

# Shenley Neighbourhood Plan 2019-2036

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## Submission Version

A Report to Hertsmere Borough Council on the Examination of the Shenley Neighbourhood Plan

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## Executive Summary

My examination has concluded that the Shenley Neighbourhood Plan should proceed to referendum, subject to the Plan being amended in line with my recommended modifications, which are required to ensure the plan meets the basic conditions. The more noteworthy include –

- Only requiring development in those parts of the plan area that are within the Green Belt to have to reflect the rural character of the plan area, in addition to positively responding to its immediate vicinity.
- Remove reference to the constituent characteristics in Policy SH1 as it duplicates the Shenley Design Principles and Code.
- Deleting the Shenley Village Special Policy Area Policy.
- Removing for development at key locations beyond infill housing within the village envelope.
- Removing the policy on how CIL receipts should be spent.
- Removing reference to the delivery of particular broadband connection speeds.
- Ensuring that the policy to improve or introduce new community facilities is consistent with Green Belt policy.
- Encouraging local involvement in the design development of schemes and including description of these consultation processes within Design and Access Statements.
- Generally amending the *requirements* within the design guidance to *encouragement* including encouraging greater use of Design and Access Statements, whilst also removing reference to matters that cannot be controlled through planning.
- Changing reference to “rural plot size patterns” to “rural settlement patterns”.
- Removing guidance regarding Rural Building Types and guidance on internal spaces.
- Introducing more flexibility into the guidance regarding use of roof spaces and the massing of buildings at corner locations as well as the minimum distances for boundaries and edges.
- Deleting the policy regarding the environmental performance of new dwellings.

The referendum area does not need to be extended beyond the plan area.

## Introduction

1. Neighbourhood planning is a process, introduced by the Localism Act 2011, which allows local communities to create the policies which will shape the places where they live and work. The Neighbourhood Plan provides the community with the opportunity to allocate land for particular purposes and to prepare the policies which will be used in the determination of planning applications in their area. Once a neighbourhood plan is made, it will form part of the statutory development plan alongside the adopted Hertsmere Local Plan. Decision makers are required to determine planning applications in accordance with the development plan unless material considerations indicate otherwise.
2. The neighbourhood plan making process has been led by Shenley Parish Council with the agreement of Aldenham Parish Council, as the plan covers a small part of its parish namely the Cricket Ground. There can only be one Parish Council that can act as the qualifying body for the neighbourhood area. A Steering Group was appointed to undertake the plan preparation made up of both parish councillors and local volunteers.
3. This report is the outcome of my examination of the Submission Version of the Shenley Neighbourhood Plan. My report will make recommendations based on my findings on whether the Plan should go forward to a referendum. If the plan then receives the support of over 50% of those voting at the referendum, the Plan will be “made” by Hertsmere Borough Council.
4. It will be appreciated that under in the light of the COVID 19 crisis, a referendum cannot be held until at least May 2021. However, upon the issuing of the Decision Statement, under Regulation 19 of the Neighbourhood Planning Regulations, by Hertsmere Borough Council indicating how it intends to respond to my recommendations, the plan as modified can be accorded *significant weight* in development management decisions until such time as a referendum can be held.

## The Examiner’s Role

5. I was appointed by Hertsmere Borough Council in February 2020, with the agreement of Shenley Parish Council to conduct this examination.
6. In order for me to be appointed to this role, I am required to be appropriately experienced and qualified. I have over 41 years’ experience as a planning practitioner, primarily working in local government, which included 8 years as a Head of Planning at a large unitary authority on the south coast, but latterly as an independent planning consultant and director of John Slater Planning Ltd. I am a Chartered Town Planner and a member of the Royal Town Planning Institute. I am independent of Hertsmere Borough Council and Shenley Parish Council and I can confirm that I have no interest in any land that is affected by the Neighbourhood Plan.

7. Under the terms of the neighbourhood planning legislation I am required to make one of three possible recommendations:
  - That the plan should proceed to referendum on the basis that it meets all the legal requirements.
  - That the plan should proceed to referendum, if modified.
  - That the plan should not proceed to referendum on the basis that it does not meet all the legal requirements
8. Furthermore, if I am to conclude that the Plan should proceed to referendum, I need to consider whether the area covered by the referendum should extend beyond the boundaries of the area covered by the Shenley Neighbourhood Plan area.
9. In examining the Plan, the Independent Examiner is expected to address the following questions
  - Do the policies relate to the development and use of land for a Designated Neighbourhood Plan area in accordance with Section 38A of the Planning and Compulsory Purchase Act 2004?
  - Does the Neighbourhood Plan meet the requirements of Section 38B of the Planning and Compulsory Purchase Act 2004 - namely that it specifies the period to which it is to have effect? It must not relate to matters which are referred to as “excluded development” and also that it must not cover more than one Neighbourhood Plan area.
  - Has the Neighbourhood Plan been prepared for an area designated under Section 61G of the Localism Act and has been developed and submitted by a qualifying body?
10. I am able to confirm that the Plan does relate only to the development and use of land, covering the area designated by Hertsmere Borough Council, for the Shenley Neighbourhood Plan, on 8<sup>th</sup> February 2017, *if it is modified in accordance with my recommendations.*
11. I can also confirm that it does specify the period over which the plan has effect namely the period from 2019 up to 2036.
12. I can confirm that the plan does not cover any “excluded development”.
13. There are no other neighbourhood plans covering the area covered by the neighbourhood area designation.
14. Shenley Parish Council, as a parish council, is a qualifying body under the terms of the legislation. I am satisfied that it is acting with the full agreement of the adjacent Parish Council for that part of the plan area not within Shenley Parish

## **The Examination Process**

15. The presumption is that the neighbourhood plan will proceed by way of an examination of written evidence only. However, the Examiner can ask for a public hearing in order to hear oral evidence on matters which he or she wishes to explore further or if a person has a fair chance to put a case.
16. I am required to give reasons for each of my recommendations and also provide a summary of my main conclusions.

17. I am satisfied that I can properly examine the plan without the need for a hearing.
18. I carried out an unaccompanied visit to Shenley and the surrounding areas, on 4<sup>th</sup> March 2020. I walked through Shenley Park and had lunch in The Barn Restaurant. I then toured the residential area of Porters Park, as well as the more traditional estate development at Queens Way, Newcome Road and New Road, followed by the main village area with its Conservation Area. I walked through part of the proposed Local Green Space. I drove to the boundaries of the plan area with Borehamwood and Radlett and up to the M25. I saw for myself the attractive countryside that makes up much of the parish.
19. Following my site visits, I issued a document *Initial Comments of the Independent Examiner*, dated 6<sup>th</sup> March 2020, which raised a number questions and points of clarification with both the Steering Group and Hertsmere Borough Council. I received a response from the Parish Council and Steering Group on 25<sup>th</sup> March 2020 and from the Borough Council on 26<sup>th</sup> March 2020.
20. I understand that there was an original Submission Plan submitted by the Parish Council in June 2019, but following discussions with Hertsmere Borough planners that was replaced by a later version of the plan which was submitted in October 2019. For the avoidance of doubt, this examination has taken place in respect of the later October version of the document.

## **The Consultation Process**

21. Following the neighbourhood area's designation, the Steering Group, which had been recruited in 2015/16, issued a questionnaire in October 2016 which had been publicised with articles in local publications and on Facebook and on the village website. The Neighbourhood Plan's official launch took place on 5<sup>th</sup> April 2017 and was attended by over 120 people. Four working groups were set up which collectively involved over 60 people, all the work being coordinated by the Steering Group.
22. The first piece of data gathering was a housing and development survey distributed to every household in the parish in September 2017 and this generated 557 responses, a 33.7% response rate.
23. That survey was followed up by a public meeting in October 2017 and there were also separate surveys of local estate agents and businesses in the plan area.
24. This work culminated in the preparation of a Pre-Submission version of the plan, known as the Regulation 14 Consultation, which was the subject of a public meeting on 7<sup>th</sup> June 2018 and exhibition at the Shenley Fete on 1 July 2018 prior to the statutory six-week consultation which ran from 18<sup>th</sup> July to 15<sup>th</sup> September 2018. The closing date for representations was subsequently extended to 28<sup>th</sup> September 2018. This produced 182 separate responses which are set out in Appendix A of the submitted Consultation Statement. The statement also summarises the issues raised and the Steering Group's responses to the comments.
25. Following the Regulation 14 consultation there was a separate consultation held in the summer of 2019, looking at green spaces in the parish

## Regulation 16 Consultation

26. I have had regard, in carrying out this examination, to all the comments made during the period of final consultation which took place over a 6-week period, between 29<sup>th</sup> October 2019 and 10<sup>th</sup> December 2019. This consultation was organised by Hertsmere Borough Council, prior to the plan being passed to me for its examination. That stage is known as the Regulation 16 Consultation.
27. In total, 200 individual representations were recorded including multiple comments from approximately 60 individuals, primarily residents of the parish or adjoining towns, including a number of comments from present and past members of the Steering Group. In addition there were responses from Hertsmere Borough Council, Hertfordshire County Council, Natural England, National Grid, Sports England, Herts and Middlesex Wildlife Trust, Aldenham Parish Council, Elstree and Borehamwood Town Council, Shenley Village Walking Group, The Ramblers, Indigo Planning on behalf of Huntstowe Land, Turley Group on behalf of Tarmac, DLA Town Planning on behalf of Cala Homes (Chiltern) Ltd, DLP in respect of a site at Lyndhurst Farm, Green Street and Fisher German on behalf of Griggs.
28. I have carefully read all the correspondence and I will refer to the representations where it is relevant to my considerations and conclusions in respect of specific policies or the plan as a whole.

## The Basic Conditions

29. The Neighbourhood Planning Examination process is different to a Local Plan Examination, in that the test is not one of “soundness”. The Neighbourhood Plan is tested against what is known as the Basic Conditions which are set down in legislation. It will be against these criteria that my examination must focus.
30. The five questions, which seek to establish that the Neighbourhood Plan meets the basic conditions test, are: -
  - Is it appropriate to make the Plan having regard to the national policies and advice contained in the guidance issued by the Secretary of State?
  - Will the making of the Plan contribute to the achievement of sustainable development?
  - Will the making of the Plan be in general conformity with the strategic policies set out in the Development Plan for the area?
  - Will the making of the Plan breach or be otherwise incompatible with EU obligations or human rights legislation?
  - Will the making of the Plan breach the requirements of Regulation 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017?

## Compliance with the Development Plan



31. To meet the basic conditions test, the Neighbourhood Plan is required to be in general conformity with the strategic policies of the Development Plan, which in this case is the Hertsmere Local Plan 2012-2027, which for the Shenley parish, comprises the Core Strategy adopted in January 2013 and the Site Allocations and Development Management Policies DPD and accompanying Policies Map, both adopted in November 2016.
32. Shenley sits at the fourth and fifth levels of the borough's settlement hierarchy. The Core Strategy recognises that Shenley has reached its natural limits within the Green Belt and that further development will be restricted to small infill development opportunities as set out in Policy CS2. The Key Diagram shows the part of the settlement area comprising the former Shenley Hospital surrounded by Green Belt. The relevant Green Belt policy is Policy CS13.
33. In 2016, the Council adopted its Site Allocations and Development Management Policies Plan. That plan removed the former Shenley Hospital housing estate from the Green Belt (Policy SADM22) and also established a Village Envelope around the remainder of the settlement (Policy SADM23) which was still included within the Green Belt, but within which limited infilling was allowed. Policy SADM26 set out development standards for the Green Belt.
34. It included a set of enlarged policy maps with various designations including open space, sports and leisure facilities, the Conservation Area, local wildlife sites mineral consultation areas, the village envelope and archaeological sites.
35. Work is underway on the preparation of a replacement local plan. The Borough Council has carried out three Regulation 18 consultations, the final one was a consultation on different allocation options that had been put forward by landowners following the LPA's call for sites. I understand that the next iteration of the new local plan is unlikely to be published before the early autumn this year.
36. This emerging local plan is at a very early stage and notwithstanding the apparent emphasis placed on these early consultation exercises by the Steering Group in the neighbourhood plan, I only attach little weight to it as it is largely speculation as to possible green belt releases and large site allocations, at this stage as the local plan making process proceeds, which will be the subject of further appraisals and public consultation and in time public examination.
37. In time, this will be the document where Hertsmere Borough Council makes the strategic decisions, in terms of the quantum and location of new development, especially residential development. It will be that document that is empowered, under the terms of the Secretary of State advice, to make the decisions as to where changes are needed to be made to Green Belt boundaries.
38. For the purpose of the basic conditions and this examination the requirement is that the Shenley Neighbourhood Plan should be in general conformity with the strategic policies in the adopted Hertsmere Local Plan.

### **Compliance with European and Human Rights Legislation**

39. Hertsmere Borough Council initially issued a Screening Determination Statement, in respect of an early draft version of the plan in April 2019, which had concluded that due to uncertainties with regard to the possible impact of Policy SP2, a full



strategic environmental assessment, as required by EU Directive 2001/42/EC which is enshrined into UK law by the “Environmental Assessment of Plans and Programmes Regulations 2004”, would be required.

40. A revised version of the plan submitted in June was rescreened, including consulting with the 3 statutory bodies, the Environment Agency, Historic England and Natural England (replies were received from the latter two). It was concluded that the revised plan was unlikely to have significant environmental effects and it was confirmed in the October Screening Determination Statement that a full SEA would not be required.
41. The Borough Council, as competent authority, issued a screening under the Habitat Regulations, in the October 2019 Statement. This concluded that the neighbourhood plan is unlikely to have any significant adverse effects on the any European Protected sites and that a Habitat Regulation Assessment would not be required.
42. I am satisfied that the basic conditions regarding compliance with European legislation, including the newly introduced basic condition regarding compliance with the Habitat Regulations, are met. I am also content that the plan has no conflict with the Human Rights Act.

### **The Neighbourhood Plan: An Overview**

43. Shenley parish is a large primarily rural area adjacent to the urban settlements of Borehamwood and Radlett. The whole plan area falls within the Green Belt apart from the Porters Park development with its residential streets and cul de sacs. The first plan objective is to retain the distinct rural character of the village and the surrounding landscapes, its rural building types, heritage and spaces, openness and landscape setting. The plan describes the parish is having a rural character and I concur that this description applies apart from the large residential estate of Porters Park and to a lesser extent, the area immediately adjoining the M25.
44. The policies in the plan will apply, unless otherwise stated, to all planning applications within the plan area and I do not consider that the plan sufficiently differentiates between the different character areas within the village, apart from some disparaging comments regarding Porters Park. I would estimate that possibly half the parish’s population live in Porters Park and I would imagine its residents would not recognise some of the rural character, in terms of the immediate environment around their homes. Policy SH1 will be the starting point for considering all development proposals including those on the Porters Park estate, and I am not convinced that this important policy would be a sound basis for considering planning applications for extensions and other alterations within that neighbourhood, if applicants have to show how their proposal will enhance the distinctiveness of the rural character of Shenley and how their scheme “reflect the heritage assets, local vernacular and landscape setting”. That would not be necessary or appropriate and I consider that the test should be to reflect the distinctiveness of that part of the village, which may not necessarily be rural. I

would argue that this area is already satisfactorily covered by existing policy at local plan level, namely through Policy SADM30 – Design Principles.

45. Much of the plan's text appears to have been written anticipating the possibility of land being released from the Green Belt through the forthcoming Hertsmere Local Plan which is in the course of preparation. It is doing so, in particular, with Policies SH2, SH5 and SH6.2. My conclusion is that these policies promoting development in the Green Belt, particularly at "key locations" within the village, for a mixture of community facilities, shops offices and employment uses are at least premature until the new local plan is adopted, by promoting development. Generally, the construction of new buildings in the Green Belt, would not be appropriate development whose primary purpose is to maintain the openness of the land. Within the village envelope the only form of new build development that is permitted is infill housing.
46. To be clear the land identified as the SSPA is Green Belt and the neighbourhood plan should not be preempting, within one development plan document, the potential for development conditional upon a future development plan document possibly releasing a site from the Green Belt.
47. In terms of national policy, the only forms of development in the Green Belt which are likely to be acceptable are set out in paragraphs 145 and 146 of the NPPF. Similarly, the local plan already sets out policies for appropriate development in the Green Belt in Policy CS13. That has to be the basis for the consideration of the basic conditions tests and I recognise that the NPPF states that a neighbourhood plan should not promote less development than set out in the strategic policies for the area but I would argue that policies to support development in the Green Belt at this time would undermine the strategic policies at both national and local level.
48. It will be the new local plan that will identify whether land will need to be released from the Green Belt. If it is concluded that releases are required, then it is the Local Plan that identify that location(s) and the quantum of housing that these sites will be expected to accommodate. That process is a strategic planning responsibility and is not a matter for inclusion within a neighbourhood plan. Neither is it appropriate that the neighbourhood plan should be used as a vehicle for attempting to exert influence on the strategic planning policy making process. There could be a scenario, for example, whereby land in the parish is taken out of the Green Belt by the new Local Plan, in what, could possibly be argued, is in more sustainable locations, where it will be adjacent to one of the neighbouring urban areas. If the Local Plan went down that route the Shenley's Vision for the Village Centre would be untenable, if it continued to be Green Belt land.
49. If the new local plan, once adopted, promotes changes to the Green Belt as part of its strategic policies, but does not define the new boundaries, then it is possible for detailed amendments to be made through a neighbourhood plan. My understanding is that the Borough Council's approach is that the allocation of sites will be done through the local plan. The Parish Council can advance its arguments for the allocation of this London Road – CALA Homes site in the local plan, through the local plan consultation process but it should not be incorporating these matters within a development plan policy.

50. The Parish Council is also at paragraph 1.54 challenging the numbers of homes that could be facilitated on this site and also elsewhere point to the difference between the AECOM Housing Needs Assessment Study as to the housing numbers which is required to meet Shenley's housing needs and the Borough Council's housing figures, which are to meet the objectively assessed housing requirements for the whole of Hertsmere borough.
51. I have also concluded that some of the requirements in the policies and the design guidance are over prescriptive, not only in terms of what information is required to be submitted with the planning application, but also in terms of community engagement. This is a comment that is made by a number of the planning consultancies who have commented at Regulation 16 stage. Applicants can be encouraged to provide the statements or information as set out, but it cannot be a plan requirement. Information that is required to be submitted with the planning application can only be determined by the Local Planning Authority through the local validation requirements. The situation is set out in Regulation 11 of the Town and Country Planning (Development Management Procedures) Order 2015. The scope of what can be covered by a Design and Access Statement can however be expanded to cover matters such as how community engagement has been influential in design issues.
52. Equally there is no statutory basis for requiring pre-application engagement, apart from on windfarm proposals. Similarly, it is not necessarily appropriate that a planning policy dictates that such development proposals **must** be the subject of community engagement. That could result in a scenario where an acceptable development, in planning terms, could potentially be refused on the basis that the applicant, in preparing his development proposals, did not submit his proposals to specific pre-application consultation. The plan is absolutely justified in recognising the value of early community engagement and as a practice this is entirely consistent with Secretary of State advice. However, it cannot be expressed as a "requirement", through the use of terms, such as a development "must". I will in a number of cases be amending the drafting of the policy and guidance so as to refer to matters being *encouraged* rather than *required*.
53. I do commend the high-quality design guidance which forms part of the plan's documentation. However, it does, in some places, seek to impose technical requirements on new development, contrary to the Secretary of State's Written Statement to the House of Commons, dated 25<sup>th</sup> March 2015, which stated that neighbourhood plans cannot impose "any additional local technical standards or requirements relating to the construction, internal layout or performance of new dwellings for new dwellings.". Some of the matters are covered by National Technical Standards published by the Secretary of State, but these can only be triggered by Local Plan policy. Equally the design guidance seeks to control matters that are beyond the scope of planning control, such as the sources of labour or building material for construction or matters that fall to be determined by Building Regulations such as acoustic performance and U values.
54. I did question the need for such extensive guidance having regard to the limitations of infill development only within the village envelope, but I do see a value in providing clear design expectations as development can still be promoted in the

Green Belt by developers arguing “very special circumstances”. The Shenley Design Principles and Code could play a valuable role in shaping such development, albeit within in a Green Belt context.

55. My recommendations have concentrated on the wording of the actual policies against which planning applications will be considered. It is beyond my remit as examiner, to comprehensively recommend all editorial changes to the supporting text. These changes are likely as a result of my recommendations, so that the plan will still read as a coherent planning document.
56. Following the publication of this report, I would urge the Parish Council and Hertsmere planners to work closely together to incorporate the appropriate changes which will ensure that the text of the Referendum Version of the neighbourhood plan matches the policy, once amended in line with my recommendations. It is also an opportunity to resolve many of the textual issues that have been raised by the Borough Council in the Regulation 16 representations which will improve the accuracy of the statements which are used to justify the policies.

## **The Neighbourhood Development Plan Policies**

### **Policy SH1 Rural Character**

57. Policy SH1.1 appears to treat all parts of the plan area on the same basis, whilst the second element in SH1.2 only applies to the area within the Green Belt. I would agree that the original parts of Shenley village, beyond Porters Park and the surrounding countryside generally continue to exhibit the rural character that the policy is seeking to protect. I recognise that some parts of Shenley village outside the conservation area, such as Newcome Road and New Road area could be described as more suburban in character. I will therefore look to achieve a degree of consistency between the two parts of the policy and restrict the requirements of Policy SH1.1 to only the parts of the plan area that are currently within the Green Belt. If that status were to change following the adoption of the new Local Plan then the policy could be revisited in the promised neighbourhood plan review. It will be necessary for the development management officers to use their judgement as to the application of the policies in the area when it comes to assessing applications in the context of their individual architectural context.
58. In terms of the actual detailed requirements set out in the policy, I agree with Borough Council's comments that much of the contents of the policy duplicates matters which are set out in the Shenley Parish Design Principles and Code, which is appended to the neighbourhood plan and is, in my view, a more appropriate location for design guidance, which decision-makers should have regard to. I will therefore recommend deleting the majority of the policy due to the unnecessary duplication with the design guidance. This guidance remains part of the neighbourhood plan and will therefore have considerable weight accorded to it.
59. I am not convinced that the proposed alternative wording for this policy, put forward for the Borough Council is the way forward, as it is merely duplicating existing policy that already applies to the plan area through the NPPF and the

Local Plan. Such unnecessary duplication would be contrary to paragraph 16 f of the Framework.

60. My recommendation is to reduce the policy to a combination of the first paragraph and section a) but amended, to only relate to the Green Belt area. The remaining elements will then be picked up in the next policy. The supporting text needs to refer to the fact that development within Porters Park will be assessed in design terms under the provisions of Policy SADM 30.

#### ***Recommendation***

***Replace policy with “Development within the Green Belt areas of the neighbourhood plan will be expected to ensure that the design of the development relates positively to its surroundings and enhances the existing distinctiveness of the rural character of Shenley, by reflecting the special and valued features that are unique to the locality, the heritage assets and architectural features that contribute to that local character”.***

### **SH1.2 Shenley Parish Design Principles and Code**

61. Whilst I recognise the value of a community producing design guidance for future development in the parish, I feel that much of its contents, as submitted, is too prescriptive, through its use of “*must*” rather than “*should*”. If a perfectly acceptable scheme was proposed but the application did not refer to the design code, it would be unreasonable for the application to be refused, which may be a temptation for a decision maker who felt that the applicant had not complied with the presentational requirements of the policy.
62. The second part of the policy is not actually a statement of policy but rather a justification for the policy. I will also recommend the removal of “(as attached to Part C of this document)” as the policy may be quoted on documents which are not part of this plan, for example, on a planning decision notice, in a Committee report or appeal decision.

#### ***Recommendation***

***Substitute “should” for “must” and delete the content within the parenthesis.***

***Delete the second paragraph of the policy.***

### **Shenley Parish Design Principles and Code**

63. I commend the quality and the clarity of aspirations set out in the Design Principles and Code- it is some of the best design guidance I have seen and is particularly well illustrated. As an aside, the Parish Council may wish to consider the sensitivities of your residents whose homes are used as illustration of bad practice or poor design - would it be possible to find illustrations from outside the parish?
64. It will provide a framework for “creating distinctive places with a consistent and high quality of design”. However, I do feel that in places, some of the language goes beyond guidance and is too prescriptive, which could prevent schemes coming forward that reflect the variety of site contexts that could be found, whether it be an infill development within or adjacent to the village envelope or a

free-standing barn type conversion scheme, in open countryside. It is important that the plan does not stifle architectural innovation, albeit set within the local context.

65. I have not sought to make wholesale changes as this is very much a matter of local determination, but I have recommended allowing more flexibility than is currently proposed. I have moderated the requirements away from *must* and more to matters that are to be *encouraged*.
66. The Shenley Guidance is now supplemented, by the recent publication of the National Design Guide, but that document's existence does not supersede the neighbourhood plan's role as local guidance. I do feel that the National Guide's 10 headings gives a clearer structure setting out the ingredients that will deliver high quality new development, rather than some of the guidance's headings used, such as "Loose fit – Long Life".
67. Elements of the Shenley guidance also goes beyond what the Secretary of State referred to in his Written Ministerial Statement, referred to earlier, which restricts neighbourhood plans from setting "any local technical standards or requirements relating to the construction, internal layout or performance of new dwellings". In some places, I am recommending changing what are set as requirements to matters of encouragement and guidance. Other matters go beyond the scope of what a planning policy can control, such as the quality of craftsmanship.

### SC1 Local Patterns

68. This guidance has been prepared assuming that development will need to have regard to the local patterns of development in Shenley Village itself. However, if a development were to be proposed, say on the urban fringe of Borehamwood or Radlett, would it not be more appropriate to reflect the local patterns of development in the vicinity rather than Shenley Conservation Area or its listed buildings?

#### *Recommendations*

***In the second sentence of Principles, change "will" to "can" and after "demonstrated" insert "in the immediate vicinity and within Shenley village... "***

***In the Code a) change "must" to "should". In the second sentence change "shall" to "for development within or close to Shenley village should". In the final sentence of a) change "are to" to "should"***

***In b) change is "expected to" to "could"***

### SC2 Design Scrutiny

69. A Design and Access Statement is not only required for development that constitutes *major* development but it can also be required for development of a single dwelling in a conservation area. A Design and Access Statement would not be expected to cover non-design matters. These are better covered in a Planning Statement. As described by the Secretary of State, the purpose of a Design and Access Statement is "to provide a narrative for the design approach and the design rationale"- not necessarily the planning merits. Regulation 9 of the Town and Country Planning (Development Management Procedures) Order



2015 sets out the details of what a Design and Access Statement should contain. This includes “the design principles and concepts that have been applied to the development and demonstrate the steps taken to appraise the context of the development and how the design has taken that context into account”. The need to reference the Local Plan and the NPPF / PPG is not necessary to meet the legal requirement although reference to the Neighbourhood Plan’s Design Principles and Code could be encouraged.

70. The level of detail sought, including “key design construction details” would not necessarily be appropriate for an outline application which is seeking to establish the principle of development, often with all matters reserved or indeed a full application. It is at the reserved matters stage, where an applicant will likely be seeking approval for the design and layout.
71. Furthermore, the level of craftsmanship is impossible to determine at planning application stage, when contractors would not necessarily have been appointed. How could such a policy be enforced?

### **Recommendations**

***Replace the second and third sentence with “Where a Design and Access Statement is required to be submitted, it should explain the design principles and concepts and demonstrate how the design has taken into account the local distinctiveness and the rural character of Shenley parish in the design and it is encouraged to demonstrate how the design has had regard to these Shenley Design Principles and Code”.***

***Delete the remainder of the rest of the text in “Principle.”***

***In Code a) replace the text with “The Design and Access Statement should provide text and illustrations showing the justification for the proposed layout, height, bulk, typical elevations with façade details and roofscape drawings to illustrate the design principles adopted, along with an indication of the proposed materials to be used on the exterior of the building.”***

### **SC3 Layout – Rural Plot Size Patterns**

72. I am not sure that the plan is clear as to what is expected as a *rural plot size pattern* as this will depend upon the location of the development. The pattern of plots within the older areas of the village displays a variety of sizes and shapes, which reflect the historical development of the village as well as landscape and topography. I would rather recommend the use of *rural settlement pattern* in this heading as that is a more recognisable term, as used in the accompanying illustrative drawings on Page 82.
73. The code refers to “*convivial and social spaces*” but I am not sure that these are attributes that a decision maker could properly assess. I will instead refer to “well designed and attractive public spaces.”
74. Some of the matters that are expected to be taken into consideration in terms of the quality of indoor living environment such as thermal and acoustic performance are more matters for the Building Regulations rather than planning control and I will recommend that they be removed. The final paragraph is a direct



duplication of the last sentence of the Code 's first paragraph and should be deleted.

### **Recommendations**

**Replace in Principles “subdivide parcels of land into plots in a manner that responds to the rural plot size pattern” with “will be expected to adopted a settlement pattern that reflects the existing pattern of development which has been”**

**In Code, first paragraph, replace “convivial and social spaces must be demonstrated” with “well designed and attractive public spaces will be expected, in appropriate locations.”**

**In the second paragraph after “are” insert “expected” and in the second sentence replace “must” with “should”.**

**In the list, delete v. and vi.**

**Delete the last paragraph of the code.**

## **SC4 Buildings – Shenley’s Rural Building Types**

75. I consider that this set of principles and code would only be relevant to limited types of rural housing development and would not be justified with regard to most development likely to be taking place within the village, which will be by way of infill development. I will recommend that this be removed as the mix of housing is covered by Policy SH4.

### **Recommendation**

**That this Principle and Code be deleted.**

## **SE5 Buildings – “Loose fit and Long life”**

76. The flexibility of internal spaces to the extent being proposed by this Principle, goes well beyond what can reasonably be required within a planning policy. I will recommend that the requirement be deleted.

### **Recommendation**

**That this Principle and Code be deleted.**

## **SC6 Buildings - Less is more. Simplicity**

77. Again, this is a matter that does not have to be a requirement but something that the plan should be encouraging.

### **Recommendation**

**In Principles replace “a requirement” with “encouraged”.**

## **SC7 Buildings – Massing and Roofs**

78. I consider that including a policy expectation to use roof spaces could lead to pressure for the insertion of dormer windows or rooflights which could disrupt the simplicity sought by other principles. If it is to be retained as an aspiration I would change the language to “allowed” rather than “expected”.

79. The ability of having bulkier or taller buildings at corner locations may be an appropriate urban design solution but equally there could be locations where such a solution would not necessarily be appropriate. It could also run counter to

other principles regarding proposals displaying modesty and restraint as argued by DLA.

80. The issue of access to garden areas does not seem relevant to the remainder of the policy and may have been inserted here in error.

#### **Recommendations**

**Delete the last paragraph of Principle**

**In the first paragraph of Code change “sighted” to “sited” and change “are expected to” to “could”.**

**In the second paragraph, change “expected. This” to “allowable”.**

### **SC8 Building for Climate Change and Environmental Protection**

81. The policy states that natural materials are to be used as a first choice and locally sourced building materials and locally sourced expertise and labour are set out as requirements. This goes well beyond the scope of planning control. It would be contrary to the WMS that states “neighbourhood plans should not set any additional local technical standards or requirements relating to the construction, internal layout or performance of new dwellings”.
82. This whole section goes beyond what should be included in a neighbourhood plan and I will be recommending that it be deleted.

#### **Recommendation**

**That this Principle and Code be deleted.**

### **SC9 Boundaries and Edges**

83. It may not always be sensible for detailed landscape plans to have to be produced at a stage before the principle of the development has been established. Landscaping principles can be considered at an application through, for example, the submission of a landscape masterplan with the specification of detailed species and maintenance arrangements to be covered by planning conditions. It has been argued in some comments that imposing minimum distances is too prescriptive. I tend to agree that some flexibility would be desirable to take account of particular schemes. I will do this by inserting “Generally”.
84. In terms of codes SC9a4 there will be some residential streets, which depending on the road’s position within the road hierarchy, may not be suitable for “play streets, so again some flexibility is required.
85. The making good of damage to the highway is not a matter for a planning policy as it could not be used in the determination of planning applications. These matters are normally dealt with under highways legislation, if it relates to the public highway.

#### **Recommendations**

**In Code SC9a, Replace the first paragraph with “New build development will be expected to incorporate appropriate landscaping that has regard to the following principles.”**

**In 4 at the end insert” “where it is appropriate to do so”.**

***In SC9b Type 1 and 2 start each with “Generally” and then replace “must” with “should”***

***Delete SC9c.***

## **SC 10 Rural Landscape**

86. Again, the language of the guidance is too prescriptive as it refers to matters being a requirement rather than something that should be encouraged.

### ***Recommendations***

***In Principle, replace in the first sentence “a requirement” with “an expectation”***

***In the second sentence replace “gived” with “given”***

***Delete the penultimate paragraph in Code.***

## **SC11 Healthy Trees and Hedges**

87. I have no comments to make.

## **Policy SH2 Shenley Village Special Policy Area**

88. I have referenced fundamental issues with this particular policy in the Plan Overview section of this report.
89. I have found this policy to be particularly problematical in terms of the test of compatibility with national and existing strategic policy and hence basic conditions. It appears that there has been some "negotiation" in the evolution of the drafting of the policy, as it stresses an overarching requirement to comply with the NPPF and the Local Plan, which is actually incompatible with what the policy is seeking to achieve by providing development within walking distance of key local facilities. As Chapter 13 of the Framework states "Inappropriate development is, by definition, harmful to the Green Belt" and the form of development being promoted would not fall within the definition of appropriate development set out in paragraph 145. I recognise that the Borough Council "largely supports" the policy, which is not a site allocation, but states that it is my role to determine whether it actually meets the basic conditions.
90. The underlying purpose of the policy is clear from the neighbourhood plan's supporting text and in particular paragraphs 1.50 to 1.54, which seeks essentially to put "a marker down" in identifying the area particularly to the west of London Road – Shenley Grange as a preferred location for the siting of new residential development and the expansion of other village facilities. The policy goes on and outlines a possible route to its delivery by a Neighbourhood Development Order or a Community Right to Build Order and the plan is explicit in supporting a particular landowner's aspirations. Other policies which refer to "key locations" also are based on development taking place within what is currently Green Belt.
91. I have concluded that the policy is not a clear expression of planning policy. It is not possible for a neighbourhood plan policy that is compliant with national and local policy to be on the one hand upholding those policies whilst at the same time

supporting the expansion of the village's facilities into and support new housing into what is currently Green Belt. If that status were to change, the appropriate response would be to review this neighbourhood plan.

92. I have concluded that the policy fails to meet basic conditions and I will be recommending that the policy is deleted.

#### **Recommendation**

***That the policy be deleted.***

#### **Policy SH3 Local Green Space**

93. I am satisfied that the Spinney Woodland and the hedgerow system is considered to be demonstrably special by the local community and it meets the requirements set out in paragraph 100 of the Framework. I will be recommending that the extent of the LGS designation should be set by reference of a map rather than an aerial photograph.
94. I will recommend the amendment of the policy by removing superfluous text "as defined by national policy and regulations".

#### **Recommendations**

***Replace Policy Map SH3 from an aerial photograph to an Ordnance Survey Map.***

***Delete all text in the policy after "circumstances"***

#### **Policy SH4 Housing Mix and Choices**

95. I am generally satisfied that the evidence substantiates elements a) and b) of the policy. This is a policy which is supportive of one to three bed units which meet the affordable properties for first time buyers and the aging population who would be able to downsize releasing larger properties for families. Applications for larger units would have to be determined against existing development plan policy.
96. I have concerns regarding criterion c) as the definition as to what constitutes affordable housing now extends beyond social rented housing, to include starter homes and discounted market homes, which may not be based upon a local connection criteria. Furthermore, the criteria used for the allocation of social housing is a matter for the Housing Authority, rather than the Local Planning Authority and occupation criteria is not a matter that falls to be considered as a policy for the use and development of land.
97. I will amend the policy to refer to affordable houses provided in a tenure blind mix and also express the policy in a way to assist the decision-making processes as recommended by the Borough Council.

#### **Recommendation**

***In the first paragraph replace "are particularly" with "will be" and instead of "local supply" insert "supply in the neighbourhood area of"***

***Amend c. to "Affordable housing provided in a tenure blind mix and."***

## Policy SH5 Connecting Shenley Village

### SH5.1

98. I am satisfied that the first requirement is acceptable as it is caveated “where appropriate”. The policy in SH5.1b) seeks to focus development at three locations for development delivering community facilities, shops, employment space and offices alongside connectivity improvements. However, all locations except one quadrant of the 3 proposed “Key Locations”, are within the Green Belt, the consequence of which is that these non-residential uses would not be appropriate development. Accordingly, a policy that supports such development would not meet the requirements for basic conditions. As it would be contrary to both strategic local plan policy as well as national Green Belt policy, I have to recommend that criterion b) be removed

### SH 5.2

99. A development plan policy cannot determine how CIL money is spent. The text can be retained in the plan document, but it is not a development plan policy as it is not relevant to the determination of a planning application. It can be moved to the supporting text.

### SH 5.3

100. The speed of broadband is a matter for the telecommunications supplier rather than the developer and I will be recommending that this reference to speed of connection be removed from the policy. Equally the requirement to submit a connectivity statement is not a matter that can be required by a neighbourhood plan policy, but is for the local validation checklist.

#### *Recommendations*

**Delete b.**

**Delete Policy SH5.2**

***In Policy SH5.3 delete all text after “internet” and insert “by the installation of the necessary broadband ducting and infrastructure.”***

## Policy SH 6 Community Infrastructure Facilities

### SH6.1 Existing community infrastructure facilities

101. The policy’s support for improving facilities in the village needs to be consistent with Green Belt policy. This can be added as a caveat. I also consider that the Borough Council’s alternative wording improves the usability of the policy in a development management context

102. I know the planning permission has been granted for the change of use of the King William IV public house to flats so I will remove it from the list of community assets. I noted from the Planning Committee report on that application that the Parish Council did not actually object to the loss of this community asset.

103. It must be recognised that the plan’s aspirations to retain the existing users may be frustrated in time by changes of use that can take place under permitted

development rights and I will adopt the wording as proposed by the Borough Council.

#### **Recommendation**

**At the end of the first sentence insert “subject to compliance with Green Belt policy”.**

**At the start of the second sentence replace “Development” with “Where planning permission is required, development” and replace “significant impact” with “significantly detrimental impact on”**

**Delete “The King William IV, pub”**

## **SH 6.2 New Community Infrastructure Facilities**

104. Again, the acceptability of the construction of new buildings that will accommodate new community facilities is likely to be incompatible with Green Belt designation. I will be amending the policy to make the initial consideration the acceptability of a proposal for new community infrastructure to be its acceptability in Green Belt terms.

#### **Recommendation**

**In the first paragraph after “where” insert “it is compatible with Green Belt policy and”**

## **Policy SH7 Local Knowledge for Good Design**

### **SA 7.1 Good Design**

105. As previously stated, the documents that are required to be submitted alongside a planning application are a matter that is required to be set in the Local Validation List prepared by the Local Planning Authority. This is not something that can be required by a neighbourhood plan policy. Applicants can be encouraged to provide the statement as set out, but it cannot be a requirement.
106. The nature of pre-application discussions will depend upon the scale of development and should ideally be guided by advice from the Borough Council as part of its pre-application discussions with applicants. Early public involvement is an initiative that is supported in the NPPF as a means of driving up design standards, but I do not think that it is appropriate for a plan policy to be specific about such processes or when they should be happening.

#### **Recommendations**

**Replace “should” with “are encouraged to”**

**Delete all text in c. after “development” and insert “throughout the design process”.**

## **SH7.2 Design and Development Briefs**

107. As this policy is one of support for the preparation of such a brief rather than a compulsion, I will not be recommending any changes, despite the concerns of the Borough Council.



### SH7.3 Statement of Community Consultation and Neighbour Involvement

108. I note that the Borough Council's suggested amendments to the policy removes the wording, to the effect that applicants who undertake no community engagement will be looked at less favorably than those that do. I recognise that the Framework uses similar wording, so I propose to retain it. The Steering Group should note that I am doing so on the understanding that an acceptable development where the applicant, for whatever reason, has not entered into that dialogue, could not be refused, due to the absence of this engagement.
109. I will also insert that these requirements should form part of an applicant's Design and Access Statement.

#### *Recommendation*

***After "information" insert "within their Design and Access Statement"***

### SH 7.4 Early Proposal Presentation

110. In accordance with my early recommendations I will amend the wording to one of *encouragement* rather than *expectation*. I will also remove reference to the presentation, as being part of complying with the criteria set out in policy SH8 which are a matter for decision-makers rather than the Parish Council as a planning consultee to assess.

#### *Recommendation*

***Replace "will expect" to "encourage" and omit text after "process".***

### Policy SH8 Buildings for Life

111. The latest revisions to the policy, followed Tony Burton's mock examination, sets out in full the relevant criteria rather than just relying on accreditation for Buildings for Life, which has specific evaluation and accreditation requirements. The NPPF, in paragraph 129 recognises the value of assessment frameworks. I consider that this should best be incorporated with the Design and Access Statement.
112. I do not consider that relying on achieving a particular status under the current assessment framework should be incorporated within the policy, not least in terms of the status and qualifications of the persons carrying out that assessment or at what stage the assessment is done. Reference can be made in the supporting text, if it felt that it would be helpful.

#### *Recommendations*

***After "demonstrate" insert "in their Design and Access Statement"***

***Delete SH8.2***

### The Referendum Area

113. If I am to recommend that the Plan progresses to its referendum stage, I am required to confirm whether the referendum should cover a larger area than the area covered by the Neighbourhood Plan. In this instance, I can confirm that the



area of the Shenley Neighbourhood Plan as designated by Hertsmere Borough Council on 8<sup>th</sup> February 2017, is the appropriate area for the referendum to be held and the area for the referendum does not need to be extended.

## Summary

114. I congratulate Shenley Parish Council and its Steering Group on the quality of this neighbourhood plan. There is a clear desire that any development within the rural parts of the parish should reflect that character and it promotes high design quality which is a commendable aspiration.
115. The relationship between the plan and the existing and emerging local plan has been difficult to reconcile and in view of the current Green Belt designation, I have had to remove some of the development aspirations that the plan is promoting for parts of the Green Belt close to the existing village centre.
116. A neighbourhood plan should not be promoting strategic matters such as which land should be released from the Green Belt or seeking to influence housing numbers in an emerging plan. The Parish Council can continue to promote its case and residents' concerns through the local plan making exercise but should not be doing it through what would be part of the current development plan. That is not, in my experience, the appropriate vehicle for advancing the local community's case.
117. I am confident that the Design Principles and Code will, as amended, have a positive result in shaping the design quality of any new housing that takes place in the plan area during the lifetime of the plan. Equally, once the new Hertsmere Local Plan has been adopted, that would then be the best time to be reviewing this neighbourhood plan, to be able to build upon the decisions that will be made in that strategic document.
118. To conclude, I can confirm that my overall conclusions are that the Plan, if amended in line with my recommendations, meets all the statutory requirements including the basic conditions test and that it is appropriate, if successful at referendum, that the Plan, as amended, be made.
119. I am therefore delighted to recommend to Hertsmere Borough Council that the Shenley Parish Neighbourhood Plan, as modified by my recommendations, should proceed in due course to referendum.

JOHN SLATER BA(Hons), DMS, MRTPI  
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26<sup>th</sup> May 2020