

**TOWN AND COUNTRY PLANNING ACT 1990
SECTION 78 (AS AMENDED)**

**LAND ADJACENT TO AND AT THE REAR OF
52 HARRIS LANE, SHENLEY**

**Appeal against the decision of Hertsmere
Borough Council to refuse outline planning
permission for:**

**Up to 37 dwellings, associated landscaping
and open space, with access from Harris Lane.**

**PROOF OF EVIDENCE RELATING TO TOWN
PLANNING MATTERS**

Prepared By:

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For:

Griggs (Options) Ltd



LPA REF: 22/0971/OUT

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Woolf Bond Planning
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QUALIFICATIONS AND EXPERIENCE

Steven Brown will say:

I hold a Bachelor of Science and Post Graduate Diploma in Town and Country Planning and I am a Member of the Royal Town Planning Institute.

I am a Principal of Woolf Bond Planning LLP – Chartered Town Planning Consultants and I have been engaged in town planning with more than 20 years' experience as a private consultant acting for major house builders, development companies, estates and private individuals. House builder clients include Croudace, Barratt David Wilson Homes, Barwood Land, Bellway, City & Country, Cora, Dandara, Fairfax, Foreman Homes, Persimmon, Redrow Homes and Taylor Wimpey, as well as strategic land promoters, including Hallam Land and CEG.

I am an expert planning witness, having appeared at numerous s78 inquires and Local Plan Examinations.

I have visited the appeal site and its surroundings and have examined the relevant plans and documents for the purpose of the inquiry.

The evidence which I have prepared and provide for the appeal in this proof of evidence is true and has been prepared, and is given, in accordance with the guidance of my professional institution and I confirm that the opinions expressed are my true and professional opinions.

1.0 INTRODUCTION AND STRUCTURE OF EVIDENCE

General

- 1.1. My evidence addresses the town planning issues and overall planning balance with respect to the Appeal by Griggs (Options) Ltd (the “Appellant”) relating to land adjacent to and to the rear of 52 Harris Lane, Shenley.

The Appeal Scheme

- 1.2. The Appeal has been made following the decision by Hertsmere Borough Council (“HBC”) to refuse outline planning permission on 28th October 2022 for:

“Construction of up to 37 dwellings with associated landscaping and open space to include access from Harris Lane. (Outline Application with Appearance, Landscaping, Layout and Scale Reserved).”

- 1.3. The Scheme is in outline with only the principle of developing the Site for up to 37 dwellings, and the means of access to the Site to be determined as part of this outline application. Appearance, landscaping, layout and scale are reserved for subsequent determination.
- 1.4. The Appeal Site is located in the Green Belt. As such, and as part of my evidence, I apply the approach at paragraphs 147 and 148 of the NPPF in assessing the very special circumstances I say exist to justify the grant of planning permission.

The Reasons for Refusal

- 1.5. As set out in the decision notice dated 28th October 2022, the planning application was refused for a single reason for refusal as follows:

“Per paragraph 11 of the NPPF, the presumption in favour of sustainable development applies. Planning permission should therefore be granted, unless the application of policies within the NPPF that protect areas or assets of particular importance (which includes land designated as Green Belt) provides a clear reason for refusal.

The proposed development is considered to be inappropriate development in the Green Belt, given that it would fail to comply with any of the defined exceptions at paragraphs 149 and 150 of the NPPF. A case for Very Special Circumstances (VSCs) has been made by the applicant, outlining a number of benefits of the scheme. However, officers consider that these benefits when taken together are insufficient to outweigh the substantial harm to the Green Belt, by virtue of inappropriateness and due to the significant harm to openness that would arise. Accordingly, VSCs do not arise here.

Therefore, the proposed development is considered to be contrary to the NPPF (2021), Policies SP1, SP2, and CS13 of the Core Strategy (2013) and Policy SADM26 of the Site Allocations and Development Management Policies Plan (2016).”

- 1.6. The decision notice is to be found at **CDB.2** and the officer report at **CDB.1**.
- 1.7. As the decision notice sets out, the only reason for refusal relates to HBC’s assessment that the benefits when taken as a whole do not outweigh the substantial harm to the Green Belt by virtue of (i) inappropriateness; and (ii) due to the significant harm to openness that HBC claims would arise.
- 1.8. Importantly, there are no technical reasons for refusal (e.g. drainage, ecology or highways).
- 1.9. In the circumstances, it follows that if the Inspector considers the benefits, when taken as whole do clearly outweigh the harm to the Green Belt (as my evidence sets out), then planning permission can (and should) be granted for this sustainable and much needed development.
- 1.10. However, and separate from the position between the Appellant and HBC, where it is agreed that matters of detailed layout and design can be addressed

at the reserved matters stage, Shenley Parish Council (as a Rule 6 Party) has raised noise as an issue. This relates to the purported noise impact from the existing operations at the neighbouring tree nursery business (Gristwood & Toms).

- 1.11. Although HBC's Environmental Health Officer was satisfied that an acceptable noise environment could be achieved through the detailed scheme design, as a matter to considered at the reserved matters stage, the Parish Council has presented evidence to the contrary.
- 1.12. This issue is considered in the Noise SoCG (**CDD.3**) and in the evidence prepared by Mr Sam Bryant. I adopt his conclusions.
- 1.13. Taken with Mr Self's evidence on landscape and Green Belt impacts, it is my position that the benefits when taken as a whole do "clearly outweigh" (NPPF, paragraph 148) the harm to the Green Belt to a degree sufficient to justify the grant of planning permission.

Addressing the Reason for Refusal

General

- 1.14. Statements of Common Ground ("SoCGs") have been prepared between the Appellant and SDC in relation to the following matters:
 - (i) Planning (**CDD.1**),
 - (ii) Landscape (**CDD.2**),
 - (iii) Noise (**CDD.3**); and
 - (iv) Housing Five Year Housing Land Supply (**CDD.4**).
- 1.15. The above Statements of Common Ground reflect the matters identified in paragraphs 22 to 26 of the Inspector's Summary Notes from the Case Management Call.

- 1.16. The Planning SoCG (**CDD.1**) sets out an exhaustive list of matters that have been agreed between the Appellant and HBC (Paragraph 3 of the Executive Summary); as well as the limited range of issues that are in dispute (paragraph 4 of the Executive Summary).
- 1.17. In setting out the planning policy context to inform the Inspector's assessment of this Appeal, I draw attention to paragraph 4.14 of HBC's Statement of Case (**CDC.2**) where the Council makes clear its position that the Appeal Scheme accords with all aspects of the NPPF save for the purported conflict with those parts of it dealing with the Green Belt. That is a particularly striking position.
- 1.18. Importantly, for the purpose of determining this Appeal, it is agreed that the development plan policies for the supply of housing are out of date. It is also agreed that the Appeal Site is sustainable in locational and transport terms having regard to accessing local services and facilities.
- 1.19. The Planning SoCG also confirms that the Council is unable to demonstrate a five year supply of deliverable housing land.
- 1.20. As set out in Table 1 of the separate Housing Land Supply SoCG (**CDD4**), the Council's position for the Appeal is that there is a deficit of 2,088 dwellings which represents a 2.25 year supply of deliverable housing land.
- 1.21. As set out in **SB1** attached, it is my position for the Appellant that the deficit stands at 2,603 dwellings which represents a supply of only 1.58 years. The different supply figures relied upon by the parties relate to the completions expected to be achieved from HELAA sites and those from within the Elstree Way Corridor Area Action Plan.
- 1.22. Given the lack of any published information to support the Council's supply position, I requested copies of the evidence upon which they were relying to justify their assessment of supply. This has not been provided, which is both unfortunate and unhelpful. In the circumstances, I reserve the right to submit a

rebuttal proof of evidence to address any new points raised by the Council in their housing land supply evidence.

- 1.23. The Council's deteriorating supply of housing represents a chronic position. Moreover, the housing need is so large, it cannot be addressed through the reuse of land within identified settlements. In the circumstances, I attach very substantial weight to the delivery of housing from the Appeal Site.
- 1.24. I also conclude that the Appeal Site is in an inherently sustainable location in helping to contribute towards meeting the identified housing need. Importantly, County Highways support development of the Site for up to 37 dwellings (subject to the imposition of appropriately worded conditions) and the locational merits and acceptability of the Site in highway safety terms is agreed with HBC¹.

Evidence

- 1.25. The acceptability of the Appeal Scheme in landscape and Green Belt terms is addressed in the evidence prepared by Mr Clive Self, with the acceptability of the Scheme in noise terms addressed by Mr Sam Bryant.
- 1.26. My evidence addresses the overall planning balance in considering the acceptability of the Appeal Scheme.
- 1.27. I also explain by way of the application of paragraphs 147 and 148 of the Framework, that the benefits clearly outweigh any harms. This is the overarching policy test for this Appeal.
- 1.28. A similar approach has been adopted by Inspectors in numerous appeal decisions, which examples are included in the Core Documents list in the **CDJ** series.
- 1.29. Given the Appeal Site is greenfield land and in single ownership, the ability of a site to deliver quickly and thus contribute towards the 5 year housing land

¹ Paragraphs 3(e)(f) and 3.1 to 3.3 of the Planning SoCG refer (**CDD1**).

supply is considered to represent a significant benefit of the proposal, as was found in the South of Millfield Lane, York appeal decision (23 Oct 2019) (APP/C2741/W/19/3227359) (paragraph 39 refers) (**CDJ21**) as well as the recent decisions for up to 100 dwellings off Bullens Green Lane, Colney Heath (14 June 2021) (APP/B1390/W/20/3265925) (**CDJ.2**), 167 dwellings on land south of Heath Lane, Codicote (North Hertfordshire) (28 Sept 2021) (APP/X1925/W/21/3273701) (paragraph 36, 106 and 106 refer) (**CDJ.3**); and Kennel Lane, Billericay (Basildon) (APP/V1505/W/22/3298599) (9 Dec 2022) (**CDJ.1**). Their relevance to the determination of the Appeal includes in relation to the weight to be ascribed to the benefits when undertaking a planning judgment as to the acceptability of allowing inappropriate development in the Green Belt in the context of the approach set out at paragraph 148 of the NPPF.

- 1.30. The evidence as a whole confirms that planning permission should be granted on account of the benefits that exist and that the harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.
- 1.31. It is my evidence that planning permission should be granted because (i) the harm to the Green Belt by reason of inappropriateness, (ii) limited and localised harm to openness; and (iii) conflict with purpose (c) and paragraph 138 of the NPPF (although it is agreed with HBC's landscape witness that the Site provides no more than a relatively weak contribution), are clearly outweighed by the benefits I have identified. As a consequence, very special circumstances exist.

The Inspector's Main Issues

- 1.32. At the Case Management Call ("CMC"), the Inspector helpfully set out the following main issues to be addressed in evidence, which matters are set out at paragraph 13 of the Inspector's CMC Summary Note (21st February 2023) as follows:
1. The effect of the proposal on the openness of the Green Belt;
 2. Any other Green Belt 'harm';

3. The effect of the proposal on the character and appearance of the area;
 4. The scheme's compatibility with existing businesses, with particular regard to potential noise impacts;
 5. Whether any harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the proposal.
- 1.33. Separate from the main issues identified by the Inspector, and as set out at Point (16) of the CMC Note, I also address 'other' matters raised by third parties including as follows:
- i. Drainage and flood risk
 - ii. Highway safety and locational sustainability; and
 - iii. Local infrastructure capacity
- 1.34. As confirmed at Point (15) of the CMC Note, the inquiry will also look at the overall planning balance.
- 1.35. The main issues identified by the Inspector and the third-party concerns are addressed in evidence.

Statements of Common Ground

- 1.36. As set out at paragraph 1.14 above, and to assist the Inspector and to reduce the issues to be addressed in evidence, the Appellant and HBC have sought, where possible, to agree a position on relevant matters. As such, a series of topic-based SoCGs have been prepared.
- 1.37. The matters agreed in the topic-based SoCGs have informed the content of the evidence that has been prepared for the inquiry.

Areas of Agreement

- 1.38. As set out at paragraph 3 of the Executive Summary to the Planning SoCG (CDD.1), there is agreement between the Appellant and HBC in relation to the suitability of the Appeal Scheme on a substantial and exhaustive range of issues as follows:

- a) The Appeal Site is within the Green Belt and the proposed development would comprise inappropriate development for the purpose of paragraph 147 of the NPPF.
- b) For the purposes of para 11(d) of the NPPF development plan policies for the supply of housing are out of date.
- c) The Council cannot currently demonstrate a five year supply of deliverable housing land (which position is set out in the accompanying Five Year Housing Land Supply SoCG).
- d) The presumption in favour of sustainable development is engaged.
- e) The Appeal Scheme is acceptable in highway terms.
- f) The Appeal Site is in a sustainable location, within walking and cycling distance from local services and facilities.
- g) There are no flood and/or drainage objections to the Appeal Scheme.
- h) The Appeal Site is not within a valued landscape.
- i) There is no noise objection to the scheme and a satisfactory living environment can be provided for future residents.
- j) The Appeal Scheme has no impact on designated or undesignated heritage assets, such that paragraphs 202 and 203 of the NPPF are not engaged.
- k) The proposed density is acceptable.
- l) The Appeal Scheme is acceptable in ecological terms.
- m) The Appeal Scheme can secure an appropriate mix of dwelling types and tenures.
- n) The Appeal Scheme delivers 40% affordable housing (5% higher than policy).
- o) The Appeal Scheme is consistent with the economic and social objectives of the NPPF.
- p) The parties have agreed that the Appellant will provide planning obligations in the form of a Section 106 Agreement regarding necessary contributions subject to the satisfactory provision regarding delivery.
- q) Hertsmere Borough Council is a CIL Charging Authority and financial contributions will also be secured at the reserved matters stage once the amount of proposed floorspace is fixed.
- r) Subject to the satisfactory completion of the legal agreement, this will ensure that if the Appeal is allowed and planning permission is granted, all

of the financial contributions and other compliant obligations required to enable the proposed development to go ahead are in place and/or will be delivered at the appropriate times.

- 1.39. In addition to the above, and as recorded in the Landscape SoCG (**CDD2**), much has been agreed between the landscape witnesses for the Appellant and HBC. This includes the content at paragraph 22 where it is agreed that the only conflict between the Appeal Site and the five purpose at paragraph 138 of the NPPF is in relation to (c), where some conflict has been identified as the development will encroach into the countryside. However, even in this context it is agreed that the Site only makes a “relatively weak” contribution in this regard.

Areas of Disagreement

- 1.40. As set out at paragraph 5 of the Executive Summary to the Planning SoCG (**CDD.1**), there are only three issues where there continues to be disagreement between the Appellant and the Council:
- a) The extent of harm to the Green Belt.
 - b) The impact of the development upon the landscape character of the area, including the visual impact of the proposed development; and
 - c) Whether very special circumstances have been demonstrated having regard to the provisions at paragraph 147 and 148 of the NPPF.
- 1.41. As recorded at paragraph 1.11 above, Shenley Parish Council (as a Rule 6 Party) has separately raised noise as an objection to the scheme.
- 1.42. These issues are addressed in evidence.

Scope and Overview of My Evidence

General

- 1.43. As set out above, my evidence addresses the overall planning balance having regard to the merits of the Appeal Scheme in the context of the development plan (having regard to the application of Section 38(6)) and relevant material

considerations. This includes in relation to identifying and giving weight to the Scheme's benefits in the context of the paragraph 148 balance.

- 1.44. In setting out my evidence, I apply the well-trodden approach set out in Section 38(6) of the Planning and Compulsory Purchase Act 2004 which sets out a requirement for planning applications to be determined in accordance with the development plan unless other material considerations indicate otherwise.

Content

- 1.45. The remainder of my evidence is set out as follows:
- i. Description of the Appeal Scheme
 - ii. Description of the Appeal Site and its context: A Sustainable Location
 - iii. The Planning Policy Context
 - iv. Market and General Housing Matters
 - v. Affordable Housing Matters
 - vi. Self-Build Housing Matters
 - vii. Assessing the Green Belt Harm
 - viii. Assessing the Potential for Other Harms
 - Character and appearance of the area
 - Noise
 - Residential amenity
 - Trees
 - Ecology
 - Heritage
 - Highways
 - Flood/drainage
 - Local infrastructure capacity
 - ix. The Overall Planning Balance
 - x. Summary and Conclusion

2. DESCRIPTION OF THE APPEAL SITE AND SURROUNDING AREA

- 2.1. As explained in section 3 of the Planning SoCG (**CDD.1**), the Appeal Site is located in a sustainable location. It is within walking and cycling distance to local services and facilities. Bus services are also available to higher order settlements, including Borehamwood.
- 2.2. As Mr Self explains, the Site (which extends to approximately 1.7ha), occupies a single grassland field. It is accessed from Harris Lane. On the opposite side of Harris Lane are the south and west.
- 2.3. Immediately to the north of the Site is the commercial arboricultural business of Gristwood & Toms². That site extends in a northerly direction to Mimms Lane and a cluster of residential properties.
- 2.4. The Site has a strong relationship to Shenley, with existing housing stock backing onto the Site.

² Which is currently subject to a planning application seeking retrospective planning permission for the expansion of the business premises to the east and the south of the original yard. This includes new hardstanding for parking, hardstanding and supports for the trees, a new office building, and use of the restricted access off Mimms Lane. That application is yet to be determined (LPA Ref: 22/0926/FUL). Particulars are included at Core Documents **CDK.1** to **CDK.7**.

3.0 DESCRIPTION OF THE APPEAL SCHEME

The Appeal Scheme

- 3.1. As explained in the Planning SoCG (**CDD.1**), the Appeal Scheme description is as follows:

“Construction of up to 37 dwellings with associated landscaping and open space to include access from Harris Lane. (Outline Application with Appearance, Landscaping, Layout and Scale Reserved).”

- 3.2. Only the principle of developing the Site for up to 37 dwellings and the means of access to the Site are to be determined as part of this outline application.
- 3.3. Appearance, landscaping, layout and scale are reserved for subsequent determination.
- 3.4. The Appeal Scheme is set out on the following plans:

The Scheme

- i. Site Location Plan No. 1908-PL1000
- ii. Access Arrangements and Visibility Splays Drawing No. SK01 (Appendix C of the Transport Statement, prepared by EAS)

Supporting Plans

- iii. Illustrative Site Layout Plan No. 1908-PL1003
 - iv. Indicative Storey Height Plan No. 1908-PL1005³
- 3.5. The Plans at (i) and (ii) comprise the application plans for the purpose of determining the Appeal.
- 3.6. Plans (iii) and (iv) are submitted for illustrative purposes only but provide context for the assessment of the potential impact of the Scheme upon the Site and character of the area.

³ It shows buildings at a height of up to 2.5 storeys.

- 3.7. As agreed with HBC, and on the basis that the Illustrative Site Layout is only indicative, it is agreed that there is *scope for good acoustic design, such as not having the sole windows to habitable rooms facing towards the commercial site to the North.*
- 3.8. It is also agreed with HBC that the reserved matters stage is the appropriate stage in the application process to consider a detailed site layout that protects the proposed development from noise at Gristwood & Toms.
- 3.9. Nevertheless, in responding to the noise issues raised by the Rule 6 Party, the Appellant has gone on to work up an indicative detailed layout, informed by further noise modelling. Details are explained in Mr Bryant's evidence, which also includes a copy of that layout (Plan No. 2266/05B). A further copy is attached to my evidence at **SB2**.
- 3.10. For the avoidance of doubt, that layout is not an application plan for the purpose of determining this Appeal. It is simply a plan showing how an appropriate noise environment could be achieved at the reserved matters stage in accordance with the proposed noise condition. It is one way in which the Site could be successfully developed for 37 dwellings. Indeed, it is in essence a slight refinement of the "Option 2" layout which was before the Council at application stage.

The Masterplan Approach

General

- 3.11. The Illustrative Masterplan (Paragraph 3.4 above refers) has also been informed by a thorough contextual appraisal of the site and its surroundings. This includes the various supporting technical reports submitted with the original application. The Appeal particulars clearly demonstrate how landscape matters have been pivotal in shaping the Illustrative Layout.

- 3.12. The design approach also responds to the requirement for high-quality development set out in section 12 of the NPPF and the corresponding design approach set out in National Design Guide.
- 3.13. As paragraph 4.12 of the Planning SoCG (**CDD1**) records, the approach to the scheme design means that the development is set within a green infrastructure framework and landscaped areas are capable of creating opportunities for amenity, formal and informal play for new and existing residents of Shenley. Furthermore, the Site's ecological value can be enhanced with the proposed woodland, thicket and tree planting, and the creation of wildflower meadows, orchards planting and strengthening of ecological corridors along the Site's boundaries and retention of the majority of the existing trees and hedgerows.
- 3.14. As set out at paragraphs 4.13 and 4.14 of the Planning SoCG, it is agreed that a high quality development can be secured at the reserved matters stage.
- 3.15. Overall, the Illustrative Site Layout provides for up to 37 dwellings (including up to 40% (15no.) affordable and 8% (3 no.) self-build).
- 3.16. As paragraph 4.18 of the Planning SoCG records, the Illustrative plans also show how the Site could encompass principally a mixture of semi-detached and detached houses of two storeys and some apartment blocks. This is considered in keeping with the surrounding development.
- 3.17. The Appellant is an award winning, local developer, established in 1968 as John E. Griggs & Sons. The company is now in its third generation of family directorship and has been involved with and constructed a number of high-quality schemes in Hertsmere. A synopsis is included at **SB3**. The Appellant's relatively recent scheme at Old Nursey Close, Shenley is exemplified at p33 of the Shenley Neighbourhood Plan (**CDE.3**) as exhibiting strong design which positively contributes to the character and appearance of the area.

4.0 THE PLANNING POLICY CONTEXT

General

- 4.1. Section 38(6) of the Planning and Compulsory Purchase Act 2004 sets out a requirement that planning applications are to be determined in accordance with the Development Plan unless other material considerations indicate otherwise. This represents the s.38(6) 'balance'.
- 4.2. The first test, and the statutory starting point is whether the application is '*in accordance with the plan as a whole.*'

The Development Plan

- 4.3. The Development Plan comprises the following:
 - Hertsmere Core Strategy ("CS") (adopted January 2013),
 - Site Allocations and Development Management Policies Plan (adopted November 2016);
 - Elstree Way Corridor Area Action Plan⁴ (Adopted July 2015); and
 - Shenley Neighbourhood Plan 2019 – 2036 (May 2021).
- 4.4. The Site is located within the Green Belt, adjacent to but beyond the settlement policy boundaries defined in the development plan.
- 4.5. Because the Appeal Scheme involves new buildings which are deemed to be "inappropriate development" in the Green Belt, the provisions at Policy CS13 and the tests at 147 and 148 of the NPPF are engaged.
- 4.6. In the circumstances, it is my opinion that the Scheme's substantial benefits clearly outweigh its harms, such that the test at policy CS13 and paragraph 148 of the NPPF is passed.

⁴ For the purpose of this Appeal, the AAP is only relevant in relation to my assessment of site delivery at **SB1**.

- 4.7. Because the paragraph 148 test is passed, on account of the identified benefits clearly outweighing the harms, the Scheme automatically satisfies the paragraph 11(d) test. This is because satisfying the paragraph 148 test means the Scheme could not then fail the test at 11(d)(ii).
- 4.8. The Council also acknowledges it is unable to demonstrate a five year supply of deliverable housing land, and whilst the Appeal Site is beyond the settlement policy boundary for Shenley, as defined in the development plan, the Council nevertheless consider and agree that to meet housing needs, this will have to be met outside the existing developed areas⁵.
- 4.9. For the reasons I go on to explain, it is my opinion that the Appeal Scheme is in accordance with the development plan when taken as a whole. This is on account of the Appeal Scheme's conformity with Core Strategy Policy CS13, which operates as an exception to the otherwise restrictive approach to development in the Green Belt.

The Core Strategy (2013)

- 4.10. The CS was adopted in January 2013 and covers the period from 2012 to 2027.
- 4.11. The settlement boundaries were identified to meet the housing needs from the spatial vision and policies CS1 and CS2; which policies are not alleged by the Council to be breached by the Appeal Scheme.
- 4.12. The Core Strategy requires 266 dwellings annually or 3,990 over the plan period. This was based on the former regional spatial strategy; the East of England Plan. This compares to the circa 724dpa requirement derived from the Standard Method in so far as the Core Strategy is now (and has been since January 2018) more than five years old⁶.

⁵ CDD1 (paragraph 6.25) and CDD4 (paragraph 2.2)

⁶ See paragraph 74 and footnote 39 of the NPPF

- 4.13. Moreover, and in so far as the housing requirement on which the settlement boundaries were defined cannot be said to be consistent with the NPPF, the weight to be attached to any conflict with them can be reduced (See *Hopkins Homes*, paragraph 63 (**CDI.2**)).
- 4.14. In addition, the Council is unable to demonstrate a five year supply of deliverable housing land, whilst there remains an acute need for affordable housing.
- 4.15. The Appeal Site comprises greenfield land beyond the defined settlement boundary, to the east of Shenley, which settlement is 'washed over' by the Green Belt.
- 4.16. In so far as the CS was adopted more than 10 years ago, the spatial application of the policies for the supply of housing are now out of date given their lack of consistency with the NPPF.
- 4.17. However, the restrictive approach to development in the Green Belt remains consistent with the approach set out in section 13 of the NPPF, including paragraphs 147 and 148.
- 4.18. Policies SP1 and SP2 set out the overarching approach to the achievement of sustainable patterns of development.
- 4.19. Policy CS1 sets out the housing requirement to be met during the plan period, whilst Policy CS2 relates to the location of development.
- 4.20. As paragraph 2.1 of the CS identifies, 80% of the 38 square mile Borough is Green Belt land, with the four main settlements of Borehamwood, Bushey, Potters Bar and Radlett constituting the only urbanised areas. Paragraph 2.1 adds that substantial redevelopment of the former hospital site in the Green Belt has meant that the village of Shenley has taken on a more suburban character. The majority of the Borough's 100,000 residents live in these settlements. As such all land outside the existing settlement boundaries is designated as Green Belt.

- 4.21. As such, the spatial strategy focuses development within existing settlements.
- 4.22. I conclude, by operation of the approach set out at paragraph 219 of the NPPF, that the policies for the supply of housing are inconsistent with the NPPF.
- 4.23. For this Appeal, I conclude that the conflict with the settlement boundaries derived from Policies CS1 and CS2 attracts only limited weight. This is on account of the worsening housing land supply position which I consider to be chronic. I consider the supply of housing within Hertsmere to be anaemic.
- 4.24. In the circumstances, the weight to be attached to the conflict with the settlement boundaries is to be reduced on account of (i) the Council's inability to satisfy current housing needs (with the settlement policy boundaries tightly defined to meet a long out of date and non-NPPF compliant requirement); and (ii) the Council's inability to demonstrate a five year supply of deliverable housing land.
- 4.25. The Council's Decision Notice only identifies the Appeal Scheme as being in conflict with policies SP1, SP2 and CS13 of the CS.
- 4.26. I come to a different conclusion. Whilst I accept the Appeal Scheme conflicts with parts (vii) of Policy SP1, the Appeal Scheme is in accordance with the remainder of SP1, all of SP2 and CS13.
- 4.27. The Parish Council's Statement of Case (**CDC.3**) also cites conflict with Policy CS12 (Natural Environment). This forms no part of HBC's case.
- 4.28. Policy CS12 requires development proposals to conserve and enhance the natural environment of the Borough, including biodiversity, habitats, protected trees, landscape character, as well as sites of ecological and geological value. This is achieved with the Appeal Scheme. There is no conflict and matters of detailed design and siting can be secured at the reserved matters stage.
- 4.29. The restrictive approach to providing for development within the settlement boundaries is failing to satisfy current housing needs.

- 4.30. As recorded at paragraphs 6.15 and 6.16 of the Planning SoCG (**CDD.1**), the Council accepts that the policies most important for determining the Appeal are out of date.
- 4.31. As the Regulation 18 consultation draft Local Plan from Nov 2021 recognises, which matter I go on to consider under the 'material considerations' section below, current housing need can only be met by providing for growth beyond the existing settlement boundaries, including through the release of land from the Green Belt.
- 4.32. As the settlement boundaries in the CS were not identified in relation to the current housing need, they operate as a constraint to development. Indeed, the evidence which informed the housing needs is from the old RSS and manifestly pre-dates the NPPF.
- 4.33. The CS was also prepared to be in conformity with the Regional East of England East Plan (pre-dating the NPPF) and is therefore significantly out of date. Furthermore, the evidence base to inform the Core Strategy was assessed against a different planning policy regime of PPGs and PPSs.
- 4.34. Moreover, and in so far as the housing requirement on which the settlement boundaries were defined cannot be said to be consistent with the NPPF, the weight to be attached to any conflict with them can be reduced (See *Hopkins Homes*, paragraph 63) and in so far as the housing requirement on which the settlement boundaries were defined cannot be said to be consistent with the NPPF, the weight to be attached to any conflict with them can be reduced (see *Hopkins Homes*, paragraph 63 – **CDI.2**).
- 4.35. In so far as the CS was adopted 10 years ago, the spatial application of the policies for the supply of housing are now substantially out of date given their lack of consistency with the NPPF.
- 4.36. As the Planning SoCG records, applicable policy considerations from the CS comprise as follows:

- **SP1 Creating sustainable development**
- **SP2 Presumption in favour of sustainable development**
- **CS1 The Supply of New Homes**
- **CS2 The Location of New Homes**
- **CS3 Housing Delivery and Infrastructure**
- **CS4 Affordable Housing**
- CS7 Housing Mix
- CS12 The Enhancement of the Natural Environment
- **CS13 The Green Belt**
- CS14 Protection or Enhancement of Historic Heritage Assets
- CS15 Promoting recreational access to open spaces and the countryside
- CS16 Environmental impact of new development
- CS17 Energy and CO2 reductions
- CS21 Standard Charges and Other Planning Obligations
- CS22 Securing a high quality and accessible environment
- CS24 Development and accessibility to services and employment
- CS25 Accessibility and parking
- CS26 Promoting alternatives to the car

4.37. The policies in bold are agreed between the Appellant and Council as comprising the most important for determining the Appeal. It is also agreed that they are out of date.

4.38. Adoption of the CS in 2013 meant the requirements of the 2012 NPPF were not a consideration in its preparation. The advent of the NPPF included a requirement at paragraph 47 (2012 version) to “boost” housing supply “significantly to ensure that their Local Plan meets the full objectively assessed needs”.

4.39. In *Gallagher Homes Limited (2) Lioncourt Homes Limited v Solihull Metropolitan Borough Council* [2014] EWHC 1283 (Admin) (**CDI.5**) the Judge held at [94] that paragraph 47 NPPF requires full housing needs to be objectively assessed in some way, and that it was insufficient for NPPF purposes for all material considerations (including need, demand and other relevant policies) simply to be weighed together. He said at [94]:

“Paragraph 47 requires full housing needs to be objectively assessed, and then a distinct assessment made as to whether (and, if so, to what extent) other policies dictate or justify constraint. Here, numbers matter; because the larger the need, the more pressure will or might be applied to infringe on other

inconsistent policies. The balancing exercise required by paragraph 47 cannot be performed without being informed by the actual full housing need.”

4.40. Hickinbottom J confirmed that, contrary to the Council’s submissions, the principles set out by Sir David Keene in *City and District Council of St Albans v Hunston Properties Limited and the Secretary of State for Communities and Local Government* [2013] EWCA Civ 1610 on the proper approach to interpreting §47 NPPF applies not only to decision-taking but to plan-making. In that context, he said at [91] that:

“in plan-making, full objectively assessed housing needs are not only a material consideration, but a consideration of particular standing with a particular role to play.”

4.41. In *Suffolk Coastal DC v Hopkins Developments Ltd* [2017] UKSC 37 Lord Carnwath’s **(CDI.2)** judgement confirms at paragraph 63 that the weight to be attached to restrictive policies, such as countryside and landscape policies, can be reduced where they are derived from settlement boundaries that in turn reflect out of date housing requirements. There are obvious parallels with Hertsmere.

4.42. The Council cannot demonstrate an up-to-date five year supply of deliverable sites for housing. As such, and in accordance with paragraph 11(d) and footnote 8 of the 2021 NPPF, the most important policies (including those relating to settlement boundaries) are to be regarded as out of date.

4.43. The restrictive approach to providing for development within the settlement boundaries is failing to satisfy current housing needs based on the definition of built-up areas as defined in the development plan.

Site Allocations and Development Management Policies Plan (2016) (SADMP)

4.44. The SADMP was adopted in November 2016 and implements the spatial policies from the CS. It reflects the requirements of the National Planning Policy Framework in place at that time, noting that Policy SP2 applies the Presumption in Favour of Sustainable Development. Importantly, the SADMP

did not review the housing requirement or reconsider any amendments to the Green Belt to reflect a more up to date housing requirement.

4.45. As recorded at paragraph 6.18 of the Planning SoCG (**CDD.1**), the following SADMP policies are considered relevant to the Appeal:

- SADM1 Housing Allocations
- SADM3 Residential Developments
- SADM10 Biodiversity and Habitats
- SADM11 Landscape Character
- SADM12 Trees, Landscaping and Development
- SADM13 The Water Environment
- SADM14 Flood Risk SC1 – Sustainable Development
- SADM15 Sustainable Drainage Systems
- SADM17 Water Supply and Waste Water
- SADM19 Waste Storage in New Development
- SADM20 Environmental Pollution and Development
- **SADM26 Development Standards in the Green Belt**
- SADM29 Heritage Assets
- SADM30 Design Principles
- SADM40 Highway Access Criteria for New Developments

4.46. Policy SADM26 is highlighted in bold as it has been agreed with the Council that it is a most important policy from the SADMP for determining the Appeal. It is agreed that the policy is out of date.

4.47. SADM26 is also the only policy from the SADMP with which the Council's Decision Notice alleges the Appeal Scheme as being in conflict.

4.48. The only conflict I identify with Policy SADM26 is in relation to criteria (iii) which requires existing open and green space to be retained. In so far as the Appeal Scheme comprises new development on a greenfield site, there is obvious conflict. However, due to the inconsistency between this policy approach and paragraph 174 of the NPPF, this conflict carries only limited weight.

4.49. The Parish Council's Statement of Case (**CDC.3**) also cites conflict with policies SADM11 (Landscape Character) and SADM30 (Design Principles). This forms no part of HBC's case.

4.50. Again, these considerations are matters of detail that can and should be properly assessed at the reserved matters stage.

Shenley Neighbourhood Plan (Adopted Sept 2021)

4.51. As recorded at paragraphs 3.31 to 3.33 of the Planning SoCG **(CDD.1)**, the Council agrees that there is no conflict between the Appeal Scheme and the NP.

4.52. I also note that the Parish Council's Statement of Case does not suggest any conflict either.

Summary

4.53. The conclusions drawn from the above assessment are as follows:

- The CS is out of date in relation to the housing requirement set out in the Spatial Vision and this means that Policies SP1, SP2, CS1 and CS13 are out of date (along with the associated settlement boundaries).
- The CS and SADMP do not seek to identify the full objectively assessed needs for market and affordable housing for the purpose of the NPPF.
- The settlement boundaries defined in the CS relate to the out of date housing requirements in CS Spatial Vision; and are themselves out of date by application of paragraph 11(d) of the NPPF and footnote 8.
- The Development Plan does not provide for local housing needs derived from the standard method.
- The Council cannot demonstrate a five year supply of deliverable housing land and this reduces the weight to be attached to the conflict with the location of the site beyond the settlement boundary for Shenley.
- Although I identify conflict between the Appeal Scheme and Policy CS1 (being located beyond the settlement boundary), Policy SP1 (part (vii)) and SADM26 (part (iii) only); because the Scheme accords with Policy CS13 (which operates as an exception to the otherwise restrictive approach to development in the Green Belt), I conclude that the Appeal Scheme accords with the development plan when taken as a whole.

Material Considerations

4.54. Material considerations include the following:

- The NPPF
- The Local Plan Review (and the supporting evidence base)
- Housing Land Supply
- Affordable Housing
- Self-Build Housing

4.55. I introduce these considerations below and expand upon the implications arising in sections 6, 7,8 and 9 of my evidence.

National Planning Policy Framework (2021)

4.56. The National Planning Policy Framework (NPPF) was most recently issued in its published form July 2021. It is a material consideration of significant standing in the determination of planning applications. I acknowledge a revised draft NPPF is currently out for consultation and I address that later on in my evidence. For now, I concentrate on the provisions contained in the 2021 NPPF.

4.57. The content of the NPPF as it relates to the proposed development of the application site is addressed in the order set below:

- The presumption in favour of sustainable development
- Decision making
- Delivering a sufficient supply of homes
- Promoting sustainable transport
- Achieving well-designed places
- Protecting Green Belt land
- Conserving and enhancing the natural environment

Decision Making

- 4.58. Section 4 of the NPPF sets out the approach to decision-making. Paragraph 38 makes it clear that decision-makers at every level should seek to approve applications for sustainable development where possible.
- 4.59. The Appeal Site is located in a sustainable location and will improve the economic and social conditions of the area. It will also help to provide public open space and enhanced biodiversity habitats (securing an overall total BNG of 10%).
- 4.60. Paragraph 48 refers to the weight to be given to relevant policies in emerging plans according to the stage of preparation and the extent to which there are unresolved objections.
- 4.61. In the context of Hertsmere, the 'shelved' Local Plan reached the Regulation 18 stage and carries limited weight.

Delivering a Sufficient Supply of Homes

- 4.62. Paragraph 60 sets out the Government's objective of significantly boosting the supply of homes which reflects paragraph 8b.
- 4.63. Paragraph 61 sets out the approach to determining the minimum number of homes needed, which should be informed by a local housing need assessment conducted using the Standard Method in national planning guidance – unless an alternative approach is justified. It is also added that any needs that cannot be met within neighbouring areas should also be taken into account in establishing the amount of housing to be planned for.
- 4.64. Paragraph 68 sets out the need to provide a five year supply of deliverable sites for housing. It also requires sites for years 6-10 and beyond.

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- 4.65. This Appeal Scheme for up to 37 dwellings would make an important contribution towards the shortfall in supply. In the circumstances of this case, it represents a material consideration of substantial weight in support of the Appeal Scheme.

Promoting Sustainable Transport

- 4.66. The Appeal Site is located immediately adjoining an identified settlement, within safe and convenient walking distance to local services and facilities (NPPF, paragraph 142).
- 4.67. The supporting Transport Statement demonstrates the acceptability of the scheme in sustainability terms.
- 4.68. Section 9 sets out the approach to providing for sustainable growth.
- 4.69. Paragraph 104 requires transport issues to be considered from the earliest stages of development proposals in order to, *inter alia*, identify opportunities to promote walking, cycling and public transport use are identified and pursued.
- 4.70. Paragraph 105 requires the planning system to actively manage patterns of growth in support of these objectives, with development focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes.
- 4.71. Paragraph 110 requires applications for development to take opportunities to promote sustainable transport modes, achieve safe and suitable access and to mitigate the impacts of trip generation on the highway network.
- 4.72. Paragraph 111 makes it clear that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety or the residual cumulative impacts on the road network would be severe.

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- 4.73. In highway and accessibility terms, the Site is located adjoining the fifth most sustainable settlement in the Borough, within walking distance to local services and facilities, and within reach of larger settlements via readily accessible public transport. The supporting TS also demonstrates the acceptability of the Scheme in sustainability and highway terms, concluding in relation to the acceptability of the trip rates from the proposal upon the highway network. Accordingly, the Scheme is consistent with section 9 of the NPPF.
- 4.74. Accordingly, the Scheme is consistent with paragraph 105 of the NPPF.

Achieving Well-Designed Places

- 4.75. Section 12 sets out the approach to achieving well-designed places.
- 4.76. Paragraph 126 states that the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. It is added that good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.
- 4.77. Paragraph 131 adds that trees make an important contribution to the character and quality of urban environments, with planning policies and decisions to ensure opportunities are taken to incorporate trees within developments.
- 4.78. The outline scheme incorporates a number of trees whilst the detailed design is a matter that can be controlled at the reserved matters stage.
- 4.79. As paragraphs 4.13 and 4.14 of the Planning SoCG refer (**CDD.1**), a good standard of design is achievable.

Green Belt

- 4.80. Section 13 sets out the policy basis for protecting Green Belt land. It states that Green Belt boundaries can only be reviewed in exceptional circumstances, through the local plan-making process.

- 4.81. Paragraph 138 sets out the five purposes of the Green Belt.
- 4.82. Policy guidance in respect to the assessment of applications which affect Green Belt land starts at paragraph 143.
- 4.83. Paragraph 147 states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances (“VSCs”).
- 4.84. Paragraph 145 looks for opportunities to enhance access to the Green Belt.
- 4.85. Paragraph 148 requires local planning authorities (and in this case the Inspector) to ensure that substantial weight is given to any harm to the Green Belt. It is added that VSCs will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.
- 4.86. Paragraph 149 sets out a limited number of exceptions to inappropriate development in the Green Belt. It is accepted that the Appeal Scheme does not meet any of those exceptions listed. However, the list at paragraph 149 includes provision for limited infilling in villages. I conclude that development along the Site frontage would be appropriate, which could provide for development of this part of the Site for up to approximately 5 dwellings.
- 4.87. Examples of possible infill schemes are included at Appendix K to Mr Self’s evidence.
- 4.88. Although this is not a reason of itself to justify the development of the whole Site for up to 37 dwellings, it is relevant to consider the impact of frontage/infilling “appropriate development” when considering certain impacts of the Appeal Scheme. I expand upon this issue in section 8 of my evidence below.

- 4.89. On the basis of the foregoing, the Appeal Scheme falls to be determined on the paragraph 148 test, which is set out in full as follows:

“When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green belt. ‘Very special circumstances’ will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations”. (My emphasis underlined)

- 4.90. There will obviously be a degree of localised harm caused to the Green Belt by reason of inappropriateness. Green Belt considerations are set out in section 8 of my below as well as in the proof of evidence prepared by Clive Self.

Natural Environment

- 4.91. Section 15 sets out the approach to conserving and enhancing the natural environment.
- 4.92. As to landscape considerations, the site is not located within any formal designations for the most valued landscapes. Accordingly, paragraph 174(a) of the NPPF is not a constraint to development in this case.
- 4.93. Paragraph 174(e) requires planning decisions to prevent new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of noise pollution.
- 4.94. The issue of noise is also addressed at paragraph 185, which requires planning decisions to mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life. Paragraph 187 sets out the “agent of change” principle where “unreasonable” restrictions would otherwise be placed on existing businesses.
- 4.95. The Scheme can also secure a measurable BNG score of +10.51% for habitat units and +65.48% for hedgerow units.

The Regulation 18 Consultation Draft Local Plan

General

- 4.96. Paragraphs 6.23 to 6.29 of the Planning SoCG record the position in relation to the Regulation 18 consultation draft Local Plan (Sept 2021) (**CDE.20**).
- 4.97. The draft Local Plan identified that exceptional circumstances existed to support the allocation of significant areas of the Green Belt for housing, including to assist in meeting identified housing needs and to create sustainable patterns of development.
- 4.98. Based upon the housing requirement derived from the standard method, policy H1 of the draft Local Plan plans for at least 12,160 dwellings in the period 2022 to 2038, equating to a minimum of 760 dwellings per annum.
- 4.99. Taking the figures from the individual place strategies in chapter 5 of the draft Local Plan, it is clear that housing need can only be met through development on Green Belt sites. Importantly, the extent of the housing need is so large it cannot be met through the reuse of urban land.
- 4.100. Given the constrained nature of Hertsmere, which comprises 80% Green Belt, it is unsurprising that the draft Local Plan cites exceptional circumstances to justify the release of land from the Green Belt for housing.
- 4.101. In this regard the draft Local Plan provided for approximately 9,000 of the 12,160 dwelling requirement on sites to be released from the Green Belt. This means approximately 74% of the housing requirement was to be met on land to be removed from the Green Belt.
- 4.102. That statistic provides the clearest possible demonstration that HBC has no prospect of seriously addressing current and future housing needs in the short, medium or long-term, save by releasing Green Belt sites.
- 4.103. Page 15 identifies Shenley in the fourth most sustainable tier of settlement.

4.104. Page 18 states in relation to supporting larger rural communities and the growth of key villages as follows:

“The Local Plan will deliver growth in the borough’s main villages of Elstree, Shenley and South Mimms to create more sustainable and self-contained communities. Growth will be of a location, scale, type and design appropriate for the size and character of the existing villages and will pay particular regard to infrastructure capacity. As with the proposed neighbourhood extensions, the selection of sites to be allocated will reflect site availability and follow a rigorous process of assessing sites for their sustainability credentials.

Any outward growth of these villages, and indeed most development within the existing village boundaries, will involve some development in the current green belt. Exceptional circumstances justifying adjustments to green belt boundaries will be demonstrated; compensatory green belt improvements which enhance community access to and improve the local environment of the remaining green belt will also be required.”

4.105. Pages 39 and 40 set out the approach to future growth at Shenley. Local objectives include the following:

- Delivering new homes which meet local needs through an appropriate and affordable mix of housing.
- Defining a new green belt boundary, identifying the area within which growth to meet local needs will be delivered to secure the future sustainability of the village.
- Deliver a range of sympathetically designed homes off Harris Lane.

4.106. Page 40 anticipates the growth of Shenley for up to 350 dwellings, including 290 dwellings on 2 x allocated sites.

4.107. As recorded on page 40, the Appeal Site is allocated for 50 dwellings (Site Ref: HEL390).

4.108. The approach to site selection is set out on page 77, identifying the rigorous approach that was undertaken in relation to the allocation of sites for housing:

“The allocated sites reflect and give effect to the overall spatial strategy which underpins this plan. All sites have been assessed against detailed criteria based on the principles of sustainable development and to establish their availability, suitability and deliverability. Factors considered include (but are not limited to):

- *sustainability of location;*
- *existing or potential availability of appropriate infrastructure;*
- *green belt impact;*
- *impact on local character, landscape and environment;*
- *transport and highways issues;*
- *flooding;*
- *viability.*

The estimated number of homes for each site is indicative only, being neither a requirement nor a constraint, but is identified in order to inform an understanding of overall housing supply. Individual estimates have taken into account:

- *information contained in the HELAA;*
- *identified development constraints;*
- *indicative schemes and supporting technical information submitted by site promoters;*
- *any relevant planning permissions.”*

4.109. The draft allocation of the Appeal Site under Site Ref: HEL390 was informed by this rigorous assessment.

4.110. The evidence base to the draft Local Plan includes a number of technical reports, including, but not limited to a Green Belt Review, the HELAA assessment and a Settlement Hierarchy Assessment. I summarise the content of the documents below.

Settlement Hierarchy and Accessibility Mapping Analysis

4.111. This Technical Study (**CDE.48**) identifies Shenley as the fifth most sustainable settlement in Hertsmere (after Borehamwood, Potters Bar, Bushey and Radlett). Shenley is identified as benefitting from a range of services and facilities (Table 4 of page 23 of the Study refers).

In my opinion, which is shared by the Council, the Appeal Site affords a sustainable location in helping to meet identified housing needs.

Green Belt Review

- 4.112. This allocation of the Site for 50 dwellings under Site Ref: HEL390 followed the appraisal of the Site through the Council's Green Belt Assessment.
- 4.113. The Council's Green Belt Assessment (Stage 1) was undertaken by Arup in January 2017. The study was carried out to assess how different areas of Green Belt across the Borough perform against the Green Belt purposes.
- 4.114. The Study identifies the Site as forming part of Green Belt Parcel 18, which washes over the southern built up area of Shenley and also encompasses land between Borehamwood (to the south), the A1 dual carriageway (to the east), the M25 motorway (to the north) and the B5378 (to the west), totalling an area of just over 1,480 hectares.
- 4.115. The report assesses the parcel as meeting criterion of purposes 1 and 2, preventing outward sprawl of Borehamwood into open land and forming part of the wider gap between Borehamwood, London Colney, Potters Bar and Greater London.
- 4.116. The report assesses the parcel as meeting the criteria of purpose 3 relatively strongly, with the majority of the parcel comprising open fields with long views, maintaining an unspoilt rural character. The parcel is however also stated as including small washed over villages and a more substantial cluster of built form in the north east at Shenley, which includes residential properties, public houses and various other structures.
- 4.117. The report states that the parcel does not meet the criterion of purpose 4 as it does not abut an identified historic settlement core.
- 4.118. The Green Belt Assessment (Stage 2) was undertaken by Arup, with the final report published in March 2019 (extracts at Appendix H to the LVIA prepared by CSA).

- 4.119. The Study was carried out to build further on the Stage 1 assessment, with a more refined and focused assessment to ensure that Hertsmere Borough Council had made every effort to identify appropriate land to meet identified housing needs.
- 4.120. Stage 2 of the Green Belt Assessment further sub-divides the Stage 1 Parcels in line with the principles set out in paragraph 139 of the NPPF, defining clearly recognisable and permanent Green Belt boundaries.
- 4.121. Several Sub-Areas are identified within Parcel 18, on the eastern edges of Shenley and the northern edges of Borehamwood.
- 4.122. The Appeal Site lies within the north western part of Sub-Area 27, with the Sub-Area extending south to London Road, north to Mimms Lane and east to the Catherine Bourne watercourse.
- 4.123. Sub-Area 27 is assessed within the study against the first four Green Belt purposes. The study found that the Sub-Area does not meet purpose 1 (given it does not prevent outward sprawl of Borehamwood), meets purpose 2 moderately and purpose 3 strongly (in line with the Part 1 assessment of Parcel 18). The study concluded that the release of Sub-Area 27 would likely result in harm to the performance of the wider strategic Green Belt.
- 4.124. The Study then goes on to identify a small area in the north western corner of the Sub-Area (the Site) which it identifies as RC-3 and describes it as a very small scale area, physically enclosed by strong features to the north, south and west, which does not play a fundamental role in relation to the wider Green Belt. This north western part of the Sub-Area is recommended in the study for further consideration.
- 4.125. The study concludes that the area identified under RC-3 (the Site) could only be considered further for release from the Green Belt if the southern built up area of Shenley, currently washed over in the Green Belt, was inset in line with paragraph 140 of the NPPF. It also states that boundary features that are readily recognisable and likely to be permanent have been identified, although

some strengthening would be required to the existing hedgerow in the north western part of SA-27 (the Site), to limit visual linkages with the wider Green Belt beyond and ensure the hedgerow is consistent and readily recognisable.

4.126. The evidence base also included ‘Hertsmere Green Belt Stage 4 – Inset Village Boundary Assessment.’ (March 2021). The stage 4 Green Belt report looks specifically at the current washed over villages of Shenley, South Mimms and Elstree Village. The report considers the potential future Green Belt inset boundaries of these three settlements. It makes the following comments about the promoted sites:

“At the time when the assessment was undertaken (October 2020), the Council was still considering which promoted sites might be shortlisted as their proposed site allocations. Promoted sites in the vicinity of Shenley are shown on Figure 4.44. of the Green Belt Stage 4 – Inset Village Boundary Assessment. The promoted sites immediately adjacent to the area proposed for inseting are:

- *Shenley Grange*
- *South of Rectory Farm Savills*
- *Land adjacent 52 Harris Lane*
- *Land at 26 Woodhall Lane*

If any of these sites are shortlisted, it will be necessary to further revise the proposed inset boundaries. Further if any of the promoted site immediately adjacent to the current inset part of Shenley are shortlisted, it will also be necessary to revise those boundaries too.”

Housing and Economic Land Availability Assessment (2019)

4.127. The Council’s Housing and Economic Land Availability Assessment (“HELAA”) was published in 2019 (**CDE.26** and **CDE.27**), having been prepared by Council officers. It assesses the potential for sites to be developed for housing.

The HELAA conclusion for the Appeal Site is reproduced below.

“There are no significant topographical or environmental constraints affecting the site which comprises a field to the side (north) and rear (east) of no.52 Harris Lane. The land is immediately beyond the village envelope and south of a complex of buildings belonging to a local arboriculture business. Although

belonging to the owners of the main house, the land is distinct from the fenced off rear garden. The field has been used by the occupants of the house but the front part has been determined as not forming part of the curtilage of the house through a refused CLE application (14/1645/CLE).

The frontage of the site is within 400m from the centre of the old village which contains a school and other local amenities and stops for both the 658 (St Albans to Borehamwood) and 358 (Borehamwood – Oaklands College, school days, twice daily only) bus services. The site is approximately 1,000m from the shops at Andrew Close.

The site lies within a strongly performing Green Belt parcel that forms a wider gap between Borehamwood and London Colney. However, the sub-area around Shenley Village itself, being more densely developed, is identified as performing a more limited role in preventing encroachment into the countryside and being more connected with the settlement edge than the wider countryside and is at the outer edge of the area recommended for further consideration. The independent Stage 2 Green Belt assessment recommended part of the sub-area within which the site is located could be considered further.

Under the current policy framework, the site would not be suitable for development other than for rural exceptions scale and type of housing. Were exceptional circumstances to exist which could justify amending the Green Belt boundary in this location in line with paragraph 136 of the NPPF, the site is considered to be suitable, achievable and deliverable for an estimated 50 homes. However, currently the site can only be recorded in the category of sites as not currently acceptable.”*

4.128. Informed by the evidence based on the Green Belt, the Site was included as Site Ref: HEL390 on page 112 of the Draft Local Plan Regulation 18 Document as an allocated site, which text states as follows:

| HEL390 | land adj 52 Harris Lane, Shenley | 50 | Y | Mix of dwelling sizes to complement the surrounding area and sensitively relate to existing houses on Harris Lane in an edge of village location. Access to be taken directly from Harris Lane. |
|--------|----------------------------------|----|---|---|

- 4.129. In April 2022, the Council resolved to 'set aside' the plan but to continue the local plan process by completing consideration of the Regulation 18 engagement responses and carrying out additional work as necessary to inform a local plan strategy, whilst awaiting clarity from the Government on changes to law or policy affecting that matter.
- 4.130. More recently, in October 2022, the Council issued an '*Appeal for sites for new Local Plan*'.
- 4.131. At the time of writing, I have seen nothing from the LPA suggesting that any materially different or new sites with opportunities for significant housing development outside the Green Belt were identified. Given my knowledge of Hertsmere, I would be surprised if there were any.
- 4.132. At the time of writing my evidence, preparation of the emerging Local Plan is on hold. There is no known timescale for its preparation and/or adoption.

Summary

- 4.133. What is clear, is that the Local Plan is not expected to be adopted any time soon. In the interim, the existing policies for the supply of housing are out of date and the Council is not able to demonstrate a five year supply of deliverable housing land.
- 4.134. In the circumstances, I am of the view that the Regulation 18 draft Local Plan and the accompanying evidence base (in particular to include the judgments and reasoning of Council officers and Council instructed consultants as to the suitability of the Appeal Site, and as to the Council's dire predicament in seeking to meet identified housing needs) are material considerations in the determination of the Appeal.
- 4.135. In my opinion, and as the Council does not dispute, any strategy in Hertsmere which aims to meet housing need must inevitably require Green Belt releases. For a Borough covered by 80% Green Belt – essentially everything outside existing settlement boundaries – that is no more than stating the obvious

4.136. Echoing the conclusion of the Inspector in the Kennel Lane, Billericay appeal decision (**CDJ.1**); and the Little Chalfont appeal (**CDJ.4**), the absence of an up to date local plan and the absence of evidence to justify a different conclusion to be reached in relation to the suitability of the Appeal Site for housing, the evidence base and decisions made in allocating the Site in the Regulation 18 Local Plan weigh in support of the Scheme.

Five Year Housing Land Supply Statement

4.137. The Council's latest position is set out in their September 2022 Position Statement (**CDE.10**) and purports to be able to show a 2.25 year supply of deliverable housing land for the period 1st April 2022 to 31st March 2027.

4.138. The Council identifies a supply of 1,713 dwellings against a 3,801 dwelling requirement⁷. This represents a shortfall of 2,088 dwellings and a supply of only 2.25 years. As set out in **CDD.4** and expanded upon in **SB1**, I identify a shortfall of 2,603 dwellings and a supply of 1.58 years. Acute and chronic are two superlatives I use to describe the clearly unacceptable position. I summarise my findings in section 5 below.

Affordable Housing

4.139. The need for affordable housing in Hertsmere is acute.

4.140. The Council's Affordable Housing SPD (Oct 2015 and updated in Dec 2021) supplements the requirements at Policies CS4, CS5 and CS7 from the CS relating to the Borough wide target for 35% affordable housing provision.

4.141. The Appeal Scheme secures the on-site provision of 40% affordable homes (up to 15 dwellings), thus achieving a significantly higher quantum than the prescribed policy-compliant affordable housing provision.

⁷ The Council's Position Statement includes a typographical error. The figure should be recorded as 3,801 not 3,081. This error has been accepted by the Council. Paragraph 3.6 of CDD.4 refers

4.142. Paragraphs 20(a), 60 and 62 of the NPPF sets a strong emphasis on the delivery of sustainable development including affordable homes, within the context of the Government's aim to "boost significantly the supply of homes".

4.143. The acute affordable housing need reinforces the merits of the Appeal Scheme with the on-site provision of up to 15 affordable dwellings.

4.144. I address the position in section 6 below.

Self-build Housing

4.145. The Council is not fulfilling its duty under the Self Build and Custom Housebuilding Act 2015, which, inter alia, requires Authorities to give suitable permissions to allow a supply of serviced plots to meet demand. These requirements have been given greater impetus by the recommendations of the Bacon Report and the NPPF.

4.146. I address the position in section 7 below.

5. MARKET AND GENERAL HOUSING MATTERS

Five Year Housing Land Supply

- 5.1. As my evidence has already explained, which position is recorded in **CDD.4**, the Council is not able to demonstrate a five year supply of deliverable housing land for the five year period 1st April 2022 to 31st March 2027. However, there is disagreement as to the extent of the deficit.
- 5.2. The respective positions are summarised in Table 1 below.

Table 1: Respective Five Year Housing Land Supply Positions

| | HBC | Appellant |
|---|---------|-----------|
| Minimum 5yr Req. 1 April 2022 to 31 March 2027 | 3,801 | 3,801 |
| Deliverable Supply | 1,713 | 1,198 |
| Extent of Shortfall | -2,088 | -2,603 |
| No. Years Supply | 2.25yrs | 1.58yrs |

- 5.3. As Tables A, B and C in **CDD.4** explain, I discount the Council's supply figure by a total of 515 dwellings. This is because I dispute 265 dwellings from 13 of the Council's HELAA sites and all 250 dwellings relied upon by the Council from a total of five sites in the Elstree Way Corridor Area Action Plan.
- 5.4. My position is explained in **SB1**. However, and in short, when one applies the deliverability tests from the NPPF, PPG and findings in various appeal decisions, it is clear that the Council does not have the evidence to justify their assumptions.
- 5.5. On either the Council's figures or my analysis, I quantify the five year housing land supply position as falling substantially short of the five year requirement, which position is acute.

5.6. I attach very substantial weight to the delivery of housing from the Appeal Scheme.

Housing Delivery: Past Performance

5.7. There has been a recent history of under delivery of housing in Hertsmere against the local housing need derived from the standard method.

5.8. In the period since the Council was no longer able to rely upon the figure in its 2013 CS, comparing the dwelling completions figure with the need figure for the four year period 2018/19, 2019/20, 2020/21 and 2021/22, results in a cumulative shortfall of 1,018 dwellings, calculated as follows:

| 2018/19 | 750 | 630 | -120 | 84% |
|--------------|--------------|--------------|---------------|------------|
| 2019/20 | 753 | 564 | -189 | 75% |
| 2020/21 | 757 | 456 | -301 | 60% |
| 2021/22 | 760 | 352 | -408 | 46% |
| Total | 3,020 | 2,002 | -1,018 | 66% |

5.9. As the table shows, in the last four monitoring years, the Council has achieved 84%, 75%, 60% and 46% of its requirement respectively. This shows a worsening trend of housing delivery.

5.10. In addition to the above, the Council's last four 5-year housing land supply statements⁹ (covering the period since the Council was no longer allowed to rely on the figures in its 2013 Local Plan) show a starkly deteriorating position:

- (i) For the period **2019-2024**, the Council accepted it could only show a **3.24 year supply** of deliverable housing land, a supply of 2,429 dwellings against a requirement of 3,750 dwellings). This represents a shortfall of 1,321 dwellings.
- (ii) For the period **2020-2025**, the Council acknowledged a **2.92 year supply** of deliverable housing land, a supply of 2,199 dwellings against

⁸ Including a 5% buffer. Requirement figures taken from the Council's AMRs at CDE.55

⁹ CDE10 to CDE13

a requirement of 3,765 dwellings. This represents a shortfall of 1,566 dwellings.

- (iii) For the period **2021-2026**, the Council acknowledged a **2.3 year** deliverable housing supply, a supply of 1,735 dwellings against a requirement of 3,785 dwellings. This represents a shortfall of 2,050 dwellings.
- (iv) For the period **2022-27**, the Council purports to be able to demonstrate a supply of **2.25 year supply**, a supply of 1,713 dwellings against a requirement of 3,801 dwellings. The shortfall is 2,088 dwellings.

- 5.11. My assessment for the current five year period identifies a 1.58 year supply.
- 5.12. The persistent shortfall in housing delivery means the requirement for a HDT Action Plan was triggered (HDT results 2021). As at the time of writing my evidence, there is no prospect of a plan-led solution to address the substantial and severe shortfall in the short term delivery of housing.
- 5.13. In addition, and as recorded at paragraph 2.7 of the Council's Position Statement (**CDE.10**), there has been a significant under delivery of housing over the previous three years against the target of 760 and it is therefore likely that a 20% buffer will need to be considered under paragraph 74(c) of the NPPF following the 2022 Housing Delivery Test measurement. This would represent a further worsening of the five year housing land supply position.
- 5.14. On the Council's figures this would mean a shortfall of 2,631 dwellings and a 1.99 year supply (4,433 dwelling requirement/1,713 dwelling supply).
- 5.15. On my figures, this would be a shortfall of 3,146 dwellings and a 1.39 year supply).

Housing Need and Delivery in Shenley

- 5.16. As part of the preparation of the Shenley Neighbourhood Plan, AECOM prepared a Housing Needs Assessment ("HNA") (May 2018) (**CDE.52**).
- 5.17. The HNA identified a need for 220 dwellings in Shenley during the plan period (2018 to 2034), equivalent to 14dpa. As paragraph A1.48 of the Shenley Neighbourhood Plan ("NP") refers, this is an unconstrained figure and does not

take into account policies relevant to housing delivery which may constrain supply.

- 5.18. By contrast, (i) paragraph 102 of the HNA identifies an average of 3.57dpa had been built in Shenley in the period 2011 to 2018; and (ii) page 39 of the Regulation 18 draft Local Plan identifies 10 net additional dwellings were built in Shenley in the period 2018 to 2021 (3.33dpa).
- 5.19. Page 39 of the Regulation draft Local Plan (**CDE.20**) identifies that limited infilling has been allowed under the current Local Plan. Looking ahead, the identification of suitable land to meet local needs (including through a defensible green belt boundary), will be a key consideration for the future sustainability of the village.
- 5.20. Development of the Appeal Site now would address the shortfall that has accrued in the period 2018 to 2021 as against the AECOM / Shenley NP assessment of need (14dpa x 3yrs = 42 dwellings – 10 completions = shortfall of 32 dwellings).
- 5.21. The limited number of dwellings delivered at Shenley (3dpa across the last 10 years) is at a level one might associate with a small rural hamlet. The reality is far different. Shenley is one of the most sustainable locations for growth in the Borough, with between 4000 – 5000 residents. It can and should make its fair and equitable contribution to meeting identified growth needs.
- 5.22. Paragraph A1.40 NP states that evidence gathered relating to affordability suggests that an income of roughly £70,000 is required to buy an entry level dwelling in Shenley. For those on average incomes, market rental (Private Rented Sector) dwellings are affordable, but for sale dwellings are not.
- 5.23. In the 10-year period from the base-date of the Core Strategy (2013), the only affordable dwellings I am aware of being provided at Shenley comprise the 5 x affordable dwellings at North Lodge (LPA Ref: TP/11/1489). This scheme was delivered by the principal of the Appellant.
- 5.24. In the circumstances, it is understandable why Policy SH3 of the Shenley Neighbourhood Plan sets out support for development for new homes where

they increase the supply of 1-3 bedroom homes, more affordable homes and self-build/custom-build homes.

- 5.25. This also explains Watford Community Housing's support for the Appeal Scheme at **SB5**.

Housing Delivery in the Context of the NPPF

- 5.26. Section 5 above refers to the requirements of the NPPF. The NPPF should also be read in the context of a number of DCLG and Ministerial Statements which have emphasised the importance of the timely delivery of housing development.
- 5.27. These announcements are of some vintage, demonstrating the emphasis placed upon the need to significantly boost the supply of homes. They include, but are not limited to, 'Laying the Foundations: A Housing Strategy for England' (Nov 2011); the Ministerial Statement 'Planning for Growth' (March 2011); and the Ministerial Statement 'Housing and Growth' (6 September 2012) with the latter confirming that the need for new homes is 'acute', that supply remains constrained and that a proactive approach was required to support growth.
- 5.28. Government announcements have repeatedly confirmed the need to increase the supply of housing.
- 5.29. As far back as 2013 the Government referred to the existence of a nationally identified housing crisis¹⁰. This further supports the need to significantly increase the supply of housing.
- 5.30. The message relating to the need to boost the supply of housing and the associated economic benefits that arise have been carried forward in the more recent Statement produced in July 2015 by HM Treasury "Fixing the Foundations: Creating a More Prosperous Nation."
- 5.31. Paragraph 9.1 states in relation to house building as follows:

¹⁰ In the House of Commons Debate on 24 October 2013, the Planning Minister, Nick Boles, reaffirmed that there is a national housing crisis.

“The UK has been incapable of building enough homes to keep up with growing demand. This harms productivity and restricts labour market flexibility, and it frustrates the ambitions of thousands of people who would like to own their own home.”

- 5.32. Paragraph 9.7 adds in relation to the planning system and the need for increased house building:

“There remains more to do. As the London School of Economics (LSE) Growth Commission found, ‘under-supply of housing, especially in high-growth areas of the country has pushed up house prices. The UK has been incapable of building enough homes to keep up with growing demand’¹¹.”

- 5.33. ‘Fixing our broken housing market’ 2017 states on page 9:

The housing market in this country is broken, and the cause is very simple: for too long, we haven’t built enough homes. Since the 1970s, there have been on average 160,000 new homes each year in England. 1 The consensus is that we need from 225,000 to 275,000 or more homes per year to keep up with population growth and start to tackle years of under-supply

- 5.34. More recently, The House of Commons Committee of Public Accounts (19th June 2019) (paragraph 1 of summary) concluded:

“The Department has a highly ambitious target to deliver 300,000 new homes per year by the mid-2020s but does not have detailed projections or plans on how it will achieve this. Meeting the target of 300,000 new homes a year will need a significant step-up in the level of house building. Current levels are not promising: the number of new homes has increased every year since 2012–13, with 222,000 new homes in 2017–18, but the average number in the period 2005–06 to 2017–18 was still only 177,000 a year. The Department accepts that it will need to transform the housing market to get more new homes built and says that achieving the target would be “very challenging”. Despite having introduced some projects to help, including encouraging small builders through the small builders guarantee scheme and reforming the planning system, the Department simply does not have the mechanisms in place to achieve the 300,000 target. This is compounded by lack of detailed rationale as to why this

¹¹ Investing for Prosperity, London School of Economics Growth Commission, September 2013

*target was chosen in the first place. It also lacks year-on-year projections on how it will ramp up house building, only illustrative projections which are not in the public domain. **To make this even more concerning, the target does not align with the Department's new method for calculating the need for new homes which shows that just 265,000 new homes a year are needed.***

- 5.35. The Committee of Public Accounts also noted with respect of affordable housing (paragraph 5), that:

“The Department acknowledges that it will need to sustain and increase the numbers of affordable housing built to help it achieve the target of 300,000 new homes but cannot say how many and what types of affordable homes are needed. The Department has not detailed its expectations for numbers of these types of homes to be built as part of its 300,000 target for new homes. It is encouraging greater numbers of affordable homes to be built through the Affordable Homes Programme; and its reforms to the planning system aim to deliver more homes in areas of high unaffordability, such as London and the South East. At local level, local authorities detail the numbers of types of affordable housing needed in their local plans including social housing, affordable rent, built to rent, and that provided by Housing Associations. However, these planned numbers can be undermined as developers renegotiate section 106 agreements to provide less affordable housing than originally agreed with local authorities. The Department believes that its reforms to section 106 agreements would help the provision of affordable homes.”

- 5.36. The announcements explain the importance of the need to support the *Government's objective of significantly boosting the supply of homes* (NPPF paragraph 60) which matter is a material consideration in relation to the assessment of housing supply. Within this boosting of the supply of housing is a clear recognition of the importance of providing affordable homes (NPPF paragraph 62) as this will help meet the needs of specific groups (paragraph 60).

Housing White Paper (Aug 2020)

- 5.37. The content of the White Paper is a further material consideration relevant to the assessment and determination of the appeal proposal.

-
- 5.38. It expands upon certain of the above publications, highlighting the fact that the country does not have enough homes and that the housing market is broken. The introduction identifies the cause as being very simple: the lack of supply. Accordingly, the proposals set out how the Government intends to boost housing supply.

Government Announcements (Dec 2022)

Written Ministerial Statement (Dec 2022)

- 5.39. On 6th December 2022, the Secretary of State for Levelling Up, Housing & Communities Minister for Intergovernmental Relations, made a Written Ministerial Statement (“WMS”) in which announcements were made about the government’s intentions to make further changes to the planning system alongside those in the Levelling Up and Regeneration Bill.

PINS NOTE 14/2022

- 5.40. The implications of the WMS were considered in the PINS NOTE 14/2022, where paragraph (3) states as follows:

“A WMS is an expression of government policy and, therefore, capable of being a material consideration (or important and relevant) in all casework and local plan examinations. It should be noted, however, that this WMS states that further details of the intended changes are yet to be published and consulted upon.”

- 5.41. Paragraph (5) provide greater clarity, stating as follows:

“No action is required in any casework areas, at present, as the WMS sets out proposals for consultation rather than immediate changes to government policy. Consequently, the starting point for decision making remains extant policy, which we will continue to implement and to work to until such time as it may change.”

- 5.42. I consider the Appeal Scheme in this context.

NPPF - Consultation Changes

5.43. I note the changes proposed in the consultation draft NPPF, including in relation to the approach to five year housing land supply and the Green Belt. However, and for the reasons set out in PINS NOTE 14/2022, sets out proposals for consultation rather than immediate changes to government policy. Consequently, the starting point for decision making remains extant policy. The suggested changes carry no material weight.

Summary

5.44. These recent publications and announcements highlight the importance and therefore weight to be given to increasing the supply of housing land.

5.45. As explained above, the presumption in favour of sustainable development (or 'tilted balance') is engaged on account of the inconsistency between the development plan and the NPPF. This includes in relation to the spatial application of its policies being out of date; and in relation to the lack of a five year supply of deliverable housing land (by a huge margin). Either issue separately triggers the presumption in favour of sustainable development.

5.46. The Council acknowledges that the Borough is unlikely to be able to meet its needs within existing developed areas. Accordingly, it is logical to conclude that some Green Belt release will be required in due course.

5.47. The reality is that to boost the supply of housing significantly and to meet the full objective housing needs, Green Belt land will need to be released to meet these requirements.

5.48. As to five year housing land supply, the Council's latest position is set out in their September 2022 Position Statement which purports to be able to show a 2.25 year supply of deliverable housing land for the period 1st April 2022 to 31st March 2027. This represents a shortfall of 2,088 dwellings. As such, and on their own assessment, the Council is not able to demonstrate a five year supply of deliverable housing land, thus engaging the presumption in favour of sustainable development at paragraph 11 of the NPPF.

- 5.49. However, my analysis shows the actual shortfall is much greater at 1.58 years, representing a shortfall of 2,603 dwellings.
- 5.50. As confirmed in case law, the extent of the shortfall is relevant to the weight that can be given to out-of-date policies, as well as to the benefits of housing delivery.
- 5.51. Whilst the Council concedes that it is unable to demonstrate an up-to-date five year housing land supply, the extent of the shortfall is material to assessing the merits of housing delivery from the Appeal Scheme. It means that the Appeal Scheme passes the paragraph 148 tests.
- 5.52. Given the Appeal Site is predominantly greenfield land and in single ownership, the ability of a site to deliver quickly and thus contribute towards the 5 year housing land supply is considered to represent a significant benefit of the proposal.
- 5.53. In the circumstances, the weight to be attributed to the conflict between the location of the Appeal Site adjacent to, but beyond the settlement of Shenley is significantly reduced.
- 5.54. As set out in the Planning SoCG (**CDD.1**), the Appeal Site is located within easy walking and cycling distance of local facilities and public transport connections. Bus stops are located within easy walking distance from the Site, providing access to frequent bus services to the surrounding area. As such, there are genuine opportunities for residents and visitors to the Site to travel to/from the Site using active travel (walking and cycling) and sustainable modes of transport.

6. AFFORDABLE HOUSING MATTERS

- 6.1. The provision of affordable housing is a key important part of the planning system with the NPPF setting out a strong emphasis on the delivery of sustainable development, including affordable homes, at paragraphs 20, 61 and 62.
- 6.2. The Council's delivery of affordable housing over the lifetime of the current Core Strategy is outlined in selected Authority Monitoring Reports. As these provide an incomplete set of data of affordable housing completions, I have relied upon the data compiled by the Government¹².
- 6.3. I then compared these completion figures against the affordable housing need identified in the South West Hertfordshire Strategic Housing Market Assessment ("SHMA") (February 2016) (**CDE.28**) and the more recent South West Hertfordshire Local Housing Needs Assessment ("LHNA") (2020) (**CDE.25**).
- 6.4. This indicates the following minimum annual need for affordable homes in Hertsmere Borough.

Analysis of need for affordable housing in Hertsmere Borough

| | | |
|------|---------|-------------------|
| | | |
| SHMA | 2013-36 | 434 ¹³ |
| LHNA | 2020-36 | 503 ¹⁴ |

- 6.5. The table below compares the delivery of affordable housing since April 2013 with the need assessed through both the SHMA and LHNA.

¹² Source: [Live tables on affordable housing supply - GOV.UK \(www.gov.uk\)](https://www.gov.uk) (Table 1011C)

¹³ Table 39 of SHMA

¹⁴ Derived from 356 homes needed for affordable or social rented housing (Table 37) plus the 147 homes needed for affordable home ownership (Table 42)

Comparison of affordable housing delivery with assessed need in SHMA and LHN

| 2013/14 | 54 | -380 | |
|---------|-----|--------|-------|
| 2014/15 | 19 | -415 | |
| 2015/16 | 45 | -389 | |
| 2016/17 | 8 | -426 | |
| 2017/18 | 25 | -409 | |
| 2018/19 | 91 | -343 | |
| 2019/20 | 66 | -368 | |
| 2020/21 | 18 | -416 | -485 |
| 2021/22 | 89 | -345 | -414 |
| Total | 415 | -3,491 | - 899 |

6.6. The above table indicates that there has been a very significant under delivery of affordable homes in the Borough.

6.7. Whilst 415 affordable homes have been completed in the Borough since April 2013, this equates to only 46.1 homes annually. This is only around 10% of the assessed annual need in both the SHMA and the LHNA.

6.8. The poor performance in providing affordable homes is further illustrated by the unchanging nature of the Borough's social housing waiting list. This is illustrated in the table below.

Changes in Housing register in Hertsmere Borough¹⁶

| Households on waiting list | 661 | 534 | 540 | 633 | 562 | 554 | Not submitted | 576 | 799 |
|--|-----|-----|-----|-----|-----|-----|---------------|-----|-----|
| Households in a reasonable preference category | 593 | 534 | 540 | 559 | 551 | 535 | | 564 | 463 |
| Homeless | 94 | 60 | 35 | 35 | 53 | 72 | | 83 | 11 |

¹⁵ Source: [Live tables on affordable housing supply - GOV.UK \(www.gov.uk\)](http://www.gov.uk) (Table 1011C)

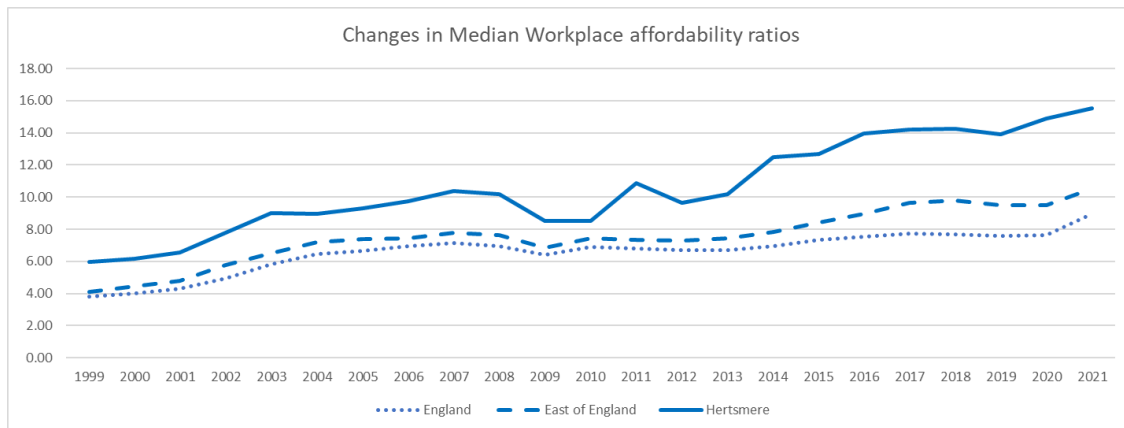
¹⁶ Data sourced from: [Local authority housing data - GOV.UK \(www.gov.uk\)](http://www.gov.uk)

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- 6.9. The unchanging nature of the Council's housing register together with the very significant under provision of affordable homes indicates that there is a very clear need to increase the provision of affordable homes in the Borough.
- 6.10. Taking account of past delivery of affordable housing (46.1pa), it would be over 17 years before all the households on the Council's housing register had a home.
- 6.11. However, this does not even begin to address the demand from existing and newly forming households in the Borough which was for at least 503 affordable homes annually as assessed through the LHNA (2020) which takes account of demand arising from demographic changes in the borough.
- 6.12. Given the historic annual delivery rate of just 46.1 affordable homes, to achieve the minimum yearly need for 503 units, provision needs to increase by nearly eleven times. This is a very substantial increase in delivery of affordable housing.
- 6.13. A step change in the delivery of affordable housing is required if the Council is to get anywhere near the identified need in the SHMA together with the more recent LHN and begin to address the dysfunctions of the local housing market. Such a step change would be consistent with the thrust of paragraph 60 of the NPPF, to boost significantly the supply of housing.
- 6.14. The acute affordable housing need reinforces the merits of this Scheme with the on-site provision of up to 15 affordable dwellings. The provision of the affordable dwellings, mix and tenure will be secured through a legal agreement on this outline application.
- 6.15. I consider very substantial weight is attributable to the benefits associated with the provision of both market and (separately) affordable housing. This is consistent with the conclusions of the Inspector in the appeal on land at Colney Heath referenced earlier¹⁷.

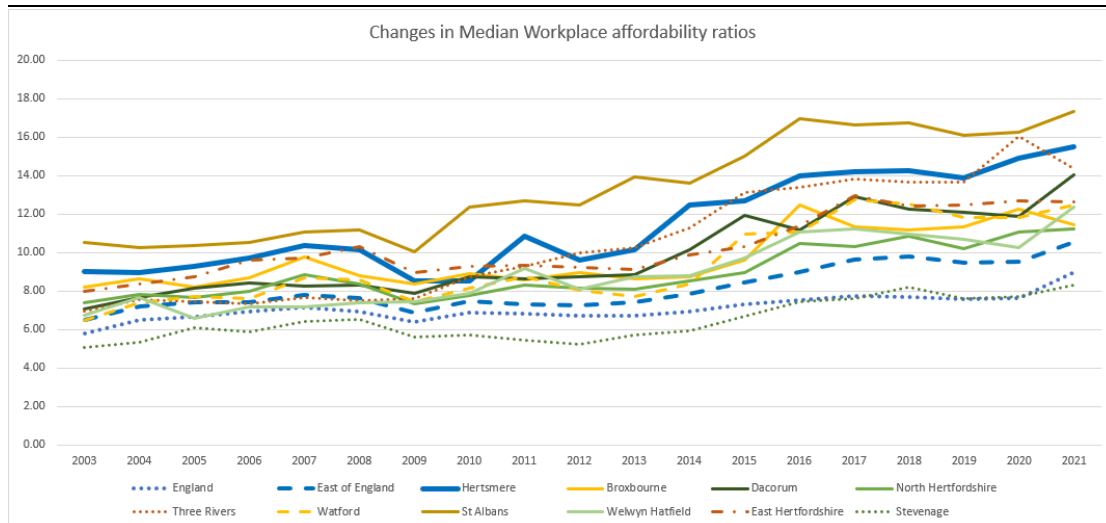
¹⁷ See paragraph 78 of the decision (CDJ.2)

6.16. The inadequacy of affordable housing provision to address the housing waiting list impacts people and communities. A step change in the delivery of affordable housing is therefore required if the Council is to get anywhere near to resolving the very significant need within the Council's Housing Register. Such a step change would be consistent with the thrust of paragraph 60 of the NPPF, to boost significantly the supply of homes.

6.17. The inability to resolve the Council's housing waiting list has wider impacts upon the Borough, including the worsening of affordability ratios. This is shown in the chart below.



6.18. The below chart compares the workplace affordability in Hertsmere Borough with the other Hertfordshire Authorities. It also includes affordability ratios for England and the East of England.



- 6.19. It shows that HBC has consistently had the 2nd worst affordability ratio when compared to the other Hertfordshire Authorities.
- 6.20. The current affordability ratio for HBC as at 2021 is 15.5. That means, average house prices are 15.5 times average earning. That statistic is startling and is unsustainable.
- 6.21. The Appeal Scheme secures 40% affordable housing, this is materially in excess of the Council's 35% policy requirement.
- 6.22. The delivery of up to 15 affordable homes from the Site, in a location that enjoys excellent access to a range of services, attracts **very substantial weight**.
- 6.23. The lack of affordable housing delivery and identification of a remedy to address this very substantial shortfall has resulted in both an acute and chronic need for the delivery of affordable housing.
- 6.24. I have already addressed the need for affordable housing at Shenley at paragraphs 5.16 to 5.25 above. It is a particular issue in Shenley. In addition, it is agreed with the Council that the Appeal Site affords a sustainable location in helping to meet identified housing needs (**CDE.1** refers).

7.0. SELF-BUILD HOUSING MATTERS

- 7.1. The Appeal Scheme includes the provision of 8% (3no.) self-build plots.
- 7.2. The Self-Build and Custom Housebuilding Act 2015 (as amended by the Housing and Planning Act 2016) places a duty on local authorities to grant sufficient development permissions to meet the demand for Self-Build and Custom Housebuilding in their area.
- 7.3. Paragraph 63 of the NPPF states that the size, type, and tenure of housing needed for different groups in the community should be assessed and reflected in policy, including *“people wishing to commission or build their own homes”*. Further information is provided at footnote 28 of the NPPF which I do not seek to repeat here.
- 7.4. Annex 2 of the NPPF 2021 defined Self-Build and Custom Housebuilding as: *“Housing built by an individual, a group of individuals, or persons working with or for them, to be occupied by that individual. Such housing can be either market or affordable housing. A legal definition, for the purpose of applying the Self-Build and Custom Housebuilding Act 2015 (as amended), is contained in section 1(A1) and (A2) of that Act.”*
- 7.5. Central Government has been consistent in seeking to boost the supply of Self-Build and Custom Housebuilding for the past decade, starting with the 2011 Housing Strategy for England, and it is clear that there is national demand for this type of housing.
- 7.6. The benefits of self-build and custom house building are set out at paragraph 16a Reference ID: 57-016a-20210208 of the PPG (**CDL.8**) which explains that *“self-build or custom build helps to diversify the housing market and increase consumer choice. Self-build and custom housebuilders choose the design and layout of their home and can be innovative in both its design and construction”*.

- 7.7. More recently, Richard Bacon MP was commissioned by the Government to undertake an independent review into the scaling up of self-build and custom-build housing.
- 7.8. The Bacon Review was published in Aug 2021 (**CDM.10**), recommending the Government give substantial weight to custom and self-build as a material consideration in the revised NPPF. The Government announced these recommendations will be considered through the Levelling Up and Regeneration Bill and have proposed changes to legislation to ensure that only permissions genuinely for self-build and custom housebuilding are counted towards addressing the statutory duty to meet Register demand.
- 7.9. In Hertsmere, there are no adopted Core Strategy or Site Allocations and Development Management Policies relating to self-build and custom housebuilding provision.
- 7.10. However, page 76 of the Regulation 18 draft Local Plan (**CDE.20**) states as follows:

“The NPPF identifies those wishing to commission and custom or self-build their own homes as a group whose housing need should be assessed and reflected in planning policies. The council keeps, as required, a register of those seeking to acquire serviced plots of land in order to build their own home. 48 individuals were listed on Hertsmere’s Self Build Register on 1 January 2020, demonstrating a relatively low level of local demand compared to the rest of the South West Herts Housing Market Area.”

The availability of suitable plots to meet this level of interest has historically been limited, with the high cost of development land being a significant disincentive to development and most self-build schemes being high value, custom-build redevelopments of existing detached homes.” (My emphasis underlined)

- 7.11. The Council’s Self-Build Register is an important tool to help gauge local demand and inform how many serviced plots (with planning permission) need to be made available on a rolling basis each year by the Council, but it cannot predict longer term demand for plots.

- 7.12. Specific to Hertsmere, the 2020-2021 Right to Build Register Monitoring shows that on 30 October 2021 there are:
- 69 individual entries on the Hertsmere Register.
 - 36 serviced plots for self build and custom build have been granted between 31 October 2020 and 30 October 2021.
- 7.13. The evidence shows an unmet need for Self-Build and Custom Housebuilding plots within Hertsmere.
- 7.14. As I explained in section 5 above, support for the provision of Self Build and Custom build homes is included in Policy SH3 of the Shenley Neighbourhood Plan (**CDE.3**).
- 7.15. In these circumstances, the 3 x self-build plots to be secured as part of the Appeal Scheme Appeal scheme will contribute to meeting an identified demand. As such, I attach **significant weight** to the provision of 3 no. self-build homes from the Appeal Scheme.

8.0. GREEN BELT CONSIDERATIONS

General

- 8.1. This section of my evidence considers the impact of the Appeal Scheme upon the Green Belt. My findings are supported by the evidence of Mr Self.
- 8.2. As I have identified, I accept the Appeal Scheme is by definition harmful to the Green Belt and should only be allowed except in very special circumstances (NPPF, paragraph 143 refers).
- 8.3. My analysis of the impact of the scheme in Green Belt terms is set within the context of the very special circumstances that I say exist to justify the grant of planning permission in this Green Belt location.
- 8.4. My analysis is set against the context provided by the requirements of the development plan and the advice in The Framework regarding material considerations and what such considerations constitute in relation to this Appeal; in particular the need to ensure an adequate supply of housing land in the area as well as the setting out of the 'very special circumstances' which underpin the assessment of this appeal proposal against the provisions as set out at paragraphs 147 and 148 of The Framework.

Addressing Reason for Refusal (1)

- 8.5. The alleged conflict with the Green Belt policies can be further broken down into the following main issues:
 - (i) Whether or not the proposed development would represent inappropriate development in the Green Belt;
 - (ii) The effect of the proposal on the openness of the Green Belt;
 - (iii) The effect of the proposal on the purposes of including land in the Green Belt; and

(iv) Whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the development.

8.6. Informed by Mr Self's evidence, I consider there are a number of important factors that should be taken into consideration in the determination of the appeal scheme; and which satisfy the 'very special circumstances' test at paragraph 148 of the NPPF in order to justify the development.

8.7. I consider the acceptability of the Appeal Scheme in the context of points (i) to (iv) below.

(i) Whether or not the proposed development would represent inappropriate development in the Green Belt

8.8. The NPPF attaches great importance to the Green Belt.

8.9. Paragraph 137 makes it clear that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. As such, the essential characteristics of Green Belt are its openness and permanence.

8.10. Except for the limited number of exceptions set out at paragraphs 149 and 150 of the NPPF, development within the Green Belt is to be regarded as inappropriate.

8.11. The proposed development does not fit into any of the exceptions listed in the aforementioned paragraphs. As such, I conclude **the Appeal Scheme would represent inappropriate development in the Green Belt**. In accordance with paragraph 148 of the NPPF I attach substantial weight to that harm.

8.12. However, it is an "in-principle" harm established as a matter of policy which applies to all undeveloped Green Belt sites regardless of their specific circumstances.

8.13. I now look at the circumstances of the Appeal Site to assess the overall Green Belt harm.

(ii) The effect of the Appeal Scheme upon the openness of the Green Belt

8.14. This matter is addressed in Mr Self's evidence and he concludes as follows:

1. The Site is contained by neighbouring commercial and residential development.
2. The Site has a strong relationship to Shenley with housing backing onto approximately half of the Harris Lane frontage and the entirety of the southern boundary. The balance of the western boundary faces onto Harris Lane. The curtilage of the commercial development to the north similarly backs onto the entire length of the northern boundary. It is only the relatively short eastern boundary which backs onto the neighbouring countryside.
3. The Site also benefits from a high degree of visual containment on account of the swathe of woodland immediately to the north of the Site and the housing on Harris Lane and Anderson Road. The eastern boundary benefits from an established hedgerow with intermittent tree cover which allows some views into the Site from the east but where such views are available the Site is seen within the context of neighbouring development, such as the 3 storey flatted development at Birchwood.
4. Development of the Site will inevitably change its character from that of a grass field to that of residential development with generous areas of open space. Given the Site's physical and visual containment and the scale and density of the Appeal Scheme, the Site is considered to be capable of accommodating a residential development in a manner causing strictly limited harm to the wider landscape.
5. The new housing on the Site will read as a continuation of the existing properties on Harris Lane and Anderson Road and will therefore be compatible with the scale and nature of development in the village. Retention of the Site's boundary vegetation will be further augmented by new planting, which will further assimilate the proposals into their surroundings.
6. Public views of the Appeal Scheme will be possible from the Harris Lane frontage and the playing fields on the opposite side of the road. Where there are such views the frontage housing will be seen within the context of the neighbouring development and will similarly front onto Harris Lane. It will therefore complement the existing pattern of frontage development in this part of the settlement and be at a similar scale.
7. There will also be opportunities to see the Appeal Scheme from the public footpaths which cross the countryside to the east. Where such views exist, the housing which borders the Site is readily visible. It is also worth noting that the three storey flats at Birchwood, which lie to the south of the Site, are somewhat closer to the viewer than the Appeal Scheme will be. The Appeal Scheme will therefore not be introducing a new component into the

view and it will benefit from the new woodland planting that is proposed in the northern part of the Site.

8. The contained nature of the Site means that the impact on the wider Green Belt will be strictly limited, in both visual and spatial terms and as a result it will not be seen as uncontrolled encroachment into the Green Belt and will not set a precedent for further development in this part of the Green Belt.
 9. Mr Self's overall conclusion is that the Appeal Scheme responds to the Site and its wider setting in an appropriate manner and that while there would inevitably be a certain level of harm, as a greenfield site would be released for development, the harm would be strictly localised and the development would not be discordant with the character of the neighbouring area.
- 8.15. As Mr Self explains, while accepting there will be impact on the Green Belt designation for the site itself (spatial aspect), the perception of openness from outside the site (visual aspect) will not be significantly impacted upon due to the restricted views of the site. As such, the change to openness and the perception of openness will be limited to the site itself. Due to the visual containment of the site, there will be no adverse change to the wider landscape setting, including in relation to openness.
- 8.16. The context of the Appeal Site bounded by existing built form to the east and west results in a localised impact.

Limited Infilling in Villages

- 8.17. As explained from paragraph 4.86 above, I consider the Appeal Site affords an opportunity to accommodate an infill scheme along the Site frontage to Harris Lane.
- 8.18. When looking at the appropriateness of an infill scheme, the test to be applied is that from paragraph 12 of Wood v SSCLG and Gravesham BC (2015) (C1/2014/1144) (CDI.6):

“Before this court it was common ground that whether or not a proposed development constituted limited infilling in a village for the purpose of paragraph 89 was a question of planning judgment for the inspector and the inspector's answer to that question would depend upon his assessment of the position on the ground. It was also common ground that while a village boundary as defined in a Local Plan would be a relevant

consideration, it would not necessarily be determinative, particularly in circumstances where the boundary as defined did not accord with the inspector's assessment of the extent of the village on the ground. Against that agreed background, I turn to the inspector's decision." (My emphasis underlined)

- 8.19. Mr Self exhibits infill schemes at Appendix K to his evidence. They comprise 3 x options for the development of 2, 4 or 5 dwellings. In my opinion, an infilling scheme along the Harris Lane frontage would amount to appropriate development in the Green Belt for the purpose of paragraph 149(e) of the NPPF.
- 8.20. Physical features comprising Gristwood & Toms, housing in Mimms Lane and existing properties in Harris Lane, street lighting, the presence of the playing fields opposite the Site means the frontage to the Appeal Site reads as part of the settlement. It is my judgment that development of up to 5 dwellings along the Harris Lane frontage would represent appropriate infilling.
- 8.21. Adopted Core Strategy Policy CS2 and CS13 allow for infilling in settlements washed over by the Green Belt.
- 8.22. Paragraph 5.5 adds that settlement 'envelopes' will define the extent of appropriate infilling opportunities. In addition, paragraph 3.14 states in relation to infilling as follows:

"Infilling is considered to be the development of a very limited amount of new housing, typically one or two dwellings, in small gaps within the built development of a village. For the avoidance of doubt a "development boundary" is proposed for Shenley, Elstree (the part within the Green Belt) and South Mimms within which limited infilling development will be considered. The boundary for infilling will be defined as part of the Site Allocations DPD. Development outside that boundary will be considered contrary to the purposes of including land within Green Belt and will be refused unless very special circumstances can be demonstrated." (My emphasis underlined)

- 8.23. That approach is inconsistent with the above case and with the NPPF. Whether a site is within a village is a matter of planning judgement. Importantly, neither case law nor the NPPF defines what constitutes "limited" infilling either in terms of the 'place' or in terms of dwelling 'numbers'. Again, a planning judgment is required.

8.24. I come to the same judgement as Mr Self, in arriving at the view that infilling of the site frontage for up to 5 dwellings would constitute limited infilling for the purpose of paragraph 149(e) of the NPPF. Indeed, one of the infill schemes approved by the Council for Shenley (and included in the Shenley Infill Pack at **SB4**) is a scheme at 25 London Road for 6 new dwellings which the Committee Report specifically described as “limited infilling”.

Summary

8.25. As Mr Self explains, **the extent of harm to the openness of the Green Belt is limited to the Site itself** due to the existing settlement pattern. I agree.

8.26. Mr Self concludes that whilst there will be some conflict with the purpose of protecting the countryside from encroachment, given the contained nature of the Site, the impact will be limited and localised but will nevertheless need to be considered in the planning balance. I undertake that planning balance exercise below.

(iii) The effect of the proposal on the purposes of including land in the Green Belt

8.27. Informed by my review of the Appeal Scheme, the relevant supporting documents, as well as numerous visits to the Appeal Site, I adopt Mr Self's assessment of the Site's performance against the Green Belt purposes as set out in paragraph 138 of the NPPF (paragraph 5.38 onwards of Mr Self's evidence).

8.28. Mr Self has considered the performance of the Appeal Site in the context of the assessment criteria at paragraph 138 of the NPPF.

8.29. As paragraph 5.38 onwards of Mr Self's evidence explains, the only conflict he has identified between the Appeal Scheme and the five Green Belt purposes at paragraph 138 of the NPPF is limited impact in relation to (c).

- 8.30. As such, and although there is some minor conflict with the third purpose of the Green Belt (safeguarding the countryside from encroachment), any harm from this impact is in part mitigated by virtue of the existing landscape conditions with the site being well contained and well related to the urbanised character of the suburban influences.
- 8.31. The Site does not conflict with any of the other Green Belt purposes. This position has also been agreed with the Council as recorded at paragraph 22 of the Landscape SoCG (**CDD.2**).
- 8.32. Overall, Mr Self finds the Site represents a well contained parcel of land with a strong relationship to the existing settlement. I adopt his findings.

Summary of Green Belt Considerations

- 8.33. As the Appeal Scheme does not fit into any of the exceptions listed in paragraph 149 of the NPPF, I conclude **the Appeal Scheme would represent inappropriate development in the Green Belt**. In accordance with paragraph 148 of the NPPF I attach substantial weight to that harm.
- 8.34. As Mr Self explains, **the extent of harm to the openness of the Green Belt is limited to the Site itself** (due to the existing settlement pattern). I agree.
- 8.35. Section 9 of my evidence goes on to consider whether the Appeal Scheme would result in 'any other' harms. If so, they would also need to be weighed alongside the limited Green Belt harms I have identified.

9.0. ASSESSING THE POTENTIAL FOR OTHER 'HARMS'

General

- 9.1. Paragraph 148 of the NPPF requires substantial harm to be given to any harm to the Green Belt. It is added that very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness and **any other harm** resulting from the proposal (my emphasis in bold) is clearly outweighed by other considerations.
- 9.2. As I have identified in section 8 of my evidence above, development of the Site for housing is by definition inappropriate. I have then gone on to conclude that the Appeal Scheme would result in encroachment of the countryside, which would be the case for the development of any greenfield site outside the settlement boundary. This is an 'in-principle' issue not site specific and is a function of any built form beyond a defined settlement boundary. However, and in this instance, the encroachment would also be limited in this instance by virtue of the site being well contained from the wider countryside beyond.
- 9.3. In accordance with paragraph 148 of the NPPF, I give substantial weight to the Green Belt harm I have identified.
- 9.4. I now go on to assess whether the Scheme would result in any other harms. My assessment includes consideration of the 'noise' issue raised by the Parish Council; and identified by the Inspector as a main issue.
- 9.5. The 'potential' harms I have assessed comprise as follows:
- Character and appearance of the area
 - Noise
 - Residential amenity
 - Trees
 - Ecology
 - Heritage
 - Highways
 - Flood/drainage
 - Local infrastructure capacity

9.6. I now assess each issue in turn.

Character and Appearance of the Area

- 9.7. In addition to Mr Self's conclusions as set out in his evidence, the supporting LVA (CSA) (Nov 2021) (**CDA.20**), identifies that the Site is well contained, both physically and visually by established boundaries. This would ensure that the impact on the Green Belt in medium and long term views is minimal, with development on the site only being visible from within the development itself.
- 9.10. The LVA records the main baseline elements relating to the landscape, and its character, as well as the visual attributes of the site and its surroundings. It also seeks to identify the main landscape and visual effects that would arise from the proposed development and to identify measures that could assist with mitigation, all as generally shown on the Illustrative Landscape Strategy.
- 9.11. The Site does not fall within a valued landscape within the meaning of paragraph 174 of The Framework.
- 9.12. The Appeal Site covers the same extent of land that was allocated for housing development in the Regulation 18 draft Local Plan (Site Ref: MEL390).
- 9.13. The surrounding area is characterised by built form and the proposed dwellings would be seen in the context of existing buildings. Moreover, the Site is contained by woodland and commercial development to the east and existing residential development to the north and west. Whilst there are long views into the Site from the south, the proposed dwellings will be set back from the rear boundary and this part of the Site also includes a landscaped open area. This will help assimilate the scheme into its context (residential and countryside).
- 9.14. The Site gently slopes downwards from a highpoint on the western boundary to the eastern boundary. The neighbouring countryside gently falls away to the east towards the Catherine Bourne watercourse, before rising again on the opposite valley side.

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- 9.15. Development of the Site, with details to be secured at the reserved matters stage, has scope to successfully integrate within its residential and countryside context. The overall character of the village would be retained, and a detailed layout can secure views into and through the Site to the wider countryside beyond.
- 9.16. In addition, the Scheme can secure a landscape edge to wider countryside, creating a defined and defensible settlement boundary.
- 9.17. I conclude that no harm would arise in relation to the character and appearance of the area.

Noise

- 9.18. As set out at paragraph 3(i) in the Executive Summary to the Planning SoCG (**CDD.1**), HBC does not cite any noise issues to justify the refusal of planning permission. Rather, there is no noise objection and it is agreed that a satisfactory living environment can be provide for future residents.
- 9.19. Although HBC's Environmental Health Officer is satisfied that an acceptable noise environment could be achieved through the detailed scheme design, as a matter to be considered at the reserved matters stage, the Parish Council is presenting evidence to the contrary.
- 9.20. This relates to the purported noise impact from the existing operations at the neighbouring tree nursery business (Gristwood & Toms).
- 9.21. This issue is considered in the Noise SoCG (**CDD3**) and in the evidence prepared by Mr Sam Bryant.
- 9.22. The Parish Council raised noise as an issue of concern at paragraph 6.20 of their Statement of Case (**CDC.3**). The Parish Council consider that development of the Appeal Site will have an unacceptable impact on the existing arboricultural and tree nursery business operations at the adjacent site (Gristwood & Toms Ltd), and vice versa, and will not provide future occupiers of the Appeal Scheme with an acceptable standard of environment due to

- adverse noise. The Statement of Case included a Noise Technical Report at Appendix A. Paragraph 6.3 of that Appendix states that a brief background noise survey was carried out during a site visit on 8 February 2023.
- 9.23. The Appellant subsequently instructed Sam Bryant to review matters.
- 9.24. The existing operations at Gristwood & Toms has expanded beyond that which it has planning permission for.
- 9.25. Planning permission was originally granted in March 1998 for the retention of a mixed use comprising (a) use for tree surgeons' business and (b) use as tree nursery, along with retention of a hard surfaced area (LPA Ref: TP/97/0008). A copy of the plan and decision notice for that application is include at **CDK.1** and **CDK.2**.
- 9.26. Condition 13 imposed upon the planning permission states that other than in emergencies, no vehicle engines shall be switched on anywhere within the land edged red on the amended plan earlier in the day than 7.00am on Mondays to Fridays or earlier in the day than 8.00am on Saturdays and Sundays.
- 9.27. In recent times the business operations have expanded into the Green Belt without permission. As such, the site is currently subject to a planning application seeking retrospective planning permission for the expansion of the business premises to the east and the south of the original yard. This includes new hardstanding for parking, hardstanding and supports for the trees, a new office building, and use of the restricted access off Mimms Lane. That application is yet to be determined (LPA Ref: 22/0926/FUL). Particulars are included at Core Documents **CDK.3 to CDK.7**.
- 9.28. In response to the Parish Council's case, and as Mr Bryant 's evidence explains, a further noise survey was undertaken at the Site between 1st and 16th March 2023. As paragraph 5.2 of his evidence explains, the aim of the noise survey was to quantify commercial noise associated with Gristwood & Toms at the Site boundary. The results were interrogated, and noise modelling was undertaken.

9.29. In answering the Parish Council's concerns (paragraph 9.22 above refers), and as Mr Bryant explains, a detailed layout can be secured at the reserved matters stage that will ensure an appropriate noise environment for future residents, and one that will not have an unacceptable impact on the existing arboricultural and tree nursery business operations at Gristwood & Toms.

9.30. Mr Bryant's evidence concludes in relation to the acceptability of the Appeal Scheme in noise terms as follows:

- An assessment in line with BS4142 indicates no more than adverse impact on at least one façade of all dwellings. In accordance with the noise exposure hierarchy table in the PPG (ID 30-005-20190722), this equates to Observed Adverse Effect. The necessary action is to mitigate the impact and reduce the noise levels to a minimum.
- The site layout has been designed such that all dwellings have at least one façade on which a living room can be situated and suitable daytime internal noise levels still achieved even if windows were to be opened.
- In any event, the ventilation and thermal design of the building will be such that residents will not have to rely on open windows during the period in which potentially significant commercial noise generating operations take place in order to achieve thermal comfort.
- Suitable commercial internal noise levels within habitable rooms can be achieved on all relevant facades with marginally acoustically upgraded glazing where necessary.
- All dwellings will have access to either public or private external amenity areas (including front gardens) in which commercial noise levels are predicted to be significantly below the guideline values in the relevant British Standard.

9.31. The wording for a draft noise condition is being discussed between the Appellant and HBC. An agreed set of draft conditions will be submitted for consideration by the Inspector and discussion at the inquiry as necessary. This will include a requirement for the submission of details relating to the proposed acoustic fence to be constructed along boundary of the Site to Gristwood & Toms. Clearly, any purchaser thinking of moving to the Site will as part of basic due diligence/familiarisation with the area, note the existence of the neighbouring use and decide if that would be an issue for them.

9.32. I adopt Mr Bryant's overall conclusion at paragraph 8.2 of his proof of evidence where he states that with the proposed mitigation measures in place, suitable internal and external amenity can readily be provided for future occupants of the site and the site is suitable for the proposed development.

9.33. As such, I conclude there will be no conflict with the development plan or NPPF.

Residential Amenity

9.34. As recorded in **CDD.1**, there is no dispute between the Appellant and HBC as to the acceptability of the Appeal Scheme in relation to the living conditions of existing or future residents. This includes the agreed position at paragraphs 4.9 to 4.14 concerning the acceptability of the overall design response.

9.35. This matter is also addressed in detail at section 7.8 of the Report to Committee upon the Appeal Scheme (**CDB.1**). The only residential amenity issue raised at that time was in relation to noise. That issue was subsequently addressed to the Council's satisfaction.

9.36. The noise evidence prepared by Mr Bryant further supports the acceptability of the Appeal Scheme in relation to residential amenity.

9.37. The Appeal Scheme would also create public views across the Site and open space would be created for the enjoyment by existing and future residents. The Illustrative Masterplan suggests an area of circa 0.5ha could be provided as publicly accessible amenity greenspace. This exceeds the standards required **CDE.54**.

9.38. I have already concluded that the Appeal Scheme would have an acceptable impact upon the character of the surrounding area. It is also relevant that the Council has not raised living conditions as an issue.

9.39. I find no harm to residential amenity. The noise / residential amenity issue is therefore neutral in the planning balance.

Trees

- 9.40. This matter is also addressed in detail at section 7.10 of the Report to Committee upon the Appeal Scheme (**CDB.1**).
- 9.41. As **CDB.1** explains, a number of supporting documents in relation to trees and landscaping have been submitted, including an Arboricultural Impact Assessment and Method Statement, a Tree Protection Plan, and an illustrative landscape strategy.
- 9.42. There are no TPOs within the Site. None of the on-Site trees assessed in the Arboricultural Impact Assessment are proposed for removal. The development proposes retention of all trees along the boundaries of the site, which include a number of mature oak trees, in addition to ash, holly, and cypress.
- 9.43. Existing hedgerow would almost entirely be retained, including hedgerow along Harris Lane, though a very small section would require removal for the site access road.
- 9.44. The Tree Protection Plan details protective fencing to ensure that the root protection areas of retained trees would be excluded from the development area as far as practicable.
- 9.45. The Council's Arboricultural consultant has raised no objection to the Scheme.
- 9.46. The illustrative landscaping scheme submitted with the Appeal Application shows that the new access road would be tree-lined, with trees also planted to visually soften the hard standing and built form. Rear gardens of all dwellings would be soft landscaped with areas of patio to the rear. Planting would also include hedgerow, ornamental shrub planting, and specimen grasses. A Sustainable Urban Drainage System is proposed to the south-eastern end of the site where ground levels are lowest. This would retain run-off water whilst enhancing site biodiversity, and would be sown with wildflower / grass mix. A

pocket park is proposed to the centre of the site, accessible to all residents, with hedge and tree planting in addition to natural play features.

- 9.47. **CDB.1** concludes that detailed landscaping matters fall to be determined at reserved matters stage, whilst the retention of the vast majority of existing trees and hedgerow is considered to be a positive aspect of the scheme and details of tree protection are also deemed acceptable.
- 9.48. For the reasons set out above, I find no harm in relation to the impact of the scheme on trees/hedgerows.

Ecology

- 9.49. A detailed Ecological Impact Assessment has been undertaken.
- 9.50. The development would see a 10.51% net increase in habitat units and a 65.48% net increase in hedgerow units, when factoring in the off-site habitat creation proposed. The off-site interventions are proposed on land at Hanstead House, Bricketwood, and would include hedgerow and natural grassland planting, together with creation of two wildlife ponds.
- 9.51. Paragraph 7.10.14 of the officer committee report confirms no objections are raised on grounds of trees, landscaping and ecology.
- 9.52. Again, I find no harm.

Heritage

- 9.53. The technical information submitted with the Appeal Scheme demonstrates the acceptability of the Scheme having regard to the operation of sections 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.
- 9.54. There is no objection to the Scheme on heritage grounds.
- 9.55. Again, I identify no harm.

Highways

- 9.56. There are no highway reasons for refusal. As recorded at **CDD.1**, the Appeal Site is in a sustainable location, within walking and cycling distance from local services and facilities.
- 9.57. **CDB.1** includes the following assessment in relation to the acceptability of the Appeal Scheme in highway terms:
- Hertfordshire County Council as Highways Authority were consulted on the application. The applicant had previously sought pre-app advice from Highways, who had raised no concerns.
 - Overall no objections were raised to the proposed development, noting that the visibility splays for the new site access would exceed requirements and therefore would be acceptable.
 - The proposed increase in traffic and pedestrian movements were considered to have an acceptable impact on the road and footpath network. All other matters (for example parking, EV charging, swept path analysis) fall to be determined at reserved matters stage and therefore comments were informative.
 - Officers consider that the site is sustainably located, on balance. There is access to public transport given the bus services available and the distance to the nearest train stations. A number of local services are located within walking distance of the proposed development.
 - A number of matters including parking fall to be determined at reserved matters stage and the Highways Authority have deemed the details of the proposed site access point acceptable.
 - On the whole, there are no concerns on the grounds of highways safety.
- 9.58. Section 3 of the Transport Statement ("TS") (**CDA.18**) highlights the suitability of the Appeal Site in locational terms.
- 9.59. As the TS explains, directly opposite the site is a recreation ground with a pedestrian access and route through to the west side of Shenley via Cage Pond Road. Here there is a Tesco Express, pharmacy, fish and chip shop, dentist and medical centre.

- 9.60. Approximately 350m to the south west, Harris Lane meets London Road (B8378) at a priority controlled give way junction. This is more or less the centre of Shenley Village.
- 9.61. A nursery school and primary school would be a 450m (5/6 minute) walk in this direction as would the two nearest bus stops. In this part of Shenley village there is a local store, post office, pubs and restaurants.
- 9.62. The overall proximity of the Site to local facilities is shown at Appendix A of the TS, whilst the distance to selected key facilities is included in Table 3.1 of the same, which I reproduce below.

| | Distance (meters) | Time walking (mins) |
|--|-------------------|---------------------|
| Shenley Primary School | 450 | 5.5 |
| St Martins Church | 410 | 5 |
| Shenley Post Office and Convenience Store | 500 | 6 |
| Shenley Village Hall | 640 | 8 |
| Tesco Express | 735** | 9 |
| Gateways Surgery | 735** | 9 |
| Gingerbread House Dental and Health Centre | 650** | 8 |
| White Hart PH | 500 | 6 |
| Pharmacy | 735** | 9 |

*** Via hard surfaced paths across public open space.*

Table 3.1 – Local facilities within walking distance of the site based on 80m walk distance per minute.

- 9.63. Overall, I find the Site affords a suitable location for development and no highway safety or capacity issues have been identified. Again, I find no harm.

Flood and Drainage

- 9.64. As recorded at **CDD.1**, there are no flood and/or drainage objections to the Scheme.
- 9.65. Flood Risk Assessment (“FRA”) and SuDS Strategy Report submitted with the Application confirms that the entire site is within Flood Zone 1.

- 9.66. The proposed SuDS strategy includes permeable paving, road gullies, rainwater downpipes and a dry attenuation pond.
- 9.67. The outfall pipe from the proposed attenuation pond is to discharge into the unnamed watercourse along the south-eastern boundary of the site. The outfalls will then discharge via a headwall to Hertsmere Borough Council standards at an outfall rate of 10.6 l/s. This will require a land drainage consent prior to commencement of works on site. These features will be designed into the detailed scheme at the reserved matters stage.
- 9.68. Pollution mitigation components will meet and exceed the required level of pollution mitigation for removing total suspended solids, metals and hydrocarbons from the surface water runoff.
- 9.69. The FRA concludes that the principle of the proposed development is entirely acceptable with regard to flood risk grounds and the Scheme can make a positive contribution towards sustainable surface water management.
- 9.70. It has been with agreed with HBC that drainage matters can be secured by condition.
- 9.71. For the reasons I have explained, I find no harm in drainage and/or flooding terms.

Local Infrastructure Capacity

- 9.72. Section 8 of **CDD.1** sets out the agreed approach to securing necessary planning obligations.
- 9.73. As paragraph 8.2 records, the LPA's assessment of the Scheme in **CDB.1** confirms that financial contributions towards services including education, libraries and social care can be secured through the Council's Community Infrastructure Levy ("CIL").
- 9.74. **CDB.1** also records the consultation response received from HCC's Planning Obligations Officer, which I repeat here:

“...Hertfordshire County Council’s Growth & Infrastructure Unit do not have any comments to make in relation to financial contributions required by the Toolkit, as this development is situated within your CIL zone and does not fall within any of the CIL Reg123 exclusions. Notwithstanding this, we reserve the right to seek Community Infrastructure Levy contributions towards the provision of infrastructure as outlined in your R123 List through the appropriate channels. We therefore have no further comment on behalf of these services, although you may be contacted separately from our Highways Department.” (My emphasis underlined)

- 9.75. In so far as the appropriate obligations are to be secured through a S106 agreement and collected through CIL payments, no residual harm has been identified in relation the Scheme upon the impact on local infrastructure.

Summary

- 9.76. For the reasons set out above, I find no ‘other’ harms need to be added to the assessment undertaken pursuant to the approach set out at paragraph 148 of the NPPF.

10. THE OVERALL PLANNING BALANCE

Introduction

- 10.1. This section of my evidence carries out the planning balance in relation to the three sustainability tests set out at paragraph 8 of the NPPF and clearly shows that whilst there are considered to be some slight adverse impacts, these considerations are plainly incapable of outweighing, let alone significantly and demonstrably outweighing, the many benefits of the Scheme.
- 10.2. As I have identified, the Appeal Scheme constitutes inappropriate development which is, by definition, harmful to the Green Belt.
- 10.3. As I identify some albeit limited conflict with purpose 138(c) of the NPPF, on account of minor encroachment into the countryside, this is added as harm.
- 10.4. For the purpose of my planning balance, I attach substantial weight to the Green Belt harm I have identified.

Development Plan

- 10.5. For the reasons I have explained, the only spatial development plan conflict is the Green Belt location of the Site beyond a defined settlement. However, in a scenario where the Council is unable to demonstrate a five year supply of deliverable housing land, the most important policies for determining the Appeal are agreed as being out of date (the Planning SoCG refers); and the adverse impacts of granting permission, comprising limited conflict with Green Belt purpose (c), cannot be said to demonstrably, let alone significantly, outweigh the many substantial benefits. In my opinion, this is demonstrably a case where planning permission should be granted.
- 10.6. The Council's Decision Notice only identifies the Appeal Scheme as being in conflict with policies SP1, SP2 and CS13 of the CS.

- 10.7. I come to a different conclusion. Whilst I accept the Appeal Scheme conflicts with parts (vii) of Policy SP1, the Appeal Scheme is in accordance with the remainder of SP1, all of SP2 and CS13.
- 10.8. The Parish Council's Statement of Case (**CDC.3**) also cites conflict with Policy CS12 (Natural Environment). This forms no part of HBC's case.
- 10.9. As my evidence explains, I find that the Appeal Scheme accords with the requirements of Policy CS12.
- 10.10. Policy CS12 requires development proposals to conserve and enhance the natural environment of the Borough, including biodiversity, habitats, protected trees, landscape character, as well as sites of ecological and geological value. This is achieved with the Appeal Scheme. There is no conflict and matters of detailed design and siting can be secured at the reserved matters stage.
- 10.11. SAMD26 is also the only policy from the SADMP where the Council's Decision Notice purports the Appeal Scheme as being in conflict with.
- 10.12. The only conflict I identify with Policy SADM26 is in relation to criteria (iii) which requires existing open and green space to be retained. In so far as the Appeal Scheme comprises new development on a greenfield site, there is obvious conflict. However, as SAMD26 is not consistent with the NPPF, I attach limited weight to this conflict.
- 10.13. The Parish Council's Statement of Case (**CDC.3**) also cites conflict with policies SADM11 (Landscape Character) and SADM30 (Design Principles). This forms no part of HBC's case.
- 10.14. Again, these considerations are matters of detail that should be properly assessed at the reserved matters stage.
- 10.15. No party alleges any conflict with the NP.
- 10.16. For the reasons I have explained, it is my opinion that the Appeal Scheme is in accordance with the development plan when taken as a whole. This is on

account of the Appeal Scheme's conformity with Core Strategy Policy CS13, which operates as an exception to the otherwise restrictive approach to development in the Green Belt.

The Planning Balance: Consideration of the Economic, Social & Environmental Benefits

- 10.17. This section assesses the significant merits of the Scheme in relation to the three sustainability tests set out at paragraph 8 of the NPPF and clearly shows that whilst there are considered to be some slight adverse impacts, these considerations are plainly incapable of outweighing, let alone significantly and demonstrably outweighing, the many benefits of the Scheme.
- 10.18. Paragraph 9 of the NPPF states (amongst other things) the assessment of the sustainability roles should not be undertaken in isolation, because they are mutually dependent.
- 10.19. A planning balance exercise has been carried out in accordance with the guidance at paragraph 9 of the NPPF and sets out a combined analysis in relation to the sustainability roles (economic, social and environmental).

Economic

- 10.20. The Appeal Scheme satisfies the economic role of sustainability including through the provision of housing to support growth and the associated provision of infrastructure, to be secured through preparation of the S106 agreement and by on-site provision of affordable housing and self-build housing.
- 10.21. The Appeal Scheme generates a series of local and Borough-wide economic benefits including through (i) construction of the scheme and the range of employment generated as a result; and (ii) the on-going expenditure from the households purchasing and occupying the new homes.
- 10.22. The principal economic benefits arising from the scheme are summarised below:

10.23. The principal economic benefits arising from the scheme are summarised below:

- (i) Increased house building in an area where there is a demand for new housing that in turn drives economic growth further and faster than any industry. In this regard the proposals will contribute to building a strong, responsive and competitive economy, by ensuring that sufficient land of the right type is being made available in the right place and at the right time to support growth.
- (ii) The provision of up to 37 new homes in the Borough where there is an established need for housing given the demonstrable shortfall in the five year housing land supply position.
- (iii) The Scheme will deliver much needed affordable homes (up to 15 dwellings) at a level well above compliance at 40% that will meet the acute need for affordable housing within the Borough.
- (iv) Meeting general housing needs is a substantial benefit, consistent with the Government's objective of significantly boosting the supply of housing.
- (v) Meeting self-build housing needs is a significant benefit, consistent with the Government's objective of significantly boosting the supply of housing.
- (vi) In order for the economy to function, sufficient housing is required in the right locations and at the right time. This site represents a location where there would be no adverse effect upon the landscape nor on the amenity of neighbouring properties.
- (vii) Based upon a multiplier of 2.3 jobs per new home¹⁸, then up to 37 dwellings are estimated to create approximately 85 new jobs.
- (viii) Increased expenditure in the local area will support local FTE jobs.
- (ix) Helping to deliver a significant boost to the local economy through 'first occupation' expenditure of £202,094¹⁹. This is expenditure on new furniture and other household goods that residents spend as 'one-offs' when moving into a new home.
- (x) In terms of household expenditure, data from ONS Family Expenditure Survey 2020-21²⁰ shows that the 'average UK household spend' is £553.80 per week (Table A33) (or £28,877 per year), whereas in the East of

¹⁸ See page 13 of the Homes Builders Federation "Economic Footprint of UK Housebuilding " (July 2018) -

[https://www.hbf.co.uk/documents/7876/The Economic Footprint of UK House Building July 2018LR.pdf](https://www.hbf.co.uk/documents/7876/The_Economic_Footprint_of_UK_House_Building_July_2018LR.pdf)

¹⁹ Research carried out by OnePoll on behalf of Barratt Homes (August 2014; <https://www.barratthomes.co.uk/the-buying-process/home-buying-advice/>) which shows an average of £5,462 per dwelling.

²⁰ [Family spending workbook 3: expenditure by region - Office for National Statistics \(ons.gov.uk\)](https://www.ons.gov.uk/people-in-work-and-retirement/leisure-time-and-spending/family-spending-workbook-3-expenditure-by-region).

England it is 3.3% higher than the UK average (Table A33) at £572.20 per week.

- 10.24. By providing land of the right type, in the right place, and at the right time to support economic growth, the development of up to 37 no. dwellings on the Site fully accords with the objectives at paragraph 8 of the NPPF and assists in the aims of the NPPF in helping to build a strong and competitive economy.
- 10.25. This is further emphasised in the Government's November 2011 Paper 'Laying the Foundations: A Housing Strategy for England' where paragraph 11 states *"getting house building moving again is crucial for economic growth – housing has a direct impact on economic output, averaging 3 per cent of GDP in the last decade. For every new home built up to two new jobs are created for a year"*.
- 10.26. The economic benefits are to be accorded moderate weight in the planning balance.

Social

- 10.27. The Appeal Scheme more than satisfies the social role, in helping to support strong, vibrant and healthy communities, including through providing the supply of housing required to meet identified needs in open market and affordable sectors. This is a very substantial benefit. In addition;
- 1) Future residents will be in an easy walking and cycling distance to local and higher order services and facilities in Shenley with bus services to Borehamwood.
 - 2) The Appeal Scheme will provide a range of housing types and sizes, including up to 15 affordable dwellings (40%) and 3 (8%) self-built houses.
 - 3) The Scheme secures a high quality form of development consistent with the development management policies of the NPPF and the approach to high quality design set out in the NPPF.

4) The Scheme secures a publicly accessible recreational area for the enjoyment of existing and future residents.

10.28. The details of the layout and house type design are to be agreed through the determination of a subsequent reserved matters application, with the detailed scheme to reflect the particular need for housing at that time.

Environmental

10.29. In terms of the environmental role, the Appeal Site is not located on land designated for its landscape value.

10.30. The Appeal Scheme will not have any adverse impact on ecological receptors and will secure a measurable net gain for biodiversity.

10.31. The Appeal Scheme will not have any adverse impact on heritage assets.

10.32. The retention of existing boundary trees and hedges around the Appeal Site ensure the Scheme assimilates into the character of the local area.

10.33. The proposals would deliver sustainable homes allowing the fulfilment of this important objective whilst at the same time moving to a low carbon economy and securing an environmentally sustainable form of new residential development.

10.34. On the basis of the above, there are environmental benefits which would arise from the proposals.

10.35. I conclude that the Appeal Scheme satisfies the test at paragraph 148 of the NPPF on account of many and wide-ranging benefits of the Scheme outweighing the potential harm.

The NPPF Paragraph 148 Balance

10.36. The Appeal Site represents a sustainable and logical addition to Shenley and the evidence to be presented in the overall planning balance justifies the

acceptability of the Scheme, including in relation to housing need/supply (particularly having regard to housing need arising in the wider housing market area and the pressing need for affordable housing).

10.37. Paragraph 148 of the NPPF confirms that in order for Very Special Circumstances to apply in Green Belt locations, any harm to the Green Belt will need to be clearly outweighed by other considerations.

The Benefits of the Appeal Scheme Clearly Outweigh any Harms

10.38. I will now consider a range of benefits associated with this proposal that can be considered cumulatively to form VSCs.

10.39. In my opinion, the many benefits comprise as follows:

1. The only limited conflict I have identified with paragraph 138 of the NPPF is conflict with purpose (c). However, that is a function of any built form beyond a defined settlement boundary. The encroachment would also be limited in this instance by virtue of the Site being well contained.
2. When considered cumulatively, the wide-ranging benefits associated with the Appeal Scheme clearly outweigh the harms I have identified.
3. Even on the Council's figures, there is a shortfall in the five year housing land supply position of at least 2,088 dwellings. This represents a supply of only 2.25 years on the Council's case. On my analysis there is a shortfall of 2,603 dwellings and a supply of only 1.58 years.
4. There is an acute and chronic need for affordable housing and the Appeal Scheme secures 40% affordable homes, in excess of the adopted policy requirement of 35%.
5. There is a chronic shortfall of deliverable land for development and if permission is granted this Site can come forward and deliver much needed housing within the five year deficit period.
6. In the absence of a known timetable for preparation of the emerging Local Plan, and given the current local plan policy context, without the grant of planning permission for sustainably located sites such as the Appeal Site, there has and will continue to be a sustained period of failing to address identified housing need.
7. In seeking to meet identified housing needs, the Council accepts a need to plan for a significant amount of development on sites currently designated as Green Belt.

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8. The Scheme secures self-build homes (not required by adopted policy), helping to satisfy the identified need in line with duty at s.2A Self-build and Custom Housebuilding Act 2015.
 9. The Appeal Site affords a sustainable location for development, contributing toward sustainable patterns of growth for both existing and future residents.
 10. The Scheme secures publicly accessible open space in accordance with paragraph 145 of the NPPF.
 11. The Scheme results in economic benefits.
 12. The Scheme results in social benefits.
 13. The Appeal Scheme secures a biodiversity net gain well in excess of minimum expectations.
 14. The Appeal Scheme accords with the development plan when taken as a whole; and no party alleges any conflict with the NP.
- 10.40. In terms of the five purposes of the Green Belt at paragraph 138 of the NPPF, the only limited harm I have identified is in relation to (c) encroachment into the countryside. However, that is a function of any built form beyond a defined settlement boundary. The encroachment would also be limited in this instance by virtue of the Site being well contained.
- 10.41. It is my evidence that the Scheme does not harm any of the other Green Belt purposes. That analysis goes to the weight to the impact of the Appeal Scheme upon the Green Belt.
- 10.42. As I have explained, the Scheme results in many benefits (economic, environmental and social) and it is my evidence that very special circumstances exist to justify this inappropriate development in the Green Belt. Accordingly, the proposal would be acceptable in the context of the approach set out at Core Strategy Policy CS13 which operates as an exception to the otherwise restrictive approach to development in the Green Belt.
- 10.43. In carrying out my planning balance I use a weighting of limited, moderate, significant, substantial and very substantial.
- 10.44. The balance I have undertaken may be summarised as follows:

| Harm | Weight |
|---|---|
| Conflict with Policies CS1 and SP1 (vii) | <p>Limited weight to the breach of the settlement boundaries because (i) the spatial application of the Development Plan is out of date, (ii) the failure of the Council to demonstrate a five year supply of deliverable housing land, (iii) there is an acute and unmet need for affordable housing; and (iv) there is a demonstrable need to release land from the Green Belt in order to meet identified housing needs.</p> <p>In any event because the benefits I identify cumulatively amount to very special circumstances, the Appeal Scheme accords with CS Policy CS13 and is compliant with the development plan overall.</p> |
| Harm to the Green Belt | <p>Substantial weight to the definitional harm, impact on openness (on the site itself) and limited encroachment on the countryside. No harms result from consideration of the other Green Belt purposes or from the visual impact of new housing which will read as a continuation of the existing and is otherwise compatible with the settlement pattern.</p> |

| Benefit | Weight |
|--|---|
| Market Housing and contribution towards demonstrating a five year supply of deliverable housing land | Substantial weight – in the context of a supply of no better than 2.25 years (shortfall of 2,088), and with material additional positive weight if the supply is assessed as only 1.58 years (a shortfall of 2,603 dwellings). |
| Affordable Housing | Substantial weight to the provision of up to 15 affordable dwellings (40%) in the context of a significant and chronic affordable shortfall. |
| Self Build Housing | Significant weight – to the provision of 3 no. self-build dwellings due to the substantial level of unmet need in Hertsmere. |
| Combined Housing Benefit | Very substantial weight from the delivery of the above market, affordable and self-build housing in seeking to meet identified needs in a sustainable location, enabling residents to walk and cycle to local services and facilities, taking into account that there is no prospect of the Council meaningfully addressing its current and future housing needs without use of suitable Green Belt sites. |
| Ecology | Moderate weight in the context of the Biodiversity Net Gain and the opportunity for informal recreation for health and well-being of residents and citizens to enjoy their surroundings. |
| Economic | Moderate weight – in line with paragraph 81 NPPF |
| On-site POS | Moderate/significant weight to the provision of high-quality on-site amenity green/open space (in excess of standards), and securing public access to / views through the Site. |

10.45. Having regard to all of the above matters, it is my conclusion that the benefits I have identified clearly outweigh the harm to the Green Belt by reason of inappropriateness and any other harm

10.46. As set out above, the harms resulting from the proposal do not significantly and demonstrably outweigh the benefits. Rather, the collective benefits of the development are extensive.

10.47. As demonstrated, any possible adverse impacts of granting planning permission would not significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. Accordingly, the Scheme benefits from the presumption in favour of sustainable development and which is a further material consideration in support of the grant of planning permission.

Summary

10.48. For the reasons explained above, it follows that the application of the NPPF's Green Belt policies does not provide a clear reason for refusing planning permission (footnote 7 of the NPPF refers).

10.49. It is my evidence that the harm by reason of inappropriateness and any other harm, is outweighed by other considerations so as to amount to very special circumstances to justify the grant of planning permission.

11. SUMMARY AND CONCLUSION

- 11.1. The Appeal Scheme proposes an outline application for up to 37 residential dwellings (40% affordable and 8% self-build) (all matters reserved except for access).
- 11.3. Section 38(6) of the Planning and Compulsory Purchase Act 2004 sets out a requirement for planning applications to be determined in accordance with the development plan unless other material considerations indicate otherwise.
- 11.4. In this instance, although I identify conflict between the Appeal Scheme and Policy CS1 (being located beyond the settlement boundary), Policy SP1 (part (vii)) and SADM26 (part (iii) only); because the Scheme accords with Policy CS13 (which operates as an exception to the otherwise restrictive approach to development in the Green Belt), I conclude that the Appeal Scheme accords with the development plan when taken as a whole.
- 11.5. However, and along with the publication of a revised NPPF in 2019 and 2021, the development plan is now out of date in terms of the spatial application of its housing policies, whilst, in addition, the Council is not able to demonstrate a five year supply of deliverable housing land.
- 11.6. As accepted by the Council, the development plan is not based upon a NPPF compliant assessment of housing need and cannot be said to be up to date in respect of its housing requirement or in relation to policies that seek to restrict development within the defined settlement boundaries.
- 11.7. In the circumstances, the presumption in favour of sustainable development (the tilted balance) at paragraph 11(d) of the NPPF is engaged. This requires planning applications to be approved unless footnote 7 considerations provide a clear reason for refusing development (which they do not); or any adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits. Again, they do not.

- 11.8. As I have demonstrated, the many benefits secured by the Appeal Scheme amount to very special circumstances to justify the grant of planning permission for the development of much needed housing in the Green Belt.
- 11.9. This is demonstrably a case where the weight to be attached to conflict with the development plan (on account of the location of the Site beyond the defined settlement boundary for Hertsmere) can be reduced on account of the need to breach the settlement boundaries identified in the development plan to meet development needs.
- 11.10. For the reasons I have explained, it is my opinion that the Appeal Scheme is in accordance with the development plan when taken as a whole. This is on account of the Appeal Scheme's conformity with Core Strategy Policy CS13, which operates as an exception to the otherwise restrictive approach to development in the Green Belt.
- 11.11. The benefits are many and manifest, with the provision of housing and affordable housing when the Country and the Borough faces a housing crisis, which government policy seeks to address by 'significantly boosting the supply of homes'.
- 11.12. When carrying out the overall planning balance the acute and chronic need for homes of all tenures in a Borough with an out of date Local Plan, a very substantial shortfall of housing land supply, along with the sustainable location of the Site, and the many benefits that are derived from the Scheme, outweighs the definitional harm to the Green Belt.
- 11.13. For the reasons set out above, very special circumstances exist to justify the grant of planning permission for the Appeal Scheme in accordance with paragraph 148 of the NPPF.
