



Appeal Decision

Inquiry opened on 14 October 2025

Site visit made on 22 October 2025

by David Prentis BA BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5th December 2025

Appeal Ref: APP/N1920/W/25/3365681

Land at and to the west of Longview and 49 London Road, Shenley, Hertfordshire WD7 9BN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
 - The appeal is made by Beechcroft Developments Ltd and Mr and Mrs Prince against the decision of Hertsmere Borough Council.
 - The application Reference is 23/1795/OUT.
 - The development proposed is described as *demolition of "Longview" and associated outbuildings, alterations to No.49 London Road along with the erection of replacement garage following demolition of the existing garage to allow for the construction of up to 103 retirement homes (Use Class C3), an integrated community facility, vehicular and pedestrian access, internal roads, landscaping, drainage, and other associated works and infrastructure (hybrid application with full details of works at No.49 London Road with the remainder being outline with all matters of detail reserved except for access).*
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Decision

1. The appeal is allowed and planning permission is granted for demolition of "Longview" and associated outbuildings, alterations to No. 49 London Road along with the erection of replacement garage following demolition of the existing garage to allow for the construction of up to 103 retirement homes (Use Class C3), an integrated community facility, vehicular and pedestrian access, internal roads, landscaping, drainage, and other associated works and infrastructure (hybrid application with full details of works at No. 49 London Road with the remainder being outline with all matters of detail reserved except for access) at land at and to the west of Longview and 49 London Road, Shenley, Hertfordshire WD7 9BN in accordance with the terms of the application, Reference 23/1795/OUT, subject to the conditions in the attached schedule.

Application for costs

2. An application for an award of costs was made by Beechcroft Developments Ltd and Mr and Mrs Prince against the Council. This application is the subject of a separate decision.

Preliminary matters

3. The Inquiry sat for seven days on 14 to 17 and 21 to 23 October 2025. I visited the site and surroundings on 22 October 2025.
4. The application was submitted in outline with all matters reserved for subsequent approval, save only for the access from London Road, works of partial demolition and alteration to No 49 to facilitate that access and the replacement of a garage at

No 49. The application was supported by a design and access statement (DAS), an illustrative site layout and numerous other plans, all marked “*illustrative*.” In addition, there were two parameter plans. These were a Land Use and Development Area Parameter Plan and a Building Heights Parameter Plan¹ (I shall refer to these collectively as the original parameter plans).

5. Although the original parameter plans were also marked “*illustrative*,” it seems that they were in fact intended to be relied on as parameter plans and the Council treated them as such. They contained a considerable level of detail, akin to the sort of layout that might be submitted for approval in an application for full planning permission.
6. At the case management conference (CMC), the appellants indicated that they wished to replace the parameter plans. The proposed replacements, described as a Land Use Parameter Plan and a Building Heights Parameter Plan², were more generalised, defining areas for development, green infrastructure and various building heights but omitting any layout detail. At the CMC, the Council did not raise any objection to this amendment and undertook to carry out consultation with interested parties. However, I identified inconsistencies between the two plans³ and I also questioned the appropriateness of showing potential pedestrian links (that did not form part of the application) on plans that may become approved plans.
7. Following discussion on Day 1 of the Inquiry, the appellants said that they would further amend the parameter plans to resolve the matters that I had raised. That having been done, I considered whether they should be accepted as amended plans for determination. There were no objections from any party. The amendments did not alter the substance of the application, nor would they result in any greater impacts on people or the environment. In procedural terms, consultation had been carried out and, in my opinion, the relatively small changes resulting from my comments did not call for further consultation. Accordingly, the amended parameter plans were accepted⁴ and I have taken them into account in my consideration of the appeal.
8. Discussions on a draft section 106 agreement (the Agreement) continued during the course of the Inquiry. I therefore allowed a period after the close of the Inquiry for the document to be signed. There were some further minor changes resulting from final proof reading. Subsequently, there was a change relating to one of the mortgagees. However, the substance of the signed version, dated 2 December 2025, is the same as the version that was discussed on Day 7 of the Inquiry. The Agreement would make provision for:
 - 50% of the dwellings to be delivered as affordable housing, which would include affordable rented housing and discounted market housing;
 - submission of a habitat management and monitoring plan and implementation of habitat enhancements to achieve no net loss of biodiversity, with any off-site habitat enhancement to be as close to the appeal site as possible;

¹ CD5.2 and CD5.19

² CD8.4 and CD8.5

³ Inspector’s note – an area of green infrastructure shown on the land use plan was not shown on the building heights plan.

⁴ ID5 – PL.LUP 01 Revision D; ID6 – PL.BH 01 Revision B

- payment of a financial contribution to healthcare facilities; and
 - submission of a travel plan, together with further baseline surveys, arrangements for monitoring and review and payment of a monitoring fee.
9. The Council submitted a note⁵ explaining how the various planning obligations would accord with Regulation 122(2) of the Community Infrastructure Levy (CIL) Regulations 2010. The obligations were not controversial and, at the Inquiry, no party suggested that any of them would fail to meet the tests set out in the CIL Regulations. I see no reason to take a different view. I have therefore taken the obligations into account in my decision.
10. At the CMC, the Council indicated that it would not be defending reason for refusal (1) – Green Belt. This was because the Council's decision pre-dated changes to the National Planning Policy Framework (the Framework) made in December 2024. The Council accepted that the site ought to be regarded as Grey Belt and that the Golden Rules would be met, such that the proposal would not amount to inappropriate development in the Green Belt. This conclusion was not agreed by Shenley Parish Council or by Save our Shenley, who maintained objections on Green Belt grounds. I discuss this matter further below.
11. The Council and the appellants prepared a number of statements of common ground. These included statements relating to ecology and drainage/flood risk. The Council's concerns in relation to these matters were resolved such that reasons for refusal (2), relating to protected species and habitats, and (4), relating to flood risk and drainage, were not pursued. Reason for refusal (2) also refers to the loss of a horse chestnut tree which is covered by a Tree Preservation Order (TPO). At the Inquiry, the Council maintained its objection to the loss of the horse chestnut. Whilst this was no longer said to amount to a free-standing reason for refusal, the Council contended that loss of the tree would amount to harm that should be given significant weight in the planning balance.
12. The development plan includes:
- Hertsmere Local Plan Core Strategy (Adopted 2013) (CS)
 - Hertsmere Local Plan Site Allocations and Development Management Policies Plan (Adopted 2016) (SADMPP)
 - Shenley Neighbourhood Plan 2019 – 2036 (Made 2021) (SNP)
13. The Council published the Draft Hertsmere Local Plan - Regulation 18 (September 2021) (DHLP2021) for consultation. That plan proposed the release of land from the Green Belt for housing. Amongst other allocations, the draft plan proposed the allocation of Site S1: Shenley Grange for around 240 dwellings, 40% of which would have been supported housing for older people. Allocation S1 comprised the appeal site together with adjoining land to the south east (also known as Shenley Grange) where the Council has since resolved to grant planning permission for 95 dwellings. The Council resolved to set the DHLP2021 aside in April 2022. As the DHLP2021 is not being taken forward, it carries no weight as a statement of policy. However, the evidence base for the plan is a material consideration.

⁵ ID27

14. The Council's Local Development Scheme (March 2025) identifies a timetable for a new emerging local plan, with Regulation 18 consultation early in 2026, examination in 2026/2027 and adoption in September 2027. The Council and the appellants agree that no weight can be attached to the emerging local plan at this early stage, although the evidence base is a material consideration.
15. Mindful that the appeal relates to land in a conservation area, I have had regard to section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.

Main issues

16. The main issues are:

- whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework and any relevant development plan policies;
- the effect of the proposal on the character and appearance of the area;
- the effect of the proposal on the Shenley Conservation Area; and
- the nature and extent of any economic, social and environmental benefits.

Reasons

Green Belt

17. The site extends to 4.08ha which is currently in domestic use. It is located partly within and adjacent to the defined village envelope of Shenley. The whole site is in the Green Belt. The settlement of Radlett is located approximately 1.5km to the west and Borehamwood is approximately 1.6km to the south. The site contains two dwellings. No 49 is closest to London Road and Longview is set further back. The greater part of the site comprises managed grassland associated with Longview.
18. The Framework defines Green Belt as land which does not strongly contribute to any of purposes (a) (checking the sprawl of large built-up areas), (b) (preventing neighbouring towns from merging), or (d) (preserving the setting of historic towns), set out in paragraph 143. Shenley is neither a large built-up area nor a historic town, so the site cannot make a strong contribution to purposes (a) or (d). The Council and the appellants agree that the site does not make a strong contribution to purpose (b) either. Moreover, the Council and the appellants agree that none of the policies referred to in footnote 7 of the Framework would provide a strong reason for restricting development. The officer's report stated that the site makes a moderate contribution to purpose (b). From what I saw on my site visit, I see no reason to take a different view. I therefore agree that the appeal site does not make a strong contribution to purpose (b) and therefore meets the Framework definition of Green Belt land.
19. Paragraph 155 of the Framework states that the development of homes in the Green Belt will not be inappropriate where criteria (a) to (d) apply. The Council and the appellants agree that (a) would be met because the proposal would use Green Belt land and would not fundamentally undermine the purposes of the remaining Green Belt across the area of Hertsmere. They also agree that (b) (demonstrable unmet need) and (c) (sustainable location) would be met.

20. Shenley Parish Council (SPC) and Save our Shenley (SoS) did not agree that either (b) or (c) would be met. In respect of (b), it was contended that there is no need in Shenley for the type of older persons housing being promoted. The nature of the accommodation proposed and the need for it are matters that are discussed below. At this stage, it is sufficient to note that the proposal is for a form of housing. The Council cannot demonstrate a five year supply of deliverable housing sites and the housing delivery test results have been below 75% of the requirement over a three year period. In these circumstances, footnote 56 of the Framework makes clear that there will be a demonstrable unmet need for housing for the purposes of paragraph 155. It follows that criterion (b) is met.
21. SPC and SoS argued that the site is not a sustainable location and that the proposal would be car dependant. There are local services and facilities within Shenley, within walking distance of the appeal site. The response of the highway authority (HA) to the planning application acknowledged that residents of the scheme would have to travel to neighbouring towns for amenities that are not found in the village. That response also recognised that the route 357 bus service (to Borehamwood and St Albans) has some limitations, in that is an hourly service. Nevertheless, the HA did not object to allocation S1 of the DHL2021 on accessibility grounds. In its response to the appeal proposal at application stage, it maintained that position. The HA made recommendations in relation to travel planning, which are reflected in the Agreement.
22. Borehamwood town centre and Radlett railway station are within cycling distance. I recognise that cycling will not be a realistic option for some residents of the appeal scheme but it could contribute to sustainable travel choices by those working there.
23. The statement of common ground records that the Council and the appellants agree that the appeal site is a location that is sustainable, in the terms of paragraphs 110 and 115 of the Framework. I agree, so it follows that criterion (c) is met.
24. Criterion (d) is that the proposal meets the Golden Rules. The Agreement would secure the delivery of 50% of the dwellings as affordable housing. It would also secure a contribution to local infrastructure, though the healthcare contribution. As discussed further below, the proposal would include new green spaces that would be accessible to the public and, subject to satisfactory detailed design, new residents would be able to access good quality green spaces close to their homes. The satisfactory detailed design of green spaces, and the provision of public access, could be secured through conditions and the approval of reserved matters.
25. The Council and the appellants agree that the proposal meets the Golden Rules and I share that view. It follows that criterion (d) of paragraph 155 is met so the appeal proposal should not be regarded as inappropriate development. That being so, there is no need to give further consideration to openness or the purposes of including land in the Green Belt. The proposal would not conflict with CS Policies SP1 or SP13, or with SADMPP Policy SADM26, insofar as those policies seek to protect the Green Belt.

Effect on the character and appearance of the area

Landscape and visual effects

26. The three main components of the site are the house and garden at No 49 London Road, the house and immediately surrounding garden at Longview and areas of managed grassland, together with some woodland, associated with Longview which make up the greater part of the site. No 49 is a two-storey house, which is a locally listed building within the Shenley Conservation Area. It includes part of a Regency period house known as Shenley Grange, although the greater part of the former house has been demolished. Its garden contains several large mature trees and the frontage to London Road is densely vegetated.
27. Longview is a detached bungalow with accommodation in the roof space. Its immediate surroundings include gardens and outbuildings. A strip of woodland running through the southern part of the site, together with boundary hedgerows and trees, is designated under Policy SH2 of the SNP as part of a Local Green Space known as “*Spinney Woodland and connecting hedge system*”.
28. London Road is the main route through Shenley, which grew up as a linear settlement. To the north of No 49 there is a loose cluster of dwellings, including Nos 51 and 55 which were originally outbuildings associated with the former Shenley Grange. To the south there are detached houses in large plots, beyond which is the proposed entrance to a residential development also known as Shenley Grange. (I shall refer to this as the Shenley Grange housing scheme). The Council has resolved to grant full planning permission for 95 dwellings together with landscaping and public open space. Although planning permission has not yet been issued, pending completion of a legal agreement, no party at the Inquiry suggested that the Shenley Grange housing scheme will not come forward so I have taken it into account as part of the future baseline.
29. London Road runs along a ridge at around 130m above ordnance datum (AOD). No 49 and Longview are at a similar elevation. Beyond Longview, the land falls, generally from north east to south west, down to around 112m AOD at the lowest part of the south western site boundary.
30. A public bridleway (Shenley 010) adjoins the south west boundary of the site. It runs from Radlett Lane to the north to Woodhall Lane to the south, forming part of the long distance Hertfordshire Way and Watling Chase Timberland Trail. Beyond Shenley 010 is open countryside within the valley of Kitwells Brook.
31. The application was supported by a Landscape and Visual Impact Assessment (LVIA) which I have taken into account, mindful that the viewpoints chosen are intended to be representative and will not cover every location from which the appeal scheme may be visible.

Landscape effects

32. The site is not subject to any landscape designations and the Council and the appellants agree that it is not part of a valued landscape in the terms of paragraph 187 of the Framework. The Hertfordshire Landscape Character Area Assessment places the site in Landscape Character Area (LCA) 21 - High Canons Valleys and Ridges. LCA 21 is described as a series of ridges and valleys, with the ridges having a well-treed character. The key characteristics are said to include narrow

settled ridges, slopes comprising a landscape of small/medium pastures, and woodland blocks scattered throughout the area.

33. The appeal site and its surroundings contain a mix of grassland, trees and woodland which is characteristic of LCA 21. The wooded ridge is a strong topographic and landscape feature in views across the valley of the Kitwells Brook. To my mind the appellants overstate the extent to which the appeal site has a settlement edge character. Although it includes two dwellings that are indeed on the edge of the settlement, the greater part of the site is more akin to the largely undeveloped valley sides. The historic linear settlement in the vicinity of the appeal site is not seen in views across the valley due to the extensive tree cover on the upper slopes. Built form at Shenley Park is evident in views across the valley but, from most angles, this appears somewhat separated from the appeal site.
34. In addition to its scenic quality, the landscape has a sense of tranquillity. It also has recreational value due to the public rights of way that pass through it. Overall, I consider that the landscape of the site and its surroundings has a medium-high value and sensitivity to change.
35. The proposal would bring about a radical change to the landscape resource of the site itself, with the existing meadow being replaced by buildings, roads, parking areas, infrastructure and managed amenity open spaces. Some mitigation would be provided by the retention of woodland and boundary hedges and trees covered by SNP Policy SH2. There would also be scope for tree planting within the site. Planting within the area shown as “*village green*” on the illustrative site plan would be beneficial in terms of the wider landscape because there would be space to plant trees that could, in time, grow to significant height. Moreover, this is the most elevated part of the site, so trees planted here would help to reinforce the well-treed character of the ridgeline. Even so, the Council and the appellants agree that there would be a major adverse effect on the landscape character of the site itself. I agree.
36. With regard to the wider landscape, there is potential for impact over a wide area due to the elevated location of the site. The existing landscape features provide a landscape framework that the appeal scheme would be set within. The proposed building heights would be below the treed skyline in views across the valley and existing trees and vegetation along Shenley 010 would provide a clear demarcation between the site and the open countryside. On the other hand, it is important to note that most of the existing trees and vegetation are deciduous, such that the appeal scheme would be considerably more visible when the trees are not in leaf.
37. One of the key features of LCA 21 is the contrast between the settled ridges and the largely undeveloped slopes. The proposal would detract from that feature to some extent because built form would be seen spreading down the slope. The appellants suggest that the Shenley Grange housing scheme will have that effect in any event. The wireframe images indicate that new housing being proposed there would be at broadly similar heights AOD. However, the combined effects of topography and vegetation are such that, if the Shenley Grange housing scheme is seen at all in views across the valley, it would be much less evident than the appeal scheme would be.

38. There would also be some landscape impacts associated with the construction of the site access from London Road, together with associated visibility splays. These impacts are discussed below, in relation to effects on the Shenley Conservation Area.
39. My overall assessment is that the proposal would lead to a moderate level of harm to the landscape character of LCA 21.

Visual effects

40. As noted above, the representative viewpoints assessed in the LVIA do not cover every place from which the appeal scheme may be seen. For example, when standing on the site, housing at Shenley Park and open fields on the opposite side of the Kitwells Brook valley are in view. It follows that there will be views of the site in the reverse directions. Such views may well be from private property. Whilst they need to be taken into account as part of an overall assessment, the LVIA has followed the approach usually taken in such studies by focussing on viewpoints in the public domain.
41. The appeal scheme would be visible from Radlett Lane to the north west⁶. The trees and hedgerow along the north west site boundary would filter such views in the winter and may provide some screening in summer. However, there are gaps between the trees and the hedge is of variable height and thickness. The extent of visibility would also be limited by vegetation along Radlett Lane. I consider that there would be some adverse visual effect here, particularly for pedestrians using Radlett Lane. Occupiers of residential properties in the vicinity of Shenley Park would be experiencing the site from within an established residential area and, to my mind, would be less sensitive to the visual effect of the appeal scheme.
42. Walkers heading towards the site along Shenley 010 from Radlett Lane would be unlikely to see the appeal scheme initially due to dense vegetation along the path. Views are likely to be gained from the public right of way where it passes close to the site boundary⁷. The vegetation, both along the path and within the site, is such that views may be screened in summer. However, there are filtered winter views through the vegetation. Although the proposed buildings would be set some way into the site, their three-storey scale would be readily apparent. Shenley 010 is a promoted walking route where walkers are likely to be present for the specific purpose of enjoying the countryside. They are thus likely to be sensitive to the change that would be brought about by the appeal scheme. In my view there would be a significant adverse effect for those using Shenley 010.
43. There would be views of the appeal scheme from further along Shenley 010 and from Shenley 011⁸. At present a single storey outbuilding at Longview can be seen from both rights of way. However, these views will not be available once the Shenley Grange housing scheme has been built. The appeal scheme would not have any additional visual effect over and above that of the Shenley Grange housing scheme.
44. The appeal scheme is unlikely to be visible from the eastern section of Woodhall Lane due to intervening woodland⁹. The Council suggests that there would be

⁶ Viewpoint 1 is a representative view

⁷ Viewpoints 3 and 4 are representative views

⁸ Viewpoints 5 and 6 are representative views

⁹ Viewpoint 7 is a representative view

views of development in the higher parts of the appeal site from residential properties south of Woodhall Lane, at a higher level than the lane. The occupiers of such properties would be seeing the appeal scheme at some distance as part of a wide view. To my mind this would be a minor impact.

45. There are potential views from points further west along Woodhall Lane which are at an elevation similar to that of the upper parts of the appeal site¹⁰. The ability to see the site is much influenced by hedges and other vegetation, including ornamental planting. The extent to which such features are managed or allowed to grow tall is likely to change over the lifetime of the development. I have therefore made my assessment on the basis that views are likely to be available from this section of the lane, although the precise viewpoints may vary over time and there may be times when there are no views.
46. Longview and the upper parts of the appeal site are visible from the vicinity of viewpoint 9. The proposed three storey building closest to the south west boundary (Block M on the illustrative site plan) may well be screened by intervening woodland. However, I consider that the upper parts of the three-storey and two-and-a-half-storey buildings further up the slope (blocks J, K, G and H on the illustrative site plan¹¹) would be visible. Whilst the extent of visibility would vary with the seasons, this would represent a significant increase in built form where currently very little is present. The Shenley Grange housing scheme is unlikely to be seen from this location so would not alter my assessment. In my view the appeal scheme would result in a moderate adverse effect for those using Woodhall Lane as a recreational walking route. There would also be impacts for residents of properties along the lane.
47. Some of the trees that would be removed in the garden of No 49, to accommodate the proposed access, are visible across the valley as part of the treed skyline. This would amount to a harmful effect on a key feature, although only a small part of the skyline would be affected. As noted above, tree planting around the proposed village green could provide mitigation although it would take many years for new planting to achieve a scale approaching that of the trees that would be removed.

Conclusions on landscape and visual effects

48. In addition to the loss of the landscape resource of the site itself, I have concluded that there would be a moderate adverse effect on the landscape character of LCA 21. There would also be adverse visual effects, particularly for users of recreational walking routes but also for some residential properties. Having regard to the sensitivity and landscape value of the site, I attach significant weight to the landscape and visual harm that would result from the proposal.
49. The proposal would conflict with CS Policy CS12, and with SADMPP Policy SADM11, which together seek to conserve the natural environment of the Borough, including landscape character.

Design

50. In this section of my decision, I discuss the outline element of the appeal scheme. Full planning permission is sought for works to No 49 and the creation of an access to London Road. Whilst design is also relevant to those works, I shall

¹⁰ Viewpoints 8, 9 and 10 are representative views,

¹¹ CD5.31

discuss them separately in the section dealing with effects on the Shenley Conservation Area.

51. Planning Practice Guidance (the Guidance) states that applications for outline planning permission seek to establish whether the scale and nature of a proposed development would be acceptable before fully detailed proposals are put forward. It goes on to say that design is often considered at this stage, to assist community engagement, to inform a design and access statement and to provide a framework for the preparation of reserved matters¹². The Framework states that good design is a key aspect of sustainable development. It says that development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design. The SNP contains relevant local design guidance, including Policy SH1 and the Shenley Parish Design Principles and Code.

The illustrative scheme

52. As noted above, the application was accompanied by an illustrative site layout and numerous other illustrative plans. Although these plans are illustrative, it is necessary for me to comment on them. First, on the appellants' case, the illustrative scheme shows one way in which the scale and nature of the proposed development could be accommodated on the appeal site in a satisfactory way. Second, and in any event, consideration of the illustrative scheme helps to understand what can, or cannot, be accommodated on the appeal site in a satisfactory way. Moreover, the original parameter plans, which were detailed, closely followed the illustrative scheme. If planning permission had been granted on the basis of those parameter plans, the resulting development would have been very like the illustrative scheme. It was on that basis that the Council framed its reasons for refusal.
53. SNP Policy SH1 requires that the design of development should enhance the distinctiveness of the rural character of Shenley. The Design Principles and Code underline the importance of local settlement patterns and traditional and successful building typologies. SC3 states that major development will be expected to adopt a settlement pattern that reflects the existing pattern of development and that regular and linear plots, unresponsive to site context and landscape, will not be supported.
54. The illustrative scheme has some positive features. The woodland, hedges and trees forming part of the Local Green Space would be retained within open spaces. An open space would be created in the highest part of the site. This would be a public open space, forming a point of arrival into the scheme. As noted above, it would be a space where larger trees could be allowed to grow.
55. However, the core of the scheme would comprise four apartment blocks arranged in a symmetrical and axial layout around a central spine. These blocks would be up to three storeys in height with footprints that would be large in relation to the context of Shenley. This design approach would generate crown roofs, with long horizontal lines. In longer views, any gaps between the buildings would not be apparent and the bulky roof forms would merge into one, creating a solid mass of built form spanning the site. This is not a building typology that is characteristic of

¹² Reference ID: 26-010-20191001

Shenley. The scale and bulk of the apartment blocks would be uncharacteristic of the rural character of Shenley.

56. The symmetrical and axial layout would create a formal grand design, which, to my mind, would be out of scale and out of keeping with the local settlement patterns that are described in the SNP.
57. In responding to criticisms of the design approach, the appellants referred to an extra care development (Use Class C2) that has been approved by the Council at a site in Elstree¹³. However, that site is in a different settlement with a different context. It is not subject to the design policies contained in the SNP. It has little, if any, relevance to the appeal site in relation to design.
58. The appellants also pointed to some larger buildings that have been built, or permitted, in Shenley, including a housing development at Charrington Close. Whilst I saw that the houses at Charrington Close have footprints that are relatively large in the context of Shenley, they are nowhere near the scale of what is proposed at the appeal site. Nor are they as visible as the appeal scheme would be in the wider landscape. Moreover, as local residents pointed out at the Inquiry, the Charrington Close development pre-dates the SNP. The Design Principles and Code describe what “*locally distinctive*” means in Shenley. There may be some examples of recent development in Shenley that are less successful than others, but in my view that does not negate the local design guidance set out in the SNP.
59. My overall assessment is that the illustrative scheme does not reflect the approach to enhancing local distinctiveness that is set out in the SNP. It would fail to relate positively to its surroundings and would be harmful to the rural character of Shenley. It would not represent good design in the terms of the Framework.
60. Notwithstanding this conclusion, it does not follow that the failure to demonstrate good design amounts to a reason for refusal because the scheme before me is illustrative. It is necessary to go on to consider other factors which inform an overall judgement as to whether good design could be achieved at reserved matters stage.

Connectivity and accessibility

61. The illustrative plans show potential pedestrian links to Shenley 010 and the Shenley Grange housing scheme. However, these links have not been secured and there was no evidence before the Inquiry as to the prospect of the links being provided at a later stage. I attach very little weight to the possibility that they might be secured at a later stage.
62. The Framework states that proposals should identify and pursue opportunities to promote walking and that sustainable transport modes should be prioritised. SNP Policy SH4 states that development should support improved walking and cycling routes. Map SH4 shows, in diagrammatic form, a proposed walking and cycling route from London Road to Shenley 010 in the vicinity of the appeal site. Such a link may be achieved through the Shenley Grange housing scheme. However, even if it is, links to and from the appeal site could make an important contribution to permeability in the locality.

¹³ Land north of Watford Road and west of High Street, Elstree, Hertfordshire. Application reference 23/1123/FUL

63. A link to Shenley 010 would be beneficial to future residents of the appeal site. It would also be beneficial to existing residents of Shenley. For example, new public open spaces proposed within the appeal site are likely to be more attractive to existing residents if they form part of a circular walking route. Without such a link, the new spaces may feel less like an obvious part of the public realm, even if they are in fact designated as such.
64. I have concluded above that the site as a whole is a location that is sustainable, in the terms of paragraphs 110 and 115 of the Framework. Nevertheless, I consider that the proposal has not sufficiently prioritised the opportunities for walking. It is in conflict with Policy SH4 in this regard. Access (other than access within the site) is not a reserved matter. I conclude that this is a factor that weighs against the appeal, to which I attach moderate weight.
65. The Council criticised the proposal on the basis that the sloping nature of the site would make it hard for future residents to move around easily. However, I do not think that it is so steeply sloping as to be inherently unsuitable for retirement housing. It must be borne in mind that the Council does not object to the principle of the proposed use. Moreover, the appeal site was formerly part of Site S1: Shenley Grange which the DHL2021 (now set aside) allocated for around 240 dwellings, 40% of which would have been supported housing for older people.
66. It is also relevant (in connection with this issue) to have regard to the extra care development at Elstree referred to above. That is also a sloping site, with broadly comparable gradients. The Council concluded, in relation to a full application, that gradients and routes had been carefully considered to ensure that the site would be accessible. I consider that, in this case, accessibility within the site is a matter that can be addressed at reserved matters stage. It is not a factor that weighs for or against the appeal.

The parameter plans

67. As noted above, the appellants introduced amended parameter plans during the appeal process. These are more generalised than the original parameter plans. At the Inquiry, the Council argued that the parameter plans are inadequate, vague and ambiguous and do not provide a framework in which good design could come forward at reserved matters stage.
68. Article 7(3) of the Development Management Procedure Order¹⁴ states that an application for outline planning permission does not need to give details of any reserved matters. This is subject only to article 5(3), which does not apply here because access is not a reserved matter. There is, therefore, no statutory requirement to submit parameter plans.
69. That said, parameter plans are commonplace in current planning practice. The Guidance advises on the role of parameter plans in achieving well-designed places. It says that they can include information on land use, building heights, areas for built development, green infrastructure, access and movement. They can provide elements of the framework in which more detailed design proposals are generated.¹⁵ The wording is permissive. It advises what parameter plans can do

¹⁴ Town and Country Planning (Development Management Procedure) (England) Order 2015

¹⁵ Reference ID: 26-011-20191001

rather than setting out when they ought to be submitted and what they ought to contain if they are submitted.

70. The Guidance also states that the details submitted with an outline planning application should include information about the proposed use or uses, together with the amount of development proposed for each use.¹⁶ It does not say that this information must be provided in the form of a parameter plan. In my view there is no national policy requirement to submit parameter plans or, where such plans are submitted, for them to show any particular level of detail. No party at the Inquiry identified any other source of policy or guidance on this point. I see no basis for the Council's assertion that there is a "*basic expectation*" that a land use parameter plan ought to contain any particular level of detail.
71. Where parameter plans are submitted with an outline planning application, they may well be important in helping the decision maker to assess a development proposal. The way they are taken into account, and the reliance placed on them, will depend on the circumstances of the case.
72. The land use parameter plan shows the location of the proposed green infrastructure and the area for development. This would allow for protection of the woodland, hedgerows and trees designated as Local Green Space in the SNP. It would also allow for the provision of a green space in the area described as a village green in the illustrative plans. A condition could be imposed requiring development to be in accordance with the parameter plans, so these features could be secured. For the reasons given above, I consider that these are important positive features of the proposal. The Council argues that other types of green space would be mixed in with the development area. That may be so, but it does not detract from the benefit of securing the location of some structural elements of green infrastructure through the parameter plan.
73. The building heights parameter plan shows buildings up to three storeys in the south western part of the site. This aspect of the design was criticised by the Council and interested parties on the basis that the tallest buildings would be furthest from the existing settlement and closest to Shenley 010. However, the proposed distribution of building heights responds to the topography. I have concluded above that, in views across the valley, a three-storey building closer to the south west boundary (Block M on the illustrative site plan) may well be screened by intervening woodland. Whether or not it would be fully screened, it would be significantly less prominent than two-storey development sited further up the slope.
74. It is important to note that a three-storey building in the location of Block M would be set well back from the site boundary. There would be a substantial area of green infrastructure between the public right of way and the building, with scope to reinforce the existing vegetation with new planting. Even if such a building could be seen through the vegetation, it would not appear overbearing as seen from Shenley 010.
75. The Council objected to the building heights parameter plan on the basis that it does not fix the ridge heights of the proposed buildings in terms of elevation above ordnance datum. At the Inquiry, the appellants suggested conditions relating to site

¹⁶ Reference ID: 14-034-20140306

levels and ridge heights.¹⁷ They confirmed that the suggested ridge heights (for each of the storey heights shown on the parameter plan) aligned with the LVIA methodology. Conditions requiring approval of finished floor levels are commonly used. If such a condition were also to fix maximum ridge heights relative to finished floor levels, the Council would be able to assess whether a design submitted at reserved matters stage was consistent with assessments made in the LVIA.

Can good design be achieved at the reserved matters stage?

76. I have concluded above that the illustrative scheme does not show how good design could be achieved at reserved matters stage. The Council argues that there is a burden on the appellants to demonstrate that good design could be achieved and that they have failed to do so. The Council contends that the parameter plans should have provided a legible design framework. Moreover, the Council argues that the appellants should have provided evidence that other design approaches are achievable by submitting alternative illustrative plans.
77. However, for the reasons given above, I do not think that there is a policy requirement for parameter plans to provide a design framework. An applicant for outline planning permission does not have to provide details of any reserved matters, although some may choose to do so through illustrative plans and/or parameter plans. In my view, it is for the decision maker to assess whether the proposed use or uses, together with the amount of development proposed for each use, can be accommodated on the site in question in a satisfactory way. That requires an exercise of planning judgement, taking account of any relevant planning considerations.
78. In my view the first such consideration is how flexible or inflexible is the proposed use in terms of building typologies? For the purposes of this exercise, I take the proposed use to be accommodation for retirement living because the proposed community facility would be only a small part of the overall scheme. The opportunity to live in a smaller and more manageable property is one of the reasons people choose to move into retirement living developments. It follows that retirement living schemes generally comprise smaller dwellings. Common experience tells us that those dwellings may be provided as houses or flats, or as a combination of building types. That general observation is reinforced by the design and access statement which includes examples of retirement living schemes. The schemes featured, which were designed by the same architect, include *"cottages and flats at an intimate scale set around semi-formal landscaped courtyards."*¹⁸
79. It is not for me to say what a satisfactory design for the appeal site might look like. That would be a matter for others, at a later stage. The relevance of these design precedents is that they show that accommodation for retirement living can be provided in various ways. In my view, the type of development proposed is flexible in terms of the building typologies that may be used to deliver it.

¹⁷ ID29 and ID30

¹⁸ Inspector's note – Designs for retirement housing by Richard Morton Architects (not necessarily for the appellant company) are shown on page 6 of the design and access statement. Richard Morton Architects designed the illustrative scheme although, at the Inquiry, design evidence was given by others.

80. The following factors are also relevant to my overall judgement:

- the Council and the appellants agree that, in principle, this is a suitable site for retirement housing;
- the Council's Housing and Economic Land Availability Assessment indicates that the site has capacity for 112 dwellings, assuming a density of 30dph over a net developable area of 2.99ha, which is broadly comparable with the appeal scheme;¹⁹
- the Council and the appellants agree that the amount of retirement housing proposed in the appeal scheme is not excessive; and
- the site is not subject to significant constraints that might limit design choices.

81. With regard to the last point, I note that the site is sloping. However, it is not so steeply sloping as to constrain design decisions about the building typologies that may come forward.

82. Overall, I consider that the amount of development proposed is not so great as to constrain the design choices available at reserved matters stage. Any submission of reserved matters would be considered in relation to national and local policy and guidance on design matters, including the local design guidance contained in the SNP.

83. Drawing all this together, I find that the parameter plans would fix some matters that would support the achievement of good design. They do not contain any features that would preclude good design.

84. I have concluded that the illustrative scheme would not represent good design. Moreover, the parameter plans are limited to defining areas for development, building heights and green infrastructure. They do not provide a design framework within the area proposed to be developed. Nevertheless, I have reached an overall judgement on whether good design could be achieved at reserved matters stage, in all the circumstances of this case. For the reasons given above, I consider that there is no reason why good design could not be achieved at reserved matters stage. The reserved matters would be subject to the approval of the Council.

85. I have concluded that the proposal has not sufficiently prioritised the opportunities for walking and is in conflict with Policy SH4 in this regard. This is a factor that weighs against the appeal, to which I attach moderate weight. Aside from that point, in relation to the outline element of the appeal scheme, I consider that design is a matter to be addressed at reserved matters stage. It is not a matter that weighs either for or against the appeal.

86. A number of development plan policies relating to design are referred to in the Council's reasons for refusal. These include SNP Policies SH1 (referred to above), SH6 (local knowledge for good design) and SH7 (building for life), SADMPP Policies SADM3 (design of residential development) and SADM30 (design principles) and CS Policy CS22 which seeks to secure a high quality and accessible environment. These are matters that would be considered further at reserved matters stage.

¹⁹ ID7

Effect on the Shenley Conservation Area

87. The Shenley Conservation Area Character Appraisal (CACA) states that the conservation area is based on traces of a hamlet and its rural setting, in the form of the original core of the village and its linear expansion along London Road. The CACA describes the character of three zones, one of which is London Road. It describes a distinct difference in character between the east side of London Road, which is more built up, and the west side, which is described as sparsely developed, attractively overgrown and secluded. The CACA notes that this difference in character results from the existence of the former Shenley Grange estate. I consider that these features of the conservation area all contribute to its character and appearance and to its significance as a designated heritage asset.

Impact of the appeal scheme

88. The buildings proposed in the outline element of the appeal scheme would be outside the conservation area. They would not be seen from London Road and the CACA does not identify any important views in the vicinity of the site. There would therefore be no impact on the significance of the conservation area through development in its setting.
89. No 49 and its garden are within the conservation area. Although No 49 itself is largely screened by trees and vegetation, the dense vegetation and tall trees within its curtilage are characteristic of the overgrown and secluded character described in the CACA. The proposal includes works of demolition to No 49. For reasons discussed below, these would not be harmful to the locally listed building.
90. The proposed access would comprise a 5.5m carriageway with footways on either side. This would create a gap in the frontage vegetation and would have a more engineered quality than existing private drives on the west side of London Road. The access would lead to some erosion of the existing verdant character, although the presence of No 49 and retained trees further back from the frontage would restrict views into the site.
91. Some vegetation would need to be cut back to create visibility splays. However, the visibility splays would be wholly within the highway boundary and a significant proportion of the splays would be in the paved footway.

Trees covered by a tree preservation order

92. There are two trees within the appeal site covered by a tree preservation order. They are T1, a Wellingtonia, and T2, which is a horse chestnut. T1 would be retained and T2 would be removed to enable construction of the access. The appellants' tree consultant assessed T2 as a Category B tree, although an earlier tree survey had recorded the same tree as Category A. The Council considered that there was insufficient evidence to justify "downgrading" the tree.
93. The relevant definitions state that a Category A tree will be a particularly good example of its species or an essential component of a group or formal or semi-formal arboricultural feature. A tree may be placed in Category B if it lacks the special quality necessary to merit Category A designation.²⁰ T2 is 17m in height, standing close to the site frontage. From what I saw, whilst T2 merits a Category B designation, it does not qualify as a particularly good example of its species. Nor is

²⁰ BS5837:2012

it an essential component of a group, being just one of many trees on the west side of London Road.

Loss of Category B trees

94. The tree survey shows that the proposal would result in the loss of 10 Category B trees, including T2. Most of these would be trees in the curtilage of No 49 which would be removed to enable the access to be constructed. There is significant tree cover along the west side of London Road which contributes to the character and appearance of the conservation area. The loss of Category B trees in the curtilage of No 49 would erode the continuity of that tree cover which would be harmful. Whilst there could be mitigation through tree planting elsewhere in the appeal site, there would not be room to mitigate this impact close to the site frontage. The effect on the street scene of London Road would therefore be permanent. That said, I consider that the impact would be localised because of the extent of tree cover along the road that would not be affected.

Locally listed buildings

95. Shenley Grange was a country villa originally dating from the late 18th/early 19th centuries. The north wing is thought to date from the mid-late 19th century. Shenley Grange was demolished in the post-war period, with part of the north wing retained and remodelled as a detached dwelling (No 49 London Road). The house was altered in the late 20th and early 21st centuries with a conservatory and various extensions at ground and first floor level. The property is now much altered and there is little ability to understand its historic origins from the appearance of the building as it stands today.
96. Following the demolition of Shenley Grange, the grounds were subdivided and various developments have taken place. The significance of the locally listed building is vested in the retained historic fabric and in the association with the former Shenley Grange. The setting of the building, which is essentially a domestic garden, makes little contribution to its significance.
97. The appeal scheme would result in demolition of a conservatory and single storey side extension. These are modern additions so there would be no loss of historic fabric. The setting of the building would become more open due to the removal of trees and the construction of the site access. Although there would be a change to the setting, in my view this would neither harm nor enhance the ability to experience the locally listed building.
98. Nos 51 and 55 are two ranges which were once stables and/or outbuildings to Shenley Grange. No 51, which faces London Road, has been much altered, such that it has the appearance of a modern bungalow. No 55 has been significantly extended, which has reduced the ability to understand its former function. The significance of both of these locally listed buildings resides in any remaining historic fabric and in the association with Shenley Grange. There would be no direct effect on these buildings, which are outside the appeal site.
99. The proposed access would cut across the line of the historic drive serving Shenley Grange (as shown on the Ordnance Survey map of 1898). However, that route has already been lost due to the infill developments of the 20th century. The northern part of the drive terminates at No 49. There is now little ability to read Nos

49, 51 and 55 as a group. The proposed construction of two houses between No 51 and the appeal site access would reduce that ability still further.

100. I conclude that the appeal scheme would have no impact on the significance of the locally listed buildings.

Conclusions – effect on the conservation area

101. I conclude that there would be harm to the character and appearance of the conservation area due to the formation of the proposed access and the associated loss of trees. The proposal would fail to conserve the character and appearance of the conservation area. It would conflict with CS Policies SP1 and CS12, SADMPP Policy SADM12 and SNP Policy SH1, insofar as those policies seek to protect trees and the historic environment of the Borough.

102. I consider that the harm to the significance of the conservation area would amount to less than substantial harm, in the terms of the Framework. Mindful of the localised extent of the harm, I would characterise it as being towards the lower end of the spectrum of less than substantial harm. The Framework requires that any harm to the significance of a designated heritage asset should be weighed against the public benefits of the proposal. I shall return to that balance in the conclusions of my decision.

The nature and extent of any economic, social and environmental benefits

Provision of housing

103. The Framework sets out the Government's objective of significantly boosting the supply of homes. The importance of this objective has been emphasised in recent statements of Government policy.²¹ The appeal proposal would deliver 103 dwellings. These would be for a particular sector of the housing market, namely specialised housing for older people, the need for which is discussed below. Nevertheless, many households who chose retirement living are likely to be moving from larger homes which no longer best meet their needs. This would free up those homes for other households to occupy. Consequently, the provision of specialist housing for older people can also make an important contribution to the general need for housing.

104. That need is particularly pressing in Hertsmere. The Council and the appellants agreed that the current supply of deliverable housing sites is just 0.98 years. The shortfall against the Framework's requirement for five years is one of the largest for English local planning authorities. Moreover, the delivery of housing in recent years has been well below what is needed. The most recent housing delivery test result is just 46%.

105. There is no immediate prospect of the shortfall in supply being addressed through the development plan system. The current CS was adopted in January 2013. The Inspector who examined the CS recognised that the plan did not comply with the Framework because it did not meet the objectively assessed need for housing. The plan was found to be sound only on the basis that it would be subject to an early review. That review did not take place. The SADMPP was adopted in 2016 but did not reassess housing needs or review the policies of the CS. Subsequently, the DHLP2021 was published for consultation. However, as noted

²¹ CD3.1

above, that plan was set aside in April 2022. The Local Development Scheme (March 2025) identifies a timetable for a new emerging local plan, with Regulation 18 consultation early in 2026. It will therefore be some time before there is a planned approach to delivering housing land in Hertsmere.

106. The appeal site is not unduly constrained and there is a good prospect that it could make a significant contribution to housing delivery within the next five years. Having regard to all the above factors, including the release of existing homes to the wider housing market by those relocating to the scheme, I attach very substantial weight to the delivery of housing.

Provision of affordable housing

107. The proposal would deliver 50% of the proposed units as affordable housing. In accordance with the Golden Rules, this would be well above the 35% that would otherwise be required under CS Policy CS4. Housing in Hertsmere is significantly less affordable than housing across Hertfordshire or in England generally. Consequently, I attach very substantial weight to the delivery of affordable housing.

108. The proposal would accord with CS Policy CS4.

Provision of specialist housing for older people

109. The Guidance describes various types of specialist housing for older people, including age-restricted (A-R) general market housing and retirement living or sheltered housing²². The Council disagreed with the appellants' characterisation of the appeal scheme as being for retirement living, arguing that it should be regarded as A-R general market housing. The Guidance states that A-R housing may include some shared amenities such as communal gardens but does not include support or care services. It goes on to say that retirement living does not generally provide care services either but does provide some support to enable residents to live independently.²³
110. The appeal scheme would provide self-contained independent flats, purpose-built as housing for older people. There would be a community facility and communal gardens. There would be an estate manager who would be available in case of emergency during the daytime. The estate manager would assist residents by explaining the operation of facilities and services (such as lifts or entry-phones) and by organising care by third party providers should that be necessary. The estate management service would maintain the communal areas and gardens, organise events and carry out minor repairs. The community facility would provide an opportunity for residents to socialise. There would be an alarm system and the option of an emergency call pendant.
111. The Council argues that some of these features, such as maintaining the grounds and common areas, could be found in many general housing schemes. Whilst that may be so, that argument misses the point that such features could nevertheless contribute to enabling older people to live independently. For example, an older person might experience anxiety when no longer able to look after a large house

²² Inspector's note – the Guidance does not distinguish between retirement living and sheltered housing and the terms are used interchangeably in the evidence. I have used the term retirement living in this decision for consistency with the description of development which refers to "retirement homes"

²³ Reference ID: 63-010-20190626

and garden. For such a person, an estate management service could remove the anxiety, thereby supporting them in living independently. Similarly, some items of support could also be delivered to someone in their existing home. Examples might include locating ovens at a convenient height, grab rails and emergency call pendants. Even so, those same items could support someone living independently in retirement housing.

112. The Council points out that the proposal does not include 24 hour on-site assistance which, it is suggested, is a requirement of the Guidance. However, what the Guidance says about retirement living is this:

“It does not generally provide care services, but provides some support to enable residents to live independently. This can include 24 hour on-site assistance (alarm) and a warden or house manager.”

113. To my mind, the reference to 24 hour on-site assistance is a description of what a retirement living development might look like, rather than a policy requirement. My approach to this issue is to look at the appeal scheme in the round and to ask whether this scheme (as a whole) would provide some support to enable residents to live independently. I consider that it would. It is therefore properly to be regarded as retirement living, in the terms of the Guidance. In reaching this conclusion, I have had regard to the wording of a suggested condition which is intended to ensure that the proposal is delivered as intended.²⁴

114. The Guidance states that the need to provide housing for older people nationally is critical because the proportion of older people in the population is increasing.²⁵ The Council and the appellants agree that there has been, and is expected to be, a significant growth in the older population in Shenley and across Hertsmere, together with a significant need for retirement living.

115. At the Inquiry, SPC and other interested parties questioned the need for this amount of 55+ housing in Shenley, pointing out that there are two existing care homes. It was suggested that the scale of development proposed would create an exclusive “village within a village” which would fail to contribute to the mix and balance of housing needed in Shenley. Attention was drawn to a housing scheme elsewhere in which retirement living has been delivered alongside other types of housing.

116. The appeal proposal would not be a care home. It is for retirement living, which is intended for those able to live independently with some support, rather than for those needing higher levels of care. The Guidance highlights the importance of offering a better choice of accommodation to suit the needs of older people, thereby helping them to live independently for longer and feel more connected to their communities. The appeal scheme would add to the choices available to older people in Shenley. The SNP recognises a need for smaller homes, including accommodation suitable for downsizing. Policy SH3 states that proposals for homes for 55+ households and elderly people living alone are amongst the types of housing development that are to be supported in Shenley. The policy does not require housing for older people to be mixed with other housing types within an individual development site.

²⁴ Condition 32 in ID19, now Condition 27

²⁵ Reference ID: 63-001-20190626

117. Having regard to the national and local need for specialist housing for older people, I attach substantial weight to the delivery of retirement living accommodation. The proposal would accord with SNP Policy SH3.

Other benefits associated with retirement living

118. Studies of purpose-built housing for older people have identified associated benefits for health and wellbeing. These can include reducing the incidence of falls, a greater sense of security and wellbeing, an improved perception of being able to manage one's own health, reduction in social isolation and loneliness, helping people to live independently for longer and, consequently, reduced need for residential care.

119. The Guidance notes that offering older people a better choice of accommodation to suit their changing needs can help them live independently for longer, thereby helping to reduce costs to the social care and health systems.

120. I attach significant weight to the health and wellbeing benefits and moderate weight to the potential for reduced costs to social care and health systems.

Economic benefits

121. The appeal scheme would create employment and economic activity during the construction phase. Once operational, there would be a modest level of employment at the site and additional spending in the local economy from residents. As the greater part of the economic benefit would come in the construction phase, I attach moderate weight to the economic benefits.

The Golden Rules

122. The Framework states that development which complies with the Golden Rules should be given significant weight in favour of the grant of permission. As discussed above, I have given very substantial weight to affordable housing, which is one of the contributions set out in the Golden Rules. Overall, I have taken account of the Framework whilst avoiding double counting any contributions.

Other matters

123. A number of concerns have been raised by SNP and by other interested parties, many of which have been discussed above. Other matters of concern included access and highway safety, biodiversity and loss of priority habitat and impacts on the living conditions of the occupiers of Westfield, which is a dwelling adjoining the appeal site. Flood risk was referred to in the Council's fourth reason for refusal.

Access and highway safety

124. Access is not a reserved matter and the appeal scheme includes a detailed layout for the proposed access from London Road. This would be in the form of a 5.5m carriageway with footways, joining London Road via a priority junction. Visibility splays are shown. The highway authority has confirmed that these are satisfactory and can be provided within the limits of the adopted highway. I saw that the access would be on the outside of a bend and that, with the proposed splays in place, there would be satisfactory visibility in both directions.

125. A swept path analysis has been carried out which shows that the access could accommodate large vehicles, including fire and refuse vehicles. Access within the

site would be considered at reserved matters stage. Traffic impacts on the wider highway network have been considered in the transport assessment submitted with the application. The highway authority has reviewed that work and has not raised any objection to the conclusions, in terms of traffic generation, network impacts or highway safety. The highway authority will have been aware of the location of the proposed access to the Shenley Grange housing scheme and the nearby primary school when making its assessment of the appeal scheme.

Biodiversity and loss of priority habitat

126. The Council's second reason for refusal referred to the loss of lowland meadow, which is a priority habitat. The Council was also concerned that it was not clear how the mitigation hierarchy had been applied. The appellants have stated that the site design has focussed on retention of the best areas of lowland meadow. The application was submitted before achieving biodiversity net gain became a statutory requirement. The appellants have submitted biodiversity gain information which shows that there would be a need to provide 29 habitat units off-site.
127. The Agreement would provide for submission of a habitat management and monitoring plan and implementation of habitat enhancements to achieve no net loss of biodiversity. The appellants are seeking to deliver the off-site units at the Aldenham Estate Habitat Bank. As those arrangements are not yet secured, the Agreement takes a cascade approach, whereby the off-site units would be provided as close to the appeal site as possible.
128. The ecology statement of common ground records that the Council and the appellants agree that the proposals will not result in significant adverse effects to protected species and that impacts on great crested newt, badger, reptiles and bats can be appropriately mitigated. In the light of these agreements, the Council did not pursue its second reason for refusal. I conclude that there would be no conflict with CS Policy CS12, insofar as it seeks to protect biodiversity, and no conflict with SADMPP Policy SADM10 which seeks to protect biodiversity and habitats.

Living conditions for residents of Westfield

129. Westfield is a detached dwelling, which adjoins the appeal site, located to the north of Longview. The occupiers are concerned about potential impacts on outlook, overlooking and loss of privacy, as well as noise and disturbance during the construction phase. The works within No 49, for which full permission is sought, would not have any harmful impact in terms of outlook, overlooking or privacy. The siting and design of the outline elements of the appeal scheme would be considered at reserved matters stage. Having regard to the scale and nature of the proposed development, together with the parameter plans, I see no reason why a satisfactory relationship between the new buildings and Westfield could not be achieved.
130. Some disruption during construction is an inevitable feature of development. Construction impacts could be mitigated by a Construction Management Plan, which could be secured by a condition.

Flood risk

131. The appellants agreed a statement of common ground with the county council (as lead local flood authority) on surface water and drainage. It is agreed that the site is not at risk of flooding. It is also agreed that the drainage strategy has been developed using appropriate rainfall data with due allowance for climate change. Surface water would be discharged at the equivalent greenfield run-off rate and the drainage strategy would follow best practice. In the light of these agreements, the Council did not pursue the fourth reason for refusal. I conclude that the proposal would accord with CS Policy CS16, insofar as it deals with flood risk and drainage, SADMP Policies SADM14, which seeks to avoid the risk of flooding, and SADM15 which requires that developments include sustainable drainage measures.²⁶

Conclusions on the other matters

132. The matters discussed in this section do not weigh significantly either for or against the appeal.

Conditions

133. The Council and the appellants agreed a schedule of suggested conditions which were discussed on Day 6 of the Inquiry.²⁷ I have considered the suggested conditions in the light of the Guidance and I have amended some conditions in the interests of clarity. Other than as indicated below, the conditions that I have imposed are in substance the same as those discussed at the Inquiry. Some conditions require matters to be approved prior to commencement of development. These are necessary because they address impacts arising during construction or because they relate to aspects of the design that would need to be resolved at an early stage.

134. Condition 3 requires development to be carried out in accordance with the plans. Where full planning permission is being granted, this is necessary in the interests of clarity and certainty. Where outline planning permission is being granted, it is necessary to refer to the parameter plans. Condition 31 requires details of levels to be submitted for approval and sets limits on ridge heights in relation to finished floor levels. Conditions 3 and 31 would act together to ensure that the reserved matters are within the parameters that have been assessed.

135. Condition 4 sets noise limits for fixed plant to protect the living conditions of nearby residents. Condition 5 requires submission of an external lighting scheme in the interests of the character and appearance of the area. Conditions 6 and 7 relate to surveys and method statements for removal of asbestos and Conditions 8, 9, 10 and 11 set out requirements for dealing with contaminated land. These conditions are necessary in the interests of managing risks of pollution to people and the environment. Condition 12 requires submission of details of fire hydrants in the interests of public safety. Conditions 13 and 14 require submission of a site waste management plan and a climate change and sustainability statement in the interests of sustainable development.

²⁶ Inspector's note – reason for refusal 4 also refers to SADMP Policy SADM17, which relates to waste water. However, no party raised any concerns in relation to this matter.

²⁷ ID19

136. Condition 15 requires submission of details of roads and footways and Condition 16 requires details of the designation of parking spaces, for example as disabled or car club spaces. These conditions are necessary in the interests of creating a safe and accessible development. Condition 17 requires submission of a construction management plan in the interests of amenity and highway safety. Condition 18 requires submission of an open space scheme, including provision of public open space. This is necessary to ensure that proper provision is made for public open space and for open space that will meet the needs of new residents.
137. Condition 19 requires submission of details of electric vehicle charging points in the interests of sustainable development. Conditions 20, 21, 22 and 23 relate to details of surface water drainage, including any temporary arrangements during construction, verification that the approved system has been implemented and arrangements for management and maintenance. These conditions are necessary to manage risks of flooding. Conditions 24, 25 and 26 relate to an archaeological written scheme of investigation, including arrangements for post-investigation assessment, publication and recording. They are necessary to protect the archaeological significance of the site.
138. Condition 27 secures the use of the development as accommodation for retirement living or sheltered housing, to reflect the terms of the application and to ensure that it continues to deliver the public benefits that have outweighed the adverse impacts of the proposal. Condition 28 requires submission of an arboricultural method statement; Condition 29 requires submission of details of tree protection during construction and Condition 30 prevents construction of buildings within the root protection area of any retained tree. These conditions are necessary to protect trees which contribute to the character and appearance of the area.
139. I have not imposed a suggested condition relating to imported soil because it would merely duplicate other controls. The Council and the appellants agreed that conditions previously suggested relating to a travel plan and a habitat management plan are no longer needed because these matters would be covered by the Agreement.

Conclusions

Heritage balance

140. I have concluded that the proposal would fail to conserve the character and appearance of the Shenley Conservation Area. There would be harm to the character and appearance of the conservation area due to the formation of the proposed access and the associated loss of trees. In the terms of the Framework, the harm to the significance of the conservation area would be towards the lower end of the spectrum of less than substantial harm. Nevertheless, the Framework requires that great weight be given to the conservation of designated heritage assets. It goes on to say that, where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal.
141. The public benefits of the proposal would be:
- delivery of market housing, to which I attach very substantial weight;
 - delivery of affordable housing, to which I attach very substantial weight;

- delivery of purpose-built accommodation for retirement living, to which I attach substantial weight;
- benefits to health and wellbeing, to which I attach significant weight;
- cost savings to health and social care systems, to which I attach moderate weight; and
- other economic benefits, to which I attach moderate weight.

142. I conclude that the public benefits would outweigh the harm to the significance of the conservation area, thereby providing the clear and convincing justification required by the Framework. The proposal would accord with the policies of the Framework relating to the historic environment.

The development plan

143. For the reasons given above, I conclude that the proposal would not conflict with the following development plan policies:

- CS Policies SP1 and SP13, or SADMPP Policy SADM26, insofar as they seek to protect the Green Belt;
- CS Policy CS12 and SADMPP Policy SADM10, insofar as they seek to protect biodiversity and habitats;
- CS Policy CS4, which requires provision of affordable housing;
- CS Policy CS16 and SADMPP Policies SADM14 and SADM15, which together seek to avoid the risk of flooding and promote sustainable drainage measures; or
- SNP Policy SH3, which supports provision of housing for older people.

144. On the other hand, the proposal would conflict with the following development plan policies:

- CS Policy CS12 and SADMPP Policy SADM11, which together seek to conserve the natural environment of the Borough, including landscape character;
- CS Policies SP1 and CS12, SADMPP Policy SADM12 and SNP Policy SH1, insofar as they seek to protect trees and the historic environment of the Borough; and
- SHP Policy SH4, insofar as the proposal has not sufficiently prioritised the opportunities for walking.

145. CS Policy SP2 is an overarching policy that reflects the Framework's presumption in favour of sustainable development. It states that, where relevant policies are out-of-date, permission will be granted unless material considerations indicate otherwise. This requires a balancing exercise which takes into account whether any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework as a whole, and whether there are specific policies in the Framework which indicate that development should be restricted.

146. In this case the relevant policies are out-of-date because the CS itself is substantively out-of-date for the reasons discussed above. Moreover, there are no specific policies in the Framework that indicate that development should be restricted. Applying the balance set out in Policy SP2, the adverse effects are:

- harm to the character and appearance of the Shenley conservation area, to which I attach great weight;²⁸
- landscape and visual harm, to which I attach significant weight; and
- that the proposal has not sufficiently prioritised the opportunities for walking, to which I attach moderate weight.

147. The benefits are the same as those set out above in the heritage balance. I conclude that the adverse effects would not significantly and demonstrably outweigh the benefits, so the proposal would accord with Policy SP2.

148. Having regard to the overarching nature of Policy SP2, together with the proposal's accordance with a number of other development plan policies detailed above, I consider that the proposal would accord with the development plan as a whole.

Other material considerations

149. The Framework is a material consideration. The approach to decision making set out in paragraph 11(d) is engaged because the development plan is substantively out-of-date. The development plan is also deemed to be out-of-date as a result of the housing land supply position and the housing delivery test results. Although the detailed wording of paragraph 11(d) differs from Policy SP2, the essence of the balancing exercise required is the same. The same adverse effects fall to be balanced against the same benefits. Consideration of paragraph 158 of the Framework (compliance with the Golden Rules) could only add to the case in favour of the appeal. It follows that the Framework does not alter the conclusion that I have reached in relation to the development plan.

Overall conclusion

150. For the reasons given above, the proposal would accord with the development plan. I have not identified any considerations that indicate a decision other than in accordance with the development plan. The appeal should therefore be allowed.

David Prentis

Inspector

²⁸ Inspector's note – when referring to weight in this decision, I have generally followed the terminology used by the planning witnesses at the Inquiry. The Framework uses the term "great weight" in relation to designated heritage assets. For the purposes of this decision, I have taken that to be broadly equivalent to substantial weight.

APPEARANCES

<i>For the appellants</i>	
Zack Simons KC and Kimberley Ziya	Instructed by Oliver Bell of Nexus Planning
Colin Pullan BA(Hons) DipUD	Pegasus Group
Radek Chanas MEng MA CMLI	Pegasus Group
Julian Forbes-Laird BA(Hons) DipGRStud MICFor MRSB MRICS MEWI DipArb	Forbes-Laird Arboricultural Consultancy
Neil Tiley BSc(Hons) AssocRTPI	Pegasus Group
Oliver Bell BSc MSc MRTPI	Nexus Planning
<i>For the Council</i>	
Shemuel Sheikh	Instructed by Legal Services, Hertsmere Borough Council
Lawrence Sherwood BA(Hons) MA	Hertsmere Borough Council
Stephen Kirkpatrick BSc BLD CMLI	Scarp
Emily Stafford BSc(Hons) MA	Hertsmere Borough Council
<i>Interested parties</i>	
Nicky Beaton	Save our Shenley
John Bunker	Save our Shenley
Sharon Madsen	Save our Shenley
Shaun Gavan	Save our Shenley
Virginia Gallagher	Save our Shenley
Josephine Lunt	Save our Shenley

Carol Leggatt	Local resident (Statement read by Rachel Shaw)
Ann Davies	Local resident
Rachel Shaw	Chair, Save our Shenley
Jonathan Shaw	Councillor, Shenley Parish Council
Rosemary Gilligan	Chair, Shenley Parish Council
Michael Ward	Save our Shenley
Natalie Susman	Ward Councillor, Hertsmere Borough Council
Maureen Ashman	Local resident

Richborough

DOCUMENTS SUBMITTED AT THE INQUIRY

ID1	Opening statement for the appellants
ID2	Appearances for the Council
ID3	Planning Note by Emily Stafford
ID4	Opening Statement for the Council
ID5	Land Use Parameter Plan PL-LUP-01 Revision D
ID6	Building Heights Parameter Plan PL-BH-01 Revision B
ID7	Housing and Economic Land Availability Assessment (extract)
ID8	Statement by Councillor Jonathan Shaw
ID9	Statement by Nicky Beaton
ID10	Statement by Councillor Rosemary Gilligan
ID11	Letter from Hertfordshire and West Essex Integrated Care Board 23 September 2025
ID12	Statement by Ann Davies
ID13	Statement by Carol Leggatt
ID14	Statement by John Bunker (with attached bus information)
ID15	Statement by Josephine Lunt
ID16	Statement by Michael Ward
ID17	Statement by Sharon Madsen
ID18	Statement by Virginia Gallagher
ID19	Schedule of suggested conditions 17 October 2025
ID20	Draft S106 Agreement 17 October 2025
ID21	Statement by Councillor Natalie Susman
ID22	Inspector's questions to Forbes-Laird Arboricultural Consultancy
ID23	Statement of Compliance with the CIL Regulations
ID24	Pre-engrossment draft S106 Agreement
ID25	Forbes-Laird Arboricultural Consultancy response to Inspector's questions
ID26	Pre-engrossment draft S106 Agreement (amended)
ID27	Statement of Compliance with the CIL Regulations (amended)

ID28	Note of clarification by Councillor Rosemary Gilligan
ID29	Email to PINS from Elizabeth Pywell 22 October 2025 – suggested condition on ridge heights
ID30	Email to PINS from Elizabeth Pywell 22 October 2025 – suggested condition on levels
ID31	Closing submissions for the Council
ID32	Closing submissions for the appellants with attached application for costs

DOCUMENTS SUBMITTED AFTER THE INQUIRY

24 October 2025	Email from PINS regarding APP/M3645/W/24/3355743 - Land West of Chapel Road, Smallfield, Surrey RH6 9JH
24 October 2025	Comparison version of pre-engrossment draft S106 Agreement showing proof-reading corrections
31 October 2025	The Council's response to the application for costs
12 November 2025	The appellants' final comments on the application for costs
19 November 2025	Letter from Birketts Solicitors together with comparison version of pre-engrossment draft S106 Agreement with amendments relating to the second mortgagee
2 December 2025	Completed S106 Agreement

CONDITIONS

- 1) The development hereby permitted shall begin before the expiration of two years from the date of approval of the last of the reserved matters to be approved.
- 2) Application for approval of the following reserved matters shall be made to the local planning authority before the expiry of two years from the date of this permission:
 - a) appearance;
 - b) landscaping;
 - c) layout; and
 - d) scale.

Plans and particulars of the reserved matters referred to above shall be submitted in writing to the local planning authority and shall be carried out as approved.

- 3) The development hereby permitted shall be carried out and applications for the approval of the reserved matters shall be made in accordance with the following plans and drawings:
 - 209 100 Rev A - Site Location Plan
 - PL.BH_01 REV B - Building Heights Parameters Plan
 - PL.LUP_01 REV D - Land Use Parameters Plan
 - 209 124 Rev B - Proposed Elevations and Plans - 49 London Road – Proposed Garage Drawings
 - 209 122 Rev C - Existing Demolition Plan No 49 London Road
 - 8220519/6101 Rev B - Proposed Access Arrangements and Visibility Splays drawing
- 4) Noise from plant and equipment associated with the development shall be 10dB (L_{Aeq}) below the background noise level (L_{A90}) at the nearest residential properties (5dB below the background noise level if evidence is provided which shows that no tonality is present).
- 5) No external lighting shall be installed other than in accordance with an external lighting scheme that has first been submitted to and approved in writing by the local planning authority. The scheme must meet the requirements of the Institution of Lighting Professionals guidance notes for the reduction of obtrusive lighting. The external lighting shall thereafter be retained and operated in accordance with the approved scheme for the lifetime of the development.
- 6) Prior to the demolition of the existing structures, a preliminary asbestos survey shall be submitted to and approved in writing by the local planning authority.
- 7) In the event that the preliminary asbestos survey approved pursuant to Condition 6 identifies that asbestos is present, no demolition shall take place until a method statement detailing the procedures for removal of asbestos has

been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved method statement.

- 8) No development shall take place until the following items have been submitted to and approved in writing by the local planning authority:
- a) a risk assessment to assess the nature and extent of any contamination on the site, whether or not it originates on the site;
 - b) a report of the risk assessment, which shall have been undertaken by competent persons, which shall include:
 - i) a survey of the extent, scale and nature of contamination;
 - ii) an assessment of the potential risks to human health, property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes, adjoining land, groundwaters and surface waters, ecological systems, archaeological sites and ancient monuments; and
 - iii) an appraisal of remedial options and proposals of the preferred option. This must be conducted in accordance with DEFRA and the Environment Agency's "*Land Condition and Risk Management*."
- 9) If remediation is identified as being required by the risk assessment approved pursuant to Condition 8, no development shall take place until a remediation scheme to bring the site to a condition suitable for the intended use has been submitted to and approved in writing by the local planning authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.
- 10) No development shall take place before any remediation scheme approved pursuant to Condition 9 has been carried out. The local planning authority shall be given two weeks written notification of commencement of the remediation scheme works. Following completion of the measures identified in the approved remediation scheme, a verification report (referred to in PPS23 as a validation report) that demonstrates the effectiveness of the remediation carried out shall be submitted to and approved in writing by the local planning authority before the occupation of any part of the development hereby approved.
- 11) In the event contamination is found when carrying out the approved development, which was not previously identified, it shall be reported in writing immediately to the local planning authority. An investigation and risk assessment shall be undertaken in accordance with details that have first been submitted to and approved in writing by the local planning authority. Where remediation is necessary, a remediation scheme shall be submitted to and approved in writing by the local planning authority. Following completion

of the measures identified in the approved remediation scheme a verification report shall be submitted to and approved in writing by the local planning authority before the occupation of any part of the development hereby approved.

- 12) No works above damp proof course shall commence until a scheme for the provision of fire hydrants, together with an adequate water supply for the fire hydrants, has been submitted to and approved in writing by the local planning authority. The development shall not be occupied until the scheme has been implemented as approved.
- 13) No development shall take place until a Site Waste Management Plan (SWMP) has been submitted to and approved in writing by the local planning authority. The SWMP shall aim to reduce the amount of waste produced on site and shall contain estimated types and quantities of waste to arise from construction and waste management actions for each waste type. The development shall be carried out in accordance with the approved SWMP.
- 14) No development above damp proof course level shall take place until a Climate Change and Sustainability Statement has been submitted to and approved in writing by the local planning authority. The statement shall include the following information:
 - a) how the scheme has been designed taking into account the generic principles of Core Strategy Policies CS16 and CS17 (eliminate, reduce, substitute and offset), taking a structured approach seeking to reduce carbon emissions;
 - b) how materials will be selected having regard to carbon reduction objectives;
 - c) how the principles of fabric first, energy efficiencies and emitted or embodied carbon have been taken into account; and
 - d) measures to reduce water usage during occupation of the development.

The sustainability measures set out in the approved statement shall be implemented in full prior to the first occupation of any buildings and shall thereafter be retained as such for the lifetime of the development.

- 15) No development shall commence until full details of the following items (in the form of scaled plans and/or written specifications) have been submitted to and approved in writing by the local planning authority:
 - a) roads and footways;
 - b) visibility splays;
 - c) loading areas; and
 - d) turning areas.

Development shall be carried out in accordance with the approved details and shall thereafter be permanently retained as such.

- 16) Prior to the first occupation of the development hereby permitted the proposed access arrangements and on-site car and cycle parking areas shall be implemented in accordance with a scheme that shall include designation of the car parking spaces approved pursuant to Condition 2 (for example disabled/car club parking) along with signage, as necessary. Such parking shall be provided and permanently retained thereafter for that specific use.
- 17) No development shall commence until a Construction Management Plan (CMP) has been submitted to and approved in writing by the local planning authority. Thereafter the construction of the development shall only be carried out in accordance with the approved CMP which shall include details of:
 - a) approximate construction vehicle numbers, type and routing;
 - b) access arrangements to the site;
 - c) traffic management requirements;
 - d) construction and storage compounds (including areas designated for car parking, loading/unloading and turning areas);
 - e) siting and details of wheel washing facilities;
 - f) cleaning of site entrances, site tracks and the adjacent public highway;
 - g) timing of construction activities (including delivery times and removal of waste) which shall avoid school pick up/drop off times;
 - h) provision of sufficient on-site parking prior to commencement of construction activities;
 - i) where works cannot be contained wholly within the site a plan shall be submitted showing the site layout on the highway including extent of hoarding, pedestrian routes and remaining road width for vehicle movements; and
 - j) phasing plan.
- 18) No development shall commence until a scheme for the proposed areas of open space has been submitted to and approved in writing by the local planning authority. The scheme shall identify those areas of open space that would be available to the public. The scheme shall include details of how the open space will be laid out together with a management plan that will include details of which organisations/persons will be responsible for its future management and maintenance together with a timetable for its implementation. Those areas that have been identified as public open space in the approved open space scheme shall be kept available for the use of the public at all times. The development shall be carried out in accordance with the approved scheme and management plan and shall thereafter be permanently retained as such.
- 19) No dwelling hereby permitted shall be occupied until a scheme for provision of electric vehicle charging points (EVCP) has been submitted to and approved in writing by the local planning authority. The scheme shall include a timetable for the provision of EVCP. The development shall be carried out in accordance with the approved scheme and shall thereafter be permanently retained as such.
- 20) Prior to or in conjunction with the submission of any reserved matters application for the development hereby permitted, details of a scheme for

disposing of surface water by a means of a sustainable drainage system shall be submitted to and approved in writing by the local planning authority. The scheme shall incorporate and maximise surface source control measures, generally in accordance with the National Standards for Sustainable Drainage. The scheme shall be implemented in full, shall generally accord with the approved details prior to first use of the development and shall thereafter be permanently retained as such. The scheme shall provide drawings and detailed network hydraulic calculations describing the design storm period and intensity, the method to be employed to delay and control the surface water discharge from the site and the measures to be taken to prevent pollution of the receiving surface waters. The scheme shall utilise a CV value of 1 and ensure that the discharge rate for all storms does not exceed the Qbar rate for the corresponding impermeable area. The scheme shall demonstrate that:

- a) the proposed surface water drainage system would not surcharge in the 100% AEP (1 in 1 year) critical storm duration or flood in the 3.33% AEP (1 in 30 year) plus climate change critical storm duration or the 1% AEP (1 in 100 year) critical storm duration;
 - b) any flooding that occurs within the site when taking into account climate change for the 1% AEP (1 in 100 year) critical storm event in accordance with the National Planning Policy Framework would not leave the site uncontrolled via overland flow routes; and
 - c) the sustainable development principles and treatment train have been fully utilised in accordance with the National Standards for Sustainable Drainage.
- 21) Development shall not commence until details and a method statement for any interim and temporary drainage measures required during the demolition and construction phases have been submitted to and approved in writing by the local planning authority. The method statement shall include details of who will be responsible for maintaining any such temporary systems and shall demonstrate how the site will be drained to ensure there is no increase in off-site flows, nor any pollution, debris or sediment to any receiving watercourse or sewer system. The site works and construction phase shall thereafter be carried out in accordance with approved details and method statement.
 - 22) The development hereby approved shall not be occupied until a surface water drainage verification (SWDV) report has been submitted to and approved in writing by the local planning authority. The SWDV report shall demonstrate that the surface water drainage works have been carried out in accordance with the details approved pursuant to Condition 20. The SWDV report shall include a full set of "as built" drawings together with photographs of excavations (including soil profiles/horizons), surface water drainage structures and control mechanisms.
 - 23) The development hereby approved shall not be occupied until a scheme for the maintenance and management of the sustainable drainage system has been submitted to and approved in writing by the local planning authority. The maintenance and management scheme shall include:

- a) a timetable for implementation;
- b) details of sustainable drainage system features and connecting drainage structures (including a drawing showing where they are located) together with the maintenance requirements for each feature;
- c) a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the sustainable drainage system throughout its lifetime. This shall include the name and contact details of any appointed management company; and
- d) arrangements to ensure that the local planning authority can inspect the sustainable drainage system throughout its lifetime.

The sustainable drainage system shall be implemented prior to the first occupation of the development and shall thereafter be maintained and managed in accordance with the approved maintenance and management scheme for the lifetime of the development

- 24) No demolition or development shall commence until an Archaeological Written Scheme of Investigation (AWSI) has been submitted to and approved in writing by the local planning authority. The AWSI shall include:
- a) an assessment of archaeological significance and research questions;
 - b) a programme and methodology for site investigation and recording;
 - c) a programme for post-investigation assessment;
 - d) the provision to be made for analysis of the site investigation and recording;
 - e) the provision to be made for publication and dissemination of the analysis and records of the site investigation;
 - f) the provision to be made for archive deposition of the analysis and records of the site investigation; and
 - g) nomination of a competent person or organisation to undertake the works set out within the AWSI.
- 25) The demolition and development shall be carried out in accordance with the programme of archaeological works set out in the Archaeological Written Scheme of Investigation approved pursuant to Condition 24.
- 26) The development shall not be occupied until the site investigation and post-investigation assessment have been completed in accordance with the programme set out in the Archaeological Written Scheme of Investigation approved pursuant to Condition 24 and provision has been made for analysis, publication and archive deposition.
- 27) The dwellings hereby permitted shall only be occupied by a person or persons aged 55 years or over; persons living as part of a single household with such person or persons; or persons who were living in the unit as part of a single household with such a person or persons who have since died. The development shall be used as accommodation for retirement living or sheltered housing only, in accordance with the definition set out in paragraph

010 (Reference ID: 63-010-20190626) of the National Planning Practice Guidance.

- 28) Prior to commencement of development, (including any demolition, groundworks and site clearance) an Arboricultural Method Statement (AMS) shall be submitted to and approved in writing by the local planning authority. The AMS shall include details of the following:
- a) measures for the protection of those trees and hedges on the application site that are to be retained;
 - b) details of all construction measures within the root protection areas (defined by a radius of $\text{dbh} \times 12$ where dbh is the diameter of the trunk measured at a height of 1.5m above ground level) of those trees on the application site which are to be retained, specifying the position, depth, and method of construction/installation/excavation of service trenches, building foundations, hardstandings, roads and footpaths; and
 - c) a schedule of proposed surgery works to be undertaken to those trees and hedges on the application site which are to be retained.

The development shall be carried out in accordance with the approved AMS.

- 29) Prior to commencement of development a scheme for the protection of trees during construction shall be submitted to and approved in writing by the local planning authority. The scheme shall be prepared in accordance with BS 5837:2012 – “*Trees in relation to construction – Recommendations.*” The scheme shall show the extent of root protection areas and details of ground protection measures and fencing to be erected around the trees, including the type and position of these. The protective measures contained within the scheme shall be implemented prior to commencement of any development, site works or clearance in accordance with the approved details and shall be maintained and retained until the development is completed. Within the root protection areas, the existing ground level shall be neither raised nor lowered and no materials, temporary buildings, plant, machinery or surplus soil shall be placed or stored thereon. If any trenches for services are required within the fenced areas they shall be excavated and backfilled by hand and any tree roots encountered with a diameter of 25mm or more shall be left unsevered.

- 30) Notwithstanding what is shown on the following plans:

- PL.BH_01 REV B - Building Heights Parameters Plan
- PL.LUP_01 REV D - Land Use Parameters Plan

No buildings shall be constructed within the root protection area of any tree shown to be retained on Forbes-Laird Arboricultural Consultancy drawing 45-1029.02-A.

- 31) Prior to commencement of development details of existing and proposed site levels shall be submitted to and approved in writing by the local planning authority. The details shall include contour plans and site sections showing existing and proposed ground levels, finished floor levels and ridge levels in relation to a fixed datum point. The maximum ridge height of any building above the finished floor level of that building shall not exceed the following:

- 6m for any single storey building;
- 9m for any 2 storey building;
- 10.5m for any 2.5 storey building; and
- 12m for any 3 storey building.

The development shall be constructed in accordance with the approved details.

End of schedule

Richborough



Costs Decision

Inquiry opened on 14 October 2025

Site visit made on 22 October 2025

by David Prentis BA BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5th December 2025

Costs application in relation to Appeal Ref: APP/N1920/W/25/3365681 Land at and to the west of Longview 49 London Road, Shenley, Hertfordshire WD7 9BN

- The application is made under the Town and Country Planning Act 1990, sections 78, 320 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Beechcroft Developments Ltd and Mr and Mrs Prince for a full award of costs against Hertsmere Borough Council.
 - The Inquiry was in connection with an appeal against the refusal of an application for planning permission for *demolition of "Longview" and associated outbuildings, alterations to No.49 London Road along with the erection of replacement garage following demolition of the existing garage to allow for the construction of up to 103 retirement homes (Use Class C3), an integrated community facility, vehicular and pedestrian access, internal roads, landscaping, drainage, and other associated works and infrastructure (hybrid application with full details of works at No.49 London Road with the remainder being outline with all matters of detail reserved except for access).*
-

Decision

1. The application for an award of costs is refused.

Reasons

2. Parties in planning appeals normally meet their own expenses. However, Planning Practice Guidance (the Guidance) advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. The Guidance explains that costs may be awarded on either procedural or substantive grounds. This application is for a full award on substantive grounds. The Guidance gives examples of types of behaviour by a local planning authority that may give rise to a substantive award but the list of such examples is not exhaustive.

Background to the Inquiry

4. The Inquiry was in connection with a refusal of planning permission issued by the Council on 19 November 2024. There were five reasons for refusal. At the Case Management Conference (CMC) held on 21 July 2025 the Council indicated that it would not be defending reason for refusal (1) relating to Green Belt. This was because the Council's decision pre-dated changes to the National Planning Policy Framework (the Framework) made in December 2024. There was no suggestion that the Council acted unreasonably in reviewing its case in the light of changes to national policy.

5. At the CMC, the parties advised that discussions were continuing in relation to biodiversity and drainage/flood risk. The Council and the appellants subsequently prepared statements of common ground (SoCG) relating to ecology and drainage/flood risk. The Council's concerns in relation to these matters were resolved, such that reasons for refusal (2), relating to protected species and habitats, and (4), relating to drainage/flood risk, were not pursued. Again, there was no suggestion that the Council acted unreasonably in reviewing its case in the light of further information. Reason for refusal (2) also refers to the loss of a horse chestnut tree, a matter which is discussed further below.
6. Reasons (1), (2) and (4) were not pursued by the Council, so their merits were not tested at the Inquiry. However, there is nothing before me which suggests that any of them could not have been substantiated, as matters stood at the time of the Council's decision.
7. Reason (3) related to landscape character. In my appeal decision, I have attached significant weight to the landscape and visual harm that would result from the proposal. Notwithstanding my overall conclusions on the planning balance, this reason for refusal was substantiated at the Inquiry.
8. Reason (5) related to design and the effect on rural character. At the time of the Council's decision, the original parameter plans, which were detailed, closely followed the illustrative scheme. I have found in my appeal decision that, if planning permission had been granted on the basis of those parameter plans, the resulting development would have been very like the illustrative scheme. For reasons given in my appeal decision, I have concluded that such a scheme would fail to relate positively to its surroundings and would be harmful to the rural character of Shenley. It would not represent good design in the terms of the Framework. It follows that, as matters stood at the time of the Council's decision, this reason for refusal would have been substantiated.
9. Drawing all this together, it seems to me that all of the reasons for refusal were soundly based at the time. The appellants' complaints relate to matters contained in the proof of evidence of Emily Stafford (the PoE) and to things said by Ms Stafford (ES) in oral evidence. None of those complaints go to the soundness of the original reasons for refusal. It is therefore hard to see how a full award of costs on substantive grounds could be justified. Nevertheless, I shall go on to consider the specific matters set out in the application to see if there was unreasonable behaviour (either procedural or substantive) during the appeal process.

Approach to the planning balance

10. It was common ground that this was a case where the approach set out in paragraph 11(d)(ii) of the Framework was engaged.
11. The key part of the PoE is section 5, which dealt with the planning balance. There is an inconsistency within that section, in that paragraph 5.1 included the following:

"However, where the most important policies for determining the application are out of date, permission should be granted unless the benefits are significantly and demonstrably outweighed by the adverse effects."
12. This contrasts with the paragraph 5.5 which stated:

“It is my professional opinion that the permanent and harmful impact on the landscape character and the conflict with the character and appearance of the local area, as well as poor design approach, would not be outweighed by the proposed benefits of the scheme.”

13. Looked at in isolation, paragraph 5.5 appears to have got the test the wrong way round. Moreover, it does not include any reference to “*significantly and demonstrably*.” This raises a question as to whether the correct test was in fact applied. However, to my mind the PoE should be read as a whole. The correct test was set out in full in paragraph 3.24 and was correctly referred to in paragraphs 3.26 and 4.11. There were further references to the test in section 6 but, as these merely summarised what had gone before, they do not alter my conclusion on this point. I consider that paragraph 5.5 was poorly worded. However, reading the proof as a whole indicates to me that the correct test was applied.
14. I have also had regard to the oral evidence. At the Inquiry, ES accepted that if an appeal decision were to use the wording that had been used in paragraph 5.5 of the PoE, that would be an obvious error. However, in response to a question from Mr Simons (on behalf of the appellants), ES maintained that the correct test had been applied, notwithstanding any error in the wording used in part of the PoE. To my mind that was a clear answer to a direct question, given by a witness who was aware of her professional duty to the Inquiry. I accept that answer.
15. I conclude that it has not been demonstrated that the Council acted unreasonably in relation to the approach taken to the planning balance.

Golden Rules

16. The appellants argued that the PoE gave no weight to the scheme’s compliance with the Golden Rules. This was said to be a failure to apply national policy set out in paragraph 158 of the Framework.
17. The PoE did not discuss whether the scheme would comply with the Golden Rules. However, it did not need to because it was agreed in the SoCG that the appeal scheme would comply with the Golden Rules¹. It was also agreed in the SoCG that significant weight should be given to compliance with the Golden Rules, in accordance with paragraph 158.² At the Inquiry, ES departed from that position, although she was not able to say what weight ought to be attributed to compliance with the Golden Rules.
18. Later in the Inquiry, I asked a question about how paragraph 158 should be applied in circumstances where a decision maker was minded to attach significant weight (or more) to one (or more) of the components of paragraph 156. I asked about the potential for double-counting.³ However, my question (and the answers I was given) are not relevant to this part of the application for costs because the appellants’ complaint relates to the PoE and to answers given by ES at an earlier stage of the Inquiry.
19. The PoE did not address the question of the weight to be attached to compliance with the Golden Rules. Moreover, during cross-examination, ES departed from

¹ Paragraph 8.26(d) - Planning SoCG

² Paragraph 8.27 – Planning SoCG

³ Inspector’s note - My question was addressed to Mr Simons and Mr Sheikh during closing submissions. It was put as a question of general approach, rather than a question relating to the merits of this appeal.

what had been agreed in the SoCG. In my view, departing from something that had previously been agreed, without any justification or explanation, amounted to unreasonable behaviour in relation to inquiry procedure. As pointed out in the Council's response to the application for costs, there is no guidance or judicial authority as to how the weight to be attached to compliance with the Golden Rules should be factored in to a planning balance. The difficulty here is that the Council's evidence did not address the matter at all.

20. That said, I do not consider that the appellant was put to unnecessary expense in the appeal process. Questions were asked and submissions made on the documents already before the Inquiry. No additional evidence had to be prepared. Only a limited amount of inquiry time was spent on this point. If ES had addressed the point in the PoE, it is likely that questions would have been asked about that too. That would also have taken some inquiry time.
21. There is no way of knowing how, if at all, the overall planning balance might have been affected if this matter had been referred to in the PoE. However, given the Council's position on landscape impact and design, it seems to me unlikely that the overall planning balance would have arrived at a different conclusion.

Age-restricted housing or accommodation for retirement living

22. The Council and the appellant disagreed over whether the appeal scheme would be age-restricted housing or accommodation for retirement living. However, this disagreement had no bearing on whether the Council's reasons for refusal were substantiated. Rather, it went to the weight to be attached to one of the benefits, namely the provision of housing for older people.
23. It was common ground that, having regard to the Guidance, the main feature distinguishing age-restricted housing from accommodation for retirement living is that the latter would provide some support to enable residents to live independently. The appellants contended that the officer's report and the PoE were mistaken in assuming that there would be no staff on site. The PoE refers to the officer's report, which states that "*the proposal would include no warden or site manager.*" At the Inquiry, in answer to questions from Mr Simons, ES explained that both the officer's report and the PoE were drawing a distinction between the role of a warden or site manager and the role of an estate manager. ES fairly accepted that this could have been expressed more clearly. However, the proposed estate management service was referred to in the Planning Statement submitted with the application, so planning officers would have been aware of the appellants' intention when assessing the application.
24. Rather than there being a factual error, as the appellants suggest, I consider that the nub of the dispute was whether the proposal would provide support of a kind that would meet the definition of retirement living set out in the Guidance.
25. The appellants rely on the Housing SoCG which refers to the development providing "*support services.*"⁴ However, the SoCG should be read as a whole. Under the heading "*matters in dispute,*" it states that the Council disagreed with the appellants about the nature of the scheme and considered that it should be regarded as age-restricted housing, rather than as accommodation for retirement

⁴ Paragraph 2.25 – Housing SoCG

- living. All parties were aware of the definitions in the Guidance so such a disagreement could only have been about the nature and extent of any support.
26. The appellants also rely on a letter from Hertfordshire and West Essex NHS Trust.⁵ Whilst I have taken that letter into account as part of my overall assessment, I do not think it is particularly significant in terms of the point at issue here. The focus of the letter was the justification for a healthcare contribution. There is no evidence that the Trust considered the issue of whether this scheme should properly be regarded as accommodation for retirement living or age-restricted housing for planning purposes. Both terms are used in the letter.
27. At the Inquiry, ES was criticised for using the term “*meaningful support*.” However, in my view little turns on whether that term is used or not. The point at issue between the Council and the appellant was essentially a matter of fact and degree regarding the nature and extent of support. This required the exercise of planning judgement. In my appeal decision, I have set out my approach of looking at the scheme in the round. I have concluded that the scheme would meet the Guidance definition of retirement housing. However, I consider that the Council had an arguable point to make. The Council’s approach to the provision of housing for older people did not amount to unreasonable behaviour.

The horse chestnut tree

28. The original application documents included an arboricultural report by Ruskins Tree Consultancy (Ruskins) which identified the tree in question as T182, a horse chestnut, which it assessed as being category A in the BS5837 grading system. Ruskins later changed their assessment to category B but the Council was not satisfied that this change had been justified. At the Inquiry, the appellant called a different arboricultural consultant, Julian Forbes-Laird (JFL) of the Forbes-Laird Arboricultural Consultancy. The Council maintained that the tree should be regarded as category A tree. The Council’s evidence was included in the PoE produced by ES and in a planning note, also produced by ES.⁶
29. JFL argued that the original assessment by Ruskins must have been made in error because their surveyor found that the tree had an expected future longevity of below 40 years. Whilst that may be so, the Ruskins surveyor must have considered that the tree met the qualitative criteria for category A. This may have been because they thought it was a particularly good example of its species or because they thought it was an essential component of a group. JFL took a different view, which he was fully entitled to do.
30. The future longevity of a tree, and whether it meets the qualitative criteria set out in BS5837, are matters that require the exercise of professional judgement. They are matters on which qualified professionals may legitimately reach different conclusions. It is therefore hard to see how unreasonable behaviour in relation to the substance of the case can have arisen. In maintaining its view on the categorisation of the horse chestnut, the Council’s judgement was aligned with the original assessment by Ruskins.
31. The Council did not call an arboricultural expert at the Inquiry. However, planning witnesses often include in their evidence technical matters on which they have

⁵ ID11

⁶ ID3

received advice from others who have the relevant expertise. In this case, I have no reason to doubt that the Council's arboricultural consultant reviewed the appellants' arboricultural evidence.

32. The appellants argued that, in believing that trees covered by a tree preservation order will necessarily fall within category A, ES misunderstood BS5837. Whilst that may be the case, it does not alter my view that the Council had a reasonable case that this tree, on its merits, was worthy of being placed in category A. The Council did not act unreasonably in relation to arboricultural matters.

Conclusion

33. For the reasons given above, I conclude that the conditions for an award of costs have not been met.

David Prentis

Inspector

Richborough