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**ASSESSMENT OF HERTSMERE
BOROUGH COUNCIL'S FIVE YEAR
HOUSING LAND SUPPLY POSITION**

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CONTENTS

	<u>Page</u>
DOCUMENTS	2
1. INTRODUCTION	3
2. THE PLANNING POLICY CONTEXT	6
3. ASSESSING THE FIVE YEAR HOUSING LAND SUPPLY POSITION	10
4. SUMMARY AND CONCLUSION	51

DOCUMENTS

- Annex 1** Email of 9th March 2023 from Mark Silverman at Hertsmere BC responding to Appellant's query on land availability.
- Annex 2** Copy of land registry title for The Point, Furzehill Road, Borehamwood (HD119051)
- Annex 3** Hertsmere BC Executive Report 9th Feb 2022 – Setting the Capital Budget
- Annex 4** Hertsmere BC car park committee report minutes of 18th March 2020
- Annex 5** Hertsmere BC Executive Report of 6th July 2022 regarding Revenue and Capital Outturn 2021.22
- Annex 6** Hertsmere BC Executive Report 8th February 2023 – setting the capital budget
- Annex 7** Copy of land registry titles for KwikFit (HD374312 (freehold) and HD376899 (leasehold))

1. INTRODUCTION

Scope

- 1.1. This Statement has been prepared by Mr Steven Brown (BSc Hons DipTP MRTPI) in relation to the appeal by Griggs (Options) Ltd against the refusal of Hertsmere Borough Council to refuse an outline application proposing the erection of up to 37 dwellings, associated landscaping and open space with access from Harris Lane on land adjacent to 52 Harris Lane, Shenley.
- 1.2. This Statement considers the five year housing land supply position in Hertsmere Borough for the period 1st April 2022 to 31st March 2027. Supporting documents are set out at **Annex 1** to **Annex 7**.
- 1.3. At the outset, and as set out in the Five year Housing Land Supply SoCG (**CDD.4**), the Council accepts it is unable to demonstrate a five year supply of deliverable housing land at 1st April 2022.
- 1.4. The acknowledged lack of a five year supply engages the presumption in favour of sustainable development (**CDD.4** paragraph 2.3).
- 1.5. As identified in *Hallam Land Management Ltd v Secretary of State for Communities and Local Government* [2018] EWCA Civ 1808 (**CHI.3**), it is important to consider the extent of the shortfall when attributing weight to planning policy considerations. This is emphasised in paragraph 47 of the judgement which confirms:

The NPPF does not state that the decision-maker must reduce the weight to be given to restrictive policies according to some notional scale derived from the extent of the shortfall against the five-year supply of housing land. The policy in paragraph 14 of the NPPF requires the appropriate balance to be struck, and a balance can only be struck if the considerations on either side of it are given due weight. But in a case where the local planning authority is unable to demonstrate five years' supply of housing land, the policy leaves to the decision-maker's planning judgment the weight he gives to relevant restrictive policies. Logically, however, one would expect the weight given to such policies to be less if the shortfall in the housing land supply is large, and more if it is small. Other considerations will be relevant too: the nature of the restrictive policies themselves, the interests they

are intended to protect, whether they find support in policies of the NPPF, the implications of their being breached, and so forth.
(My emphasis underlined).

- 1.6. In considering the five-year housing land supply position, my analysis sets out the approach to housing supply as set out in the Development Plan (which policies most important for determining the Appeal are agreed to be out of date). I also address the content of relevant the National Planning Policy Framework (“NPPF” or the “Framework”), National Planning Policy Guidance (“NPPG”), relevant case law and associated appeal decisions.
- 1.7. Informed by that background, I then assess the deliverability of the Council’s identified components of supply. I then set out my conclusion in relation to the five-year housing land supply position. My position is that the extent of the shortfall is significantly greater than suggested by the Council.
- 1.8. I have visited all of the HELAA and AAP sites relied upon by the Council, which sites are listed in Tables B and C of the Five Year Housing Supply SoCG (**CDD.4**).

Summary of Findings

- 1.9. Although the Council accepts that it cannot demonstrate a five year supply of deliverable housing land for the period 1st April 2022 to 31st March 2027 with a purported supply of 2.25 years and a shortfall of 2,088 dwellings, it is my opinion that the extent of the deficit is significantly greater with a supply of only **1.58 years**. This amounts to a **deficit of 2,603 dwellings**.
- 1.10. My assessment of the five year housing land supply position differs from the Council’s, primarily due to the application of the definition of what constitutes a deliverable site from the 2021 NPPF, taking into account the clarification provided by numerous appeal decisions¹.
- 1.11. The Council’s case on housing land supply is set out in their “Five-Year Housing Land Supply” statement published in September 2022 (**CDE.10**). It includes reliance upon delivery from allocated sites alongside those which were neither allocated nor had a planning permission at the base date for the assessment (31st March 2022) and

¹ Includes Nantwich (**CDJ.13**) and Sonning Common (**CDJ.12**)

collectively are not supported by the necessary clear evidence (which also had to be available at 31st March 2022).

1.12. Taken from **CDD.4**, the respective positions are shown in Table 1 below.

Table 1 – The Respective Five Year Housing Land Supply Positions

	Council	Appellant
Requirement 1/4/2022 to 31/3/2027	3,801	3,801
Assessed deliverable supply	1,713	1,198
Extent of shortfall	-2,088	-2,603
No. of years supply	2.25yrs	1.58yrs

1.13. In section 2, I go on to consider the planning policy context before assessing the five year housing land supply position in section 3.

2. THE PLANNING POLICY CONTEXT

Development Plan Context and Section 38(6)

- 2.1. 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'.
- 2.2. In the context of considering the Appeal Scheme, The Development Plan for Hertsmere Borough comprises the following:
- Hertsmere Core Strategy (adopted January 2013) (**CDE.1**),
 - Site Allocations and Development Management Policies Plan (adopted November 2016) (**CDE.2**);
 - Elstree Way Corridor Area Action Plan (Adopted July 2015) (**CDE2.1**); and
 - Shenley Neighbourhood Plan 2019 – 2036 (May 2021) (**CDE.3**).
- 2.3. Applicable policy considerations are set out in my separate Planning Proof of Evidence; and I do not seek to expand upon that here, save to reiterate that as the Plan which sets the District's housing requirement (the Core Strategy) was adopted more than 5 years ago, the housing requirement is derived from the assessment of Local Housing Need ("LHN") using the Standard Method ("SM").
- 2.4. As set out in section 3 of **CDD.4**, the agreed minimum five year, it is agreed, by operation of paragraph 74 and footnote 39 of the NPPF, that **the housing requirement falls to be measured against the local housing need figure calculated using the standard method.**
- 2.5. The starting point when calculating the five year requirement is the minimum 724 dwelling annual requirement derived from the application of the Standard Method. This equates to a 3,620 dwelling requirement.
- 2.6. Due to the Housing Delivery Test ("HDT") results published in January 2022, it is agreed that applying a 5% buffer to the requirement is appropriate. This produces a 760dpa annualised requirement (rounded).

- 2.7. The agreed minimum five year requirement for the period **1st April 2022 to 31st March 2027 is 3,801 dwellings.**

National Planning Policy Framework

- 2.8. The National Planning Policy Framework (NPPF) was published in March 2012, with a revised version in July 2018; refined in February 2019 with further amendments in July 2021. It is a material consideration of particular standing in the determination of planning applications.
- 2.9. The content of the NPPF as it relates to the consideration of five year housing land supply matters is set out below.

Delivering a Sufficient Supply of Homes

- 2.10. Paragraph 60 sets out the Government's objective of significantly boosting the supply of homes.
- 2.11. 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. The definition of what constitutes a 'deliverable' site is set out in the glossary in Annex 2 on page 66 of the NPPF and this definition has been used, alongside that set out in the PPG², to inform the assessment of the Council's five year housing land supply position.
- 2.12. Paragraph 74 states that LPAs should maintain a minimum of five years' worth of housing, including an appropriate buffer of 5, 10 or 20% depending on the specific circumstances.
- 2.13. Based upon the Housing Delivery Test published on 14th January 2022 (see footnote 41 of the NPPF), the Council is a 5% Authority.
- 2.14. Although the acknowledged lack of a five year supply engages the presumption in favour of sustainable development, as detailed in this statement, the appellants'

² See Housing Supply and Delivery section (ID 68-007-20190722)

position is that the extent of shortfall is significantly greater than that acknowledged by the Council.

Weight to be Afforded to the Delivery of Housing

- 2.15. The social need for affordable housing is an important material planning consideration and making social progress in tackling such needs is an important element of sustainable development running through the NPPF.
- 2.16. The importance of affordable housing as a material consideration has been reflected in a number of Secretary of State (SoS) and Planning Inspector decisions. A consistent theme is the significant amount of weight which is attached to affordable housing relative to other material planning considerations in the planning balance.
- 2.17. In an appeal determined by the Secretary of State with regard to land off Watery Lane, Curborough, Lichfield issued on 13th February 2017 (APP/K3415/A/14/2224354) (**CDJ.10**), the Secretary of State's decision letter at paragraph 44 confirmed an existence of a five-year housing land supply.
- 2.18. Notwithstanding, the Secretary of State still attached "Very substantial weight" to the benefits of the provision of affordable and market housing (paragraph 53). As part of the planning balance and overall conclusion, the Secretary of State also gave modest weight to the landscape and visual harm from the development, considerable weight to the harm to the setting of heritage assets and considerable weight to the loss of veteran trees and ancient hedgerows (paragraph 54). Despite this, the Secretary of State at paragraph 55 concluded that the social and economic benefits of providing affordable and market housing were of such importance that they outweighed this environmental harm such that the proposal represented sustainable development.
- 2.19. This is a clear example of where the provision of housing, including affordable housing, despite the existence of a five year housing land supply, represented significant benefits and a weighty material consideration that outweighed environmental harms.
- 2.20. The weight given to the provision of both market and affordable housing is also reflected in the Satchell Lane, Hamble-le-Rice decision (**CDJ.11**). In paragraph 64, the Inspector concludes:

“As agreed by the Council, the economic and social benefits of the proposal are worthy of significant weight. Given the national objective of significantly boosting the supply of homes, the provision of market and especially affordable housing carries significant weight. I appreciate the Council’s point that the economic benefits related to short term construction jobs, and the longer term boost to local spending power, could arise from any similar development. However that does not detract from the fact that this particular development offers these benefits, which I accord significant weight.” (My underlining).

- 2.21. These decisions show that at least significant weight is associated with the provision of housing, even where a five year supply is available. Since this is not demonstrated in Hertsmere Borough, this reinforces both the benefits and weight attributable to the provision of housing as detailed in the next section of this statement.

3. ASSESSING THE FIVE YEAR HOUSING LAND SUPPLY POSITION IN HERTSMERE BOROUGH

General

3.1. The assessment of the five year housing land supply position has been informed by the following tasks:

- (i) **identifying the requirement** to be met in the five year period (including in relation to the method to be applied in addressing any shortfall as well as the appropriate buffer to be applied),
- (ii) **assessing the deliverability** of the identified components of supply; and
- (iii) **concluding** on matters by subtracting (ii) from (i) to identify whether there is or is not a five year supply of deliverable housing land.

3.2. The Council's Five Year Housing Land Supply position as at 1st April 2022 was published by the Council in September 2022 and covers the five year period 1st April 2022 to 31st March 2027 (**CDE.10**).

NPPF and PPG

3.3. Paragraph 74 of the NPPF requires LPAs to demonstrate a minimum of five years' worth of housing against their housing requirement set out in adopted strategic policies or against their local housing need where the strategic policies are more than five years old. The requirement should also allow for the application of a 5, 10 or 20% buffer associated with the Housing Delivery Test ("HDT").

3.4. For the purpose of this Appeal, the HDT results state that Hertsmere Borough is a 5% buffer Authority.

3.5. The PPG expands upon the definition of a deliverable site³, which references the definition at Annex 2 of the NPPF.

³ See Housing Supply and Delivery section (ID 68-007-20190722)

(i) Identifying the Housing Requirement

General

- 3.6. The agreed minimum requirement for the current five year period is 3,801 dwellings.
- 3.7. The starting point to calculating the five year requirement is the capped minimum **724 dwelling annual requirement** derived from the derivation of the district's LHN. This results in a 3,620 dwellings requirement.
- 3.8. As a result of the Housing Delivery Test ("HDT") results published in January 2022, it is agreed that it is appropriate to apply a 5% buffer to the requirement.
- 3.9. This results in an agreed minimum five year requirement of **3,801 dwellings for the five year period 1st April 2022 to 31st March 2027**. This equates to 760.2 dwellings per annum.

(ii) Assessing the Deliverability of the Identified Components of Supply

General

- 3.10. The NPPF Glossary definition of deliverable sites indicates that these are those that:

Deliverable: To be considered deliverable, sites for housing should be available now, offer a suitable location for development now, and be achievable with a realistic prospect that housing will be delivered on the site within five years. In particular:

a) sites which do not involve major development and have planning permission, and all sites with detailed planning permission, should be considered deliverable until permission expires, unless there is clear evidence that homes will not be delivered within five years (for example because they are no longer viable, there is no longer a demand for the type of units or sites have long term phasing plans).

b) where a site has outline planning permission for major development, has been allocated in a development plan, has a grant of permission in principle, or is identified on a brownfield register, it should only be considered deliverable where there is clear evidence that housing completions will begin on site within five years.

3.11. Alongside the NPPF definition the appellant refers to the Secretary of State's consent to judgement (CO/917/2020) (**CDI.7**) in a case relating to an appeal within East Northamptonshire and the implications of this for determining whether a site is deliverable. The East Northamptonshire consent order was issued on 7th May 2020.

3.12. Paragraph B of the East Northamptonshire consent order states:

He concedes that he erred in his interpretation of the definition of deliverable within the glossary of the National Planning Policy Framework (“NPPF”) as a ‘closed list’. It is not. The proper interpretation of the definition is that any site which can be shown to be ‘available now, offer a suitable location for development now, and be achievable with a realistic prospect that housing will be delivered on the site within five years’ will meet the definition; and that the examples given in categories (a) and (b) are not exhaustive of all the categories of site which are capable of meeting that definition. Whether a site does or does not meet the definition is a matter of planning judgment on the evidence available

3.13. Since the East Northants consent to judgement, a further consent order by the Secretary of State has been issued with respect of an appeal decision within Bedford Borough (CO/164/2020) (**CDI.8**) issued on 2nd July 2020.

3.14. Paragraph 5 states as follows:

“The First Defendant also accepts that Ground 2 is arguable, and the Inspector misinterpreted paragraph 74 of the NPPF 2019, because he has made no comment on the differences between the 2019 and 2012 test, the ‘appropriate buffer’, and any effect of the 5YHLS.”

3.15. There has been a clear change in the definition of deliverable sites between the 2012 and 2019 editions of the NPPF⁴ which was acknowledged in the Bedford Borough Consent Order (**CDI.8**).

3.16. The refined definition of a deliverable site within the current NPPF, together with the advice in the accompanying PPG on the quality and robustness of evidence⁵ indicates that the approach of the authority and its expectations of deliverability are not justified.

⁴ There is no change between 2019 and 2021 version of NPPF

⁵ See Housing Supply and Delivery section (ID 68-007-20190722)

- 3.17. Inspectors through other appeals have considered the implications of the additional guidance on how deliverability of sources/sites is to be appraised, including the nature and depth of evidence required pursuant to the versions of the NPPF issued since 2018.
- 3.18. One example is the appeal decision relating to land at Little Sparrows, Sonning Common allowed on 25th June 2021⁶. The nature and depth of evidence was assessed in paragraphs 20 and 21 of the appeal decision (**CDJ.12**) which states:

20 I have also had regard to the PPG advice published on 22 July 2019 on 'Housing supply and delivery' including the section that provides guidance on 'What constitutes a 'deliverable' housing site in the context of plan-making and decision-taking.' The PPG is clear on what is required:

"In order to demonstrate 5 years' worth of deliverable housing sites, robust, up to date evidence needs to be available to support the preparation of strategic policies and planning decisions."

This advice indicates to me the expectation that 'clear evidence' must be something cogent, as opposed to simply mere assertions. There must be strong evidence that a given site will in reality deliver housing in the timescale and in the numbers contended by the party concerned.

21. Clear evidence requires more than just being informed by landowners, agents or developers that sites will come forward, rather, that a realistic assessment of the factors concerning the delivery has been considered. This means not only are there planning matters that need to be considered but also the technical, legal and commercial/financial aspects of delivery assessed. Securing an email or completed pro-forma from a developer or agent does not in itself constitute 'clear evidence'. Developers are financially incentivised to reduce competition (supply) and this can be achieved by optimistically forecasting delivery of housing from their own site and consequentially remove the need for other sites to come forward.

- 3.19. Taking account of the guidance in the 2021 NPPF and the conclusions of appeal Inspectors (including that at Sonning Common), the specific sites and sources where the contended delivery is not justified must be omitted especially as 'clear evidence' must be something cogent, as opposed to simply mere assertions.

⁶ PINS ref APP/Q3115/W/20/3265861.

3.20. Furthermore, in considering the detailed evidence with respect of the contended inclusion of sites, the Secretary of State in paragraphs 20 to 23 of his decision of 15th July 2020 allowing residential development off Audlem Road/Broad Lane, Nantwich (APP/R0660/A/13/2197532) (CDJ.13) stated:

20. The Secretary of State considers that the Inspector's assessment of housing supply at IR400-409 is now out of date given the new information that has been submitted by parties since the end of the Inquiry.

21. The Secretary of State has reviewed the information submitted by the parties, in particular the sites where deliverability is in dispute between the appellant and the Council. The Secretary of State agrees with the appellant that some of the sites identified by the Council, at the time the evidence was submitted, may not meet the definition of deliverability within the Framework. He considers that, on the basis of the evidence before him, the following should be removed from the supply: sites with outline planning permission which had no reserved matters applications and no evidence of a written agreement; a site where there is no application and the written agreement indicates an application submission date of August 2019 which has not been forthcoming, with no other evidence of progress; and a site where the agent in control of the site disputes deliverability. He has therefore deducted 301 dwellings from the supply of housing figures.

22. The Secretary of State also considers that there are further sites where the evidence on deliverability is marginal but justifies their inclusion within a range of the housing supply figures. This group includes sites where the Council has a written agreement with an agent or developer and this indicates progress is being made, or where there is outline planning permission or the site is on a brownfield register and the Secretary of State is satisfied that there is additional information that indicates a realistic prospect that housing will be delivered on the site within 5 years. The Secretary of State considers that in total the number of dwellings within this category is 2,234.

23. Applying these deductions to the Council's claimed deliverable supply figure of 17,733, the Secretary of State is satisfied therefore, on the basis of the information before him, that the Council has a 5 year deliverable supply of between 15,198 dwellings and 17,432 dwellings. As the Secretary of State also considers that the Council has a total 5 year requirement of 13,211 dwellings, he is satisfied that the Council is able to demonstrate a supply of housing sites within the range of 5.7 years to 6.6 years. The Secretary of State has considered the Inspector's comments in IR423-425, and considers that in the light of his conclusion that there is a 5 year housing land supply, the presumption in favour of sustainable development does not apply in this case.

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- 3.21. This reinforces the importance of clear evidence to support the contended deliverability of sites/sources within the supply. It is also noted that this appeal decision post-dates the two consent orders referred to above.
- 3.22. Therefore, having regard to the contents of the two consent orders together with the subsequent decision of the Secretary of State in the Nantwich appeal, for any site not included within the first category of sources detailed in the NPPF Glossary, it is essential that this is substantiated by the necessary “clear” evidence of “deliverability”, as outlined in the PPG⁷.
- 3.23. The PPG emphasises the importance of “clear” evidence to justify any assumptions on the deliverability of sites within the supply. The section of the PPG in considering “What constitutes a ‘deliverable’ housing site in the context of plan-making and decision-taking?” states:

In order to demonstrate 5 years’ worth of deliverable housing sites, robust, up to date evidence needs to be available to support the preparation of strategic policies and planning decisions. Annex 2 of the National Planning Policy Framework defines a deliverable site. As well as sites which are considered to be deliverable in principle, this definition also sets out the sites which would require further evidence to be considered deliverable, namely those which:

- **have outline planning permission for major development;**
- **are allocated in a development plan;**
- **have a grant of permission in principle; or**
- **are identified on a brownfield register.**

Such evidence, to demonstrate deliverability, may include:

- **current planning status – for example, on larger scale sites with outline or hybrid permission how much progress has been made towards approving reserved matters, or whether these link to a planning performance agreement that sets out the timescale for approval of reserved matters applications and discharge of conditions;**
- **firm progress being made towards the submission of an application – for example, a written agreement between the local planning authority and the site developer(s) which confirms the developers’ delivery intentions and anticipated start and build-out rates;**
- **firm progress with site assessment work; or**
- **clear relevant information about site viability, ownership constraints or infrastructure provision, such as successful**

⁷ See Housing Supply and Delivery section (ID 68-007-20190722)

participation in bids for large-scale infrastructure funding or other similar projects.

Plan-makers can use the Housing and Economic Land Availability Assessment in demonstrating the deliverability of sites.

- 3.24. Furthermore, in assessing possible sites/sources within the supply, it is essential to assess whether there is “clear evidence that housing completions will begin on site within five years” (in the words of the NPPF’s Glossary).
- 3.25. It is clear from the PPG that for any site not included in the first category (A) of the NPPF Glossary, the LPA must have clear and robust evidence to show deliverability. This approach also reflects the conclusion from the two consent orders.
- 3.26. As explained, the need for robust evidence is reflected in the conclusions of Inspectors in other appeals including that at Sonning Common. It is within this context that the Council’s housing land supply position is to be appraised.

Overview of sources

- 3.27. Table A at Appendix A to **CDD.4** sets out the comparative supply positions. I reproduce that as Table 2 below.

*Table 2 – Comparison of deliverable land supply sources (1st Apr 2022-31st Mar 2027)
(Table A in CDD.4)*

Source	Council	WBP	Difference
Planning permissions under construction	287	287	0
Prior notifications under construction	26	26	0
Planning permissions (not under construction)	383	383	0
Prior notifications (not under construction)	171	171	0
HELAA sites	290	25	265
AAP (excl. sites with planning permission)	250	0	250
Local Plan Allocations (excl. sites with planning permission)	26	26	0
Windfall allowance of 56pa HELAA	280	280	0
Total	1,713	1,198	515

Analysis of Deliverability

- 3.28. I have asked repeatedly for the evidence upon which the Council is relying in seeking to justify the inclusion of the HELAA and AAP sites. This has not been provided in any detail.
- 3.29. As noted in the Sonning Common appeal decision (paragraphs 20 and 21), ‘**clear evidence must be something cogent, as opposed to mere assertions**’ and ‘**clear evidence requires more than just being informed by landowners, agents or developers that sites will come forwards, rather, that a realistic assessment of the factors concerning the delivery has been considered, This means not only are there planning matters that need to be considered but also the technical, legal and commercial/financial aspects of delivery assessed.**’
- 3.30. My site analysis is set out below and includes my reasoning for discounting specific sites from the Council's supply.
- 3.31. Consistent with the conclusions of the Consent Orders and appeal decisions, where there is sufficient evidence at the base date that a site could be deliverable this has been accepted.
- 3.32. In an email received from the Council on 9th March 2023 (**Annex 1**), the LPA sought to justify the inclusion of the HELAA and AAP sites, stating:

These were sites re (sic) promoted through the Local Plan and were included in the draft Regulation 18 Local Plan issued in 2021. They comprise sites which were considered suitable for development within our current policy framework. For example, they are within the existing urban area or if beyond the urban area, may contain previously developed land/buildings or were specifically promoted for rural affordable housing or are capable of accommodating small rural exceptions schemes which may themselves include a small element of market housing. Further details are contained in our HELAA. No representations were received by or on behalf of the respective landowners withdrawing those sites from the process.

- 3.33. For the reasons I explain, this is not considered to be sufficient to demonstrate deliverability of the sites I dispute.

3.34. Informed by the position set out in Table 2 above, I now go on to explain my assessment of site deliverability which accounts for the differences in the delivery figures for the HELAA sites and those sites within the Elstree Way Corridor Area Action Plan. There is no dispute as to the deliverability of the other components of supply in Table 2.

Sites included in the HELAA (Housing and Economic Land Availability Assessment)

General

- 3.35. The Council expects 290 dwellings to be delivered within the five years from this source of supply.
- 3.36. The sites are listed at Table B in Appendix A to **CDD.4**.
- 3.37. For the reasons explained below, other than in relation to the 25 dwellings at Hartsbourne Country Club (HEL175), inclusion of the remaining sites is not supported by sufficient evidence to demonstrate deliverability as obligated by the NPPF, the PPG and confirmed by appeal decisions, including those at Nantwich (**CDJ.13**) and Sonning Common (**CDJ.12**).
- 3.38. As **CDE.10** did not include a breakdown of the sites relied upon by the Council in seeking to demonstrate that 290 dwellings would be delivered from the HELAA source of supply, I requested their details.
- 3.39. Once the Council provided the list of sites, I reviewed the public information with regard to potential evidence of deliverability, including analysis of the Council's Brownfield Register, the Planning Register alongside the Land Registry. I also visited all of the sites. For the reasons I explain, I dispute the inclusion of all the HELAA sites relied upon by the Council other than Hartsbourne Country Club.
- 3.40. The importance of providing evidence to demonstrate site deliverability is emphasised in the PPG and in the aforementioned appeal decisions. This is particularly the case for those sites not included in the first category of the NPPF's Glossary.

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- 3.41. In undertaking my analysis of the deliverability of the HELAA sites, I highlight key elements of the Government's guidance with respect to the preparation of land availability assessments, such as the HELAA which is relied upon by the Council.
- 3.42. As part of my approach, I have applied the guidance in the PPG (ID ref 3-018-20190722).
- 3.43. My site analysis is set out below, in the order the sites appear in Table B of Appendix 1 to **CDE.4**.
- 3.44. At the outset, I wish to make it clear that the Council's email dated 9th March 2023 (**Annex 1**) which purports to justify the deliverability of the named HELAA sites does not amount to the robust and up-to-date "clear evidence" that is obligated by the NPPF, or the PPG (ID ref 68-007-20190722). This position accords with that taken by Inspector's in other appeals⁸.

HEL175 – Hartsbourne Country Club

- 3.45. I accept that the site at Hartsbourne Country Club (ref HEL175) is deliverable. This is because Hartsbourne Country Club is subject to a pending application (LPA ref 20/0198/FUL) for residential development (26 dwellings) received on 11th February 2020.
- 3.46. The Council's Planning Committee (12th August 2021) resolved to approve the application which confirms its suitability and therefore taking account of Consent Orders, the PPG and decisions on other appeals, this is sufficient evidence to demonstrate deliverability. That is a generous conclusion given the apparently unexplained delay in the 18 months since the resolution to grant without an executed s106 and decision notice emerging.

HEL176 - Former Bushey Country Club, High Street, Bushey

- 3.47. There are no pending applications on the site and it is not included in the brownfield register. Therefore, taking account of the approach in Government policy, the Consent Orders and appeal decisions, there is a clear need for evidence to demonstrate the deliverability of the site.

⁸ Nantwich (**CDJ.13**) and Sonning Common (**CDJ.12**)

- 3.48. The HELAA (**CDE.26**) indicates that the site has a capacity for 85 dwellings (of which 50 dwellings are contended to be deliverable within 5 years). It notes (page 212) that this quantum has been derived as follows:

The current footprint of development amounts to approximately 2,600 sq m for the purposes of assessing the previously developed part of the site. The quantum of development which could potentially be accommodated is such that it could be treated as a potential allocation, where development parameters can be clearly set, rather than as a potential windfall site.

Subject to more detailed technical assessments and based on an equal mix of 1 and 2 bed flats and 3 and 4 bed houses, the PDL part of the site is available and considered to be suitable, available and achievable for 85 homes, being deliverable within 5 years.

- 3.49. As detailed in the Council's email of 9th March 2023 (**Annex 1**), they suggest that all the sites listed in the HELAA can be relied upon as being deliverable since **"No representations were received on or behalf of the respective landowners withdrawing those sites from the process"**. Whilst this is noted, within the Regulation 18 Local Plan consulted upon by the Council (**CDE.20**), the land at Bushey Country Club was identified as "Sustainable neighbourhood" for delivery of around 200 dwellings under Draft policy B3 (page 91).
- 3.50. As such, the response to the consultation on the Regulation 18 Plan relates to a completely different form and scale of residential development and cannot be relied upon to justify the inclusion of a part of the site as a contended by the Council.
- 3.51. In the context of clear evidence that a scheme for even just 85 dwellings (or 50 within the 5 year period) on the previously developed land is contemplated by the landowner and they accept that it would be viable, it cannot be regarded as being deliverable. In short, there is no "clear evidence" the landowner is proposing to bring forward such a scheme so as to result in 50 completions in the remainder of the 5 year period. No such application has been forthcoming in the 4 or so years since the HELAA was published. Nor am I aware of any evidence of developer interest at this stage. It is not clear to me where the Council has derived the figure of 50 from – this appears to be a compromise reflecting a discounted and somewhat speculative assessment of the likelihood of a scheme for up to 85 units being promoted any time soon.

- 3.52. The land at the former Bushey Golf and Country Club must therefore be omitted from the potential deliverable sites.
- 3.53. I discount the 50 dwellings which the Council contends will be delivered on the site within the five years.
- 3.54. The respective positions in relation to supply within 5 years from Bushey Golf and Country Club are as follows:

HBC:50 dwellings
WBP: 0 dwellings
Difference: 50 dwellings

HEL235 - Bushey Hall Garage, Bushey Hall Drive, Bushey

- 3.55. The garage is currently in use for repairs and maintenance of motor vehicles. There are no pending applications on the site, and it is not included in the brownfield register. Therefore, taking account of the approach in Government policy, the Consent Orders and appeal decisions, there is a clear need for evidence to demonstrate the deliverability of the site.
- 3.56. The HELAA (**CDE.26**) references that the site has capacity for 20 dwellings which would be delivered at a density of 93dph (page 239). Whilst the HELAA suggests that the site should be added to the Brownfield Register, it has yet to be included. The site is regarded by the Council as deliverable, and this resulted in its inclusion as a draft allocation for 20 dwellings under site ref HEL235 (page 31) of the Regulation 18 Local Plan (**CDE.20**).
- 3.57. Whilst the quantum of development within the Local Plan for the Bushey Hall Garage site reflects that outlined in the HELAA, this is not considered to be sufficient evidence to demonstrate deliverability. The HELAA notes that redevelopment of the site would be consistent with the existing policy framework for the site. However, no justification has been provided as to why it is realistic to conclude that the site would be developed within the next five years or at a later point in time. This is especially as the site is within current active use. The Council has not produced evidence as to any different interests between site owners and those involved in the currently operational business, and despite the conclusions of the HELAA in 2019, it is striking that no application has been brought forward in the 4 or so years since it was published. There is no “clear

evidence” the site is likely to be developed for houses within the remainder of the 5 year period. There is no formal developer option showing on the Land Registry title deeds..

- 3.58. The land at Bushey Hall Garage must therefore be omitted from the potential deliverable sites and the contended 20 dwellings assumed by the Council omitted.
- 3.59. The respective positions in relation to supply within 5 years from Bushey Hall Garage are as follows:

HBC:20 dwellings
WBP: 0 dwellings
Difference: 20 dwellings

HEL502 - Birchville Cottage, Heathbourne Road, Bushey

- 3.60. There are no pending applications on the site, and it is not included in the brownfield register. Therefore, taking account of the approach in Government policy, the Consent Orders and appeal decisions, there is a clear need for evidence to demonstrate the deliverability of the site.
- 3.61. The HELAA (**CDE.26**) references that the site has capacity for 15 dwellings which would be delivered at a density of 48dph. Whilst the HELAA categorises the site as developable (for development in years 6-10), it is now contended to be deliverable.
- 3.62. The site is included as a draft allocation for 15 dwellings under site ref HEL502 (page 31) of the Regulation 18 Local Plan (**CDE.20**).
- 3.63. The HELAA notes that the owner has confirmed that the site could be developed during years 6-10. There is therefore no justification as to why it could be developed within the next five years. Further, there is no evidence that the owner is proposing to promote the site in the next few years so as to give rise to a clear prospect of completions within the remainder of the 5 year period, nor is there any evidence of developer interest. The lack of promotional activity in the 4 or so years since the HELAA would again suggest the opposite.
- 3.64. The land at Birchville Cottage must therefore be omitted from the potential deliverable sites and the contended 15 dwellings assumed by the Council omitted.

- 3.65. The respective positions in relation to supply within 5 years from Birchville Cottage are as follows:

HBC:15 dwellings
WBP: 0 dwellings
Difference: 15 dwellings

HEL505 - Greenacres, Heathbourne Road, Bushey

- 3.66. There are no pending applications on the site, and it is not included in the brownfield register. Therefore, taking account of the approach in Government policy, the Consent Orders and appeal decisions, there is a clear need for evidence to demonstrate the deliverability of the site.
- 3.67. The HELAA (**CDE.26**) references that the site (page 265) has capacity for 36 dwellings which would be delivered at a density of 48dph and is categorised as deliverable.
- 3.68. The site is included as a draft allocation for 35 dwellings under site ref HEL505 (page 31) of the Regulation 18 Local Plan (**CDE.20**).
- 3.69. Whilst the HELAA categorises the site as deliverable, having regard to national guidance there is a clear need for evidence to substantiate when development will occur. In its absence, there is therefore no justification as to why it could be developed within the next five years. The same points I have made about the 3 sites considered above apply here too. There is no evidence of developer interest, no evidence of current promotional activity, and no explanation for the absence of this in the 4 or so years since the HELAA.
- 3.70. The land at Greenacres Cottage must therefore be omitted from the potential deliverable sites and the contended 35 dwellings assumed by the Council omitted.
- 3.71. The respective positions in relation to supply within 5 years from Greenacres Cottage are as follows:

HBC:35 dwellings
WBP: 0 dwellings
Difference: 35 dwellings

HEL152 - Lyndhurst Farm, Green Street, Borehamwood

3.72. There are no pending applications on the site, and it is not included in the brownfield register. Therefore, taking account of the approach in Government policy, the Consent Orders and appeal decisions, there is a clear need for evidence to demonstrate the deliverability of the site.

3.73. The HELAA (page 97) (**CDE.26**) details the current status of the site, noting its location in the Green Belt. The assessment acknowledges:

Under the current policy framework, the site is not considered suitable other than for appropriate development within the parameters set out in the NPPF which under paragraph 145 allows for 'limited infilling or the partial or complete redevelopment of previously developed sites...which would not have a greater impact on the openness of the Green Belt' as 'appropriate development'. Based on the footprint of existing and former buildings/structures, amounting to approximately 500 sq m, the site could potentially be suitable for 7 homes based on an equal mix of 3 and 4 bed houses.

3.74. Whilst the HELAA notes that the capacity would be around 7 dwellings on the basis of current policy, it indicates that through a review to policy this could be increased to 103 dwellings (page 97).

3.75. The Regulation 18 Local Plan (page 108) (**CDE.20**) increases its capacity to 10 dwellings, although there is no explanation of how this is achievable given the assessment above that the site contained around 500 sqm floorspace. This quantum of floorspace was not apparent from my site visit undertaken in mid-March 2023.

3.76. To the extent the dilapidated structure could be called a building, and whether redevelopment of the site could be deemed appropriate is a matter that would need to be tested through the appropriate channels. Regardless of its suitability or otherwise it is not currently available.

3.77. The Council has not explained how an increase in quantum of development (from 7 to 10 dwellings) based upon the parameters of the existing buildings on the site is possible, whilst still ensuring the scheme accords with NPPF paragraph 149 (was 145 in 2019 version of NPPF). It is unclear whether the owner regards a scheme for 7 (or 10) units as viable, but the absence of promotional activity at present or in the 4 or so years since the HELAA suggests not.

- 3.78. Irrespective of the sites assessment in the HELAA, this is not considered to be sufficient evidence to demonstrate deliverability.
- 3.79. The land at Lyndhurst Farm must therefore be omitted from the potential deliverable sites and the contended 10 dwellings assumed by the Council omitted.
- 3.80. The respective positions in relation to supply within 5 years from Lyndhurst Farm are as follows:

HBC:10 dwellings
WBP: 0 dwellings
Difference: 10 dwellings

HEL388 - The Point, Furzehill Road, Borehamwood

- 3.81. This site is in the centre of Borehamwood and comprises a gym, bingo hall and other commercial uses. It is in active use. There are no pending applications on the site, and it is not included in the brownfield register. Therefore, taking account of the approach in Government policy, the Consent Orders and appeal decisions, there is a clear need for evidence to demonstrate the deliverability of the site.
- 3.82. The HELAA (**CDE.26**) (page 175) details the current status of the site, especially with respect to availability. This confirms:

Whilst the application⁹ has been submitted by developers on behalf of the leaseholder, the Council as freehold owner has not indicated that the site would be available. The availability of the site is not therefore established.

The site cannot currently be considered available for development and is therefore not suitable available and achievable under the HELAA methodology. (As such it is not available for development of the unconstrained capacity figure identified above).

- 3.83. The HELAA confirms that the freeholder owner of the site does not agree that development of the site should occur and therefore it is not available. Given this, it must be omitted from any assumption with respect to development within the next 15 years i.e. it is neither deliverable nor developable.

⁹ In this context, the word “application” means the promotion of the site for inclusion in the HELAA.

- 3.84. The Regulation 18 Local Plan (page 108) nevertheless includes the site as a draft allocation for 150 dwellings (ref HEL388) (**CDE.20**). The Council has not explained its justification for including the site as an allocation given its HELAA confirmed the site was “not available”.
- 3.85. A review of the Land Registry confirms that the freehold of the land containing the site¹⁰ is still held by the Council. As there is no evidence confirming that they are amenable to redevelopment from a property owning perspective (and have all necessary contractual powers to remove the existing uses/users) rather than as planning authority, it cannot be regarded as available.
- 3.86. The land at The Point must therefore be omitted from the potential deliverable sites and the contended 50 dwellings assumed by the Council omitted.
- 3.87. The respective positions in relation to supply within 5 years from The Point are as follows:
- HBC:50 dwellings
WBP: 0 dwellings
Difference: 50 dwellings
- Hillfield Lane, Aldenham (HELAA ref HEL179); Land at Church Lane, Aldenham (HEL199) and Pegmire Lane, Aldenham (HEL219/252).**
- 3.88. I have grouped these sites together as they are all rural exception sites in the Green Belt.
- 3.89. There are no pending applications on these three sites, and furthermore none are included in the brownfield register. Therefore, taking account of the approach in Government policy, the Consent Orders and appeal decisions, there is a clear need for evidence to demonstrate the deliverability of the site.
- 3.90. The HELAA¹¹ (**CDE.26**) notes that these sites are currently included in the Green Belt and consistently states the following for these sites:

¹⁰ Title ref HD119051 (**Annex 2**).

¹¹ Hillfield Lane (page 424), Church Lane (page 428) and Pegmire Lane (page 431)

Only a rural-exceptions scale and type of housing (approximately 5 units) would be suitable under the current policy framework. The area is not suitable for additional development on this scale under the current planning policy framework.

- 3.91. The allowance for 5 dwellings as a rural exception scheme reflects the contended supply within the Council's five year assessment i.e. 5 dwellings on each totalling 15 dwellings.
- 3.92. The Regulation 18 Local Plan (**CDE.20**) (page 114) indicates that for sites at Hillfield Lane and Church Lane, 10 dwellings are envisaged on each. The supporting "key specific requirements" indicates that for these two sites policy H2 would apply which only seeks 40% affordable housing". This therefore contrasts with the expectation in the HELAA that a rural affordable housing scheme is the only form acceptable.
- 3.93. Whilst the Regulation 18 Local Plan (**CDE.20**) (page 114) envisages a 100% affordable house scheme on the Pegmire Lane site (HEL219/252), this is with respect to a scheme for 15 dwellings rather than 5 dwellings as contemplated in the Council's land supply assessment.
- 3.94. There is likely to be a clear difference in the viability of a scheme for these sites, especially the level of return anticipated by the owner, depending on whether they are fully affordable schemes or not.
- 3.95. As there is no evidence demonstrating the owners are amenable to promoting the form of development outlined in the HELAA (as opposed to that outlined in the Draft Local Plan), and consider that purely affordable schemes would be viable from their perspective, there is no "clear evidence" that any of these three sites are deliverable.
- 3.96. The three sites comprising land at Hillfields Lane, Church Lane and Pegmire Lane must therefore be omitted from the potential deliverable sites and the contended 15 dwellings assumed by the Council omitted.
- 3.97. The respective positions in relation to supply within 5 years from the three sites comprising Hillfields Lane, Church Lane and Pegmire Lane are as follows:

HBC:15 dwellings
WBP: 0 dwellings
Difference: 15 dwellings

HEL345 - Aldenham Glebe/ Roundbush Nursery, Aldenham

3.98. This site is in use as a commercial plant nursey. Again, it is in the Green Belt. There are no pending applications on the site, and it is not included in the brownfield register. Therefore, taking account of the approach in Government policy, the Consent Orders and appeal decisions, there is a clear need for evidence to demonstrate the deliverability of the site.

3.99. The HELAA (**CDE.26**) references that the site has capacity for 10 dwellings based upon its current location within the Green Belt (page 421). It also notes that development of the site could occur in years 6-10. The assessment of site capacity in the HELAA states:

The site is not considered suitable other than for appropriate development within the parameters set out in the NPPF which based on the current footprint of development, an estimated 700 sq m developable area, would yield 10 units based on an equal mix of 3 and 4 bed houses.

3.100. The expectation of 10 dwellings on the site reflects the Council's allowance as a "deliverable site" within their Land Supply Statement, notwithstanding that the HELAA did not envisage development within the next 5 years.

3.101. The site is included as a draft allocation for 30 dwellings under site ref HEL345 (page 114) of the Regulation 18 Local Plan (**CDE.20**).

3.102. The quantum of development within the Local Plan for Aldenham Glebe is three times that which the HELAA considers could be accommodated on the site whilst applying current national policy for development in the Green Belt.

3.103. Given the clear differences between the assumptions in the HELAA and the land supply assessment compared to the Regulation 18 Local Plan, this is not therefore considered deliverable. In short, there is no evidence the owner is promoting or is interested in promoting or thinks it can viably promote a scheme for 10 dwellings at the site. Nor is there evidence of developer interest in respect of such a scheme.

3.104. The land at Aldenham Glebe must therefore be omitted from the potential deliverable sites and the contended 10 dwellings assumed by the Council omitted.

3.105. The respective positions in relation to supply within 5 years from Aldenham Glebe are as follows:

HBC:10 dwellings
WBP: 0 dwellings
Difference: 10 dwellings

HEL216 - Land west of Potters Bar station, Darkes Lane, Potters Bar

3.106. This site comprises car parking spaces serving the train station and residential properties at Albany House.

3.107. There are no pending applications on the site, and it is not included in the brownfield register. Therefore, taking account of the approach in Government policy, the Consent Orders and appeal decisions, there is a clear need for evidence to demonstrate the deliverability of the site.

3.108. The expectation of 40 dwellings on the site within their Land Supply Statement reflects the sites inclusion for this amount of development in their Regulation 18 Local Plan (page 34) (**CDE.20**).

3.109. The HELAA (**CDE.26**) (page 321) notes that the site currently provides parking for the existing Albany House Flats which would need to be resolved. It also notes that internal rail consents are required for redevelopment. As no evidence of the timeframe for resolving these matters is provided, it is not regarded as “available” or therefore deliverable.

3.110. The land west of Potters Bar station must therefore be omitted from the potential deliverable sites and the contended 40 dwellings assumed by the Council omitted.

3.111. The respective positions in relation to supply within 5 years from the land west of Potters Bar station are as follows:

HBC:40 dwellings
WBP: 0 dwellings
Difference: 40 dwellings

HEL138 - HCC6 – former Sunny Bank Primary School, Potters Bar

- 3.112. As the name suggests, this site comprises the former Sunny Bank Primary School. The site is no longer in active use for education purposes.
- 3.113. Whilst there are no pending applications on the site it is included in the brownfield register. Therefore, taking account of the approach in Government policy, the Consent Orders and appeal decisions, there is a clear need for evidence to demonstrate the deliverability of the site, notwithstanding its inclusion in the register.
- 3.114. The expectation of 15 dwellings on the site within their Land Supply Statement reflects the sites inclusion for this amount of development in their Regulation 18 Local Plan (**CDE.20**) (page 34), albeit that this was as an allocation for 80 dwellings.
- 3.115. The HELAA (page 335) (**CDE.26**) references that there was then a pending application (18/1475/OUT) proposing the demolition of the school and erection of up to 30 dwellings. This application was subsequently refused by the Council on 17th April 2019. An appeal was then submitted (PINS ref APP/N1920/W/19/3229315) and this was dismissed on 18th November 2019 (**CDJ.7**).
- 3.116. The illustrative layout of the scheme dismissed on appeal is shown below.



3.117. Whilst the HELAA (**CDE.26**) was prepared before the determination of the application and the appeal, its assessment of the site (page 337) states as follows:

The site promoter has indicated that the existing community facility (Pupil Referrals Unit) would be retained. The scope to undertake development under paragraph 145 of the NPPF, which allows for ‘limited infilling or the partial or complete redevelopment of previously developed sites...which would not have a greater impact on the openness of the Green Belt’ as ‘appropriate development’, is limited to the remaining former school building on the site, with a footprint of approximately 1100sq m. Based on an equal number of 3 and 4 bedroom houses, this would amount to the equivalent of 16 dwellings.

3.118. Whilst both the HELAA and appeal envisage a pupil referral unit in the southern part of the site, the Inspector was clear that a simple translation of floor space into dwellings was not appropriate (paragraph 9) given that it does not take account of the differences in characteristics of built form, especially since the existing school building is an elongated structure located on part of the site and is surrounded by hardstanding (car park and play ground) together with playing fields. This is shown on the aerial photo below.



3.119. Such a built form would differ from a residential scheme which would spread development across the site as noted in paragraph 10 of the appeal decision (**CDJ.7**). It is not therefore clear how many dwellings would in fact be constituted in an “appropriate development” scheme, or whether such a scheme would be viable and deliverable in fact. This may explain why there has been no planning application put forward on such a basis, nor any planning application since the scheme for 30 units was dismissed on appeal.

3.120. The Council in their email of 9th March 2023 (**Annex 1**) referenced the continued commitment of the landowners to the sites within the Draft Local Plan as their evidence of delivery. However as indicated, the draft Local Plan (**CDE.20**) identifies the site for 80 dwellings (page 34) with no indication of a timeframe for delivery. Therefore, no reliance can be placed on this to justify its inclusion as a deliverable site within five years, especially given the difference in expected capacity between the Local Plan and the Land Supply Statement.

3.121. The land at the former Sunny Bank Primary School must therefore be omitted from the potential deliverable sites and the contended 15 dwellings assumed by the Council omitted.

3.122. The respective positions in relation to supply within 5 years from the former Sunny Bank Primary School are as follows:

HBC:15 dwellings
WBP: 0 dwellings
Difference: 15 dwellings

HEL220 - Porters Park Golf Club, Shenley Hill, Radlett

3.123. There are no pending applications on the site, and it is not included in the brownfield register. Therefore, taking account of the approach in Government policy, the Consent Orders and appeal decisions, there is a clear need for evidence to demonstrate the deliverability of the site.

3.124. The expectation of 5 dwellings on the site within their Land Supply Statement reflects the sites inclusion in the Regulation 18 Local Plan (**CDE.20**) (page 37), albeit that this was as an allocation for 40 dwellings.

3.125. The HELAA (**CDE.26**) (page 379) provides the following assessment of the site:

The area being promoted for development comprises approximately 0.4ha of previously developed land and buildings including a dwelling house, large clubhouse/function room and car park. The substantive playing part of the golf course itself is not included and it has previously been indicated that the club would seek the provision of a smaller clubhouse elsewhere on the site.

The principle of some development is acceptable under paragraph 145 of NPPF which allows for 'limited infilling or the partial or complete redevelopment of previously developed sites...which would not have a greater impact on the openness of the Green Belt' as 'appropriate development'.

Under the current policy framework, the quantum of 'appropriate development' within the Green Belt would be guided by an assessment of building footprint and volume, rather than red line boundary submitted, as well as the impact on Green Belt openness. The capacity of local roads and scale/position of new clubhouse will also determine precise number of units which could be accommodated.

The current footprint of development amounts to 350 sq m. On the assumption that a smaller clubhouse would have a significantly reduced footprint, for the purposes of this assessment, a developable area of 250 sq m will be used.

The site is available within the next five years having been promoted by the owners of the land and based on an equal mix of 3 and 4 bed houses reflecting the surrounding pattern of development, the site is considered to be suitable, available and achievable for an estimated 4 homes.

3.126. The appeal decision for the former Sunny Bank Primary School (**CDJ.7**) indicates¹² that the Council's assumptions for redevelopment of previous developed land are not necessarily justified if they solely taken into account footprints and areas without reference to the wider picture.

3.127. However, more importantly, there is no evidence demonstrating the owners are amenable to (or consider viable) the different form of development outlined in the Draft Local Plan compared to that relied upon as deliverable by the Council in contributing towards 5 year land supply (the reduction from 40 to 5 dwellings), the site must be omitted.

¹² See paragraphs 4-13 for Inspector's analysis of Green Belt

3.128. The Porters Park Golf Club must therefore be omitted from the potential deliverable sites and the contended 5 dwellings assumed by the Council omitted.

3.129. The respective positions in relation to supply within 5 years from Porters Park Golf Club are as follows:

HBC:5 dwellings
WBP: 0 dwellings
Difference: 5 dwellings

Summary

3.130. Table 3 below summarises the differences between the Council and the Appellant for the various sites listed in the “HELAA” category of their Land Supply Assessment taking account of the review above.

Table 3: Review of HELAA site deliverability (April 2022-March 2027)

HEL175	Hartsbourne Country Club	25	25	0
HEL176	Bushey Golf and Country Club	50	0	50
HEL235	Bushey Hall Garage	20	0	20
HEL502	Birchville Cottage	15	0	15
HEL505	Greenacres	35	0	35
HEL152	Lyndhurst Farm	10	0	10
HEL388	The Point Borehamwood	50	0	50
HEL179	Hillfield Lane	5	0	5
HEL199	Land at Church Lane	5	0	5
HEL219 / 252	Pegmire Lane	5	0	5
HEL345	Aldenham Glebe / Roundbush Nursery	10	0	10
HEL216	Land west of Potters Bar station	40	0	40
HEL318	HCC 6 – former Sunny Bank Primary School	15	0	15
HEL220	Porters Park Golf Club	5	0	5
	Total	290	25	265

3.131. Although the Council claims a supply of 290 dwellings from the sites listed in the HELAA, my position is that the supply should be reduced by 265 dwellings to 25 dwellings.

Elstree Way Corridor AAP Sites

General

- 3.132. The Council expects 250 dwellings to be delivered within the five years from this source of supply (totalling 5 sites).
- 3.133. The sites are listed at Table C in Appendix A to **CDD.4**.
- 3.134. For the reasons explained below, inclusion of the sites is not supported by sufficient evidence to demonstrate deliverability as obligated by the PPG and confirmed by appeal decisions, including those at Nantwich (**CDJ.13**) and Sonning Common (**CDJ.12**).
- 3.135. As **CDE.10** did not include a breakdown of the sites relied upon by the Council in seeking to demonstrate that 250 dwellings would be delivered from the AAP source of supply, I requested their details.
- 3.136. Once the Council provided the list of sites, I reviewed the public information with regard to potential evidence of deliverability, including analysis of the Planning Register and the Land Registry. I also visited all of the sites. For the reasons I explain, I dispute the inclusion of all the AAP sites relied upon by the Council.
- 3.137. The importance of providing evidence to demonstrate site deliverability is emphasised in the PPG and in the aforementioned appeal decisions. This is particularly the case for those sites not included in the first category of the NPPF's Glossary.
- 3.138. As part of my approach, I have applied the guidance in the PPG (ID ref 3-018-20190722).
- 3.139. My site analysis is set out below, in the order the sites appear in Table C of Appendix 1 to **CDE.4**.
- 3.140. At the outset, I wish to make it clear that the Council's email dated 9th March 2023 (**Annex 1**) which purports to justify the deliverability of the named HELAA sites does not amount to the robust and up-to-date evidence that is obligated by the PPG (ID ref

68-007-20190722). The response to my query about the deliverability of the AAP sites was:

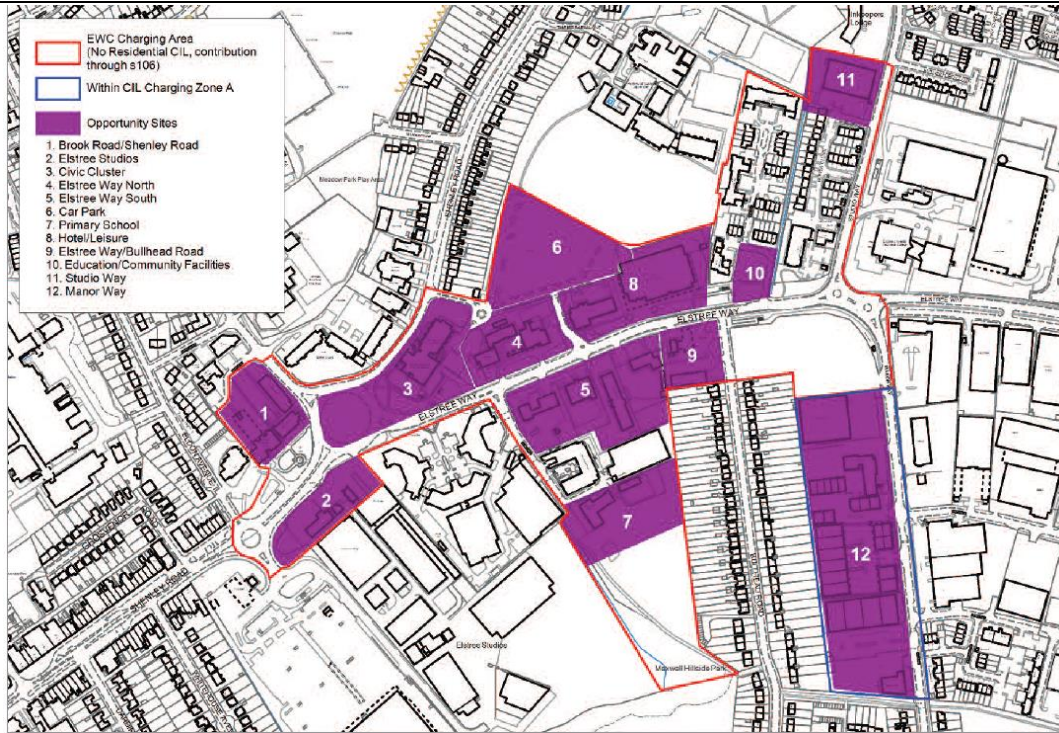
This comprises the remaining sites within the adopted Elstree Way Corridor Area Action Plan which are yet to be built out. They were included in the draft Regulation 18 Local Plan issued in 2021 and as previously developed land and buildings within an identified regeneration area were considered suitable for development within our current policy framework as set out in our HELAA. No representations were received by or on behalf of the respective landowners withdrawing those sites from the process. Subject to agreement being reached amongst the public sector landowners to bring the land forward, it is expected that 250 units will be built out within the next five years.

3.141. The last sentence of this explanation betrays a misunderstanding of the test for deliverability and the need for “clear evidence” demonstrating this. It is not apparent to me how the Council can treat a site as “available” where the relevant “public sector landowners” have not yet determined or agreed to bring it forward. That would appear to be a clear and free-standing flaw in the Council’s inclusion of all AAP sites, notwithstanding the further points made below.

3.142. My approach to assessing site deliverability accords with that taken by Inspector’s in other appeals¹³.

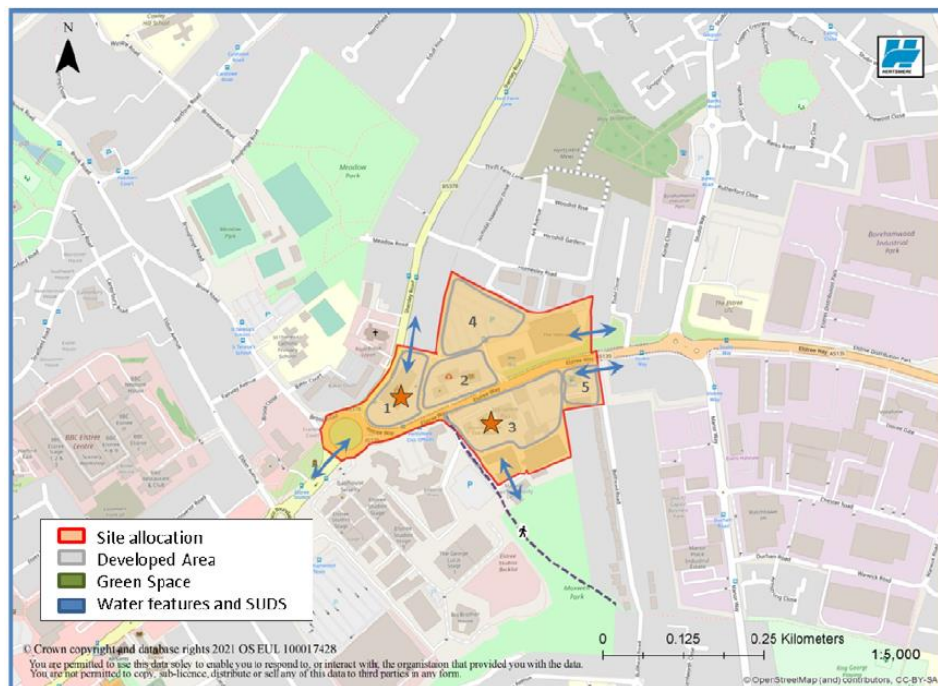
3.143. The Elstree Way Corridor AAP (CDE2.1) opportunity area sites are shown in figure 5 of the document (Extract below).

¹³ Nantwich (CDJ.13) and Sonning Common (CDJ.12)



3.144. The Elstree Way AAP (**CDE2.1**) was adopted on 8th July 2015. A number of sites have already been developed to provide for housing in what is agreed as providing a sustainable location.

3.145. However, the sites listed in Table C to **CDD.4** are yet to be developed, and they are retained as allocations in draft policy BE5 of the Regulation 18 Local Plan (**CDE.20**) (Extract below).



3.146. Whilst it is noted that no representations were received withdrawing the respective sites, as the draft Local Plan (**CDE.20**) does not detail a trajectory for their delivery, the Council is unjustified in make assumptions on this. Such an approach is inconsistent with the clear conclusions of the advice in the PPG alongside the decisions of Inspectors in appeals¹⁴. The discounting of the AAP sites by the appellant reflects its position for the HELAA sites as previously explained.

3.147. As already noted, the response (**Annex 1**) notes that agreements between the public sector landowners are required. As there is no evidence on the timeframe or nature of the necessary agreements, this reinforces the my view that the sites are not available or therefore deliverable.

3.148. My site assessment is set out below.

Site 3 - Civic Cluster

3.149. This site comprises the Council's administrative functions and is their main address. There are no pending applications on the site although it is included in the brownfield register, taking account of the approach in Government policy, the Consent Orders and appeal decisions, there is a clear need for evidence to demonstrate the deliverability of the site. This is because the site is included in the second category of the NPPF's definition of potentially deliverable sites.

3.150. For the Civic Cluster site (EWC location 1), the Draft Local Plan (**CDE.20**) (page 84) indicates that the expectation for this site is:

residential development (approximately 230 units) together with retention and intensification of civic and public services, improvements to pedestrian and cycle connections with the town centre, and open space and public realm improvements.

3.151. As referred to above, although the Council's email of 9th March 2023 (**Annex 1**) notes that the site has not been withdrawn, this does not confirm the timeframe of development, especially whether the 50 dwellings envisaged by the Land Supply Statement is realistic.

¹⁴ Nantwich (**CDJ.13**) and Sonning Common (**CDJ.12**)

3.152. The Report to the Council's Executive on 9th February 2022 (**Annex 3**) with respect to the "Setting of the Capital Budget" states (Section 13):

13.1 The Civic Offices had its last major refurbishment in 1972. Since then the office has been developed to accommodate the NHS from 2010 and then the Police and Crime Commissioner (PCC) from 2014, however no further works have been undertaken in relation to the offices or plant.

13.2 The arrangements with the NHS and PCC have established a hub of key services within a central location for Hertsmere residents whilst also generating an annual rental income for the Council of £345k per annum and making efficient use of a public asset.

13.3 In July 2021, the Council approved the lease of some further office space to the PCC, the area where the current committee rooms are located, with an additional rent of £95k per annum. Whilst further opportunities to develop the offices could have been explored, the current 25 year lease with the PCC which runs until 2039 would limit these opportunities hence this additional lease was agreed to be coterminous with the existing lease.

13.4 Letting the additional space to the PCC will however require the relocation of the committee rooms, which will be to the other wing of the first floor. This will in turn mean the displacement of some staff which will require a re-planning of the Civic Offices to optimise space. This presents an opportunity to create flexible working environments suitable to support hybrid working and address many of the longstanding poor office environmental conditions.

3.153. Given the existing lease arrangements with other public sector bodies runs until 2039 and no details have been provided to demonstrate how these essential local services can continue to operate whilst the wider residential redevelopment occurs, it is not considered deliverable.

3.154. The Report to the Council's Executive on 8th February 2023 (page 5) (**Annex 6**) indicates that the funding of the repurposing and refurbishment of the Council offices is primarily programmed for the 2023/24 financial year.

3.155. As the site is currently occupied by the Council's administrative centre, there is no indication of how a scheme for redevelopment to include the 50 additional dwellings assumed by the Council is feasible within the next five years, especially having regard to the wider lease arrangements with other public sector bodies. In the absence of this, the site must be discounted.

3.156. The Civic Cluster must therefore be omitted from the potential deliverable sites and the contended 50 dwellings assumed by the Council omitted.

3.157. The respective positions in relation to supply within 5 years from the Civic Cluster are as follows:

HBC:50 dwellings
WBP: 0 dwellings
Difference: 50 dwellings

Site 4 - Elstree Way North

3.158. This site is located next to the Council's office. It is currently occupied by a number of uses including a library, nursery and health centre.

3.159. There are no pending applications on the site although it is included in the brownfield register, taking account of the approach in Government policy, the Consent Orders and appeal decisions, there is a clear need for evidence to demonstrate the deliverability of the site. This is because the site is included in the second category of potentially deliverable sites.

3.160. For the Elstree Way North site (EWC location 2), the Draft Local Plan (**CDE.20**) (page 84) indicates that the expectation for this site is:

mixed use development comprising approximately 115 units and the provision of a new health facility containing services to be agreed by the Herts Valley Clinical Commissioning Group and which may also be part funded through CIL receipts.

i. The specific location, form, timing and range of health services to be provided will be determined by the Herts Valley Clinical Commissioning Group; and

ii. The specific location, form and timing of the relocated fire station will be determined by the Hertfordshire Fire and Rescue Service.

3.161. As referred to above, although the Council's email of 9th March 2023 (**Annex 1**) notes that the site has not been withdrawn, this does not confirm the timeframe of development, especially whether the 50 dwellings envisaged by the Land Supply Statement is realistic.

3.162. In order to maintain adequate access of existing residents to all of the existing facilities, especially for health, the current APP (**CDE2.1**) (paragraph 4.19) states:

New development will be required to make provision for improvements to existing and additional community infrastructure. Following discussions with health providers, it is known that there is a future requirement for additional GP facilities. The Council has identified two locations for a new health facility. A preferred site on part of the land currently occupied by the single storey library, nursery and health centre buildings (opportunity site 4) and a reserve site on land immediately to the north-east of the Civic Offices (opportunity site 3). This reserve site would also be appropriate for any temporary decanting of existing healthcare facilities during the development of opportunity site 4.

3.163. There is no evidence that the Council's timeframe for delivery of 50 dwellings on the site has adequately addressed the need to maintain existing services from the site, especially if they need to be temporarily relocated.

3.164. Therefore there is no indication of how a scheme for redevelopment to include the 50 additional dwellings assumed by the authority is feasible within the next five years given that the draft allocation. In the absence of this, the site must be discounted.

3.165. The Elstree Way North site must therefore be omitted from the potential deliverable sites and the contended 50 dwellings assumed by the Council discounted.

3.166. The respective positions in relation to supply within 5 years from the Elstree Way North are as follows:

HBC: 50 dwellings
WBP: 0 dwellings
Difference: 50 dwellings

Site 5 (part) - Elstree Way South

3.167. The site is currently occupied by a Job Centre and a Fire Station.

3.168. There are no pending applications on the site although it is included in the brownfield register, taking account of the approach in Government policy, the Consent Orders and appeal decisions, there is a clear need for evidence to demonstrate the deliverability of the site. This is because the site is included in the second category of potentially deliverable sites.

3.169. For the Elstree Way South site (EWC location 3), the Draft Local Plan (**CDE.20**) (page 84) indicates that the expectation for this site is:

Residential development (approximately 180 units), the form of which should maintain clear building separation of buildings fronting Elstree Way and a variation of building heights. The opportunity should also be taken to achieve the rationalisation of vehicular accesses onto Elstree Way;

3.170. As referred to above, although the Council's email of 9th March 2023 (**Annex 1**) notes that the site has not been withdrawn, this does not confirm the timeframe of development, especially whether the 50 dwellings envisaged by the Land Supply Statement is realistic.

3.171. Of particular importance to the local community will be the adequate provision of fire prevention services from the station. As noted in the appraisal above of the Elstree Way North site, there is an expectation of the relocation of the Fire Station to this site. There is however no indication of how redevelopment of the site is feasible in the timeframe assumed to both deliver the 50 additional dwellings and maintain existing services. In the absence of this, the site must be discounted.

3.172. The Elstree Way South site must therefore be omitted from the potential deliverable sites and the contended 50 dwellings assumed by the Council discounted.

3.173. The respective positions in relation to supply within 5 years from Elstree Way South site are as follows:

HBC:50 dwellings
WBP: 0 dwellings
Difference: 50 dwellings

Site 6 - Civic Car Park

3.174. This car park serves the Council's offices. It is in active use.

3.175. There are no pending applications on the site although it is included in the brownfield register, taking account of the approach in Government policy, the Consent Orders and appeal decisions, there is a clear need for evidence to demonstrate the

deliverability of the site. This is because the site is included in the second category of potentially deliverable sites.

- 3.176. For the Civic Car Park site (EWC location 4), the Draft Local Plan (**SBE.20**) (page 84) indicates that the expectation for this site is:

Residential development (approximately 70 units) together with the retention and where it can be justified, expansion of public car parking through an additional deck to serve sites within the EWC and beyond;

- 3.177. As referred to above, although the Council's email of 9th March 2023 (**Annex 1**) notes that the site has not been withdrawn, this does not confirm the timeframe of development, especially whether the 50 dwellings envisaged by the Land Supply Statement is realistic.

- 3.178. The Council (Executive meeting of 18th March 2020) (**Annex 4**) resolved to appoint a contractor to install a deck above the car park to increase its capacity as:

“The Civic Centre car park has a current capacity of 400 spaces, is well used and full to capacity on most normal working days.

With continued development of the Elstree Way Corridor, including the old police state, parking demand will continue to increase and the current provision will become increasing inadequate.

It is acknowledged that car usage in Hertsmere is high, and that the public transport links across the borough are poor, especially when compared to that in nearby London Boroughs. When visiting the Council residents from surrounding settlements will continue to drive to Borehamwood until public transport improves.

The proposed decking would cover part of the existing car park, limited to a single deck (to minimise the impact on neighbouring properties) and will provide 211 additional spaces.

- 3.179. Whilst the Council's Executive in March 2020 agreed to appoint a contractor to install a deck in the car park, this was on hold as confirmed most recently in the Report to the Council's Executive on 6th July 2022 (paragraph 6.3) (**Annex 5**). Although the Council's most recent budget meeting on 8th February 2023 retains an allowance for decking the car park (**Annex 6**) (Project ref HV238 on page 14), this is programmed for the 2022/23 financial year. However, no works have commenced on the site in mid March 2023, it is clear that this scheme is still on hold.

3.180. The Civic Car Park must therefore be omitted from the potential deliverable sites and the contended 50 dwellings assumed by the Council discounted.

3.181. The respective positions in relation to supply within 5 years from the Civic Car Park are as follows:

HBC:50 dwellings
WBP: 0 dwellings
Difference: 50 dwellings

Site 9 - Elstree Way/ Bullhead Road

3.182. The site is currently occupied by a tyre repair workshop and a petrol station. A review of the Land Registry titles indicates that whilst Shell owns the freehold of the petrol station, Kwik Fit is on a 30 year lease which covers the period 28th January 1999 until 28th January 2029¹⁵ and the freehold is controlled by the Irvine family. Whilst the specific terms of the lease are not listed on the Land Registry, the Council will nevertheless need to demonstrate that this part of the site could be developed within the 5 year period within the terms of the lease. Alternatively, the authority would need to demonstrate that the two sites can be developed separately whilst still achieving relevant policy objectives i.e. high quality design, affordable housing, etc. This is not provided.

3.183. There are no pending applications on the site although it is included in the brownfield register, taking account of the approach in Government policy, the Consent Orders and appeal decisions, there is a clear need for evidence to demonstrate the deliverability of the site. This is because the site is included in the second category of potentially deliverable sites.

3.184. For the Elstree Way/ Bullhead Road site (EWC location 5), the Draft Local Plan (CDE.20) (page 84) indicates that the expectation for this site is:

Residential development (approximately 90 units) the form of which should maintain clear building separation of buildings fronting Elstree Way and a variation of building heights. The opportunity should also be taken to achieve the rationalisation of vehicular accesses onto Elstree Way.

¹⁵ As shown in the freehold title (HD374312) and the leasehold (HD376899) (SB.G).

3.185. The Elstree Way/ Bullhead Road site must therefore be omitted from the potential deliverable sites and the contended 50 dwellings assumed by the Council discounted.

3.186. The respective positions in relation to supply within 5 years from the Elstree Way/ Bullhead Road are as follows:

HBC:50 dwellings
WBP: 0 dwellings
Difference: 50 dwellings

Summary

3.187. Table 4 summarises the differences between the Council and the Appellant for the various sites listed in the “AAP” category of their Land Supply Assessment taking account of the review above.

Table 4: Review of AAP site deliverability (April 2022-March 2027)

Ref	Site location	Contended supply (Apr 2022 – Mar 2027)		
		HBC	WBP	Difference
Site 3	Civic Cluster	50	0	50
Site 4	Elstree Way North	50	0	50
Site 5 (part)	Elstree Way South	50	0	50
Site 6	Civic Way Car Park	50	0	50
Site 9	Elstree Way/ Bullhead Road	50	0	50
	Total	250	0	250

3.188. Although the Council claims a supply of 250 dwellings from the sites listed in the AAP, my position is that the supply should be reduced by 250 dwellings to 0 dwellings.

Summary of Site Assessment

3.144. Based on my analysis of deliverability, I have deducted a total of 515 dwellings from the Council’s assessment of supply.

3.145. The respective positions are summarised by source in Table 5 below.

Table 5: Summary of Site Assessment

Planning permissions under construction	287	287	0
Prior notifications under construction	26	26	0
Planning permissions (not under construction)	383	383	0
Prior notifications (not under construction)	171	171	0
HELAA sites	290	25	265
AAP (excl. sites with planning permission)	250	0	250
Local Plan Allocations (excl. sites with planning permission)	26	26	0
Windfall allowance of 56pa HELAA	280	280	0
Total	1,713	1,198	515

3.146. Having assessed the deliverability of the components of supply in the context of the approach set out above, I arrive at the conclusion that the Council's delivery assumptions are overly optimistic and do not satisfy the deliverability test set out in the NPPF (as amplified in the PPG and the consideration of the term 'deliverable' in a number of appeal decisions¹⁶ and the clarity provided in the Consents to Judgements¹⁷).

Analysis

3.147. In setting out our analysis of housing site delivery, I wish to highlight two related points as follows:

- i. Firstly, and as confirmed in paragraph 74 of the NPPF, the maintenance of a 5 year supply is only a minimum requirement and provision above this reflects the Government's objectives in paragraph 60 of significantly boosting the supply of housing.
- ii. Secondly, is recognition that the Council's housing land supply must only include deliverable sites, as now defined in the NPPF (2021) taking account of the confirmation in the Consent Orders¹⁸ and the Nantwich appeal decision (**CDJ.13**).

¹⁶ Nantwich (**CDJ.13**) and Sonning Common (**CDJ.12**)

¹⁷ East Northants (**CDI.7**) and Bedford (**CDI.8**)

¹⁸ East Northants (**CDI.7**) and Bedford (**CDI.8**)

3.148. The appeal decision for land east of Green Road, Woolpit (**CDJ.14**) confirms (paragraph 70) the importance of considering the evidence of deliverability of sites known (published) at the base date for assessing the robustness of housing land supply.

3.149. The base date for the current Appeal is 1st April 2022.

3.150. The importance of the base date for evidence also reflects the requirements of the NPPF (paragraph 74) to “update annually a supply of specific deliverable sites”.

3.151. As highlighted in the Woolpit decision (**CDJ.14**), the reliance on inferences of developer’s intentions for delivery after the base date, without confirmatory evidence published by the Authority is inconsistent with this requirement. Paragraph 70 states as follows:

“Furthermore, the Council has had to provide additional information to demonstrate that sites are deliverable as and when it has surfaced throughout the weeks and months following the publication of the AMR in an attempt at retrospective justification. It is wholly inadequate to have a land supply based upon assertion and then seek to justify the guesswork after the AMR has been published. The site at Union Road, Onehouse is one amongst others, which was only an allocation at the time the AMR was published. Although planning permission was granted 17 August 2018¹⁴ it does not alter the fact that the site was only subject to an allocation at the cut-off date but the Council did not have any clear evidence that it would provide housing within 5 years.” (My emphasis underlined)

3.152. This position reflects that taken by the Inspector in the appeal at Longdene House, Hedgehog Lane, Haslemere dismissed on 10th January 2019 (**CDJ.15**). In paragraph 39 of the decision, the Inspector states:

“I share some of the appellant’s concerns about the implications of changes in the *Framework* to the definition of ‘deliverable’ in assessing housing land supply, along with the requirement for ‘clear evidence’ required by the *Guidance*. The onus is on WBC, for sites with outline permission or allocated in a development plan, to provide clear evidence to demonstrate that housing completions will begin on site within 5 years. I am not convinced that the evidence adduced by WBC is sufficient to demonstrate deliverability for all the sites with outline planning permission. However, I do not discount sites

where reserved matters applications were subsequently submitted, but which were shown to be deliverable at the base date by reason of progress made towards the submission of an application or with site assessment work.” (emphasis underlined)

- 3.153. As referenced above, I do not consider that the Council has adequately justified the inclusion of a number of sites/sources. The failure to provide the evidence of deliverability, rather than just developability as defined in the NPPF results in the appellant discounting a significant element of the Council's contended supply.
- 3.154. My discounting of sites/sources without the requisite supporting evidence is reflective of the decision of the Secretary of State in the Nantwich appeal (**CDJ.13**) alongside that in Sonning Common (**CDJ.12**) referred to above.
- 3.155. I have reviewed progress on sites relied upon by the Council in their Five Year Supply Report after the 1st April 2022 cut-off date. This is to consider any changes in the planning status of a site i.e. through submission of a detailed application. However, and without corresponding updates on the other elements of the calculations i.e. extent of any permissions that have lapsed or have been fully or partially implemented in the intervening period¹⁹, results in an incomplete review.
- 3.156. The importance of ensuring any appraisal of land supply (alongside the requirement) includes ALL relevant factors has been acknowledged in appeal decisions.
- 3.157. The appeal for land to the west of Cody Road, Waterbeach²⁰ is a long established decision that clearly establishes this fundamental principle, as confirmed in paragraphs 20-22 of the decision:

20. The issue between the parties is whether the 5-year supply requirement should use a base date of 1 April 2013 or 1 April 2014. As a general rule I accept the Council's submission that a more recent base date is to be preferred but only where I can be confident that it captures information on actual progress over the previous year⁶. In this case I am concerned that I only have a partial data set rather than a full set of the figures for the full year, April 2013-March 2014. Amongst other things the "*March AMR update*" [Document 13] says the figure for housing completions records "*...predicted completions to 31/3/2014. These predicted*

¹⁹ i.e. to omit any completions since 1st April 2022 as per paragraph 67 of the Woolpit appeal decision (**CDJ.14**)

²⁰ PINS ref APP/W0530/A/13/2207961 allowed on 25th June 2014 (**CDJ.16**)

completions are based on the housing trajectory in the plan where there is no better information and otherwise on what developers have told us are their actual completions and planned completions to 31/3/2014. This information was gathered between October 2013 and January 2014 for major sites and others down to sites of 9 homes” [my emphasis]. In other words it is only for part of the accounting year and otherwise based on a prediction.

21. In cross-examination Mr Hyde referred to other ways in which the data set was incomplete by reference to Figure 4.7 of the February 2014 AMR. In particular the table records planning permissions granted for windfall sites between 1 April and 31 December 2013 rather than for the full year. **These commitments have the effect of increasing the supply side but the flip side is that no account has been taken of any planning permissions that lapsed after 31 March 2013.**

22. The base date of 1 April 2013 ensures the housing land supply requirement figure is based on known completions because the actual level of historic completions is published in the 2012-13 AMR. This is the most up-to-date figure of known completions and anything else is conjecture. Moreover the Appellant refers to Mr Roberts’s Appendix DR44 to show the principle that the further ahead the projection, the less accurate it becomes. The Council’s approach is therefore less robust since it projects further into the future. For these reasons I find the Appellant’s approach is the most robust and reliable. (Our underlining)

3.158. This supports my view that any assessment of supply can only be made having regard to the clear evidence of delivery (including developer’s intentions) known at the base date i.e. 1st April 2022. This reflects the correct approach taken by the Longdene Inspector (**CDJ.15**) (see last sentence of paragraph 39 quote above).

3.159. I applied the above approach to my assessment of deliverability.

(iii) The Respective Five Year Housing Land Supply Positions

3.160. Informed by the above, my view of the Council’s supply position, when assessed against the obligations arising from the NPPF and associated guidance with respect of clear and robust evidence (acknowledged in the appeal decisions referenced above²¹), contends that the supply of deliverable housing land should be reduced by 515 dwellings in the five year period from April 2022 to March 2027.

²¹ Includes Woolpit (**CDJ.14**), Nantwich (**CDJ.13**) Longdene (**CDJ.15**) and Sonning Common (**CDJ.12**)

3.161. On the basis of the foregoing, Table 6 below provides a comparison between the housing land supply positions adopted by the Council and the Appellant as at 1st April 2022, covering the five year period 1st April 2022 to 31st March 2027.

3.162. I identify a total supply of 1,198 dwellings which represents a supply of 1.58 years. This represents a shortfall of 2,603 dwellings.

Table 6 – The Respective Five Year Housing Land Supply Positions

	Council	Appellant
Requirement 1/4/2022 to 31/3/2027	3,801	3,801
Assessed deliverable supply	1,713	1,198
Extent of shortfall	-2,088	-2,603
No. of years supply	2.25yrs	1.58yrs

4. SUMMARY AND CONCLUSION

- 4.1. Whilst it is accepted that the Council is unable to demonstrate a five year supply of deliverable housing land, there is disagreement with the extent of the shortfall.
- 4.2. Based the analysis I have undertaken; I conclude that there is a clear lack of a five year supply of deliverable housing land and therefore the presumption in favour of sustainable development at paragraph 11(d) of the NPPF is engaged.
- 4.3. Having assessed the housing land supply based upon the requirements set out in the NPPF, PPG and the approach adopted in numerous appeal decisions, I concur that 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(d) of the NPPF. However, as outlined, the extent of the shortfall is significantly greater than that acknowledged by the Council.

ANNEX 1

Steven Brown

From: Mark Silverman <Mark.Silverman@hertsmere.gov.uk>
Sent: 09 March 2023 12:45
To: Steven Brown; Georgia O'Brien
Cc: Graham Ritchie; Gerard Woods
Subject: RE: HBC - 5YR HLS

Dear Steven,

In response to your query, I would advise as follows

- HELAA Sites (290 dwellings) – All sites, other than Hartsbourne Country Club.
These were sites re promoted through the Local Plan and were included in the draft Regulation 18 Local Plan issued in 2021. They comprise sites which were considered suitable for development within our current policy framework. For example, they are within the existing urban area or if beyond the urban area, may contain previously developed land/buildings or were specifically promoted for rural affordable housing or are capable of accommodating small rural exceptions schemes which may themselves include a small element of market housing. Further details are contained in our HELAA. No representations were received by or on behalf of the respective landowners withdrawing those sites from the process.
- AAP Sites (250 dwellings) – All sites.
This comprises the remaining sites within the adopted Elstree Way Corridor Area Action Plan which are yet to be built out. They were included in the draft Regulation 18 Local Plan issues in 2021 and as previously developed land and buildings within an identified regeneration area were considered suitable for development within our current policy framework as set out in our HELAA. No representations were received by or on behalf of the respective landowners withdrawing those sites from the process. Subject to agreement being reached amongst the public sector landowners to bring the land forward, it is expected that 250 units will be built out within the next five years.
- Local Plan Allocations (26 dwellings) – 1 x site.
This site is being taken forward by Hertsmere Development Limited, a wholly owned subsidiary of the Council and has been the subject of recent pre-application engagement.

Regards
Mark

From: Steven Brown <S.brown@woolfbond.co.uk>
Sent: 06 March 2023 14:55
To: Mark Silverman <Mark.Silverman@hertsmere.gov.uk>; Georgia O'Brien <Georgia.O'Brien@hertsmere.gov.uk>
Cc: Graham Ritchie <g.ritchie@woolfbond.co.uk>
Subject: HBC - 5YR HLS

Afternoon Both

In accordance with the deliverability test set out in the NPPF and accompanying PPG, we cannot see proof that any evidence was available as at the base-date to justify the inclusion of the following components of supply for the current 5yr period:

- HELAA Sites (290 dwellings) – All sites, other than Hartsbourne Country Club.
- AAP Sites (250 dwellings) – All sites.
- Local Plan Allocations (26 dwellings) – 1 x site.

Grateful if you could provide this information to us.

In the alternative, if that information is not available, is it agreed that these sites can be omitted for the current 5yr period?

I would be grateful if you could respond soonest. We can then issue a draft HLS SoCG.

I look forward to hearing from you.

Best wishes

Steven Brown BSc Hons DipTP MRTPI

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# **ANNEX 2**



THIS IS A PRINT OF THE VIEW OF THE REGISTER OBTAINED FROM HM LAND REGISTRY SHOWING THE ENTRIES SUBSISTING IN THE REGISTER ON 15 MAR 2023 AT 15:58:25. BUT PLEASE NOTE THAT THIS REGISTER VIEW IS NOT ADMISSIBLE IN A COURT IN THE SAME WAY AS AN OFFICIAL COPY WITHIN THE MEANING OF S.67 LAND REGISTRATION ACT 2002. UNLIKE AN OFFICIAL COPY, IT MAY NOT ENTITLE A PERSON TO BE INDEMNIFIED BY THE REGISTRAR IF HE OR SHE SUFFERS LOSS BY REASON OF A MISTAKE CONTAINED WITHIN IT. THE ENTRIES SHOWN DO NOT TAKE ACCOUNT OF ANY APPLICATIONS PENDING IN HM LAND REGISTRY. FOR SEARCH PURPOSES THE ABOVE DATE SHOULD BE USED AS THE SEARCH FROM DATE.

THIS TITLE IS DEALT WITH BY HM LAND REGISTRY, LEICESTER OFFICE.

TITLE NUMBER: HD119051

There is no application or official search pending against this title.

## A: Property Register

This register describes the land and estate comprised in the title.

HERTFORDSHIRE : HERTSMERE

- 1 The Freehold land shown edged with red on the plan of the above Title filed at the Registry and being land on the South East side of Shenley Road and the North East side of Furzehill Road, Elstree.
- 2 The land edged and numbered in green on the filed plan has been removed from this title and registered under the title number or numbers shown in green on the said plan.
- 3 The transfers of those parts edged and numbered in green on the filed plan which were made pursuant to Part V of the Housing Act 1985 took effect with the benefit of and subject to the easements and other rights prescribed by paragraph 2 of Schedule 6 of that Act.
- 4 The land has the benefit of the following rights reserved by the Transfer dated 31 March 1994 referred to in the Charges Register:-

"EXCEPTING AND RESERVING for the benefit of the Council and its successors in title and occupiers of the Remaining Land and each and every part thereof the rights set forth in Schedule C hereto

### SCHEDULE C

#### EXCEPTIONS AND RESERVATIONS

##### SUPPORT

1. The full right of subjacent and lateral support from the Property and each and every part thereof for the benefit of the Remaining Land and each and every part thereof.

##### RIGHTS OF WAY

2. The right for the Council and the owner or owners and occupiers for the time being of the Remaining Land or any part thereof and all persons authorised by it or them in common with the Transferee and its successors in title at all times for all reasonable purposes connected with the use and enjoyment of the Remaining Land or any part thereof PROVIDED THAT this right is limited in extent to the degree that such rights are at the date hereof exercised over the Property to pass and repass over those parts of the Property (if any) which form roadways footways accessways or paths serving more than two dwellings (except where such roadways footways accessways or paths form an integral part of any individual dwelling within the Property) in all cases over routes to be designated by the Transferee PROVIDED THAT the Transferee (or its successors in title) may upon giving not less than 28 days' written notice to the Council (except in case of emergency) from time to time alter the route through the Property of any such routes as it shall in its absolute discretion think fit PROVIDED FURTHER THAT it does so whilst providing suitable alternative routes at its own expense causing minimum inconvenience and making good as soon as practicable any damage so caused and PROVIDED FURTHER THAT the alternative route

## A: Property Register continued

provided over the Property to the Remaining Land is reasonably adequate for the then reasonable use and occupation of the Remaining Land PROVIDED ALWAYS THAT the Council its successors in title or other persons as aforesaid using such rights as are hereby granted shall pay and contribute together with the Transferee or its successors in title a fair and just proportion according to the extent to which they use such rights at the cost of repairing and maintaining all of such roadways footways accessways or paths.

### REPAIRS

3. The right where reasonably necessary and subject to not less than 7 days' prior written notice to the Transferee or its successors in title (except in case of emergency) to enter upon the Property with or without workmen and others materials and appliances for the purpose of repairing replacing and or maintaining and or decorating the Remaining Land and all buildings now erected on the Remaining Land or any replacement or renewal thereof and also during the Perpetuity Period to lay Service Conduits in over through or under the roads footways and accessways from time to time forming part of the Property to serve the Remaining Land either alone or jointly or in common with the Property (the person exercising such right causing as little damage and inconvenience as possible and making good forthwith at his or their expense all damage and loss caused thereby) and SUBJECT ALWAYS to suitable alternative services being provided at no cost to the Transferee or its successors in title for the duration of such works.

### SERVICES

4. The free and uninterrupted right to the passage and running of water soil gas electricity or other fuels telephone television and any other services to and from the Remaining Land through and along all Service Conduits which are now or where there is any replacement or renewal thereof may during the Perpetuity Period be constructed on over through in or under the Property as are used or intended to be used jointly or in common with the Transferee and all other persons who are now or may hereafter be entitled to connect with or use the same or any of them the Council or other persons as aforesaid bearing paying and contributing together with such other persons including the Transferee and its successors in title a fair proportion according to the extent to which their respective properties are served thereby of the cost of inspecting repairing maintaining renewing altering adjusting and cleansing such Service Conduits TOGETHER WITH the right subject to not less than 7 days' prior written notice to the Transferee or its successors in title (except in case of emergency) to enter upon the Property with or without workmen and others, materials and appliances for the purpose of laying connecting to inspecting repairing maintaining renewing altering adjusting and cleansing such Service Conduits (the Council or other person or persons as aforesaid causing as little inconvenience and damage as possible and making good forthwith at their own expense all damage or loss caused thereby) SUBJECT ALWAYS to suitable alternative services being provided at no cost to the Transferee or its successors in title for the duration of such works PROVIDED ALWAYS that this right includes the right during the Perpetuity Period to make further connections and laying in under through or over the roads footways and accessways from time to time forming part of the Property such further Service Conduits as are reasonably necessary for any increased flow from time to time.

5. (Subject as provided in Clause 5 and Schedule B hereof) the right to deal with any of the Remaining Land in the Council's ownership in any manner whatsoever in the Council's absolute discretion without reference to the Transferee or its successors in title.

6. The rights to the unimpeded access and enjoyment of light and air to all the windows now and during the Perpetuity Period in the buildings on the Remaining Land and each and every part thereof now existing and to any replacement or renewal thereof to be erected upon the Remaining Land or any part thereof within the Perpetuity Period from or over the Property or any parts thereof."

NOTE 1:-The Transfer contains the following definitions:-

## A: Property Register continued

"the Common Areas" shall include all existing common or amenity areas alleyways accessways footways pathways and roadways other than those which are or shall become adopted by the appropriate public authority and maintainable at the public expense

"the Perpetuity Period" means a period of eighty years from the date hereof

"the Remaining Land" means all land adjacent to or adjoining the Property and now in the ownership of the Council the extent of which land is to be conclusively certified by the Council by reference to plans within 56 days of completion of this Transfer

"Service Conduits" shall include all existing mains sewers drains pipes wires cables conduits gutters channels soakaways ditches watercourses and all other conducting media and apparatus other than those which are vested in the Statutory Undertakings

NOTE 2:-The land in this title comprises part of the remaining land referred to.

- 5 (25.02.1998) The land edged yellow on the filed plan is no longer of any significance and should be ignored since the entry in the register which gave rise to this reference has been cancelled.

## B: Proprietorship Register

This register specifies the class of title and identifies the owner. It contains any entries that affect the right of disposal.

### Title absolute

- 1 Proprietor: HERTSMERE BOROUGH COUNCIL of Civic Offices, Elstree Way, Borehamwood, Herts.
- 2 (26.01.1998) CAUTION in favour of THE UK LEISURE CORPORATION LIMITED of 1 West Garden Place, Kendal Street, London W2 2AQ.

## C: Charges Register

This register contains any charges and other matters that affect the land.

- 1 A Conveyance of the land hatched blue on the filed plan and other land dated 11 June 1890 made between (1) William Osborn Boyes (Vendor) and (2) John Winckworth (Purchaser) contains covenants details of which are set out in the schedule of restrictive covenants hereto.
- 2 A Conveyance of the land edged blue on the filed plan and other land dated 12 May 1892 made between (1) William Osborn Boyes and (2) Richard Thomas Lidstone contains stipulations details of which are set out in the schedule of restrictive covenants hereto.  
NOTE: No copy of the covenant to observe the said stipulations was supplied on first registration.
- 3 The Conveyances details of which are set out in the Schedule below contain restrictive covenants in basically identical terms.

| Land affected                               | Date of Conveyance | Parties                                           |
|---------------------------------------------|--------------------|---------------------------------------------------|
| Tinted brown, tinted mauve and edged mauve. | 19 June 1894       | 1. William Osborn Boyes (Vendor) (2) Daniel Juett |



## C: Charges Register continued

18 October 1967

(1) The Rural District Council of  
Elstree

(2) Wright & Mills Limited

*NOTE :-Copy filed.*

- 10 The land is subject to the following rights granted by a lease of a sub-station site edged and numbered 1 in orange on the filed plan dated 29 January 1980 to The Eastern Electricity Board, for 99 years (less 10 days) from 25 March 1979:-

"TOGETHER with full right and liberty for the Board and all persons authorised by them (in common with the Lessors and all persons having the like right) to pass and repass at all times and for all purposes (but only in connection with the use of the demised area) with or without vehicles to and from the demised area over and along such part of the land shown by a black dot screen on the said site plan as is situate to the south east of the points marked A and B thereon and the land cross hatched black on the said site plan AND TOGETHER ALSO with full right and liberty for the Board to lay maintain inspect renew use alter and remove electric cables and lines and conduits or pipes for containing the same where necessary under the said land cross hatched black and the land diagonally hatched black on the said site plan and to enter thereon and break up the surface thereof so far as necessary from time to time for the purpose of laying and thereafter as occasion shall require for the purpose of relaying repairing maintaining inspecting renewing altering and removing the said electric cables and lines and conduits or pipes (all which aid rights are together hereinafter referred to as "the said rights") the Board in the exercise of the said rights not causing unnecessary damage to the said land and restoring the surface thereof so far as practicable to its former condition."

NOTE :-The black dot screen edged and numbered 2 in orange on the filed plan. The points A and B referred to are reproduced on the filed plan. The land cross hatched black referred to is edged and nod. 3 in orange on the filed plan. The land diagonally hatched black referred to is edged and numbered 4 in orange on the filed plan so far as it affects the land in this title.

- 11 The land is subject to the following rights granted by a Transfer of the land edged and numbered HD318885 in green on the filed plan dated 31 March 1994 made between (1) Hertsmere Borough Council (the Council) and (2) Ridgehill Housing Association Limited (the Transferee):-

"TOGETHER WITH the rights and easements set forth in Schedule B hereto

### SCHEDULE B

#### RIGHTS GRANTED

##### SUPPORT

1. The full right of subjacent and lateral support from the Remaining Land and each and every part thereof for the benefit of the Property and each and every part thereof.

##### RIGHTS OF WAY

2. The right for the Transferee and the owner or owners and occupiers for the time being of the Property or any part thereof and all persons authorised by it or them at all times and for all reasonable purposes connected with the use and enjoyment of the Property or any part thereof in common with the Council and all other persons to whom a like right has been or may hereafter be granted to pass and repass (with or without vehicles in the case of roads and accessways) over and along the Common Areas now or any replacement or renewal thereof thereafter forming part of the Remaining Land and not publicly adopted the Transferee or other persons as aforesaid bearing paying and contributing together with the Council or its successors in title a reasonable proportion according to the extent to which they use such

## C: Charges Register continued

right of the cost of repairing and maintaining the Common Areas which are not maintained at public expense PROVIDED THAT the Council may upon giving not less than 28 days written notice to the Transferee or its successors in title (except in the case of emergency) from time to time alter the route through the Remaining Land of the Common Areas as it shall in its absolute discretion think fit PROVIDED FURTHER THAT it does so whilst providing suitable alternative routes at its own expense causing minimum inconvenience and making good as soon as practicable any damage so caused and PROVIDED THAT any alternative route provided over the Remaining Land to the Property is adequate for the present use and occupation of the property.

### REPAIRS

3. The right subject to not less than 7 days' prior written notice to the Council or its successors in title (except in case of emergency) to enter upon the Remaining Land with or without workmen and others materials and appliances for the purposes of repairing replacing maintaining and/or decorating the Property and all or any buildings now erected or any replacement or renewal of such buildings and thereafter erected thereon within the Perpetuity Period (the person or person exercising such right making good forthwith at its his or their own expense all damage and loss caused thereby) and also during the Perpetuity Period to lay Service Conduits in over through or under the Common Areas now or where there is any replacement or renewal thereof thereafter forming part of the Remaining Land to serve the Property either alone or jointly or in common with the Remaining Land (the person exercising such right causing as little damage and inconvenience as possible and making good forthwith at his or their expense all damage and loss caused thereby) and SUBJECT ALWAYS to suitable alternative services being provided at no cost to the Council or its successors in title for the duration of such works.

### SERVICES

4. The free and uninterrupted right to the passage and running of water soil gas electricity or other fuel telephone television and other services to and from the Property through and along all Service Conduits as are now or where there is any replacement or renewal thereof as may during the Perpetuity Period be in through under or over the Remaining Land as are used or intended to be used jointly or in common with the Council and all other persons who are now or may hereafter be entitled to connect with or use the same or any of them the Transferee its successors in title or other persons as aforesaid bearing paying and contributing together with such other persons including the Council and its successors in title a fair proportion according to the extent to which their respective properties are served thereby of the cost of inspecting repairing replacing maintaining renewing altering adjusting and cleansing the Service Conduits TOGETHER WITH the right and subject to not less than 7 days' prior written notice to the Council or its successors in title (except in case of emergency) to enter on to the Remaining Land with or without workmen and others materials and appliances for the purpose of connecting to laying inspecting repairing maintaining renewing altering adjusting and cleansing such Service Conduits (the Transferee or its successors in title causing as little inconvenience and damage as possible and making good forthwith at its his or their own expense all damage and loss caused thereby) SUBJECT ALWAYS to suitable alternative services being provided at no cost to the Council or its successors in title for the duration of such works PROVIDED THAT this includes (subject as aforesaid) the right during the Perpetuity Period to make further connections and to lay in under through or over the Common Areas now or where there is any replacement or renewal thereof thereafter forming part of the Property such further Service Conduits as are reasonably necessary for any increased flow from time to time PROVIDED FURTHER THAT the Council may upon giving not less than 28 days written notice to the Transferee or its successors in title (except in case of emergency) from time to time alter the route of the Service Conduits in the Remaining Land as it shall in its absolute discretion think fit which shall not involve the Transferee in any additional expenditure by way of maintenance repair or otherwise PROVIDED ALWAYS THAT any alternative route is adequate for the present use and occupation of the Property AND PROVIDED FURTHER THAT the Council provides suitable

## C: Charges Register continued

alternative services at its own expense and causes during the course of such works minimum inconvenience and makes good forthwith any damage caused.

5. The rights to the unimpeded access and enjoyment of light and air to all windows now and during the Perpetuity Period in the buildings upon the Property and each and every part thereof now existing and to any replacement or renewal thereof thereafter erected upon the Property or any part thereof within the Perpetuity Period from or over the Remaining Land or any parts thereof.

- 12 (18.03.1999) The parts of the land affected thereby are subject to the leases set out in the schedule of leases hereto.  
The leases grant and reserve easements as therein mentioned.

## Schedule of restrictive covenants

- 1 The following are details of the covenants contained in the Conveyance dated 11 June 1890 referred to in the Charges Register:-

COVENANT by Vendor as to so much of the land to which the said stipulations limit as remain vested in him and COVENANT by the Purchaser as to the hereditaments thereby conveyed that they the covenanting parties respectively and their heirs and assigns owners for the time being of the said land would at all times thereafter observe and perform the said several stipulations and that nothing should thereafter be erected made or done upon the said land contrary to the said stipulations

PROVISO that liability of that covenant should be limited to acts done during actual seisin.

THE SCHEDULE above referred to

Stipulations relating to Lots 31-55 inclusive.

1. Every Purchaser shall within two months of the completion of his purchase make and henceforth maintain close boundary fences on the side of his lot marked T within the boundary on the Sale Plan and also along the frontage of his Lot to Furze Hill Road or Shenley Road. Such fences shall not be less than 4 feet 6 inches nor more than 6 feet 6 inches in height and any question or dispute as to the height or sufficiency of any such fence shall be determined by the Vendors Surveyor whose decision shall be final and binding on all parties.

2. The Purchaser of any Lot shall only build thereon one house and no more

3. No house of less value than Three hundred and fifty pounds shall be built on either of the Lots Numbered 31 to 45 inclusive and no house of less value than £300 on either of the Lots Numbered 46 to 54 inclusive such respective values to be estimated at net first cost in materials and labour of construction only

4. Every house to be erected upon any Lot shall be used or occupied as a private dwellinghouse only and no other erection shall be built upon any Lot except the usual outbuildings necessary or desirable for the better enjoyment of such house as a private dwellinghouse

5. No building shall be erected on any Lot nearer to the Road in front thereof than the building line shewn on the sale plan

6. No Lot and no building erected on any Lot shall be used for any offensive noisy or dangerous pursuit or occupation or for any purpose which shall be a nuisance or annoyance to the owners or occupiers of the adjacent property of the Vendor shewn on the sale plan

7. No portion of any Lot shall be used either as a public or private roadway or footway to any adjoining property

8. The Purchaser of Lot 31 shall not without the written consent of the Vendor cut down lop or top the Oak trees in the hedge separating

## Schedule of restrictive covenants continued

such Lot on the Eastern side from the adjoining property

NOTE :-No external boundary of the land in this title is T marked. The building line referred to in Clause 5 is set back 20 feet from the road. No boundary of the land in this title forms part of the eastern side referred to.

2 The following are details of the stipulations contained in the Conveyance dated 12 May 1892 referred to in the Charges Register:-

1. EVERY Purchaser shall within two months of the completion of his purchase make and thenceforth maintain close boundary fences on the side of his lot marked T within the boundary on the sale plan and also along the frontage of his lot to Furze Hill Road or Shenley Road SUCH fences shall not be less than four feet six inches nor more than six feet six inches in height and any question or dispute as to the height or sufficiency of any such fence shall be determined by the Vendors Surveyor whose decision shall be final and binding on all parties.

2. THE Purchaser of any lot shall only build thereon one house and no more.

3. NO house of less value than Three hundred and fifty pounds shall be built on either of the lots numbered 1 to 12 inclusive and no house of less value than Two hundred pounds on either of the lots numbered 13 to 18 inclusive such respective values to be estimated at net first cost in materials and labour of construction only.

4. EVERY house to be erected upon any lot shall be used or occupied as a private dwellinghouse only and no other erection shall be built upon any lot except the usual outbuildings necessary or desirable for the better enjoyment of such house as a private dwellinghouse.

5. NO building shall be erected on any lot nearer to the road in front thereof than the building line shown on the sale plan.

6. NO lot and no building erected on any lot shall be used for any offensive noisy or dangerous pursuit or operation or for any purpose which shall be a nuisance or annoyance to the owners or occupiers of the adjacent property of the Vendor or his assigns.

7. NO portion of any lot shall be used either as a public or private roadway or footway to any adjoining property.

NOTE :-No external boundary of the land in this title is T marked. The building line is set back 20 feet from the road.

3 The following are details of the covenants contained in the Conveyance dated 14 February 1895 referred to in the Charges Register:-

"The Vendor as to so much of the land to which the said stipulations relate as remains vested in him and the Purchaser as to the hereditaments hereby conveyed do hereby mutually covenant the one with the other that they the covenanting parties respectively and their respective heirs and assigns owners for the time being of the said land will at all times hereafter observe and perform the said several stipulations and that nothing shall hereafter be erected made or done upon the said land contrary to the said stipulations PROVIDED ALWAYS that liability on this covenant shall be limited to acts done during actual seisen."

THE SCHEDULE above referred to  
Stipulations

1. EVERY Purchaser shall within 2 months of the completion of his purchase make and thenceforth maintain close boundary fences on the side of his Lot T within the boundary on the Sale plan and also along the frontage of his Lot to Furze Hill Road or Shenley Road. Such fences shall not be less than 4 feet 6 inches nor more than 6 feet 6 inches in height and any question or dispute as to the height or sufficiency of any such fence shall be determined by the Vendors Surveyor whose decision shall be final and binding on all parties.



## Schedule of restrictive covenants continued

2. THE Purchaser of any lot shall only build thereon One House except on the back portions of Lots 14 and 15 and the plot of land hereby colored green on the said plan.

3. No House of less value than £350 shall be built on either of the Lots 6 to 11 inclusive and Lots 12 and 13 and the front portion of Lot 15 and no house of less value than £200 on either of the Lots Nod 1 to 5 inclusive and front portion of Lot 14 such respective values to be estimated at net first cost in materials and labor of construction only.

4. EVERY House to be erected upon any lot shall be used or occupied as a private dwellinghouse only and no other erection shall be built upon any lot except the usual outbuildings necessary or desirable for the better enjoyment of such house as a private dwellinghouse.

5. NO Building shall be erected on any lot nearer to the Road in front thereof than the building line shewn on the sale plan.

6. NO Lot and no building erected on any lot shall be used for any offensive noisy or dangerous pursuit or operation or for any purpose which shall be a nuisance or annoyance to the owners or occupiers of the adjacent property of the Vendor or his assigns.

7. NO portion of any lot shall be used either as a public or private roadway or footway to any adjoining property saving that if the same person shall become the Purchaser of Lots 14 and 15 he may construct thereon whatever roadway he may think fit from the one of such Lots to the other."

NOTE :-No external boundary of the land in this title is T marked. The land coloured green referred to in Clause 2 forms part of the land in this title. The building line is set back 20 feet from the roads.

4 The following are details of the covenants contained in the Conveyance dated 20 November 1901 referred to in the Charges Register:-

COVENANT by Purchaser with the Vendor that he the Purchaser his heirs and assigns would at all times thereafter duly perform and observe all and singular the said stipulations and would keep the Vendor his executors administrators and heirs effectually indemnified against all actions proceedings costs charges claims and demands in respect of any breach of any of the stipulations referred to in the aforesaid Conveyance and in the schedule thereto respectively.

### THE SCHEDULE

### STIPULATIONS

1. The Purchaser shall within two months of the completion of his purchase make and thenceforth maintain close boundary fences on the side of his lot marked T within the boundary on the sale plan and also along the frontage of his lot such fences shall not be less than five feet six inches or more than six feet six inches in height except those between the building line and road boundary which are not to be more than five feet high and any question or dispute as to the height or sufficiency of any such fence shall be determined by the Vendor's Surveyors whose decision shall be final and binding on all parties.

2. The Purchaser of any lot shall only build thereon one house and no more.

3. No house of less value than Five hundred pounds shall be built on either of the lots No. 3 and 4 and no house of less value than Four hundred pounds on any of the lots No. 8 to 18 both inclusive and no house of less value than Two hundred and fifty pounds on any of the remaining lots such respective values to be estimated at net first cost in materials and labour of construction only.

4. Every house to be erected upon any lot shall be used or occupied as a private dwellinghouse only and no other erection shall be built upon any lot except the usual outbuildings necessary or desirable for the

## Schedule of restrictive covenants continued

better enjoyment of such house as a private dwellinghouse.

5. No building shall be erected on any lot nearer to the road in front thereof than the building line which in the case of plots fronting Furze Hill Road is about twenty feet back from the front boundary facing that road and in the case of plots fronting Drayton Road about ten feet back from the front boundary facing the latter road.

6. No lot and no building erected on any lot shall be used for any offensive noisy or dangerous pursuit or operation or for any purpose which shall be a nuisance or annoyance to the Vendor or the owners or occupiers of adjacent or neighbouring property but every building shall be occupied strictly as a private dwellinghouse only.

7. No portion of any lot shall be used either as a public or private roadway or footway to any adjoining property or otherwise.

NOTE :-No external boundary of the land in this title is T marked.

5 The following are details of the covenants contained in the Conveyance dated 16 December 1918 referred to in the Charges Register:-

"AND the purchaser doth hereby covenant with the Vendor his executors administrators and assigns that he the purchaser his heirs executors or administrators and assigns owner or owners for the time being of the said pieces or parcels of land or either of them will at all times hereafter observe and perform the said several stipulations and that nothing shall hereafter be erected made or done upon the said pieces of land or either of them contrary to the said stipulations PROVIDED ALWAYS that liability on this covenant shall be limited to acts during actual seisin.

THE SCHEDULE above referred to.

1. The Purchaser shall within two months of the completion of his purchase make and thenceforth maintain close boundary fences on the side of his lot marked T within the boundary on the sale plan and also along the frontage of his lot to Furze Hill Road or Shenley Road. Such fences shall not be less than 4 feet 6 inches nor more than 6 feet 6 inches in height and any question or dispute as to the height or sufficiency of any such fence shall be determined by the Vendors Surveyor whose decision shall be final and binding on all parties.

2. The Purchaser of any lot shall only build threon one house and no more.

3. No house of less value than £350 shall be built on any lot such value to be estimated at net first cost in materials and labour of construction only.

4. Every house to be erected upon any lot shall be used or occupied as a private dwellinghouse only and no other erection shall be built upon any lot except the usual outbuildings necessary or desirable for the better enjoyment of such house as a private dwellinghouse.

5. No building shall be erected on any lot nearer to the road in front thereof than the building line shown on the sale plan.

6. No lot and no building erected on any lot shall be used for any offensive noisy or dangerous pursuit or operation or for any purpose which shall be a nuisance or annoyance to the owners or occupiers of the adjacent property of the Vendor or his assigns.

7. No portion of any lot shall be used either as a public or private roadway or footway to any adjoining property."

NOTE :-No external boundary of the land in this title is T marked. The building line is set back 20 feet from the road.

6 The following are details of the covenants by the Vendor contained in the Conveyance dated 16 December 1918 referred to in the Charges Register:-

## Schedule of restrictive covenants continued

"And subject to but with the benefit of a covenant contained in an Indenture of Conveyance dated the twenty first day of February One thousand nine hundred and eight and made between William Osborne Boyes (thereinafter called "the Vendor") of the one part and the said Florence Mary Dumbleton Edward Pitcairn Wright and Alfred Day (thereinafter called "the purchasers") of the other part which covenant is in the words following "And the Vendor doth hereby covenant with the purchaser that notwithstanding the said stipulations the Vendor will not raise any objection to or take any proceedings to restrain the erection of a Memorial Baptist Church on the said premises provided (a) the said Chapel shall front to the said Furze Hill Road (b) that no building or any part thereof be erected within ten feet of the Vendors unsold adjacent land on the southern side of the premises hereby conveyed (c) that the wall forming the South side of such proposed Chapel shall be a plain flank wall without any leantos outbuildings or any addition whatever at any time abutting therefrom or thereon and that any windows that may be placed in such wall shall be glazed with opaque or obscured glass and that the Vendor shall not be deemed to convey any perpetual or other access or right of light to such windows on the South side thereof nor shall the purchasers their heirs or assigns be deemed by virtue of this Conveyance to them to have acquired any right of light or air so as to entitle them at any time to restrict or interfere with the free use of any land adjoining the lot or lots conveyed to them for building or other purposes by the Vendor or by the adjoining land owners."

7 The following are details of the covenants contained in the Conveyance dated 1 February 1934 referred to in the Charges Register:-

"The Purchaser hereby covenants with the Vendor that he the Purchaser and his successors in title under him will at all times hereafter observe and perform the said stipulations contained in the Schedule hereunder written.

THE SCHEDULE above referred to

1. No building other than two semi-detached private dwelling houses (with garages) to be used solely as such shall be built on the said land and each such house shall have a tiled roof and be of not less value than £600. The value shall be the amount of the net first cost in materials and labour of construction only estimated at the lowest current prices.
2. No trade or business shall be carried on upon the said land or any part thereof and no gravel or soil shall be excavated except when necessary for building operations and no caravan or temporary structure for living shall be put on the said land.
3. The Purchaser shall not be entitled to any right of light or air which would restrict or interfere with the free use for building purposes or for any other purpose whatever of any adjoining or neighbouring land of the Vendor or any other person or persons deriving title under him."

## Schedule of notices of leases

|   | Registration date and plan ref.                                 | Property description | Date of lease and term                   | Lessee's title |
|---|-----------------------------------------------------------------|----------------------|------------------------------------------|----------------|
| 1 | 18.3.1999<br>Edged and numbered 2 in blue on supplementary plan | 84 Shenley Road      | 23.2.1999<br>125 years from<br>25.3.1998 | HD373847       |

End of register

# **ANNEX 3**

## HERTSMERE BOROUGH COUNCIL

|                                  |                                                                                                                                                                                                                                                                       |
|----------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Meeting name & Date              | <b>EXECUTIVE</b><br><b>9 February 2022</b>                                                                                                                                                                                                                            |
| Agenda item                      | <b>6.2</b>                                                                                                                                                                                                                                                            |
| Report title                     | <b>Setting the Capital Budget 2021/22 to 2024/25</b>                                                                                                                                                                                                                  |
| Report reference no.             | EX/22/12                                                                                                                                                                                                                                                              |
| Wards affected                   | All wards                                                                                                                                                                                                                                                             |
| Report author, job title & email | Matthew Bunyon, Head of Finance & Business Services<br><a href="mailto:matthew.bunyon@hertsmere.gov.uk">matthew.bunyon@hertsmere.gov.uk</a><br>Philip Lui, Financial Services Manager<br><a href="mailto:philip.lui@hertsmere.gov.uk">philip.lui@hertsmere.gov.uk</a> |
| List of Appendices               | <b>Appendix A:</b> Draft Capital Programme 2021/22 to 2024/25<br><b>Appendix B:</b> Capital Projects Appraisal Process<br><b>Appendix C:</b> Capital Strategy 2022                                                                                                    |
| Reason for urgency               | Not applicable                                                                                                                                                                                                                                                        |
| Is it a Key Decision?            | Yes                                                                                                                                                                                                                                                                   |
| Call-in expires on               |                                                                                                                                                                                                                                                                       |
| Exempt from Call-in              | Not applicable                                                                                                                                                                                                                                                        |
| Portfolio Holder                 | Councillor Abhishek Sachdev<br>Portfolio Holder for Finance                                                                                                                                                                                                           |

**PUBLIC REPORT - this report is available to the public.**

## **1 RECOMMENDATION**

- 1.1 That the Executive notes the revised capital programme budget for 2021/22 to 2023/24 of £30,048k as set out in Section 7.
- 1.2 That the Executive agrees the additions to the capital programme amounting to £4,149k as set out in Section 8 (summarised in Table 4).
- 1.3 That the Executive considers the draft capital programme 2021/22 to 2024/25 (Section 9 and Appendix A) and recommends it to the full Council for approval.
- 1.4 That the Executive consider the Capital Strategy 2022 (Section 12 and Appendix C) which has been reviewed and updated to reflect the draft capital programme and reflects the requirements of the Prudential Code 2017 and recommends this strategy to the Council for approval.
- 1.5 That the Executive recommends that the full Council gives delegated authority to the Executive to approve the Civic Office Repurposing Plan work streams detailed in section 13 to be funded from the Business Rates Reserve.

## **2 PURPOSE OF THIS REPORT**

- 2.1 The purpose of this report is for the Executive to consider the four-year capital programme for the period 2021/22 to 2024/25 and also to consider the Capital Strategy 2022 and recommend them to the Council on 23 February 2022 for approval.

## **3 REASONS FOR RECOMMENDATION**

- 3.1 The Council has a statutory obligation (as specified in the CIPFA Prudential Code) to make estimates of the total capital expenditure it plans to incur during the forthcoming year and the following two financial years to facilitate prudent, affordable and sustainable capital investment decisions.
- 3.2 The Prudential Code, which was last published in 2017, requires the Council to produce an annual capital strategy to include a number of key areas including strategic considerations, corporate priorities, capital investment ambition, available resources, affordability, capacity to deliver, risk appetite and risk management. It should also deal with significant commercial (focused on income generation) investments in appropriate detail so that members can properly assess the particular risks in this area. Hertsmere's existing Capital Strategy, which forms part of its overall Medium Term Financial Strategy, has been reviewed and updated to explain how the Council is following the requirements set and is attached in Appendix C.
- 3.3 The procedure agreed by full Council for setting the capital budget is that capital bids are firstly critically appraised by the Asset Management Panel in conjunction with officers prior to recommendation for inclusion in the capital programme.

- 3.4 The Council’s constitution also requires that the Policy Review Committee and Members of the Council be consulted on the capital budget at least four weeks prior to the Executive recommending that Council adopts the budget.
- 3.5 In order to comply with these requirements, the adoption of the 2021/22 – 2024/25 Capital Budget will follow the timetable below:

**Table 1 – Timetable for the Capital Budget 2021/22 to 2024/25**

|                                                          |                  |
|----------------------------------------------------------|------------------|
| Asset Management Panel for consultation                  | 16 December 2021 |
| Draft budget to Executive to recommend consultation      | 12 January 2022  |
| Draft budget to Policy Review Committee for consultation | 20 January 2022  |
| Final budget to Executive for recommendation to Council  | 9 February 2022  |
| Approval by Full Council                                 | 23 February 2022 |

**4 ALTERNATIVE OPTIONS**

- 4.1 The Executive may decide to recommend that full Council adopt an alternative capital budget to that presented in Appendix A. The Executive may also recommend to full Council that any of the individual bids for funding presented are not approved. However, these options could adversely affect the Council’s ability to provide its services and/or make efficiencies going forward.

**5 BACKGROUND**

- 5.1 The CIPFA Prudential Code provides the framework for the Council’s capital investments. It requires the Council to make reasonable estimates of the total of capital expenditure that it plans to incur during the forthcoming financial year and at least the following two financial years. When setting its capital programme the Council must have regard to:
  - The council’s service objectives
  - Stewardship of council’s assets
  - Value for money offered by the plans
  - Prudence and sustainability
  - Affordability of its plans
  - The practicality of the capital expenditure plan
- 5.2 The Council’s Capital Strategy and the Prudential Code require that the Council has a clear plan for its capital expenditure in the medium term, as well as ensuring that the revenue implications of any capital programme are also budgeted.

- 5.3 The Prudential Code requires the Council to produce an annual capital strategy to include a number of key areas including strategic considerations, corporate priorities, capital investment ambition, available resources, affordability, capacity to deliver, risk appetite and risk management. It should also deal with significant commercial (focused on income generation) investments in appropriate detail so that members can properly assess the particular risks in this area. Hertsmere's Capital Strategy 2022 is attached in Appendix C and has been updated to reflect the draft capital programme.
- 5.4 The capital budget is funded by a combination of capital receipts, specific reserves, S106, CIL, external grants and borrowing (internal). However this position can change depending on the progress of major schemes and availability of alternative funding sources. A final decision on funding will be taken at a later date and will be dependent upon several factors such as reserve levels, known commitments and borrowing rates.
- 5.5 The adoption of this four-year capital budget and the critical review of capital bids by the Asset Management Panel (AMP) will allow the Council to meet its requirements as listed in paragraph 5.1. Furthermore, timely decisions made by the full Council prior to the start of the new financial year 2022/23 will enable Officers to plan in advance for expenditure, enabling good cash flow management and effective monitoring of capital expenditure versus the approved budget.

## **6 CAPITAL STRATEGY GROUP (CSG)**

- 6.1 To support the capital budget setting framework, in May 2017 officers formed a Capital Strategy Group (CSG) with the aim of guiding the strategic direction for the capital programme by ensuring that the programme and all new bids for funding aligns with the council's key priorities and objectives.
- 6.2 This officer group advises on and makes recommendations to members in respect of capital proposals and capital funding via the Asset Management Panel, Executive and full Council.
- 6.3 The group aims to:
- maintain an integrated overview of all capital investment across the council and of all capital funding resources and sources;
  - review, monitor and challenge performance and delivery of the Capital Programme;
  - check and challenge new capital investment proposals to ensure that they align with Hertsmere's priorities, that they are affordable and that there is an appropriate business case; and
  - ensure that capital investment decisions are not taken in isolation from consideration of any on-going revenue consequence.
- 6.4 The group now plays a key role in the annual capital budget process, challenging the existing capital programme and presenting new proposals for inclusion in the capital programme for Council approval via the AMP.



6.5 The CSG have reviewed the new capital bids and recommended their inclusion in the capital programme as discussed in Section 8.

## 7 REVISED CAPITAL PROGRAMME 2021/22 to 2023/24

7.1 The Council, at its meeting in February 2021, approved the capital programme for 2021/22 to 2023/24, a total programme over three years of £23,427k.

7.2 The final 2020/21 year-end expenditure position was determined in April 2021 and slippage of £1,404k identified. The slippage was approved to be carried forward into the 2021/22 capital budget by the Executive in July 2021 (EX/21/50).

7.3 Other capital budget adjustments can occur outside of the annual budget process, for example projects approved separately by the Executive or Council or capital projects arising from other funding sources such as S106 or grant funding not already included in the capital programme. The new capital schemes approved to the Capital Programme since February 2021 amounted to £5,217k.

**Table 2 – Revised Capital Programme 2021/22 to 2023/24**

|                                                  | 2021/22<br>£000 | 2022/23<br>£000 | 2023/24<br>£000 | TOTAL<br>£000 |
|--------------------------------------------------|-----------------|-----------------|-----------------|---------------|
| <b>Approved Budget</b>                           | <b>21,711</b>   | <b>966</b>      | <b>750</b>      | <b>23,427</b> |
| Slippage from 2020/21 Capital Budget             | 1,404           | -               | -               | <b>1,404</b>  |
| <b>Add: New capital schemes approved</b>         |                 |                 |                 |               |
| Purchase of Street Scene Vehicles                | 1,129           | -               | -               | <b>1,129</b>  |
| Elstree Studios New Sound Stages and Workshops   | 3,600           | -               | -               | <b>3,600</b>  |
| Replacement Meeting Rooms Civic Offices          | 95              | -               | -               | <b>95</b>     |
| Elstree Studios Replacement Stage Doors 7, 8 & 9 | 199             | -               | -               | <b>199</b>    |
| Mitel Telephone Support Contract                 | 15              | -               | -               | <b>15</b>     |
| Civic Offices Secure Cycling Parking             | 9               | -               | -               | <b>9</b>      |
| Crown Road                                       | 100             | -               | -               | <b>100</b>    |
| New Financial System                             | -               | 70              | -               | <b>70</b>     |
| <b>Sub-total of new capital scheme approved</b>  | <b>5,147</b>    | <b>70</b>       | <b>-</b>        | <b>5,217</b>  |
| <b>Revised Capital Budget</b>                    | <b>28,262</b>   | <b>1,036</b>    | <b>750</b>      | <b>30,048</b> |

## Total Additions to the Capital Programme

- 8.5 The total additions to the capital programme amount to £4,149k as set out in table 4 below:

**Table 4 - Total Additions to the Capital Programme**

| <b>Schemes to be added</b>                              | <b>2022/23<br/>£'000</b> | <b>2023/24<br/>£'000</b> | <b>2024/25<br/>£'000</b> | <b>TOTAL<br/>£'000</b> |
|---------------------------------------------------------|--------------------------|--------------------------|--------------------------|------------------------|
| Bournehall Avenue Roof & Walkways                       | 100                      | -                        | -                        | 100                    |
| Clerk of Work Services Orchard Close & St John's Church | 30                       | 10                       | -                        | 40                     |
| Elstree Film Studios - Maxwell Building Façade          | 220                      | -                        | -                        | 220                    |
| Asset Management Forklift Truck Replacement             | 15                       | -                        | -                        | 15                     |
| Environmental Health Van Replacement                    | 25                       | -                        | -                        | 25                     |
| Cycle Hire Scheme                                       | 250                      | -                        | -                        | 250                    |
| Allum Lane Cemetery Extension                           | 210                      | 380                      | -                        | 590                    |
| Furzefield Greenway                                     | 115                      | -                        | -                        | 115                    |
| Oakmere Lakeside Viewing Area & Retaining Wall          | 110                      | -                        | -                        | 110                    |
| Oakmere Toddler Play Area                               | 100                      | -                        | -                        | 100                    |
| Street Scene Vehicle Replacement Programme              | 1,276                    | 559                      | -                        | 1,835                  |
| <b>Sub-Total New Capital Bids</b>                       | <b>2,451</b>             | <b>949</b>               | <b>-</b>                 | <b>3,400</b>           |
|                                                         |                          |                          |                          |                        |
| Disabled Facilities Grant (DFG)                         | -                        | -                        | 749                      | 749                    |
| <b>Sub-Total DFG Budget</b>                             | <b>-</b>                 | <b>-</b>                 | <b>749</b>               | <b>749</b>             |
|                                                         |                          |                          |                          |                        |
| <b>Total Additions to the Capital Programme</b>         | <b>2,451</b>             | <b>949</b>               | <b>749</b>               | <b>4,149</b>           |

## 9 CAPITAL PROGRAMME 2021/22 TO 2024/25

- 9.1 The draft capital programme, incorporating the proposed changes outlined in Section 7 and 8 for the four-year period 2021/22 to 2024/25 amounts to £34,197k as summarised in Table 5 below and detailed in Appendix A. The actual value of the programme will however be dependent on the confirmed final outturn for 2021/22, which will not be known until after the end of the 31 March 2022 financial year. This will be reported to the Executive in the final outturn report in July 2022.

**Table 5 – Draft Capital Programme 2021/22 to 2024/25**

|                                     | Revised Budget<br>2021/22<br>£'000 | Draft Budget<br>2022/23<br>£'000 | Draft Budget<br>2023/24<br>£'000 | Draft Budget<br>2024/25<br>£'000 | Draft Capital Programme<br>£'000 |
|-------------------------------------|------------------------------------|----------------------------------|----------------------------------|----------------------------------|----------------------------------|
| Asset Management                    | 23,326                             | 581                              | 10                               | -                                | 23,917                           |
| Development Company                 | 303                                | -                                | -                                | -                                | 303                              |
| Planning & Economic Development     | 386                                | 250                              | -                                | -                                | 636                              |
| Environmental Health                | 1,540                              | 775                              | 750                              | 749                              | 3,814                            |
| Housing & Partnerships              | -                                  | -                                | -                                | -                                | -                                |
| Street Scene                        | 2,598                              | 1,811                            | 939                              | -                                | 5,348                            |
| Finance & Business Services         | 109                                | 70                               | -                                | -                                | 179                              |
| Human Resources & Customer Services | -                                  | -                                | -                                | -                                | -                                |
| <b>TOTAL</b>                        | <b>28,262</b>                      | <b>3,487</b>                     | <b>1,699</b>                     | <b>749</b>                       | <b>34,197</b>                    |

## 10 FUNDING THE CAPITAL PROGRAMME

10.1 The detailed capital programme for 2021/22 to 2024/25 is set out in Appendix A. The three-year programme is funded by a combination of capital receipts, specific reserves, S106, other contributions and external grants.

10.2 For all projects included in the programme the profile of agreed expenditure has been reviewed and aligned based on current estimates. This has resulted in a £34,197k four-year capital programme.

10.3 Table 6 sets out the estimated capital resource requirements for the planned capital programme spend and the proposed funding sources. Final funding decisions are however taken as part of the year-end decisions process when the most appropriate funding resources are considered and applied.

**Table 6 – Capital Funding 2021/22 to 2024/25**

| Funding Source                 | Revised Budget<br>2021/22<br>£000 | Draft Budget<br>2022/23<br>£000 | Draft Budget<br>2023/24<br>£000 | Draft Budget<br>2024/25<br>£000 | TOTAL Capital Funding<br>2021/22 to<br>2024/25<br>£000 |
|--------------------------------|-----------------------------------|---------------------------------|---------------------------------|---------------------------------|--------------------------------------------------------|
| Capital Receipts               | 3,426                             | 405                             | -                               | -                               | 3,831                                                  |
| Disabled Facilities Grant      | 1,481                             | 691                             | 691                             | 691                             | 3,554                                                  |
| Earmarked Reserves             | 5,808                             | 1,606                           | 559                             | -                               | 7,973                                                  |
| Housing Enabling Fund          | 179                               | -                               | -                               | -                               | 179                                                    |
| Innovation and Investment Fund | 216                               | -                               | -                               | -                               | 216                                                    |
| Revenue Contribution           | 258                               | 59                              | 59                              | 58                              | 434                                                    |
| Borrowing                      | 6,048                             | -                               | -                               | -                               | 6,048                                                  |
| Grants and Other Contributions | 4,971                             | 323                             | 380                             | -                               | 5,674                                                  |
| CIL/S106                       | 5,875                             | 403                             | 10                              | -                               | 6,288                                                  |
| <b>Totals</b>                  | <b>28,262</b>                     | <b>3,487</b>                    | <b>1,699</b>                    | <b>749</b>                      | <b>34,197</b>                                          |

## **11 CAPITAL STRATEGY 2022**

- 11.1 The Capital Strategy 2022 has been updated to include the latest 2021/22 revised budget position as at 31 December 2021 and also incorporates the draft 2021/22 to 2024/25 capital programme as detailed in this report. The latest draft is included in Appendix D of this report.
- 11.2 The Capital Strategy will be annually reviewed and presented with the annual capital programme.

## **12 CONSULTATION**

### **Asset Management Panel**

- 12.1 At its meeting on 16 December 2021 the Asset Management Panel considered eleven new capital bids (Section 8 above and Appendix B), and the draft four year capital budget (Section 9 above and Appendix A).
- 12.2 The Panel discussed considerations on the depreciation length of Council owned vehicles to factor in the change to renewable fuel vehicles.
- 12.3 The Panel agreed to recommend that the two capital bids for the Asset Management forklift truck and Environmental Health van replacements should be for electric vehicles.
- 12.4 The two year planned Street Scene fleet replacement capital bid was agreed pending further considerations from officers for renewable fuelled vehicles. Smaller vehicles would be considered for renewable fuel as the purchase cost of the vehicles are more economical and could be purchased via government procurement framework.
- 12.5 The Panel were satisfied with the eleven new capital bids (paragraph 8.1 and Appendix B).
- 12.6 The Panel agreed to recommend the four year capital budget for the period 2021/22 to 2024/25 to the Executive.

### **Policy Review Committee**

- 12.7 At its meeting on 20 January 2022 the Policy Review Committee considered the draft capital programme 2021/22 to 2024/25 and 2022 Capital Strategy. The draft capital budget had been circulated to members of the Policy Review Committee and all members, all of whom were encouraged by the chair to contribute to the discussion.
- 12.8 Members were updated on the Council Offices Repurposing plan which was on-going but not included in the draft capital programme. The plan included:
- The lease agreement of the current Committee Rooms A to D to provide more accommodation for the Police and Crime Commissioner (PCC). This

was approved by members in July 2021.

- The PCC lease would require the re-provision of Committee Rooms on the first floor of the Civic Office.
- Investment required for essential maintenance plant and machinery in the Civic Offices due to age and increasing maintenance costs of the plant currently in situ.
- Hybrid working requirements.

12.9 A member raised points on the Council Offices Repurposing plan, whether the council is maximising the potential for the Civic Offices in terms of the commercial income receivable, the layout of the office and plant replacement. It was advised third party consultants will be used to assess requirements of the Council and engage with the PCC on their requirements.

12.10 A query was raised on whether the Council Offices Repurposing replacement plant and maintenance will follow the Council's pledge for zero carbon emissions. Assessments will be made to ensure that designs and equipment replaced would be following the zero carbon pledge.

12.11 The committee agreed, following consultation, to recommend the draft 2021/22 to 2024/25 capital programme 2021/22 to 2024/25 and 2022 Capital Strategy to Executive.

### **Executive**

12.12 Comments of the Executive to be included following its meetings on 9 February 2022.

## **13 CIVIC OFFICES REPURPOSING PLAN**

13.1 The Civic Offices had its last major refurbishment in 1972. Since then the office has been developed to accommodate the NHS from 2010 and then the Police and Crime Commissioner (PCC) from 2014, however no further works have been undertaken in relation to the offices or plant.

13.2 The arrangements with the NHS and PCC have established a hub of key services within a central location for Hertsmere residents whilst also generating an annual rental income for the Council of £345k per annum and making efficient use of a public asset.

13.3 In July 2021, the Council approved the lease of some further office space to the PCC, the area where the current committee rooms are located, with an additional rent of £95k per annum. Whilst further opportunities to develop the offices could have been explored, the current 25 year lease with the PCC which runs until 2039 would limit these opportunities hence this additional lease was agreed to be coterminous with the existing lease.

13.4 Letting the additional space to the PCC will however require the relocation of the committee rooms, which will be to the other wing of the first floor. This will in turn

mean the displacement of some staff which will require a re-planning of the Civic Offices to optimise space. This presents an opportunity to create flexible working environments suitable to support hybrid working and address many of the longstanding poor office environmental conditions.

13.5 Significant efforts have already been put into decluttering the offices with a view to storing more documents electronically thereby releasing space through storage reduction and also to support hybrid working arrangements by enabling remote access to key information. However this will require some investment in IT infrastructure and electronic file integration.

13.6 This, together with the changing requirements for workplaces generally in recent months, has caused officers to review all the office accommodation at the Civic Office and Council Depots to determine appropriate layout plans and associated enabling works to create a fit for purpose modern attractive working environment, embracing technology and following best practice. The timing of this has not however met the early part of the capital programming process, however officers have been working up estimated costs based on a the measures necessary to complete the proposed changes as soon as possible. The indicative costs associated with the infrastructure, furniture and equipment are approximately:

- Building alterations £900k
- Plant and equipment £500k
- Electrical and IT systems £500k
- Furniture and relocation £600k
- Committee rooms £200k
- Paper light project £300k

13.7 The additional income from the new lease with the PCC means the total annual rental from the PCC and NHS now amounts to £440k per annum from 2022/23. In addition, officers will continue to explore opportunities to maximise rental income offered by the Civic Office such as renting the committee rooms and Council Chamber to external users, which it is anticipated will pick up again post-pandemic. Repurposing the offices will also create new meeting space which will be fully equipped for hybrid meetings offering more potential for rental income. Based on the current budgeted income the expected payback period for the proposed investment in the Civic Office could be around 6-7 years.

13.8 Officers are working on the details for the proposed works which will be presented to the Executive in due course. To enable these projects to move forward quickly it is recommended that the full Council delegate authority to the Executive to approve the work streams listed in paragraph 13.6 within the estimated funding envelope. It is proposed that these works be funded from the Business Rates Reserve thereby utilising the additional retained growth that Hertsmere has benefitted from as a result of Business Rates pooling since 2016/17.

## **14 FINANCIAL AND BUDGET FRAMEWORK IMPLICATIONS**

14.1 The financial and budget framework implications are noted throughout this report.

## Appendix A

| PROJECT REF | PROJECT DESCRIPTION                                                 | 2021/22       | 2022/23      | 2023/24    | 2024/25  | TOTAL                       |
|-------------|---------------------------------------------------------------------|---------------|--------------|------------|----------|-----------------------------|
|             |                                                                     | £'000         | £'000        | £'000      | £'000    | 2021/22 to 2024/25<br>£'000 |
|             | <b>CAPITAL PROJECTS - CAPITALISED EXPENDITURE BUDGETS</b>           |               |              |            |          |                             |
|             | <b>ASSET MANAGEMENT</b>                                             |               |              |            |          |                             |
| HV108       | Refurbishment of Lock-Up Garages                                    | 298           | 85           | -          | -        | 383                         |
| HV171       | Works to Council Owned Shops                                        | 174           | -            | -          | -        | 174                         |
| HV215       | St Johns Church                                                     | 2,982         | 107          | 10         | -        | 3,099                       |
|             | Crown Road                                                          | 100           | -            | -          | -        | 100                         |
| HV225       | 111 Strafford Gate – CPO                                            | 31            | -            | -          | -        | 31                          |
| HV238       | Civic Offices Car Park Decking                                      | 2,575         | -            | -          | -        | 2,575                       |
| HV239       | Window Replacement and Loft Insulation                              | 185           | -            | -          | -        | 185                         |
| HV240       | Orchard Close                                                       | 1,688         | 44           | -          | -        | 1,732                       |
| HV243       | Purchase of Vehicle                                                 | 73            | -            | -          | -        | 73                          |
| HV255       | Elstree Studios New Sound Stages and Workshop                       | 14,316        | -            | -          | -        | 14,316                      |
| HV265       | Elstree Studios Ancillary Block Roof                                | 300           | 10           | -          | -        | 310                         |
|             | Replacement Meeting Rooms Civic Offices                             | 95            | -            | -          | -        | 95                          |
|             | Elstree Studios Replacement Stage Doors 7, 8 & 9                    | 9             | -            | -          | -        | 9                           |
|             | Bournehall Avenue Roof & Walkway Repairs                            | -             | 100          | -          | -        | 100                         |
|             | Forklift Truck Replacement                                          | -             | 15           | -          | -        | 15                          |
|             | Elstree Film Studios – Maxwell Building Façade                      | -             | 220          | -          | -        | 220                         |
|             |                                                                     | <b>22,826</b> | <b>581</b>   | <b>10</b>  | <b>-</b> | <b>23,417</b>               |
|             | <b>STREET SCENE</b>                                                 |               |              |            |          |                             |
| HV211       | Moatfield Greenway                                                  | 32            | -            | -          | -        | 32                          |
| HV226       | Improvement Plans - Meadow Road Park                                | 87            | -            | -          | -        | 87                          |
| HV229       | Meadow Parks Phase II                                               | 1,350         | -            | -          | -        | 1,350                       |
| HV164       | Purchase of Street Scene Vehicles                                   | 1,129         | 1,276        | 559        | -        | 2,964                       |
|             | Allum Lane Cemetery Extension                                       | -             | 210          | 380        | -        | 590                         |
|             | Furzefield Greenway                                                 | -             | 115          | -          | -        | 115                         |
|             | Oakmere Lakeside Viewing Area and Retaining Wall                    | -             | 110          | -          | -        | 110                         |
| HV244       | Oakmere Toddler Play Area                                           | -             | 100          | -          | -        | 100                         |
|             |                                                                     | <b>2,598</b>  | <b>1,811</b> | <b>939</b> | <b>-</b> | <b>5,348</b>                |
|             | <b>FINANCE &amp; BUSINESS SERVICES</b>                              |               |              |            |          |                             |
| HV158       | New Financial System                                                | 50            | 70           | -          | -        | 120                         |
| HV175       | IT Desktop Devices                                                  | 44            | -            | -          | -        | 44                          |
|             | Mitel Telephone Support Contract                                    | 15            | -            | -          | -        | 15                          |
|             |                                                                     | <b>109</b>    | <b>70</b>    | <b>-</b>   | <b>-</b> | <b>179</b>                  |
|             | <b>ENVIRONMENTAL HEALTH</b>                                         |               |              |            |          |                             |
|             | Purchase of EHO Vehicle                                             | -             | 25           | -          | -        | 25                          |
|             |                                                                     | <b>-</b>      | <b>25</b>    | <b>-</b>   | <b>-</b> | <b>25</b>                   |
|             | <b>SUB-TOTAL CAPITAL PROJECTS - CAPITALISED EXPENDITURE BUDGETS</b> | <b>25,533</b> | <b>2,487</b> | <b>949</b> | <b>-</b> | <b>28,969</b>               |

## Appendix A

| PROJECT REF          | PROJECT DESCRIPTION                                                     | 2021/22       | 2022/23      | 2023/24      | 2024/25    | TOTAL 2021/22 to 2024/25 |
|----------------------|-------------------------------------------------------------------------|---------------|--------------|--------------|------------|--------------------------|
|                      |                                                                         | £'000         | £'000        | £'000        | £'000      | £'000                    |
|                      |                                                                         |               |              |              |            |                          |
|                      | <b>CAPITAL PROJECTS - NON-CAPITALISED EXPENDITURE BUDGETS</b>           |               |              |              |            |                          |
|                      |                                                                         |               |              |              |            |                          |
|                      | <b>ASSET MANAGEMENT</b>                                                 |               |              |              |            |                          |
| HV170, 213, 214, 242 | Development Sites Feasibility Studies                                   | 130           | -            | -            | -          | 130                      |
| HV212                | Civic Offices Extension                                                 | 76            | -            | -            | -          | 76                       |
| HV231                | Croxdale Road & Rossington Ave Roof                                     | 95            | -            | -            | -          | 95                       |
|                      | Elstree Studios Replacement Stage Doors 7, 8 & 9                        | 199           | -            | -            | -          | 199                      |
|                      |                                                                         | <b>500</b>    | <b>-</b>     | <b>-</b>     | <b>-</b>   | <b>500</b>               |
|                      |                                                                         |               |              |              |            |                          |
|                      |                                                                         |               |              |              |            |                          |
|                      | <b>DEVELOPMENT COMPANY</b>                                              |               |              |              |            |                          |
| HV206                | Working Capital Loan Herts Dev Ltd                                      | 303           | -            | -            | -          | 303                      |
|                      |                                                                         | <b>303</b>    | <b>-</b>     | <b>-</b>     | <b>-</b>   | <b>303</b>               |
|                      |                                                                         |               |              |              |            |                          |
|                      | <b>ENVIRONMENTAL HEALTH</b>                                             |               |              |              |            |                          |
| HV162                | Disabled Facilities Grant (DFG)                                         | 1,540         | 750          | 750          | 749        | 3,789                    |
|                      |                                                                         | <b>1,540</b>  | <b>750</b>   | <b>750</b>   | <b>749</b> | <b>3,789</b>             |
|                      |                                                                         |               |              |              |            |                          |
|                      | <b>PLANNING &amp; ECONOMIC DEVELOPMENT</b>                              |               |              |              |            |                          |
|                      | CIL Projects                                                            | 357           | -            | -            | -          | 357                      |
| HV256                | Elstree Way Corridor Improvements                                       | 29            | -            | -            | -          | 29                       |
|                      | Cycle Hire Scheme                                                       | -             | 250          | -            | -          | 250                      |
|                      |                                                                         | <b>386</b>    | <b>250</b>   | <b>-</b>     | <b>-</b>   | <b>636</b>               |
|                      |                                                                         |               |              |              |            |                          |
|                      | <b>SUB-TOTAL CAPITAL PROJECTS - NON-CAPITALISED EXPENDITURE BUDGETS</b> | <b>2,729</b>  | <b>1,000</b> | <b>750</b>   | <b>749</b> | <b>5,228</b>             |
|                      |                                                                         |               |              |              |            |                          |
|                      | <b>TOTAL CAPITAL ESTIMATES</b>                                          | <b>28,262</b> | <b>3,487</b> | <b>1,699</b> | <b>749</b> | <b>34,197</b>            |



# **ANNEX 4**



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## Agenda and minutes

### Executive - Wednesday, 18 March 2020 6.00 pm

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Items

**No. Item**

**70. Communications and Apologies**

- [View the background to item 70.](#)

(a) Communications (if any) relating to business on the agenda.

(b) Apologies for absence.

**Additional documents:**

- [Webcast for 70.](#)

**Minutes:**

The Chair welcomed Members and Officers to the meeting and advised that, in accordance with normal procedure, the meeting was being webcast.

The Chair announced that the reports in relation to Item 13.2 – Proposed Works in Default for House in Serious Disrepair at Borehamwood, Herts (EX/20/26) marked 'To follow' had been circulated separately to the agenda and Item 13.3 – Update on Organisational Change (EX/20/33) together with the minute from the meeting of the Personnel Committee held on 4 March 2020 would be circulated and collected in the meeting.

Apologies for absence have been received from Councillors Graham, Heywood, Morris and Quilty.

**71. Exclusion of the Public**

- [View the background to item 71.](#)

Recommendation that under S100A(4) Local Government Act 1972, the public be excluded from the meeting for the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in Part I, Schedule 12A to the said Act:-

| <u>Part II Agenda Item</u> | <u>Paragraphs in Schedule 12A</u> |
|----------------------------|-----------------------------------|
|----------------------------|-----------------------------------|

**KEY DECISIONS**

|                                                                                      |               |
|--------------------------------------------------------------------------------------|---------------|
| 13.1. Decking of Civic Office Car Park                                               | 3             |
| 13.2. Proposed Works in Default for House in Serious Disrepair at Borehamwood, Herts | 1, 2, 3 and 6 |
| -                                                                                    |               |
| 13.3 Update on Organisational Change                                                 | 1 and 2       |

**Additional documents:**

- [Webcast for 71.](#)

**Minutes:**

**RESOLVED** that, under Section 100A(4) of the Local Government Act 1972, the public be excluded from the meeting for the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in Part I, Schedule 12A to the said Act:-

| <u>Part II Agenda Item</u> | <u>Paragraphs in Schedule 12A</u> |
|----------------------------|-----------------------------------|
|----------------------------|-----------------------------------|

**KEY DECISIONS**

|                                                                                |               |
|--------------------------------------------------------------------------------|---------------|
| Decking of Civic Office Car Park                                               | 3             |
| Proposed Works in Default for House in Serious Disrepair at Borehamwood, Herts | 1, 2, 3 and 6 |
| Update on Organisational Change                                                | 1 and 2       |

**72. Update on Organisational Change (EX/20/33)**

- [View the reasons why item 72. is restricted](#)
- [View the background to item 72.](#)

Approval is sought for the proposals set out in the report of Officers.

**Minutes:**

**Decision** that:

1. The recommendation of the Personnel Committee to delete the post of PA to the Chief Executive and terminate the post holder's employment on grounds of redundancy with effect from 6 April 2020, subject to the Executive approving the financial implications, be agreed;
2. The recommendation of the Managing Director to streamline the Council's largest Service Grouping to improve resilience and succession planning be noted; and
3. The Head of HR and Customer Services, in consultation with the Managing Director, has initiated formal consultation with staff affected by the proposals, be noted.

**Reasons for the Decision**

The report sets out the proposals of the Managing Director for the adjustments to the permanent support roles in the Corporate Suite to provide long term resilience and to further improve organisational efficiency by adjusting the allocation of responsibilities between posts reporting to the Chief Officers, together with the outcomes of informal consultation with stakeholders carried out by the Head of HR and Customer Services.

Approval is sought for the financial implications and implementation of the proposals, subject to the outcome of formal consultation with staff affected.

**Alternative Options Considered and Rejected**

Alternative options considered and rejected were detailed in the report of Officers.

**72.1 Decking of Civic Office Car Park(EX/20/17)**

- [View the reasons why item 72.1 is restricted](#)
- [View the background to item 72.1](#)
- [View the decision for item 72.1](#)

The report seeks approval for the award of contract for the design and construction of a decked carpark at the Civic Offices Car Park, following an open tender process carried out in accordance with HBC procurement procedures.

**Minutes:**

**Decision** that:

1. The award of contract for the decking of the Civic Car Park to the contractor named in the report of Officers be approved; and
2. The sum as identified in item 5.10 of the report from the approved capital budget be approved.

**Reasons for the Decision**

The Civic Centre car park has a current capacity of 400 spaces, is well use and full to capacity on most normal working days.

With continued development of the Elstree Way Corridor, including the old Police Station, parking demand will continue to increase and the current provision will become increasingly inadequate.

It is acknowledged that car usage in Hertsmere is high, and that the public transport links across the borough are poor, especially when compared to that in nearby London Boroughs. When visiting the Council residents from surrounding settlements will continue to drive to Borehamwood until public transport improves.

The proposed decking would cover part of the exiting car park, limited to a single deck (to minimise the impact on neighbouring properties) and will provide 211 additional spaces (see appendix 1).

**Alternative Options Considered and Rejected**

The Council could decide not to award a contract and continue with the existing car park provision. However parking will become increasingly unavailable and in turn may have a negative impact on the Council, surrounding businesses, on street parking and neighbours.

#### **Key Points Arising from the Discussion**

The Managing Director, in response to comments received from the Non-Executive Member, gave assurances that during the construction phase of the proposed project extensive provision would be made for electric car charging and allocated car sharing spaces would be made available.

#### **72.2 Proposed Works in Default for House in Serious Disrepair at Borehamwood, Herts (EX/20/36)**

- [View the reasons why item 72.2 is restricted](#)

The report recommends that Executive agrees funding to enable works to be completed in order to make a property safe, preventing risk of further damage or substantial injury to the owner occupier, neighbours or the public.

#### **Minutes:**

**Decision** it be noted that:

1. Officers acting under delegated powers have served improvement notices under Sections 11 and 12 of the Housing Act 2004 (the Improvement Notices) in relation to the residential premises identified in the exempt report (the specified premises) due to the existence on those premises of Category 1 and Category 2 hazards;
2. The Improvement Notices have become operative and have been registered as a Local Land Charge against the specified premises;
3. The person served with the Improvement Notices has failed to take any of the remedial actions required by the Improvement Notices and that the Council is thereby authorised to enter the specified premises to take such action at an estimated cost of up to £100,000;
4. The Council will be entitled to recover all the expenses incurred in taking such remedial action from the person served with the Improvement Notices; and
5. In accordance with Schedule 3 of the Housing Act 2004 the expenses incurred in taking remedial action together with interest thereon shall become a charge on the specified premises giving the Council all the powers and remedies of a mortgagee, including a power of sale.
6. The Executive agrees that the Council takes all lawful and necessary steps:-
  - i.to enter the specified premises to carry out the remedial action required by the Improvement Notices;
  - ii.to recover the expenses incurred in carrying out such remedial action together with interest thereon from the person served with the Improvement Notices;
  - iii.to ensure that that the specified premises are charged with such expenses and interest as security for the amounts due to the Council; and
  - iv.should the officers at any time be considering compulsory purchase of the specified premises, a further report be brought back to the Executive.

#### **Reasons for the Decision**

The property concerned is a privately owned three bedroom terraced house in Borehamwood which has fallen into serious disrepair with at least one serious leak in the roof, water leaks, damp and mould growth, unstable roof, collapsed ceilings and floors likely to fall.

Two Improvement Notices have been issued and served on the owner of the premises pursuant to Section 11 and 12 Housing Act 2004 which demanded that he carries out remedial works to the premises. However the remediation works should have been commenced by the owner of the property in November 2019. This has not occurred and in the opinion of the case officer, is unlikely to occur given that the premises owner has been uncooperative to date.

Some of the disrepair has been assessed as a Category One hazard which placed the Council under a duty to serve an improvement notice and carry out works in default should the person served with the notice fail to carry out the required remedial action.

The proposal is to secure entry to the premises and engage the services of skilled builders to complete in default the works required by the Improvement Notices, being works to the roof, ceilings, floors, ... [view the full minutes text for item 72.2](#)

#### **73. Presentations**

- [View the background to item 73.](#)

- (a) To receive presentations (if any) made in accordance with Council Procedure Rules relating to Petitions

In accordance with these Rules:-

- (i) no presentation shall exceed five minutes; and
- (ii) consideration of the subject matter will normally take place at the next ordinary scheduled meeting of the Executive and not at this meeting;

- (b) any motions by Members of this body relating to the order of business on the agenda.

#### **Additional documents:**

- [Webcast for 73.](#)

#### **Minutes:**

# **ANNEX 5**

## HERTSMERE BOROUGH COUNCIL

|                                  |                                                                                                                                                                                                                                                                           |
|----------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Meeting name and date            | <b>EXECUTIVE</b><br><b>6 July 2022</b>                                                                                                                                                                                                                                    |
| Agenda item                      | 8.2                                                                                                                                                                                                                                                                       |
| Report title                     | <b>Revenue and Capital Outturn 2021/22</b>                                                                                                                                                                                                                                |
| Report reference no.             | <b>EX/22/37</b>                                                                                                                                                                                                                                                           |
| Wards affected                   | All wards                                                                                                                                                                                                                                                                 |
| Report author, job title & email | Matthew Bunyon, Head of Finance & Business Services<br><a href="mailto:matthew.bunyon@hertsmere.gov.uk">matthew.bunyon@hertsmere.gov.uk</a><br><br>Philip Lui, Financial Services Manager<br><a href="mailto:philip.lui@hertsmere.gov.uk">philip.lui@hertsmere.gov.uk</a> |
| List of Appendices               | Appendix 1 – 2021/22 Financial Monitoring position to<br>31 March 2022 (Revenue General Fund Summary)                                                                                                                                                                     |
| Reason for urgency               | Not applicable                                                                                                                                                                                                                                                            |
| Is it a Key Decision?            | No                                                                                                                                                                                                                                                                        |
| Call-in expires on               |                                                                                                                                                                                                                                                                           |
| Exempt from Call-in              | Not applicable                                                                                                                                                                                                                                                            |
| Portfolio Holder                 | Councillor Abhishek Sachdev -<br>Portfolio Holder for Finance                                                                                                                                                                                                             |

**PUBLIC REPORT - this report is available to the public.**

## **1. RECOMMENDATIONS**

### **1.1 That the Executive:**

- i) notes the Revenue outturn position for 2021/22 shows a balanced budget position set against a revised budget of £11,846k (section 5 and Appendix 1);
- ii) notes that there has been significant financial impact to the 2021/22 management accounts due to coronavirus and that the resulting additional costs and loss of income that occurred during 2021/22 have been met from central government funding made available to support local authorities and the Covid-19 reserve (paragraph 5.3 and 5.4);
- iii) notes the financial impact of coronavirus was reviewed and reported to the Financial Monitoring Panel every month in 2021/22. The financial impact to Hertsmere was also reported to DLUHC via the monthly Government returns with the final return made to 31 March 2022 (paragraph 5.14 and 5.15);
- iv) notes the capital outturn position for 2021/22, which shows a total investment of £15,933k against a revised budget of £28,363k (Section 6);
- v) notes the sources of capital funding for 2021/22 (paragraph 6.3); and
- vi) notes, that subject to v) above, the revised three-year capital programme for the period 2022/23 to 2024/25 amounts to £18,018k (paragraph 6.5).

## **2. PURPOSE OF THIS REPORT**

- 2.1 The purpose of this report is to inform the Executive of the Revenue and Capital outturn position for the 2021/22 financial year.
- 2.2 The detailed year end monitoring position was considered by the Operations Review Committee on 15 June 2022 (O/22/07). This report summarises the revenue outturn position by service as reported in O/22/07.
- 2.3 This report also summarises the capital outturn and financing position. In addition, the capital budget slippage to 2022/23 is reported to Executive for noting.

## **3. REASONS FOR RECOMMENDATION**

- 3.1 This report brings together the 2021/22 Outturn Report previously considered by the Operations Review Committee.
- 3.2 This report enables the Executive to review and note the Council's financial position for 2021/22 as at 31 March 2022.

## **4. ALTERNATIVE OPTIONS**

- 4.1 There are no Executive approvals requested in this report.

## **5. REVENUE OUTTURN**

- 5.1 In February 2021 the Council approved a General Fund Revenue Budget for the 2021/22 financial year of £11,846k. Performance against that budget has been monitored throughout the year by the Financial Monitoring Panel which is the panel of the Operations Review Committee and quarterly updates have been presented

to the Operations Review Committee. The year-end outturn position for 2021/22 shows a balanced budget position, a summary of which is attached as Appendix 1. A detailed 2021/22 year-end revenue monitoring position was reported to the Operations Review Committee on 15 June 2022 (O/22/07).

- 5.2 Appendix 1 shows a summary of the revenue outturn position by service heading which includes a net deficit on operational service expenditure of £941k, in addition to which there was a net deficit of £436k against corporate budgets, due mainly to additional expenses as a direct result of the council's response to the coronavirus pandemic, resulting in the net operational deficit on total costs of £1,377k.

### ***Covid-19 – Government Funding and Covid-19 Reserve***

- 5.3 In recognition of the Covid-19 related financial pressures faced by local authorities, the Government announced a series of funding measures including emergency funding, new burdens funding, specific grants, Contain Outbreak Management Fund (COMF) from Hertfordshire County Council and irrecoverable income compensation. In total Hertsmere received Government funding of £1,254k which partly met the operational deficit. The overall Government Covid-19 funding is summarised in table 1 below:

| <b>Table 1 – Government Covid-19 Funding Summary</b> | <b>£000's</b> | <b>£000's</b> |
|------------------------------------------------------|---------------|---------------|
| Emergency Funding                                    | 503           |               |
| New Burdens                                          | 310           |               |
| Test and Trace Support Payments                      | 19            |               |
| Contain Outbreak Management Fund                     | 138           |               |
| Irrecoverable Income                                 | 284           |               |
| <b>Total Government Funding</b>                      |               | <b>1,254</b>  |

- 5.4 The Covid-19 Reserve was set up in 2020/21 to carry forward the remaining 2020/21 Government Funding of £299k and topped up with £290k from the 2020/21 Contingency Budget has a balance of £589k. In 2021/22, £123k will be drawn down from the Covid-19 Reserve to balance the 2021/22 revenue budget. The carry forward balance of the Covid-19 Reserve for use in future years will be £466k.

### ***REVENUE - Variances***

- 5.5 Appendix 1 shows a summary of the 2021/22 Revenue budget and actual spend and variance against budget by service area. There are various variances against budget, which have resulted in an overall balance budget position, the most significant variances (+/- £100k) by service are described below:

- 5.6 **Planning £179k adverse:** due to £45k overspend in employee costs from additional agency staff employed to cover vacancies, sickness, maternity cover and resources required with major application. The Council had increased legal fees and costs of £30k and £34k of specialist planning advice. Planning application income had a year-end deficit of £24k which was partly impacted by the decision on the Local Plan.

- 5.7 **Street Scene £743k adverse:** The service's adverse variance was mostly due to losses on income totalling £752k which was made up of £266k loss of the AFM waste recycling credit contract (the Council was able to claim £67k of the losses from the government irrecoverable income compensation) and £461k deficit on



parking income. The 2022/23 budget for both the AFM waste recycling contract and parking income have been adjusted to reflect the changes.

- 5.8 **Asset Management £400k adverse:** The adverse position was mainly due a £127k deficit on employee expenses as a result of agency staff covering a long term sickness absence, vacancy and assisting with project development. In addition, the income budget was £236k in deficit due to a reduction in demand for temporary accommodation for the tenant eviction moratorium (£257k), the waiver of the first quarter of the InspireAll management fee (£75k) – the Council were able to claim 75% of the losses in relation to the InspireAll management fee, and the income losses were offset by a favourable £100k income from the additional rent from EFS.
- 5.9 **Legal & Democratic Services £161k favourable:** The favourable variance was mostly due to £76k of staff vacancy savings and £81k underspends in supplies and services from the cancelled Civic Dinner (£23k) and £41k from Civic Expenses, Committee Expenses and Members Costs.
- 5.10 **General Expenses, Exceptional items £304k adverse:** This adverse variance was due to £304k of unbudgeted Covid-19 specific costs incurred by the council to ensure services could continue to be provided during the pandemic. This included additional cleaning materials and regimes, protective equipment and clothing, additional resources and IT equipment and support. The cost pressures were funded from the government Covid-19 grant funding and Covid-19 reserve.
- 5.11 **Investment Interest, £105k adverse:** The adverse variance was due to the renegotiated loan agreement with InspireAll to support its recovery in the short term by setting an interest free period for the loan in 2021/22 and 2022/23. The interest forgone resulted in a £218k adverse variance in 2021/22. The losses will be recovered through an increased loan period and increased interest rate of 5% chargeable from April 2023.

### ***Covid-19 – Ongoing Impact in 2021/22***

- 5.12 There has been a significant financial impact to the 2021/22 management accounts due to the coronavirus pandemic, which has been reflected in the variances discussed above. The £589k surplus in 2020/21 was transferred to a Covid-19 reserve and in 2021/22 £113k was drawn down from the reserve to balance the budget.
- 5.13 The 2021/22 budget set for parking and waste income, the leisure management contract and investment interest were still impacted by Covid-19 restrictions and reductions in demand. The council claimed 75% of these income losses from central government between the period 1 April to 30 June 2021. However, it is anticipated that the recovery of these budgets could take several years to return back to pre-pandemic levels which has been factored into the 2022/23 revenue budget and Medium Term Financial Strategy.
- 5.14 The ongoing financial impact of coronavirus on the 2021/22 budget was reviewed and reported to the Financial Monitoring Panel monthly and Operations Review Committee quarterly.
- 5.15 The Covid-19 financial impact to Hertsmere across financial years is also reported to DLUHC via their monthly income and expenditure pressures return in 2021/22. The final monthly return was made to 31 March 2022.

## 6. CAPITAL OUTTURN

### Capital Investment in 2021/22

6.1 Following year-end adjustments, the council spent £15,933k during 2021/22 on projects in the capital programme against a revised budget of £28,363k as summarised in table 2 below:

| <b>TABLE 2</b>                  | <b>Approved Budget<br/>£'000</b> | <b>Revised Budget<br/>£'000</b> | <b>Total Spend<br/>£'000</b> | <b>Slippage<br/>£'000</b> | <b>Under-spends<br/>£'000</b> | <b>Over-spends<br/>£'000</b> | <b>Total Variance<br/>£'000</b> |
|---------------------------------|----------------------------------|---------------------------------|------------------------------|---------------------------|-------------------------------|------------------------------|---------------------------------|
| Asset Management                | 19,065                           | <b>23,327</b>                   | 13,749                       | 9,629                     | -                             | (52)                         | <b>9,577</b>                    |
| Development Company             | -                                | <b>353</b>                      | 308                          | 45                        | -                             | -                            | <b>45</b>                       |
| Planning & Economic Development | 471                              | <b>386</b>                      | 8                            | 378                       | -                             | -                            | <b>378</b>                      |
| Environmental Health            | 750                              | <b>1,540</b>                    | 826                          | 714                       | -                             | -                            | <b>714</b>                      |
| Housing & Partnerships          | -                                | <b>43</b>                       | 43                           | -                         | -                             | -                            | -                               |
| Street Scene                    | 1,425                            | <b>2,605</b>                    | 983                          | 1,224                     | 399                           | -                            | <b>1,623</b>                    |
| Finance & Business Services     | -                                | <b>109</b>                      | 16                           | 93                        | -                             | -                            | <b>93</b>                       |
| HR & Customer Services          | -                                | -                               | -                            | -                         | -                             | -                            | -                               |
| <b>Total Variance</b>           | <b>21,711</b>                    | <b>28,363</b>                   | <b>15,933</b>                | <b>12,083</b>             | <b>399</b>                    | <b>(52)</b>                  | <b>12,430</b>                   |

6.2 The resulting year-end underspend of £12,430k includes funding of £12,083k relating to ongoing projects that have subsequently been re-profiled into future years in the Capital Programme and over and under spends amounting to a net underspend of £347k.

6.3 Of the variances summarised in paragraph 6.2, the main projects to note are:

- St John's Church – Discharge of planning conditions and price inflation led to a delay resulting in £2,680k slippage to next year.
- Civic Offices Car Park Decking - £2,575k slippage as the project is currently on hold.
- Elstree Studios New Sound Stages & Workshop - £2,386k slippage to next year due to delay in commencement and minor delays on-site.
- Meadow Park Phase II – Slippage of £1,192k with the project to commence in 2022/23.
- Orchard Close - £1,007k slippage to next year with completion expected October 2022.

- Disabled Facilities Grants - £714k slippage due to reduction in new referrals and delays in approved works because of lockdown measures and shielding required from residents.

## Capital Funding

- 6.4 Capital expenditure can be funded from either capital or revenue resources, the funding sources for spend during 2021/22 were as follows:

| <b>Table 3 – Capital Funding 2021/22</b> |               |
|------------------------------------------|---------------|
| <b>FUNDING SOURCES</b>                   | <b>£'000</b>  |
| Usable Capital Receipts                  | 520           |
| Disabled Facilities Grant                | 826           |
| Earmarked Reserves                       | 905           |
| Housing Enabling Fund                    | 83            |
| Innovation and Investment Fund           | 49            |
| Revenue Contribution                     | 40            |
| Internal Borrowing                       | 7,523         |
| Grants                                   | 4,830         |
| CIL / S106                               | 1,157         |
| <b>Total Capital Funding</b>             | <b>15,933</b> |

## Revised Capital Programme

- 6.5 At its meeting in February 2022, the full Council approved the capital programme 2022/23 to 2024/25 of £5,935k (C/22/09).
- 6.6 After allowing for actual spend during 2021/22 of £15,933k, slippage of £12,083k, a net underspend of £347k (see table 2 paragraph 8.1), this resulted in a revised three-year Capital Programme for 2022/23 to 2024/25 of £18,018k which is summarised in table 4 below:

| <b>TABLE 4 – Revised Capital Programme 2022/23 to 2024/25</b> |                                                  |                                                   |                                                 |                                                  |                                                  |                                               |
|---------------------------------------------------------------|--------------------------------------------------|---------------------------------------------------|-------------------------------------------------|--------------------------------------------------|--------------------------------------------------|-----------------------------------------------|
|                                                               | <b>2022/23<br/>Approved<br/>Budget<br/>£'000</b> | <b>Slippage<br/>to/from<br/>2021/22<br/>£'000</b> | <b>2022/23<br/>Revised<br/>Budget<br/>£'000</b> | <b>2023/24<br/>Approved<br/>Budget<br/>£'000</b> | <b>2024/25<br/>Approved<br/>Budget<br/>£'000</b> | <b>Total<br/>Capital<br/>Budget<br/>£'000</b> |
| Asset Management                                              | 581                                              | 9,629                                             | 10,210                                          | 10                                               | -                                                | <b>10,220</b>                                 |
| Development Company                                           | -                                                | 45                                                | 45                                              | -                                                | -                                                | <b>45</b>                                     |
| Planning & Economic Development                               | 250                                              | 378                                               | 628                                             | -                                                | -                                                | <b>628</b>                                    |
| Environmental Health                                          | 775                                              | 714                                               | 1,489                                           | 750                                              | 749                                              | <b>2,988</b>                                  |
| Housing & Partnerships                                        | -                                                | -                                                 | -                                               | -                                                | -                                                | <b>-</b>                                      |
| Street Scene                                                  | 1,811                                            | 1,224                                             | 3,035                                           | 939                                              | -                                                | <b>3,974</b>                                  |
| Finance & Business Services                                   | 70                                               | 93                                                | 163                                             | -                                                | -                                                | <b>163</b>                                    |
| Human Resources & Customer Services                           | -                                                | -                                                 | -                                               | -                                                | -                                                | <b>-</b>                                      |
| <b>Total Capital Programme</b>                                | <b>3,487</b>                                     | <b>12,083</b>                                     | <b>15,570</b>                                   | <b>1,699</b>                                     | <b>749</b>                                       | <b>18,018</b>                                 |

## **7. LEGAL POWERS RELIED ON AND ANY LEGAL IMPLICATIONS**

7.1 None for the purposes of this report.

## **8. EFFICIENCY GAINS AND VALUE FOR MONEY**

8.1 None for the purposes of this report.

## **9. RISK MANAGEMENT IMPLICATIONS**

9.1 None for the purposes of this report.

## **10. PERSONNEL IMPLICATIONS**

10.1 None for the purposes of this report.

## **11. EQUALITIES IMPLICATIONS**

11.1 None for the purposes of this report.

## **12. CORPORATE PLAN and POLICY FRAMEWORK IMPLICATIONS**

12.1 None for the purposes of this report.

**13. ASSET MANAGEMENT IMPLICATIONS**

13.1 None for the purposes of this report.

**14. HEALTH AND SAFETY IMPLICATIONS**

14.1 None for the purposes of this report.

**15. BACKGROUND DOCUMENTS USED TO PREPARE THIS REPORT**

| <b>Document Title:</b>                                   | <b>Filed at:</b>   |
|----------------------------------------------------------|--------------------|
| Financial Monitor Report to Operations Review Committee. | Finance Department |

# **ANNEX 6**

## HERTSMERE BOROUGH COUNCIL

|                                  |                                                                                                                                                                                                                                                                             |
|----------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Meeting name & Date              | <b>EXECUTIVE</b><br><b>8 February 2023</b>                                                                                                                                                                                                                                  |
| Agenda item                      | <b>7.2</b>                                                                                                                                                                                                                                                                  |
| Report title                     | <b>Setting the Capital Budget 2022/23 to 2025/26</b>                                                                                                                                                                                                                        |
| Report reference no.             | EX/23/12                                                                                                                                                                                                                                                                    |
| Wards affected                   | All wards                                                                                                                                                                                                                                                                   |
| Report author, job title & email | Matthew Bunyon, Head of Finance & Business Services<br><a href="mailto:matthew.bunyon@hertsmere.gov.uk">matthew.bunyon@hertsmere.gov.uk</a><br>Nicola Regis, Financial Services Manager<br><a href="mailto:nicola.regis@hertsmere.gov.uk">nicola.regis@hertsmere.gov.uk</a> |
| List of Appendices               | <b>Appendix A:</b> Draft Capital Programme 2022/23 to 2025/26<br><b>Appendix B:</b> Capital Projects Appraisal Process<br><b>Appendix C:</b> Capital Strategy 2023                                                                                                          |
| Reason for urgency               | Not applicable                                                                                                                                                                                                                                                              |
| Is it a Key Decision?            | Yes                                                                                                                                                                                                                                                                         |
| Call-in expires on               |                                                                                                                                                                                                                                                                             |
| Exempt from Call-in              | Not applicable                                                                                                                                                                                                                                                              |
| Portfolio Holder                 | Councillor Abhishek Sachdev<br>Portfolio Holder for Finance                                                                                                                                                                                                                 |

**PUBLIC REPORT - this report is available to the public.**

## **1 RECOMMENDATION**

- 1.1 That the Executive note the revised capital programme budget for 2022/23 to 2024/25 of £24,879k as set out in Section 7.
- 1.2 That the Executive considers the draft capital programme 2022/23 to 2025/26, amounting to £36,951k over the four year period and agrees:
  - i) the additions to the capital programme amounting to £12,072k as set out in Section 8 and detailed in Appendix B;
  - ii) the profiled budget over 2022/23 and the following three years as £17,831k in 2022/23, £11,122k in 2023/24, £7,249k in 2024/25 and £749k in 2025/26 (Section 9, Table 5).
- 1.3 That the Executive recommends the draft four-year capital programme 2022/23 to 2025/26 to the full Council for approval.
- 1.4 That the Executive consider the Capital Strategy 2023 (paragraph 5.2 and Appendix C) which has been updated to reflect the draft capital programme and recommends this strategy to the full Council for approval.

## **2 PURPOSE OF THIS REPORT**

- 2.1 The purpose of this report is for the Executive to consider the four-year capital programme for the period 2022/23 to 2025/26 and also to consider the Capital Strategy 2023 and recommend them to the full Council for approval on 22 February 2023.

## **3 REASONS FOR RECOMMENDATION**

- 3.1 The Council has a statutory obligation (as specified in the CIPFA Prudential Code) to make estimates of the total capital expenditure it plans to incur during the forthcoming year and the following two financial years to facilitate prudent, affordable and sustainable capital investment decisions.
- 3.2 The procedure agreed by full Council for setting the capital budget is that capital bids are firstly critically appraised by the Asset Management Panel in conjunction with officers prior to recommendation for inclusion in the capital programme.
- 3.3 The Council's constitution also requires that the Policy Review Committee and Members of the Council be consulted on the capital budget at least four weeks prior to the Executive recommending that Council adopts the budget.
- 3.4 In order to comply with these requirements, the adoption of the 2022/23 – 2025/26 Capital Budget will follow the timetable below:



**Table 1 – Timetable for the Capital Budget 2021/22 to 2024/25**

|                                                          |                  |
|----------------------------------------------------------|------------------|
| Asset Management Panel for consultation                  | 13 December 2022 |
| Draft budget to Executive to recommend consultation      | 11 January 2023  |
| Draft budget to Policy Review Committee for consultation | 24 January 2023  |
| Final budget to Executive for recommendation to Council  | 8 February 2023  |
| Approval by Full Council                                 | 22 February 2023 |

#### **4 ALTERNATIVE OPTIONS**

- 4.1 The Executive may decide to recommend that full Council adopt an alternative capital budget to that presented in Appendix A. The Executive may also recommend to full Council that any of the individual bids for funding presented are not approved. However, these options could adversely affect the Council's ability to provide its services and/or make efficiencies going forward.

#### **5 BACKGROUND**

- 5.1 The CIPFA Prudential Code provides the framework for the Council's capital investments. It requires the Council to make reasonable estimates of the total of capital expenditure that it plans to incur during the forthcoming financial year and at least the following two financial years. When setting its capital programme the Council must have regard to:

- The council's service objectives
- Stewardship of council's assets
- Value for money offered by the plans
- Prudence and sustainability
- Affordability of its plans
- The practicality of the capital expenditure plan

- 5.2 The Prudential Code requires the Council to produce an annual capital strategy to include a number of key areas including strategic considerations, corporate priorities, capital investment ambition, available resources, affordability, capacity to deliver, risk appetite and risk management. It should also deal with significant commercial (focused on income generation) investments in appropriate detail so that members can properly assess the particular risks in this area. Hertsmere's Capital Strategy 2023 is attached in Appendix C and has been updated to reflect the draft capital programme 2022/23 to 2025/26. A full review of the Capital Strategy will be undertaken in Spring 2023 as part of the overall review and refresh of Hertsmere's Financial Strategy.

- 5.3 The capital budget is funded by a combination of capital receipts, specific reserves, developer contributions in relation to S106 planning conditions, Community Infrastructure Levy (CIL), external grants and borrowing (internal). However this position can change depending on the progress of major schemes and availability of alternative funding sources. A final decision on funding will be taken at a later date and will be dependent upon several factors such as reserve levels, known commitments and borrowing rates.
- 5.4 The adoption of this four-year capital budget and the critical review of capital bids by the Asset Management Panel (AMP) will allow the Council to meet its requirements as listed in paragraph 5.1. Furthermore, timely decisions made by the full Council prior to the start of the new financial year 2023/24 will enable Officers to plan in advance for expenditure, enabling good cash flow management and effective monitoring of capital expenditure versus the approved budget.

## **6 CAPITAL STRATEGY GROUP (CSG)**

- 6.1 To support the capital budget setting framework, in May 2017 officers formed a Capital Strategy Group (CSG) with the aim of guiding the strategic direction for the capital programme by ensuring that the programme and all new bids for funding aligns with the council's key priorities and objectives.
- 6.2 This officer group advises on and makes recommendations to members in respect of capital proposals and capital funding via the Asset Management Panel, Executive and full Council.
- 6.3 The group aims to:
- maintain an integrated overview of all capital investment across the council and of all capital funding resources and sources;
  - review, monitor and challenge performance and delivery of the Capital Programme;
  - check and challenge new capital investment proposals to ensure that they align with Hertsmere's priorities, that they are affordable and that there is an appropriate business case; and
  - ensure that capital investment decisions are not taken in isolation from consideration of any on-going revenue consequence.
- 6.4 The group now plays a key role in the annual capital budget process, challenging the existing capital programme and presenting new proposals for inclusion in the capital programme for Council approval via the AMP.
- 6.5 The CSG have reviewed the new capital bids and recommended their inclusion in the capital programme as discussed in Section 8.

## 7 REVISED CAPITAL PROGRAMME 2022/23 to 2024/25

- 7.1 The Council, at its meeting in February 2022, approved the capital programme for 2021/22 to 2024/25, a total programme over three years of £34,197k.
- 7.2 The final 2021/22 year-end expenditure position was determined in April 2022 and slippage of £12,083k identified. The slippage was approved to be carried forward into the 2022/23 capital budget by the Executive in July 2022 (EX/22/37).
- 7.3 Other capital budget adjustments can occur outside of the annual budget process, for example projects approved separately by the Executive or Council or capital projects arising from other funding sources such as S106 or grant funding not already included in the capital programme. The new capital schemes approved to the Capital Programme since February 2022 amounted to £6,861k as set out in table 2 below. The Executive are requested to note the revised Capital Programme 2022/23 to 2024/25.

**Table 2 – Revised Capital Programme 2022/23 to 2024/25**

|                                                                | 2022/23<br>£'000 | 2023/24<br>£'000 | 2024/25<br>£'000 | TOTAL<br>£'000 |
|----------------------------------------------------------------|------------------|------------------|------------------|----------------|
| <b>Approved Budget</b>                                         | <b>3,487</b>     | <b>1,699</b>     | <b>749</b>       | <b>5,935</b>   |
| Slippage from 2021/22 budget                                   | 12,083           | -                | -                | <b>12,083</b>  |
| <b>New Schemes Approved</b>                                    |                  |                  |                  |                |
| Additional Funding for Moatfield Greenway EX/21/74             | 81               | -                | -                | <b>81</b>      |
| Telephone Payment System                                       | 36               | -                | -                | <b>36</b>      |
| Additional Funding for Replacement Meeting Rooms Civic Offices | 180              |                  |                  | <b>180</b>     |
| Elstree Studios - Replacement Heating Stages 7,8&9             | 1,080            |                  |                  | <b>1,080</b>   |
| Civic Offices - Repurposing, Refurbishment & Re-planning       | 300              | 4,600            |                  | <b>4,900</b>   |
| CCTV Cameras                                                   | 24               |                  |                  | <b>24</b>      |
| St John's Church                                               | 180              |                  |                  | <b>180</b>     |
| Car Park Refurbishments                                        | 11               |                  |                  | <b>11</b>      |
| King George Recreation Ground Tennis Courts                    | 219              |                  |                  | <b>219</b>     |
| CIL Projects - Borehamwood Football Club                       | 150              |                  |                  | <b>150</b>     |
| <b>Sub-total of New Schemes</b>                                | <b>2,261</b>     | <b>4,600</b>     | <b>-</b>         | <b>6,861</b>   |
| <b>Revised Capital Budget</b>                                  | <b>17,831</b>    | <b>6,299</b>     | <b>749</b>       | <b>24,879</b>  |

**Table 4 - Total Additions to the Capital Programme**

| <b>Schemes to be added</b>                                                       | <b>2023/24<br/>£'000</b> | <b>2024/25<br/>£'000</b> | <b>2025/26<br/>£'000</b> | <b>TOTAL<br/>£'000</b> |
|----------------------------------------------------------------------------------|--------------------------|--------------------------|--------------------------|------------------------|
| 197 Darkes Lane Development                                                      | 2,500                    | -                        | -                        | 2,500                  |
| Caishowe Road Development                                                        | 1,400                    | -                        | -                        | 1,400                  |
| Catterick Way Development                                                        | -                        | 3,500                    | -                        | 3,500                  |
| The Cannon Development                                                           | -                        | 3,000                    | -                        | 3,000                  |
| Engineering Services Vehicle Replacement                                         | 150                      | -                        | -                        | 150                    |
| Electric Vehicle Charging Points                                                 | 250                      | -                        | -                        | 250                    |
| Bushey Rose Garden                                                               | 66                       | -                        | -                        | 66                     |
| Replacement of Composers Park Play Area                                          | 165                      | -                        | -                        | 165                    |
| Construction of New Play Area at Maxwell Hillside Park                           | 94                       | -                        | -                        | 94                     |
| Replacement of Play Area and Associated Path works at Windmill Recreation Ground | 198                      | -                        | -                        | 198                    |
| <b>Sub-Total New Capital Bids</b>                                                | <b>4,823</b>             | <b>6,500</b>             | <b>-</b>                 | <b>11,323</b>          |
|                                                                                  |                          |                          |                          |                        |
| Disabled Facilities Grant (DFG)                                                  | -                        | -                        | 749                      | 749                    |
| <b>Sub-Total DFG Capital Budget</b>                                              | <b>-</b>                 | <b>-</b>                 | <b>749</b>               | <b>749</b>             |
|                                                                                  |                          |                          |                          |                        |
| <b>Total Additions to the Capital Programme</b>                                  | <b>4,823</b>             | <b>6,500</b>             | <b>749</b>               | <b>12,072</b>          |

## 9 CAPITAL PROGRAMME 2022/23 TO 2025/26

- 9.1 The draft capital programme, incorporating the proposed changes outlined in Section 7 and 8 for the four-year period 2022/23 to 2025/26 amounts to £36,951k as summarised in Table 5 below and detailed in Appendix A. The actual value of the programme will however be dependent on the confirmed final outturn for 2022/23, which will not be known until after the end of the 31 March 2023 financial year. This will be reported to the Executive in the final outturn report in July 2023.

**Table 5 – Draft Capital Programme 2022/23 to 2025/26**

|                                     | <b>Draft<br/>Budget<br/>2022/23<br/>£'000</b> | <b>Draft<br/>Budget<br/>2023/24<br/>£'000</b> | <b>Draft<br/>Budget<br/>2024/25<br/>£'000</b> | <b>Draft<br/>Budget<br/>2025/26<br/>£'000</b> | <b>Draft<br/>Capital<br/>Programme<br/>£'000</b> |
|-------------------------------------|-----------------------------------------------|-----------------------------------------------|-----------------------------------------------|-----------------------------------------------|--------------------------------------------------|
| Asset Management                    | 11,950                                        | 8,660                                         | 6,500                                         | -                                             | <b>27,110</b>                                    |
| Development Company                 | 45                                            | -                                             | -                                             | -                                             | <b>45</b>                                        |
| Planning & Economic Development     | 778                                           | 250                                           | -                                             | -                                             | <b>1,028</b>                                     |
| Partnerships & Community Engagement | 24                                            | -                                             | -                                             | -                                             | <b>24</b>                                        |
| Environmental Health                | 1,489                                         | 750                                           | 749                                           | 749                                           | <b>3,737</b>                                     |
| Street Scene                        | 3,346                                         | 1,462                                         | -                                             | -                                             | <b>4,808</b>                                     |
| Finance & Business Services         | 199                                           | -                                             | -                                             | -                                             | <b>199</b>                                       |
| <b>TOTAL</b>                        | <b>17,831</b>                                 | <b>11,122</b>                                 | <b>7,249</b>                                  | <b>749</b>                                    | <b>36,951</b>                                    |

## **10 FUNDING THE CAPITAL PROGRAMME**

- 10.1 The detailed capital programme for 2022/23 to 2025/26 is set out in Appendix A. The four-year programme is funded by a combination of capital receipts, specific reserves, S106 developer contributions, Community Infrastructure Levy (CIL), other contributions and external grants.
- 10.2 For all projects included in the programme the profile of agreed expenditure has been reviewed and aligned based on current estimates. This has resulted in a £36,951k four-year capital programme.
- 10.3 Table 6 sets out the estimated capital resource requirements for the planned capital programme spend and the proposed funding sources. Final funding decisions are however taken as part of the year-end decisions process when the most appropriate funding resources are considered and applied.

**Table 6 – Capital Funding 2022/23 to 2025/26**

| Funding Source                                                    | Draft Budget 2022/23 | Draft Budget 2023/24 | Draft Budget 2024/25 | Draft Budget 2025/26 | Total Capital Funding 2022/23 to 2025/26 |
|-------------------------------------------------------------------|----------------------|----------------------|----------------------|----------------------|------------------------------------------|
|                                                                   | £000                 | £000                 | £000                 | £001                 | £000                                     |
| Capital Receipts                                                  | 3,633                | 2,688                | 6,500                | -                    | 12,821                                   |
| Disabled Facilities Grant                                         | 1,405                | 691                  | 691                  | 691                  | 3,478                                    |
| Earmarked Reserves                                                | 2,672                | 5,375                | -                    | -                    | 8,047                                    |
| Housing Enabling Fund                                             | -                    | -                    | -                    | -                    | -                                        |
| Innovation and Investment Fund                                    | 943                  | -                    | -                    | -                    | 943                                      |
| Revenue Contribution                                              | 619                  | 59                   | 58                   | 58                   | 794                                      |
| Borrowing                                                         | 2,385                | -                    | -                    | -                    | 2,385                                    |
| Grants and Other Contributions                                    | 461                  | 85                   | -                    | -                    | 546                                      |
| CIL/S106                                                          | 5,713                | 2,224                | -                    | -                    | 7,937                                    |
| <b>Total</b>                                                      | <b>17,831</b>        | <b>11,122</b>        | <b>7,249</b>         | <b>749</b>           | <b>36,951</b>                            |
| Cost of Borrowing @ 5.01%                                         | 119                  | -                    | -                    | -                    | 119                                      |
| <b>Total Capital Funding less Grants and Revenue Contribution</b> | <b>12,961</b>        | <b>10,287</b>        | <b>6,500</b>         | <b>-</b>             | <b>29,748</b>                            |
| Investment Income Loss @1.01%                                     | 131                  | 104                  | 66                   | -                    | 300                                      |

## 11 CONSULTATION

### Asset Management Panel

- 11.1 At its meeting on 13 December 2022 the Asset Management Panel considered ten new capital bids (Section 8 above and Appendix B), and the draft four year capital budget (Section 9 above and Appendix A).
- 11.2 The risk factors relating to The Cannon Development were queried by the panel and officers have therefore reviewed these risk factors and the bid form has been updated in light of the panels comments (refer to appendix B).
- 11.3 The Panel were satisfied with the ten new capital bids (paragraph 8.1 and Appendix B).
- 11.4 The Panel agreed to recommend the four year capital budget for the period 2022/23 to 2025/26 to the Executive.

### Policy Review Committee

- 11.5 At its meeting on 24 January 2023 the Policy Review Committee considered the draft capital programme 2022/23 to 2025/26 and 2023 Capital Strategy. The draft capital budget had been circulated to members of the Policy Review Committee and all members, all of whom were encouraged by the chair to contribute to the discussion.

11.6 The main points of the debate were in relation to:

11.7 **Energy efficiencies** – It was questioned whether capital investment were being reviewed to consider the latest energy efficiencies which was confirmed by officers.

11.8 **Borrowing** – It was questioned whether borrowing would be required next year and the officer advised that due to the Council's cash balances borrowing was not required next year and we would continue to use internal borrowing (cash resources).

11.9 **Slippage** – The level of slippage was questioned. The officer confirmed that slippage is where capital projects have been delayed and the budget had been brought forward to the next year.

11.10 **Parks** – A concern was raised about play areas in parks in relation to maintenance and fencing and whether there can be investment in this area. The service head responded and was aware of some of the issues some maintenance was planned

11.11 The committee agreed, following consultation, to recommend the draft 2022/23 to 2025/26 capital programme and 2023 Capital Strategy to Executive.

### **Executive**

11.12 Comments of the Executive to be included following its meeting on 8 February 2023.

## **12 FINANCIAL AND BUDGET FRAMEWORK IMPLICATIONS**

12.1 The financial and budget framework implications are noted throughout this report.

## **13 LEGAL POWERS RELIED ON AND ANY LEGAL IMPLICATIONS**

13.1 The legal implications in relation to each new capital project are dealt with by the respective project owners in their detailed capital bids.

13.2 The legal framework for the Council's capital investments is underpinned by CIPFA's Prudential Code. The statutory basis for the prudential system is set out in Part I of the Local Government Act 2003. The Prudential Code requires the Council make reasonable estimates of the total of capital expenditure that it plans to incur during the forthcoming financial year and at least the following two financial years.

## **14 EFFICIENCY GAINS AND VALUE FOR MONEY**

14.1 Each capital bid is individually assessed and recommended for inclusion in the programme where it supports the Council's priorities, which may include

## Appendix A

| PROJECT REF | PROJECT DESCRIPTION                                        | 2022/23       | 2023/24      | 2024/25      | 2025/26  | TOTAL                       | Funding Source   |
|-------------|------------------------------------------------------------|---------------|--------------|--------------|----------|-----------------------------|------------------|
|             |                                                            | £'000         | £'000        | £'000        | £'000    | 2022/23 to 2025/26<br>£'000 |                  |
|             | <b>CAPITAL PROJECTS - CAPITALISED EXPENDITURE BUDGETS</b>  |               |              |              |          |                             |                  |
|             | <b>ASSET MANAGEMENT</b>                                    |               |              |              |          |                             |                  |
| HV108       | Refurbishment of lock-up garages                           | 379           | -            | -            | -        | 379                         | CRR              |
| HV171       | Works to Council Owned Shops                               | 174           | -            | -            | -        | 174                         | CRR              |
| HV215       | St Johns Church                                            | 2,967         | 10           | -            | -        | 2,977                       | CIL/S106         |
| HV224       | Crown Road                                                 | 8             | -            | -            | -        | 8                           | CRR              |
| HV238       | Civic Offices Car Park Decking                             | 2,575         | -            | -            | -        | 2,575                       | CRR              |
| HV239       | Window Replacement and Loft Insulation                     | 33            | -            | -            | -        | 33                          | CRR              |
| HV240       | Orchard Close                                              | 1,051         | -            | -            | -        | 1,051                       | S106             |
| HV243       | Forklift Truck Replacement                                 | 15            | -            | -            | -        | 15                          | EMR              |
| HV255       | Elstree Studios New Sound Stages and Workshop              | 2,385         | -            | -            | -        | 2,385                       | EMR / BRW        |
| HV265       | Elstree Studios Ancillary Block Roof                       | 38            | -            | -            | -        | 38                          | EMR              |
| HV266       | Elstree Studios Replacement Stage Doors 7, 8 & 9           | 160           | -            | -            | -        | 160                         | REV              |
| HV267       | Replacement Meeting Rooms Civic Offices                    | 204           | -            | -            | -        | 204                         | IIF/GRA          |
| HV271       | Civic Offices Secure Cycle Parking                         | 9             | -            | -            | -        | 9                           | EMR              |
| HV281       | Bournehall Avenue Roof & Walkway Repairs                   | 100           | -            | -            | -        | 100                         | CRR              |
| HV284       | Elstree Film Studios - Maxwell Building Façade             | 220           | -            | -            | -        | 220                         | CRR              |
| HV285       | Elstree Film Studios - Replacement Heating Stages 7, 8 & 9 | 1,080         | -            | -            | -        | 1,080                       | IIF/REV          |
| HV280       | Civic Offices - Repurposing, Refurbishment & Re-planning   | 300           | 4,600        | -            | -        | 4,900                       | IIF/EMR          |
| NEW         | Purchase of Engineering Services Vehicles                  | -             | 150          | -            | -        | 150                         | EMR              |
| NEW         | 197 Darkes Lane Development                                | -             | 2,500        | -            | -        | 2,500                       | CRR              |
| NEW         | Caishowe Road Development                                  | -             | 1,400        | -            | -        | 1,400                       | CIL/S106         |
| NEW         | Catterick Way Development                                  | -             | -            | 3,500        | -        | 3,500                       | CRR              |
| NEW         | The Cannon Development                                     | -             | -            | 3,000        | -        | 3,000                       | CRR              |
|             |                                                            | <b>11,698</b> | <b>8,660</b> | <b>6,500</b> | <b>-</b> | <b>26,858</b>               |                  |
|             | <b>STREET SCENE</b>                                        |               |              |              |          |                             |                  |
| HV173       | Car Park Refurbishments                                    | 11            | -            | -            | -        | 11                          | EMR              |
| HV211       | Moatfield Greenway                                         | 113           | -            | -            | -        | 113                         | CIL/S106         |
| HV229       | Meadow Parks Phase II                                      | 1,192         | -            | -            | -        | 1,192                       | CIL/S106/<br>EMR |
| HV164       | Purchase of Street Scene Vehicles                          | 1,276         | 559          | -            | -        | 1,835                       | EMR              |
| HV277       | Allum Lane Cemetary Extension                              | 210           | 380          | -            | -        | 590                         | CIL/S106         |
| HV278       | Furzefield Greenway                                        | 115           | -            | -            | -        | 115                         | CIL/S106         |
| HV273       | Oakmere Lakeside Viewing Area and Retaining Wall           | 110           | -            | -            | -        | 110                         | EMR              |
| HV274       | Oakmere Toddler Play Area                                  | 100           | -            | -            | -        | 100                         | EMR              |
| HV279       | King George Recreation Ground Tennis Courts                | 219           | -            | -            | -        | 219                         | CIL/S106         |
| NEW         | Bushey Rose Gardem                                         | -             | 66           | -            | -        | 66                          | EMR              |
| NEW         | Composers Park Play Area                                   | -             | 165          | -            | -        | 165                         | CIL/S106/<br>CRR |
| NEW         | Maxwell Hillside Park New Play Area                        | -             | 94           | -            | -        | 94                          | CIL/S106         |
| NEW         | Windmill Recreation Ground Play Area & Path                | -             | 198          | -            | -        | 198                         | CIL/S106/<br>CRR |
|             |                                                            | <b>3,346</b>  | <b>1,462</b> | <b>-</b>     | <b>-</b> | <b>4,808</b>                |                  |



## Appendix A

| PROJECT REF               | PROJECT DESCRIPTION                                                     | 2022/23<br>£'000 | 2023/24<br>£'000 | 2024/25<br>£'000 | 2025/26<br>£'000 | TOTAL<br>2022/23 to<br>2025/26<br>£'000 | Funding<br>Source |
|---------------------------|-------------------------------------------------------------------------|------------------|------------------|------------------|------------------|-----------------------------------------|-------------------|
|                           | <b>CAPITAL PROJECTS - CAPITALISED EXPENDITURE BUDGETS</b>               |                  |                  |                  |                  |                                         |                   |
|                           | <b>FINANCE &amp; BUSINESS SERVICES</b>                                  |                  |                  |                  |                  |                                         |                   |
| HV158                     | New Financial System                                                    | 120              | -                | -                | -                | 120                                     | EMR/CRR           |
| HV175                     | IT Desktop Devices                                                      | 28               | -                | -                | -                | 28                                      | EMR               |
| HV197                     | Mitel Telephone Support Contract                                        | 15               | -                | -                | -                | 15                                      | EMR               |
| HV272                     | Telephone Payment System                                                | 36               | -                | -                | -                | 36                                      | IIF               |
|                           |                                                                         | <b>199</b>       | <b>-</b>         | <b>-</b>         | <b>-</b>         | <b>199</b>                              |                   |
|                           | <b>ENVIRONMENTAL HEALTH</b>                                             |                  |                  |                  |                  |                                         |                   |
| HV195                     | Purchase of New Vehicle                                                 | 25               | -                | -                | -                | 25                                      | EMR               |
|                           |                                                                         | <b>25</b>        | <b>-</b>         | <b>-</b>         | <b>-</b>         | <b>25</b>                               |                   |
|                           | <b>PARTNERSHIPS &amp; COMMUNITY ENGAGEMENT</b>                          |                  |                  |                  |                  |                                         |                   |
|                           | CCTV Cameras                                                            | 24               | -                | -                | -                | 24                                      | GRA               |
|                           |                                                                         | <b>24</b>        | <b>-</b>         | <b>-</b>         | <b>-</b>         | <b>24</b>                               |                   |
|                           | <b>SUB-TOTAL CAPITAL PROJECTS - CAPITALISED EXPENDITURE BUDGETS</b>     | <b>15,292</b>    | <b>10,122</b>    | <b>6,500</b>     | <b>-</b>         | <b>31,914</b>                           |                   |
|                           | <b>CAPITAL PROJECTS - NON-CAPITALISED EXPENDITURE BUDGETS</b>           |                  |                  |                  |                  |                                         |                   |
|                           | <b>ASSET MANAGEMENT</b>                                                 |                  |                  |                  |                  |                                         |                   |
| HV170,<br>HV214,<br>HV242 | Development Sites Feasibility Studies                                   | 81               | -                | -                | -                | 81                                      | IIF               |
| HV212                     | Civic Offices Extension                                                 | 76               | -                | -                | -                | 76                                      | IIF               |
| HV231                     | Croxdale Road & Rossington Avenue Roof                                  | 95               | -                | -                | -                | 95                                      | CRR               |
|                           |                                                                         | <b>252</b>       | <b>-</b>         | <b>-</b>         | <b>-</b>         | <b>252</b>                              |                   |
|                           | <b>DEVELOPMENT COMPANY</b>                                              |                  |                  |                  |                  |                                         |                   |
| HV206                     | Working Capital Loan Herts Dev Ltd EX1670                               | 45               | -                | -                | -                | 45                                      | IIF               |
|                           |                                                                         | <b>45</b>        | <b>-</b>         | <b>-</b>         | <b>-</b>         | <b>45</b>                               |                   |
|                           | <b>ENVIRONMENTAL HEALTH</b>                                             |                  |                  |                  |                  |                                         |                   |
| HV162                     | Disabled Facilities Grant (DFG)                                         | 1,464            | 750              | 749              | 749              | 3,712                                   | DFE/REV           |
|                           |                                                                         | <b>1,464</b>     | <b>750</b>       | <b>749</b>       | <b>749</b>       | <b>3,712</b>                            |                   |
|                           | <b>PLANNING &amp; ECONOMIC DEVELOPMENT</b>                              |                  |                  |                  |                  |                                         |                   |
|                           | CIL Projects                                                            | 503              | -                | -                | -                | 503                                     | CIL               |
| HV256                     | Elstree Way Corridor Improvements                                       | 25               | -                | -                | -                | 25                                      | S106              |
| HV276                     | Cycle Hire Scheme                                                       | 250              | -                | -                | -                | 250                                     | S106              |
| NEW                       | Electric Vehicle Charging Point                                         | -                | 250              | -                | -                | 250                                     | CIL/S106          |
|                           |                                                                         | <b>778</b>       | <b>250</b>       | <b>-</b>         | <b>-</b>         | <b>1,028</b>                            |                   |
|                           | <b>SUB-TOTAL CAPITAL PROJECTS - NON-CAPITALISED EXPENDITURE BUDGETS</b> | <b>2,539</b>     | <b>1,000</b>     | <b>749</b>       | <b>749</b>       | <b>5,037</b>                            |                   |
|                           | <b>TOTAL CAPITAL ESTIMATES</b>                                          | <b>17,831</b>    | <b>11,122</b>    | <b>7,249</b>     | <b>749</b>       | <b>36,951</b>                           | <b>-</b>          |

# **ANNEX 7a**

THIS IS A PRINT OF THE VIEW OF THE REGISTER OBTAINED FROM HM LAND REGISTRY SHOWING THE ENTRIES SUBSISTING IN THE REGISTER ON 17 MAR 2023 AT 15:58:13. BUT PLEASE NOTE THAT THIS REGISTER VIEW IS NOT ADMISSIBLE IN A COURT IN THE SAME WAY AS AN OFFICIAL COPY WITHIN THE MEANING OF S.67 LAND REGISTRATION ACT 2002. UNLIKE AN OFFICIAL COPY, IT MAY NOT ENTITLE A PERSON TO BE INDEMNIFIED BY THE REGISTRAR IF HE OR SHE SUFFERS LOSS BY REASON OF A MISTAKE CONTAINED WITHIN IT. THE ENTRIES SHOWN DO NOT TAKE ACCOUNT OF ANY APPLICATIONS PENDING IN HM LAND REGISTRY. FOR SEARCH PURPOSES THE ABOVE DATE SHOULD BE USED AS THE SEARCH FROM DATE.

THIS TITLE IS DEALT WITH BY HM LAND REGISTRY, LEICESTER OFFICE.

TITLE NUMBER: HD374312

There is no application or official search pending against this title.

## A: Property Register

This register describes the land and estate comprised in the title.

HERTFORDSHIRE : HERTSMERE

- 1 (13.07.1978) The Freehold land shown edged with red on the plan of the above Title filed at the Registry and being Kwik-Fit, Elstree Way, Borehamwood (WD6 1LB).
- 2 The Conveyance dated 26 January 1937 referred to in the Charges Register contains the following provision:-  
  
"IT is hereby declared that the Purchaser shall not be entitled to any right of access of light or air or other easement to the property hereby conveyed which would in any way prejudicially affect the free and unrestricted user by the Vendors or their successors in title of any adjoining or neighbouring property of the Vendors for building or other purposes nor to any right to enforce or prevent the release or modification of any restrictive covenant or provision now or hereafter affecting any adjacent land or building nor to any right as aforesaid to restrict the user of any other land now or formerly belonging to the Vendors or their predecessors in title and so that any light air or other easement from time to time in fact enjoyed by the Purchaser and his successors in title shall be deemed to be enjoyed by the express (but revocable) consent of the Vendors and the Vendors reserve to themselves and their successors in title the right to build to any height upon the land adjoining the land hereby conveyed."
- 3 (07.04.1999) The land has the benefit of the rights granted by but is subject to the rights reserved by the Transfer dated 28 January 1999 referred to in the Charges Register.
- 4 (07.04.1999) The Transfer dated 28 January 1999 referred to above contains a provision as to light or air.

## B: Proprietorship Register

This register specifies the class of title and identifies the owner. It contains any entries that affect the right of disposal.

### Title absolute

- 1 (19.09.2003) PROPRIETOR: JAMES BARRIE IRVINE, MARY ANNE IRVINE, JEREMY DENNIS IRVINE and LESLEY ANNE IRVINE of Russells Farm, Hampstead Road, Watford, Herts WD17 3NB.
- 2 (07.04.1999) RESTRICTION: Except under an order of the registrar no disposition or dealing by the proprietor of the land (other than a charge) is to be registered unless there is furnished to the registrar a certificate from a Solicitor that a deed complying with paragraph 8 of the Third Schedule to the Transfer dated 28 January 1999 referred to in the Charges Register has been executed and delivered to Shell U.K. Limited or other proprietor for the time being of title number

## B: Proprietorship Register continued

HD109250.

- 3 (19.09.2003) RESTRICTION: No disposition by a sole proprietor of the land (not being a trust corporation) under which capital money arises is to be registered except under an order of the registrar or of the Court.
- 4 (19.09.2003) A Transfer dated 11 August 2003 made between (1) Daledream Limited (transferor) and (2) James Barrie Irvine, Mary Anne Irvine, Jeremy Dennis Irvine and Lesley Anne Irvine contains purchasers personal covenant(s) details of which are set out in the schedule of personal covenants hereto.

## Schedule of personal covenants

- 1 The following are details of the personal covenants contained in the Transfer dated 11 August 2003 referred to in the Proprietorship Register:-

"The Transferee covenants with the Transferor by way of indemnity only to observe and perform the covenants contained or referred to:

12.1 in a Transfer dated 28 January 1999 and made between (1) Shell UK Limited (2) Daledream Limited and (3) Kwit-Fit Properties Limited

12.2 all matters contained or referred to in the Property and Charges Register of Title No. HD374312 (insofar as they may subsist and are still capable of affecting the Property) and to indemnify the Transferor against any liabilities resulting from any future breach or non-observance thereof by the Transferee"

## C: Charges Register

This register contains any charges and other matters that affect the land.

- 1 The land is subject to the following rights excepted and reserved by a Conveyance of the land in this title and other land dated 26 January 1937 made between (1) Herbert Arthur Pritchard and Robert Henry Stuart Edelstone Behrend (Vendors) and (2) Thomas Herbert Chapman (Purchaser):-

"Except and Reserved to the Vendors their assigns and all others entitled thereto to the free running and passage of water and soil from any adjoining or neighbouring land through any sewers drains ditches and watercourses on the property hereby conveyed now used or constructed for conveying water and soil from any such adjoining or neighbouring land."

- 2 (07.04.1999) A Transfer of the land in this title dated 28 January 1999 made between (1) Shell U.K. Limited (2) Daledream Limited and (3) Kwik Fit Properties Limited contains restrictive covenants.

NOTE 1: Where relevant, the provisions contained in the earlier documents or registers referred to in the above deed are set out in the registers of this title

NOTE 2: *Original filed.*

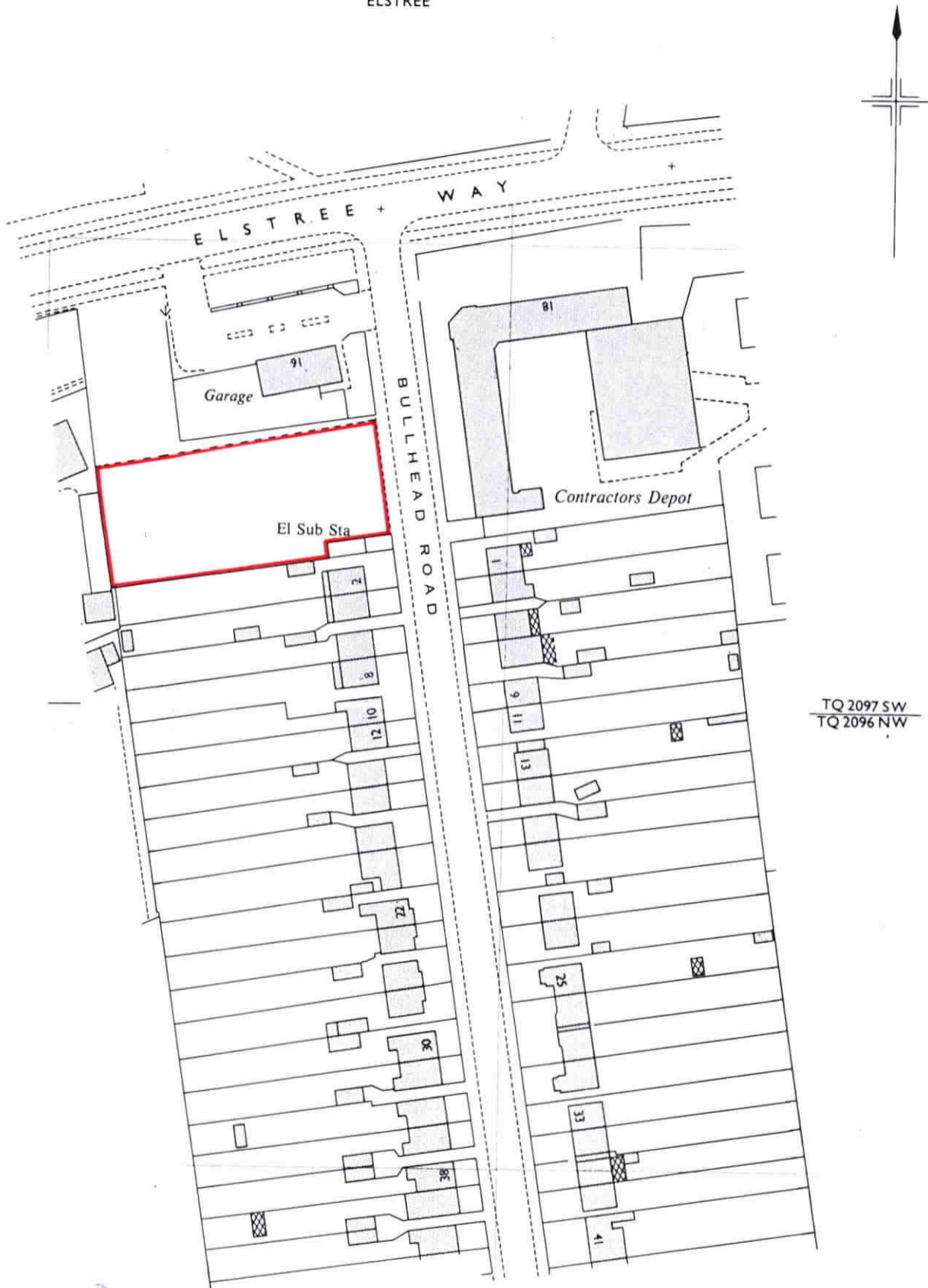
- 3 (12.07.1999) Lease dated 28 January 1999 to Kwik-Fit Properties Limited for 30 years from 28 January 1999.

NOTE: Lessee's title registered under HD376899.

End of register

|                                   |                    |              |                        |
|-----------------------------------|--------------------|--------------|------------------------|
| H.M. LAND REGISTRY                |                    | TITLE NUMBER |                        |
|                                   |                    | HD 374312    |                        |
| ORDNANCE SURVEY<br>PLAN REFERENCE | TQ 2096            | SECTION K    | Scale<br>1/1250        |
| COUNTY HERTFORDSHIRE              | DISTRICT HERTSMERE |              | © Crown copyright 1974 |

ELSTREE



TQ 2097 SW  
TQ 2096 NW



This is a print of the view of the title plan obtained from HM Land Registry showing the state of the title plan on 23 March 2023 at 08:31:36. This title plan shows the general position, not the exact line, of the boundaries. It may be subject to distortions in scale. Measurements scaled from this plan may not match measurements between the same points on the ground.

This title is dealt with by HM Land Registry, Leicester Office.

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# **ANNEX 7b**

THIS IS A PRINT OF THE VIEW OF THE REGISTER OBTAINED FROM HM LAND REGISTRY SHOWING THE ENTRIES SUBSISTING IN THE REGISTER ON 17 MAR 2023 AT 15:59:28. BUT PLEASE NOTE THAT THIS REGISTER VIEW IS NOT ADMISSIBLE IN A COURT IN THE SAME WAY AS AN OFFICIAL COPY WITHIN THE MEANING OF S.67 LAND REGISTRATION ACT 2002. UNLIKE AN OFFICIAL COPY, IT MAY NOT ENTITLE A PERSON TO BE INDEMNIFIED BY THE REGISTRAR IF HE OR SHE SUFFERS LOSS BY REASON OF A MISTAKE CONTAINED WITHIN IT. THE ENTRIES SHOWN DO NOT TAKE ACCOUNT OF ANY APPLICATIONS PENDING IN HM LAND REGISTRY. FOR SEARCH PURPOSES THE ABOVE DATE SHOULD BE USED AS THE SEARCH FROM DATE.

THIS TITLE IS DEALT WITH BY HM LAND REGISTRY, LEICESTER OFFICE.

TITLE NUMBER: HD376899

There is no application or official search pending against this title.

## A: Property Register

This register describes the land and estate comprised in the title. Except as mentioned below, the title includes any legal easements granted by the registered lease but is subject to any rights that it reserves, so far as those easements and rights exist and benefit or affect the registered land.

HERTFORDSHIRE : HERTSMERE

- 1 (05.07.1999) The Leasehold land shown edged with red on the plan of the above Title filed at the Registry and being Kwik-Fit, Elstree Way, Borehamwood (WD6 1LB).
- 2 (05.07.1999) The Conveyance dated 26 January 1937 referred to in the Charges Register contains the following provision:-  
  
"IT is hereby declared that the Purchaser shall not be entitled to any right of access of light or air or other easement to the property hereby conveyed which would in any way prejudicially affect the free and unrestricted user by the Vendors or their successors in title of any adjoining or neighbouring property of the Vendors for building or other purposes nor to any right to enforce or prevent the release or modification of any restrictive covenant or provision now or hereafter affecting any adjacent land or building nor to any right as aforesaid to restrict the user of any other land now or formerly belonging to the Vendors or their predecessors in title and so that any light air or other easement from time to time in fact enjoyed by the Purchaser and his successors in title shall be deemed to be enjoyed by the express (but revocable) consent of the Vendors and the Vendors reserve to themselves and their successors in title the right to build to any height upon the land adjoining the land hereby conveyed."
- 3 (05.07.1999) The Transfer dated 28 January 1999 referred to in the Charges Register contains a provision as to light or air.
- 4 (05.07.1999) Short particulars of the lease(s) (or under-lease(s)) under which the land is held:  
Date : 28 January 1999  
Term : 30 years from 28 January 1999  
Rent : as therein mentioned  
Parties : (1) Daledream Limited  
(2) Kwik-Fit Properties Limited  
(3) Kwik-Fit Holdings Plc
- 5 (05.07.1999) There are excepted from the effect of registration all estates, rights, interests, powers and remedies arising upon, or by reason of, any dealing made in breach of the prohibition or restriction against dealings therewith inter vivos contained in the Lease.
- 6 (05.07.1999) Where relevant, the provisions contained in the earlier documents or registers referred to in the above deed are set out in the registers of this title.
- 7 (05.07.1999) The lessor's title is registered.

## A: Property Register continued

- 8 Unless otherwise mentioned the title includes any legal easements granted by the registered lease(s) but is subject to any rights that it reserves, so far as those easements and rights exist and benefit or affect the registered land.

## B: Proprietorship Register

This register specifies the class of title and identifies the owner. It contains any entries that affect the right of disposal.

### Title absolute

- 1 (05.07.1999) PROPRIETOR: KWIK-FIT PROPERTIES LIMITED (Co. Regn. No. 02579167) of Etel House, Avenue One, Letchworth Garden City, Hertfordshire SG6 2HU and care of Gateley LLP, Ship Canal House, 98 King Street, Manchester M2 4WU.

## C: Charges Register

This register contains any charges and other matters that affect the land.

- 1 (05.07.1999) The land is subject to the following rights excepted and reserved by a Conveyance of the freehold estate in the land in this title and other land dated 26 January 1937 made between (1) Herbert Arthur Pritchard and Robert Henry Stuart Edelstone Behrend (Vendors) and (2) Thomas Herbert Chapman (Purchaser):-

"Except and Reserved to the Vendors their assigns and all others entitled thereto to the free running and passage of water and soil from any adjoining or neighbouring land through any sewers drains ditches and watercourses on the property hereby conveyed now used or constructed for conveying water and soil from any such adjoining or neighbouring land."

- 2 (05.07.1999) A Transfer of the freehold estate in the land in this title dated 28 January 1999 made between (1) Shell U.K. Limited (2) Daledream Limited and (3) Kwik Fit Properties Limited contains restrictive covenants.

NOTE 1: Where relevant, the provisions contained in the earlier documents or registers referred to in the above deed are set out in the registers of this title

NOTE 2: *Original filed under HD374312.*

- 3 (05.07.1999) The land is subject to the rights reserved by the Transfer dated 28 January 1999 referred to above.

End of register