeldon Brothers Ltd in support of an outline planning application, with all matters reserved except for access, for the proposed residential development of up to 200 dwellings on land off Horsley Road, Kilburn.
- 9.2 The proposed residential development is located within the Green Belt to the south of Kilburn. As such, when applying the planning balance, it is necessary to weigh any identified harm against the benefits of the proposed development, having regard to both the revised Green Belt policy under paragraph 155 of the NPPF and, alternatively (if necessary), the 'Very Special Circumstances' test under paragraph 153.
- 9.3 The applicant's primary position is that the proposal satisfies the definition of 'Grey Belt' land, as set out in Annex 2 of the NPPF. Furthermore, the applicant considers that the land meets the criteria set out in paragraph 155 of the NPPF. Accordingly, when applying the revised definition of 'inappropriate development', the proposal should not be regarded as inappropriate, as it meets all four criteria for development on Grey Belt land.
- 9.4 The application site makes a very limited contribution to the relevant Green Belt purposes (specifically purposes (a), (b), and (d)). The Council can currently only demonstrate a 4.24-year supply of deliverable housing land when assessed against the new standard method (NPPF, December 2024). The site is located in a sustainable location, in close proximity to the urban areas of Codnor and Heanor, with suitable access to a range of services and facilities, including an established public transport network, with bus stops located directly opposite the site.
- 9.5 The proposed development also meets all of the 'Golden Rules' outlined in paragraph 156 of the NPPF, including a higher level of affordable housing provision (in this case, 35%), necessary improvements to local infrastructure, and the provision of new publicly accessible green space.
- 9.6 The applicant's secondary position is that planning permission should be granted even under traditional Green Belt policy. The only identified harm arises from the site's location within the Green Belt. Even if the proposal is considered 'inappropriate development', the harm to

Green Belt purposes is limited and clearly outweighed by other material considerations.

9.7 The applicant's 'Very Special Circumstances' case is based on the absence of an adopted planned solution to housing delivery, the substantial affordable housing need within the Borough, and the inevitable requirement for Green Belt release. These contextual circumstances, which weigh heavily in favour of the application, include:

- The absence of an adopted Local Plan which meets current housing needs;
- The lack of a five-year housing supply;
- The extent of affordable housing need;
- The inevitable need for Green Belt release;
- The social, environmental and economic benefits of development.

9.8 The benefits of the scheme - relevant to either version of the planning balance - are significant, tangible, and of substantial weight in planning terms. These include:

- The delivery of up to 200 dwellings, of which up to 70 will be affordable homes, directly addressing the significant affordable housing need within the Borough, and exceeding both policy and 'Golden Rules' requirements;
- A material contribution towards remedying the Council's failure to maintain a five-year housing land supply;
- The provision of a broad mix of housing types and tenures to meet the needs of a range of household sizes, age groups, and social groups;
- Economic benefits arising from construction-phase employment and long-term household expenditure within the local economy;
- Environmental enhancements, including biodiversity net gain, the provision of public open space, and the protection and enhancement of existing trees and hedgerows;
- The sustainable location of the application site, with proximity to Kilburn's facilities and public transport links;
- The delivery of energy-efficient homes built to the latest building regulation standards.

- 9.9 A number of technical and environmental assessments have been carried out to inform the proposed development and ensure that appropriate mitigation measures are included to address any potential impacts.
- 9.10 These assessments confirm that there are no significant or demonstrable harms arising from the proposed development. There are no adverse impacts that would outweigh the benefits of the scheme; rather, the benefits weigh strongly in favour of granting permission.
- 9.11 The application accords with the policies of the Development Plan, where relevant, and is fully aligned with the NPPF. Furthermore, a range of compelling material considerations support the proposal. It is, therefore, concluded that planning permission should be granted without delay.