



Appeal Decision

Inquiry held on 3-6 February 2026

Site visit made on 3 February 2026

by Mr M Brooker DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23rd March 2026

Appeal Ref: APP/N1920/W/25/3374962

Land South of Shenley Hill, Radlett WD7 7EL

- 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 Fairfax Acquisitions Ltd against the decision of Hertsmere Borough Council.
 - The application Ref is 24/1211/OUT.
 - The development proposed is the erection of up to 195 new homes (50%affordable), safeguarded land for the expansion of Newberries Primary School and provision of a new medical centre, along with associated access, landscaping and parking.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of up to 195 new homes (50% affordable), safeguarded land for the expansion of Newberries Primary School and provision of a new medical centre, along with associated access, landscaping and parking at Land South of Shenley Hill, Radlett WD7 7EL in accordance with the terms of the application, Ref 24/1211/OUT, subject to the conditions in the attached schedule.

Applications for costs

2. The appellant has made an application for costs against Hertsmere Borough Council, and the Council has made a costs application against the Appellant. These applications are subject of separate decisions.

Preliminary Matters

3. A Case Management Conference (CMC) was held on 16 December 2025. The main purpose of the CMC was to discuss the procedural and administrative aspects of the Inquiry, and the issues that would be addressed in evidence. This was to ensure the subsequent Inquiry was conducted in an efficient and effective manner.
4. A 'Rule 6' Party (R6) appeared at the Inquiry and gave evidence, representing Aldenham Parish Council. The R6 party worked collaboratively with Radlett Society and Green Belt Association and Save Hertsmere.
5. A number of matters are agreed between the Appellant and the Council in a Planning Statement of Common Ground, including that the proposals would partially accord with National Planning Policy Framework (the Framework) paragraph 155(a), fully accord with paragraph 155(b-d), there are no footnote 7 factors relevant (other than Green Belt) and that proposals would have no impact on purpose (d) of including land within the Green Belt. A separate statement of

common ground with the R6 party agrees different matters and identifies some matters agreed between the council and the appellant are at dispute with the R6.

Main Issues

6. The appeal scheme proposes residential development on a site that lies within the Greenbelt. Therefore, as agreed at the CMC, the main issues in this appeal are:
 - i. Whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework and relevant development plan policies and if so, the effects on the openness of the Green Belt.
 - ii. The effect of the proposal on the character and appearance of the area.
 - iii. If relevant, whether other considerations clearly outweigh the harm to the Green Belt and any other harm so as to amount to very special circumstances.

Reasons

Whether inappropriate development

7. The Framework advises at Paragraph 154 that development in the Green Belt is inappropriate unless one of the specified exceptions applies. None of the exceptions listed apply in this case. However, Paragraph 155 goes on to set out circumstances where development on 'grey belt' land is 'not inappropriate'. The appellant argues that this is a grey belt site, while the Council take the contrary view.

Paragraph 155

8. Paragraph 155 of the Framework advises that development in the Green Belt should not be regarded as inappropriate where:
 - a. The development would utilise grey belt land and would not fundamentally undermine the purposes (taken together) of the remaining Green Belt across the area of the plan;
 - b. There is a demonstrable unmet need for the type of development proposed;
 - c. The development would be in a sustainable location, with particular reference to paragraphs 110 and 115 of this Framework;
 - d. Where applicable the development proposed meets the 'Golden Rules' requirements set out in paragraphs 156-157.

Paragraph 155 a.

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

10. This site is not previously developed land, so the first question is whether the appeal site strongly contributes to any of purposes (a), (b), or (d) in paragraph 143 of the Framework. Those purposes are:
- a) to check the unrestricted sprawl of large built-up areas;
 - b) to prevent neighbouring towns merging into one another;
 - d) to preserve the setting and special character of historic towns.
- a. Unrestricted sprawl*
11. Planning Practice Guidance¹ (PPG) identifies that a site may strongly contribute to purpose (a) if the site lacks physical feature(s) in reasonable proximity that could restrict and contain development. In that regard the appellant has referred to the location of the site as being adjacent the edge of Radlett, between Shenley Road and Theobald Street with a commercial woodland to the remaining side of the site.
12. The roads are long established and heavily trafficked. I consider that in combination, the roadway and verges, often lined with trees and hedgerows, forms a physical feature that restricts and contains development in proximity of the appeal site.
13. As it currently stands, the woodland forms a visually and spatially dominant physical barrier, of some depth and scale, to the further expansion of the appeal site and Radlett in that direction.
14. The woodland has been subject of some forestry work, generally consisting of thinning as identified on the submitted Forestry Commission license², and where there has been some clearing this is located away from the appeal site and replanting is required as a condition of the license. The R6 party detailed that the woodland, as part of a wider estate, has been marketed for sale and may therefore be subject to further felling works that degrade the value of the woodland as a physical feature and erode its effect in containing development.
15. With regards the permanency of the woodland, there is no substantive evidence before me that there is any planned felling that would substantially (or substantively) remove the woodland with or without replanting. As such I am satisfied that, for the purposes of this appeal the woodland is a physical feature that restricts and contains development.
16. As referred to previously, the appeal site is adjacent to the existing edge of Radlett, though it is not enclosed by it, nor do I consider that the appeal scheme would particularly 'round-off' or be enclosed by the existing developed area of Radlett, though I note that Newberries Primary School projects alongside the appeal site beyond the residential properties that make up much of the boundary of Radlett.
17. Therefore, I consider that the development of the appeal site would not project into the Green Belt as a finger but would appear as a modest extension of the settlement and that the roads and commercial woodland are features that could restrict and contain development.

¹ Paragraph: 005 Reference ID: 64-005-20250225

² ID20 Forestry Commission Felling Licence dated 12/07/2023

18. On this basis I am satisfied that the appeal site does not make a strong contribution to purpose (a).

b. Merger of towns

19. The PPG advises that purpose (b) relates to the emerging of towns, not villages. However, the Framework and the PPG do not introduce a definition of a town or village.
20. Nonetheless, Radlett is a large urban area, identified in the Local Plan as being a tier 3 settlement with many of the services and facilities that would reasonably be expected to be found in a town. I note that the Radlett Neighbourhood Plan refers to Radlett as a village, but identifies some 8100 residents, a district centre, employment opportunities and a “good range of shops, services and local amenities”³. As such, on the basis of the evidence before me and my observations at the site visit, I am satisfied that Radlett is not a village and therefore purpose (b) is relevant.
21. The development of the appeal site would decrease the separation between Radlett and Borehamwood by some 200m. Moreover, I note that the development at Organ Hall⁴ has already reduced the gap.
22. However, with reference to the guidance set out in the PPG, a large gap remains between the towns and I do not consider that the appeal site forms a substantial part of that gap nor would the development of the appeal scheme result in the loss of the visual separation of the towns. Moreover, having travelled between the two towns on more than one occasion during the course of the Inquiry I do not consider that the development of the appeal site would give to the perception that the towns were merging.
23. As such, I consider that the development of the appeal site does not make a strong contribution to purpose (b).

d. Setting and special character

24. A number of local residents have referred to the verdant character of Radlett and indeed to some historic features, such as Roman remains and the coming of the railways, suggesting that Green Belt purpose (d) is relevant. A matter that is agreed not to be relevant by the appellant and the council.
25. The Framework and the Green Belt guidance do not introduce a definition of a historic town, while I note the pleasant character and appearance of Radlett, I consider that, on the basis of the evidence before me, particularly the absence of significant and numerous heritage assets, I do not consider that Radlett or any other relevant neighbouring settlement, is a historic town for the purposes of Green Belt policy.
26. As such, Green Belt purpose (d) is not relevant in this instance.
27. For the reasons detailed above I am satisfied that the site also does not strongly contribute to Green Belt purposes a), b), or d) in paragraph 143 of the Framework. As referred to previously, the grey belt definition excludes other land (other than

³ Paragraph 2.29 Radlett Neighbourhood Local Plan

⁴ CD6.3 Application Ref: 22/2149/OUT

Green Belt) identified at footnote 7 of the Framework, but none is relevant here. Accordingly, I conclude that the site is grey belt.

28. Returning to criterion a) of paragraph 155, I have concluded that the site is grey belt and that three of the purposes of Green Belt are not compromised. As to the other two purposes, the effect in terms of encroachment of the countryside (purpose c) is minimal, given the small size of the site in itself and in proportion to the remaining countryside and Green Belt, and there would be no effect in respect of urban regeneration and the recycling of derelict land (purpose e), given unavailability of such sites in Radlett.
29. Accordingly, I find that the development does not fundamentally undermine the purposes (taken together) of the remaining Green Belt across the area of the plan and I find that the appeal scheme is in accordance with paragraph 155 a.

Paragraph 155 b. and footnote 56, unmet need

30. With regards footnote 56 of the Framework, the appeal scheme involves the provision of housing and it is agreed between the parties that the council cannot demonstrate that there is a five year supply of deliverable housing sites, indeed it is agreed in the Statement of Common Ground that the council can only identify a 0.98 years supply of housing land.
31. On this basis and in accordance with paragraph 155 b I am satisfied that there is a demonstratable unmet need for the type of development proposed.

Paragraph 155 c. Sustainable location

32. Paragraph 155 c. of the Framework seeks that development would be in a sustainable location and refers to paragraph 110 and 115 that in turn seek the limiting of the need to travel and offering a genuine choice of transport modes, while acknowledging transport solutions will vary between urban and rural areas, and other specific criteria including the design of streets are to reflect national guidance and ensure highway safety.
33. The appeal site is located on the outside edge of Radlett and consequently is further away from the centre of the settlement than many other residential properties. I also note that some of the walk from the appeal site to the services and facilities of Radlett is up hill and that the most direct route is currently along a heavily trafficked road.
34. Nonetheless I consider that the site benefits from good access to the wide range of services and facilities of Radlett including bus and train services, school, medical centre, shops and employment opportunities. Moreover, the appeal scheme proposes improvements to pedestrian connectivity and highway works.
35. On this basis I am satisfied that the appeal scheme is located in a sustainable location for the purposes of 155 c. of the Framework.

Paragraph 155 d Golden Rules

36. The Framework requires (155 d.) adherence to the provisions of policy 156-157, referred to as the 'Golden Rules', these relate to the provision of affordable housing, improvements to infrastructure and accessible green spaces.

37. I note that it is common ground between the appellant and the council that the appeal scheme complies with the Golden Rules. However, this is a matter at dispute between the appellant and the R6 party.
- Affordable housing
38. The legal agreement that accompanies the appeal secures 50% of the housing on the site as affordable housing, with a range of dwelling types and tenures. As such I am satisfied that the appeal scheme accords with the Golden Rules with regards the provision of affordable housing.
- Infrastructure
39. Turning to infrastructure, the appeal scheme proposes alterations to the highway, including bus stops, pedestrian connectivity to and through the site, and, amongst other provisions, contributions to waste services. On this basis, I am satisfied that the appeal scheme accords with the Golden Rules with regards the improvement of infrastructure.
- Accessible green spaces
40. With regards green spaces, paragraph 156 c. seeks require accessible, good quality green spaces. Paragraph 159 details that “the improvements to green spaces required as part of the Golden Rules should contribute positively to the landscape setting of the development, support nature recovery and meet local standards.
41. I acknowledge that, as referred to by the appellant, paragraph 159 is not referred to in paragraph 155 d. and is distinct and separate from paragraphs 156-157 that are explicitly referred to. Nonetheless, I interpret paragraph 159 precisely as it is written and in line with the simple dictionary definition of ‘should’. As a result, I consider that the paragraph represents a strong policy expectation that must be met unless there is a clear, evidence-based reason to do otherwise as opposed to an “add on” or a “nice to have”. As such, I consider that the appeal scheme should fulfil the requirements of this paragraph.
42. The appellant details that the appeal scheme “will provide new areas of publicly accessible open space including an area of green space close to Shenley Hill (of c0.5Ha) which will include an equipped play area”⁵, alongside other areas of open space, a ‘trim trail’ and pedestrian routes within the development. Moreover, the appellant also referred to the provision of 20% Biodiversity Net Gain offsite provision on land near to the site that is identified for habitat creation / nature recovery within the Hertfordshire Local Nature Recovery Strategy (LNRS). Stating therefore the appeal scheme meets this requirement of the Golden Rules.
43. In this regard I accept that the appeal scheme would meet local and national standards for green space and I have no substantive evidence to the contrary. With regards landscape setting, the scheme is submitted in outline only with, amongst other matters, landscape as a reserved matter.

⁵ Appellants Statement of Case paragraph 3.29

44. The Parameters Plan⁶ shows some landscape structure and greenspaces within the appeal scheme though somewhat limited as a result of the quantum of development proposed by the appeal scheme.
45. As such I consider that the green spaces proposed by the appeal scheme would make a very modest positive contribution to the landscape setting of the development if reasonable reserved matters come forward as outlined in the appeal.
46. However, the appeal site is also identified in the LNRS as having potential for habitat creation and nature recovery in relation to grassland and woodland. As acknowledged by the appellant's planning witness during cross-examination, the appeal scheme has been developed without reference to the recently adopted LNRS, and this omission is not easily rectified at reserved matters stage. This is because, as agreed by the parties, the grassland within the appeal site would be significantly impacted by the proposed residential development.
47. I note that the PPG has recently been updated with regards LNRS and BNG, describing LNRSs as promoting the delivery of offsite biodiversity gain in the right places where offsite provision is needed and it cannot be "met in full through onsite habitat enhancements"⁷.
48. Consequently, on the basis of the evidence before me while I acknowledge that the appeal scheme doesn't greatly contribute to nature recovery outcomes with regard the appeal site itself, I am satisfied that the appeal scheme does nonetheless contribute to nature recovery outcomes with regards the 20% off-site BNG and limited onsite landscaping. I therefore consider that, on balance, the appeal scheme does satisfy the requirement to contribute to the potential for nature recovery.
49. I therefore conclude that the appeal scheme does meet the Golden Rules of *paragraph 155 d* and in accordance with the Framework I afford this significant weight in favour of appeal scheme.

Conclusion - Whether the proposal would be inappropriate development in the Green Belt

50. For the reason detailed above I find that the site does not strongly contribute to Green Belt purposes a), b), or d) taken together detailed in paragraph 143 of the Framework; Moreover, I am satisfied that the appeal scheme would not fundamentally undermine the purposes (taken together) of the remaining Green Belt across the area of the plan; there is demonstratable unmet need for the proposed development; the site is in a sustainable location and meets the Golden Rules. I therefore conclude that the appeal site comprises grey belt land and in meeting the provisions of paragraph 155 of the Framework, the appeal scheme is not inappropriate development in the Green Belt.
51. I have had regard to the matters raised regarding the effect of the development in terms of openness. However, openness is one of the essential characteristics of Green Belts and, as a matter of policy, the aim of preserving the openness of the Green Belt cannot be compromised by development that is 'not inappropriate'. Moreover, footnote 55 of the Framework establishes that substantial weight need

⁶ CD 1.4 2421/pl.03. Rev B Parameters Plan

⁷ Planning Practice Guidance paragraph 048 Reference ID: 8-048-20250219 Revision Date: 19 02 2025

not be given to any harm to openness on a grey belt site where the development is 'not inappropriate'.

52. I conclude that the Green Belt is not harmed and as such there is conflict with the approach to Green Belts set out in policies SADM26 of the Site Allocations and Development Management Plan and CS13 of the Core Strategy. My findings on the Green Belt mean that the question of very special circumstances does not need to be considered.

Character and appearance, including landscape

53. The appeal site is a grass field abutting the built-up area of Radlett and the countryside. Consequently, the site's character is heavily influenced by both the rural countryside setting of the site, in particular the woodland that makes up most of the boundaries of the site, and by the adjacent built-up area of Radlett.
54. I saw at the site visit that the woodland block that lies to the east of the site and forms the southern part of the site would effectively screen the proposed development from wider views. There would be limited views of the proposed houses from the northern part of Public Footpath 55 near to where it meets Shenley Road and, especially in winter, glimpsed views of the houses on the northerly-most part of the site facing this road including from the drivers of passing vehicles. The topography of the site, a gentle slope away from Radlett, aids the concealment of the proposed dwellings. Consequently, I consider that the visual effects of the appeal scheme would be mainly confined to the properties overlooking the site and users of a short section of highway and public footpath.
55. The submitted plans, while indicative, show that the majority of the site would be developed with residential buildings and access roads and would encompass all the associated activity that residential development, school expansion and a new medical centre would bring. Moreover, in proposing up to 195 dwellings the appeal site will inevitably be of a higher density than the adjacent built environment of Radlett. On the basis of the evidence before me I am not satisfied that it has been demonstrated that the resulting development would share the verdant open character of that area. I consider this to be harmful to the character and appearance of the area.
56. While the site has no landscape designation and is not a valued landscape in terms of Framework paragraph 187 a) it is of some landscape value and contributes to the landscape character of the local area, being representative with regards the pastoral character, position to the settlement edge and the tree plantations.
57. The development of the site as proposed would result in the substantive and permanent loss of the grassland and this clearly results in a substantial adverse landscape effect to the site itself. Nonetheless, on the basis of the evidence before me I am satisfied that once the mitigating planting has become established and acknowledging the contained nature of the appeal site, the residual landscape harm to the wider area is moderate only.
58. In conclusion, the development of the appeal site, an open grassfield, for housing and associated development would result in landscape harm and harm to the character and appearance of the area. As such I find conflict with policy HD3 of the Radlett Plan and Policy SADM11 of the Site Allocations and Development

Management Plan that, amongst other matters seek to protect the landscape, character and appearance of the area. I afford this significant weight.

Other Matters

Living conditions of local residents

59. Aldenham Parish Council identifies⁸ 24 dwellings as backing on to the appeal site and asserts that these residents would suffer harm to their living conditions with regards to outlook, noise, disturbance, pollution and privacy.
60. The residents living next to the appeal site enjoy a pleasant outlook over the grassed field towards established woodland. The proposal is in outline form only but the submitted plan⁹ shows a reasonably proportioned buffer to the existing dwellings such that while the appeal scheme would change the nature of the appeal site, I do not consider that the residents would suffer unacceptable impacts with regards outlook, noise, disturbance, pollution and privacy.

Highways and pedestrian

61. The Framework¹⁰ requires that development not have an unacceptable impact on highway safety or result in severe cumulative transport impacts.
62. I saw at the site visit that the local road network is heavily trafficked at peak hours. I also saw that Shenley Hill, in particular, is also a steep, winding, and in places a narrow road.
63. I note that the Local Highway Authority have reviewed the development proposals and have not raised an objection (subject to the inclusion of planning conditions, informative, obligations and agreements). I am satisfied that appropriate conditions can be attached to any permission resulting from this appeal with regards highway and pedestrian considerations.
64. On the basis of the evidence before me I am satisfied that, while the local road network is heavily trafficked leading to congestion at peak times, I have no substantive evidence before me that would lead me to conclude that the appeal scheme will result in unacceptable highway safety impacts or result in severe cumulative transport impacts.
65. The appeal scheme includes improvements to local connectivity through the provision of new and improved highway, pedestrian and cycle connections both within and beyond the site, including new bus stops, pedestrian crossings, footpaths and access points.
66. I consider that these improvements are primarily of benefit to future residents of the appeal scheme or are required as a result of the appeal scheme. Accordingly, I afford these benefits very limited weight and I have found no unacceptable highway safety impacts or result in severe cumulative transport impacts.

Safeguarded land for Newberries Primary School

67. The appeal scheme makes provision for the safeguarding and transfer of land for the expansion of Newberries Primary School, adjacent to the site, to allow for the

⁸ 6.76 R6 Planning Proof of Evidence

⁹ CD 1.4 2421/pl.03. Rev B Parameters Plan

¹⁰ Paragraph 116

future growth of the school. The Unilateral Undertaking (UU) safeguards the land for 10 years from the commencement of development.

68. Clearly, the appeal scheme itself would generate some additional need for school places and in this regard, the expansion land is in mitigation of the impact of the appeal scheme. Turning to a wider requirement for the school expansion, there remains a degree of uncertain and the school expansion is contingent on other issues such as the delivery of housing on other site nearby and parental choices and is moderated by the benefit of the school expansion only arising if the option were taken up within the relevant period detailed in the legal agreement.
69. Nonetheless I acknowledge that there are limited other options to expand the school. Accordingly, I afford this benefit moderate weight.

Safeguarded land for a new Medial Centre

70. The UU safeguards land (c0.6Ha) to facilitate the delivery of a new medical centre. The land is safeguarded for a 5-year period with a cascade mechanism to enable the provision of additional affordable housing if the land is not taken up for healthcare uses.
71. Policy RV2 of the Radlett Neighbourhood Plan (RNP) seeks the retention and enhancement of medical services in Radlett, but specifies that such uses should be located within the 'Village Centre'. I consider that it has not been demonstrated that there are no viable and deliverable sites within the 'Village Centre' and as such the provision of a Medical Centre on the appeal site is not in accordance with policy RV2 of the RNP.
72. Moreover, the Rule 6 party raise concern as to the accessibility of location of the safeguarded land and question the need for a new Medical Centre stating that "The Surgery does not support the current application¹¹".
73. In any event the land is only safeguarded for a for a period of time and the benefit will only be realised if the expansion land is taken up within that period. Accordingly, I afford this benefit moderate weight.

New Housing

74. The appeal scheme would deliver up to 195 new homes, in a range of types and sizes. The housing land supply has been deteriorating for some time such that Hertsmere Borough Council can now only demonstrate 0.98 years. I consider that this amounts to a significant shortfall, this is agreed between the council and the appellant¹². Furthermore, I have no substantial evidence before me to suggest that this situation will be substantially resolved in the near future and as such, I consider that this under supply of housing land is persistent.
75. Accordingly, I afford this matter very substantial weight in favour of the appeal scheme.

Affordable housing

¹¹ 6.100 R6 Planning Proof of Evidence

¹² PSoCG, para 4.3

76. The appeal scheme, as controlled by the UU, would provide up to 98 Affordable Homes (AH) in a mix of tenures, being 50% of all the housing to be provided on the site.
77. In determining the 2023 appeal¹³ in respect of a similar proposal on the appeal site, that Inspector found that “the delivery of AH in Hertsmere has been woefully inadequate” and I have no substantial evidence before me that would lead me to conclude otherwise, or that this situation has improved or is likely to improve in the near future. According, I give very substantial weight to this matter.

BNG

78. The appeal scheme includes provision for a BNG of 20%, substantially above the 10% requirement of law and policy. The proposed provision is predominantly through an offsite contribution. Nonetheless, this is consistent with Paragraph 187d) of the Framework
79. The R6 refers to the effect of the appeal scheme, in particular the pedestrian/ cycle access passing through the “listed Wildlife site and bluebell wood”¹⁴ and resulting in a disturbance to nature. Moreover, I note that as referred to previously the LNRS identifies the appeal site is identified for habitat creation / nature recovery, but this is not delivered through the appeal scheme.
80. Nonetheless, it is not at dispute between the parties that the appeal scheme would deliver a BNG of 20% though off-site provision and as such I afford it some weight.

Other Environmental, Economic and Social matters

81. The appeal scheme secures an Enhancement and Management Plan for the Geological conservation of Hertfordshire puddingstone. Moreover, provision is included within the UU for various additional contributions including monitoring contributions, education contributions, travel plan, waste service transfer station contributions.
82. I recognise that, as referred to by the appellant’s submissions, the appeal scheme would deliver some 115 construction jobs, a £1.09 million spend during the construction period and an additional spend of £327,500 additional expenditure in the local area.
83. I afford these matters moderate weight.

Planning Balance

84. I have found that the appeal scheme would not be inappropriate development in the Green Belt but would harm the character and appearance of the area, including landscape harm. While I have afforded this harm significant weight, I consider that it is overwhelmingly outweighed by the benefits of the appeal scheme, in particular the delivery of housing and affordable housing in the context of the current housing land supply position. On this basis, I consider that the appeal should be allowed.

¹³ Appeal Decision APP/N1920/W/23/3320599

¹⁴ 6.81 R6 Planning Proof of Evidence

Conditions

85. Regulation 122(2) of the Community Infrastructure Levy Regulations 2010 and paragraph 57 of the Framework details that a planning obligation may only constitute a reason for granting planning permission for a development if the obligation meets the three tests detail in the legislation. The council's CIL compliance statement sets out the detailed background and justification for each of the obligations. I am satisfied from the evidence before me that the obligations are necessary, directly related to the proposal and fair and reasonable in scale and kind to the appeal scheme. As a result, I have taken the obligations into account as part of my overall conclusion that the appeal should be allowed.
86. I have considered the conditions agreed between the parties in light of the relevant guidance contained within the PPG. Where necessary, I have amended them in the interests of precision and so that they meet the relevant tests as set out in the Framework. With regard to Section 100ZA of the Town and Country Planning Act 1990 (as amended), the appellant has expressed agreement to the pre-commencement conditions suggested by the council and where I have modified these it has had no material bearing on their function.
87. In order to define the permission and to control the timescales for the submission of reserved matters, I have included conditions relating to reserved matters, the life of the permission and the approved plans. For the same reason I have included conditions relating to the mix of type, size and tenure of market and affordable housing. In the interests of the living conditions of future residents, I have included a condition controlling the provision of accessible housing.
88. In the interest of the environment and ecology I have included a condition requiring adherence to the submitted Arboricultural Report, Ecological Report, and Landscape and Ecological Management Plan.
89. In the interests of the environment and to control surface water, I have included a condition controlling the details of a surface water drainage scheme, subsequent verification report and future maintenance and management details and a detailed construction phase surface water management plan. In the interests of the environment and the character and appearance of the area I have included a condition controlling external lighting.
90. In the interests of the environment, I have included a condition referring to a site waste management plan. For the same reason I have included a condition referring to land contamination on the site.
91. To protect the living conditions of future residents of the appeal scheme from road and traffic noise I have included a condition requiring the submission of a noise attenuation scheme.
92. I have amended the wording of the suggested condition relating to the construction environmental management plan to include for consultation with both Shenley and Aldenham Parish Council. As discussed at the Inquiry, the condition has been worded to allow the consultation to be undertaken either by the appellant (or future developer) or the council. I have included this condition in the interests of the environment, highway safety and the living conditions of local residents.

93. In the interests of highways safety, I have included a condition relating to the maintenance of streets and pedestrian and cycling access, including to Newberries Primary School, signage and provision of aforementioned details to the appeal site. Furthermore, I have included a condition requiring the full highway details for the site, details and provision of a bus stop and speed reduction measures for the same reason.
94. To ensure that that provision of the open space is secured in line with policy SADM37 of the Site Allocations and Development Management Policies Plan, I have included a condition requiring the submission and approval of details of the open space provision. Additionally, in the interests of the environment and to ensure that the development delivers the required biodiversity net gain outlined in the appeal scheme, I have included a condition requiring the submission of a habitat management and monitoring plan.
95. To ensure that the trees and hedges on site are adequately protected in the interests of the environment and in accordance with the Development Plan I have included a condition requiring the submission of an arboricultural method statement.
96. In the interests of highway safety and to define the permission I have included a condition relating to offsite highways improvement works, the provision of vehicular access to the site, visibility splays and Traffic Regulation Orders. In the interests of the living conditions of future residents, I have included a condition relating to the provision of fire hydrants on the appeal site.
97. I have included a condition requiring the submission of a climate change and energy statement in accordance with the provisions of the Development Plan and in the interests of the environment.
98. In the interests of the environment and the living conditions of future residents I have included a condition securing the provision of appropriate foul water drainage, for the same reasons I have included a condition controlling the importation of topsoil on to the site.
99. I have not included a condition removing various permitted development rights from the approved development because, in accordance with guidance set out in the PPG, it is not necessary even with consideration to the site's location.

Conclusion

100. For the reasons given above the appeal should be allowed.

Mr M Brooker

INSPECTOR

Schedule of conditions

1. Details of the appearance, landscaping, layout, and scale "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
2. Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
3. The development hereby permitted shall take place not later than two years from the date of approval of the last of the reserved matters to be approved.
4. The development hereby permitted shall be carried out in accordance with the approved plans and drawings listed in this decision notice, other than where those details are altered pursuant to the conditions of this planning permission.

Drawings Submitted for Approval:

- Location Plan (ref: 2421/PL.01)
 - Shenley Road Access Plan (ref: ITB13085-GA-028C)
 - Theobald Street Access Plan (ref: ITB13085-GA-036A)
5. The development hereby permitted shall be carried out in general accordance with the following plans as outlined in this decision notice:
Parameters Plan (ref: 2421/PL.03/ Rev B)
 6. The development hereby approved shall be carried out in accordance with the submitted Arboricultural and Planning Interrogation Report, prepared by Arbortrack Systems Ltd, dated August 2024.
 7. Details provided within the following documents shall be complied with in full during construction until the development had been completed and during occupation of the proposed development with respect to the precautionary measures relating to protected species and ecology:

- Ecological Impact Assessment (EclA) by the Ecology Co-Op, (report date 16th August 2024)
- Landscape and Ecological Management Plan (LEMP) by the Ecology Co-Op, (report date 31 August 2022)

This work includes the recommendations with regards to protected species such as bats, reptiles and trees and hedgerows, as well as the removal of invasive species.

8. Prior to or in conjunction with the submission of any reserved matters application, in accordance with the submitted Flood Risk and Outline Drainage Strategy prepared by Yellow Sub Geo Ltd ref P17014_R3_Rev 4 and dated 12th July 2023, detailed designs of a surface water drainage scheme incorporating the following measures shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented prior to the occupation of any dwelling hereby permitted or prior to the approved medical

centre being brought into use, whichever is the earlier. The scheme shall address the following matters:

1. Detailed infiltration testing in accordance with BRE Digest 365 (or equivalent) along the length and proposed depth of the proposed attenuation basin/s and infiltration features.
 2. If using infiltration or the former chalk quarry/pit for surface water drainage, three stages of treatment will need to be demonstrated prior to infiltration or discharge into the former chalk quarry or pit.
 3. Provision of surface water attenuation storage (prioritising the use of source control measures over site control), sized and designed to accommodate the volume of water generated in all rainfall events up to and including the critical storm duration for the 3.33% and 1% annual probability rainfall events (both including allowances for climate change).
 4. Detailed designs, modelling calculations and plans of the of the drainage conveyance network in the:
 - a) 3.33% annual probability critical rainfall event plus climate change to show no above ground flooding on any part of the site.
 - b) 1% annual probability critical rainfall plus climate change event to show, if any, the depth, volume and storage location of any above ground flooding from the drainage network ensuring that flooding does not occur in any part of a building or any utility plant susceptible to water (e.g. pumping station or electricity substation) within the development and is safe.
 5. Design of the infiltration / attenuation basin will incorporate an emergency spillway and any drainage structures include appropriate freeboard allowances.
 6. Plans to be submitted showing the routes for the management of exceedance surface water flow routes that minimise the risk to people and property during rainfall events in excess of 1% annual probability rainfall event.
 7. Finished ground floor levels of properties are a minimum of 300mm above expected flood levels of all sources of flooding (including the ordinary watercourses, SuDS features and within any proposed drainage scheme) or 150mm above ground level, whichever is the more precautionary.
 8. Details of how all surface water management features to be designed in accordance with The SuDS Manual (CIRIA C753, 2015), including appropriate treatment stages for water quality prior to discharge.
 9. A timetable for the provision of the surface water drainage scheme;
 10. Details of the future management and maintenance of the surface water drainage scheme;
9. A site wide artificial lighting strategy (excluding the school site and medical centre land as illustrated on the Parameter Plan (ref: 2421/PL.03/ Rev B), taking account of the findings of the Ecological Appraisal (August 2024) shall be submitted for the written approval of the Local Planning Authority as part of the first residential reserved matters. The strategy shall include a timetable for its implementation. The development shall be carried out only in accordance with the approved strategy.
10. Details submitted with the layout reserved matters, as required by condition 1, shall include a scheme setting out the arrangements for the delivery of accessible housing in accordance with the following requirements:

- a) A schedule of units, together with appropriate plans and drawings, setting out details of the number, layout and location of all units that will comply with Part M, M4 (2) (Accessible and Adaptable Dwellings) and Part M4(3) (Wheelchair Accessible Dwellings) of the Building Regulations 2010 (as amended).
 - i. All new houses and all ground floor flats must meet Building Regulations Part M4(2) standards as a minimum;
 - ii. As a minimum, all upper-level flats should be designed to meet the internal layout requirements required to achieve Part M4(2) compliance;
 - iii. A minimum of 7.5% of affordable homes and 2.5% of market homes shall be designed to achieve Building Regulations Part M4(3) (2) (a) (wheelchair accessible dwelling) standards; and
 - iv. A minimum of 1 social rented dwelling (forming part of the 7.5% requirement) to achieve Building Regulations Part M4(3) (2) (b) (wheelchair accessible dwelling) standards.
 - b) All units specified as M4(2) and M4(3) in the agreed schedule and plans must be implemented in accordance with that approval and in compliance with the corresponding part of the Building Regulations in that regard;
 - c) Written verification of the completion of all dwellings in accord with part (a) above will be supplied to the local planning authority within 30 days of the practical completion.
11. Details submitted with the layout reserved matters, as required by condition 1, shall include details of the mix of type, size and tenure of market and affordable dwellings to be provided in that phase, for approval in writing by the local planning authority.
- The tenure mix of the affordable housing must be consistent with the tenure mix stipulated within the signed S106 agreement. The development shall be carried out in accordance with the approved details.
12. No development shall take place until a Site Waste Management Plan (SWMP) for the site has been submitted to the Local Planning Authority and approved in writing, in consultation with the Waste Planning Authority. The SWMP should aim to reduce the amount of waste produced on site and should contain information including 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.
13. No development shall take place until a scheme to protect the dwellings hereby permitted from noise due to traffic has been submitted to and approved in writing by the local planning authority. The scheme shall demonstrate how the dwellings will meet the indoor ambient noise levels in living rooms and bedrooms recommended within BS 8233:2014/The WHO Guidelines for Community Noise (10 February 1999) and Outdoor amenity spaces must comply with the 55dB WHO Guidelines for Community Noise Level.

The development shall be carried out in accordance with the approved scheme and retained thereafter.

14. Prior to the commencement of development approved by this planning permission, the following components of a scheme to deal with the risks associated with contamination of the site shall each be submitted to and approved, in writing, by the local planning authority:

Condition: Phase 2-Site Investigation

- 1) A site investigation scheme, including soil and gas sampling, including but not limited to Asbestos, a full suite of metals inclusive of lead, mercury & chromium, and PAH, hydrocarbons, methane, carbon dioxide and VOCs, to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The report of the findings must include a survey of the extent, scale and nature of contamination (if any), an appraisal of remedial options (if required). Site investigations shall be carried out in line with BS 10175:2011+A2:2017 (Investigation of potentially contaminated sites-Code of practice) and BS 8576:2013 (Guidance on investigations for ground gas - Permanent gases and Volatile Organic Compounds (VOCs).
 - 2) Remediation Strategy: If required, a detailed remediation strategy to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural (including any impact on water quality in the chalk aquifer) and historical environment. The strategy must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The strategy 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. The applicant shall also submit a Gas Protection Measures Scheme report which outlines all necessary components to bring the site to a condition suitable for the intended use, by removing unacceptable risks associated with ground gas.
 - 3) Verification/Validation Report: Following completion of measures identified in the approved remediation strategy (if any) and or Gas Protection Measures Scheme (if any), a verification report that demonstrates the effectiveness of the remediation carried out must be submitted to and approved in writing by the Local Planning Authority prior to first occupancy of the site. The verification report must also identify any requirements for longer term monitoring of pollutant linkages, maintenance and arrangements for contingency action. Any changes to these components requires the express consent of the local planning authority. The scheme shall be implemented as approved. A building surveyor's certification that the work has been completed shall also be supplied to the LPA. The above must be undertaken in accordance with the Environment Agency's online Guidance Land contamination: Risk Management.
15. Prior to the commencement of development, a Construction Environmental Management Plan (in accordance with the best practice guidelines as described in the Construction Logistics and Community Safety (CLoCS) Standard), shall be submitted to and approved in writing by the Local Planning Authority, with consultation having taken place with Aldenham Parish Council and Shenley Parish Council. Thereafter the construction of the development shall only be

carried out in accordance with the approved Construction Environmental Management Plan. The Construction Environmental Management Plan shall include details of:

The construction programme;

- i. Timing of construction activities (including areas designated for car parking, loading/unloading and turning areas);
- ii. Details of any highway works necessary to enable construction to take place;
- iii. Details of routing, vehicle numbers and type of construction traffic and associated waymarking;
- iv. Details of any works to or affecting Public Rights of Way within and in the vicinity of the site. These details shall demonstrate how safe and unobstructed access will be maintained at all times;
- v. Details of servicing and delivery, including details of site access, compound, hoarding, construction related parking, loading, unloading, turning areas and materials storage areas;
- vi. Where works cannot be wholly contained within the site, a plan should be submitted showing the site layout on the highway, including extent of hoarding, pedestrian routes and remaining road width for vehicle movements and proposed traffic management;
- vii. Management of construction traffic and deliveries to reduce congestion and avoid school pick up/drop off times, including numbers, type and routing;
- viii. Control of dust and dirt on the public highway, including details of wheel washing facilities and cleaning of site entrance adjacent to the public highway;
- ix. Details of public contact arrangements and complaint management;
- x. Construction waste management proposals;
- xi. Mechanisms to deal with environmental impacts such as noise and vibration, air quality and dust, light and odour;
- xii. Post construction restoration/reinstatement of the working areas and temporary access to the public highway; and
- xiii. Measures to be implemented to ensure wayfinding for both occupiers of the site and for those travelling through it during construction.
- xiv. Phasing Plan.

16. Prior to first occupation of development full details of the proposed arrangements for future management and maintenance of the proposed streets shall be submitted to and approved in writing by the Local Planning Authority. The said streets shall be constructed prior to first occupation of the dwelling(s) or building to which they provide access. The streets shall thereafter be maintained in accordance with the approved management and maintenance details until such time as an agreement has been entered into under Section 38 of the Highways Act 1980 or a Private Management and Maintenance Company has been established in accordance with the approved details.

17. Prior to the commencement of the development a detailed construction phase surface water management plan for the site shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include

1. Detailed arrangements for interim and temporary drainage measures during the demolition and construction phases, including:

- a. Evidence that there will be no increase in off-site flows nor any pollution, debris and sediment to receiving watercourses or sewer systems.
- b. Written confirmation from sewers owners if proposing to temporarily drain to a sewer.
- c. Confirmation of who will be responsible for temporary drainage systems.

2. Details of how the proposed Surface water drainage system and SuDS features shall be constructed and protected during the construction phase to ensure their functionality.

The site works and construction phase shall thereafter be carried out in accordance with approved details, unless alternative measures have been subsequently approved in writing by the Local Planning Authority.

18. No development shall commence until full details (in the form of scaled plans and / or written specifications) have been submitted to and approved in writing by the Local Planning Authority to illustrate that pedestrian and cycling access points onto Williams Way and Theobald Street, with minimum 3 metres width and gradients of not greater than 5%, can be provided.
19. No development shall commence until a scheme (including scaled plans and / or written specifications) has been submitted to and approved in writing by the Local Planning Authority to illustrate a suitable pedestrian and cycling signage and wayfinding strategy that clearly indicates the preferred route for pedestrians and cyclists towards the centre of Radlett and Newberries Primary School. The scheme shall include a timetable for its provision. The development shall be carried out in accordance with the approved scheme.
20. No development shall commence until full details (in the form of scaled plans and / or written specifications) have been submitted to and approved in writing by the Local Planning Authority to illustrate the following:
- i. Roads, footways.
 - ii. Cycleways.
 - iii. Foul and surface water drainage.
 - iv. Visibility splays for internal streets.
 - v. Access arrangements for internal streets.
 - vi. Parking provision in accordance with adopted standard.
 - vii. Loading areas.
 - viii. Turning areas.

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

21. No development shall commence until a scheme for the proposed area of open space has been submitted to and approved in writing by the Council. The scheme shall include details of how the open space will be laid out together with 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. The development shall be carried out only in accordance with these details.
22. The development shall not commence until a Habitat Management and Monitoring Plan (HMMP), prepared in accordance with the approved Biodiversity Gain Plan and including:
- (a) A non-technical summary;
 - (b) The roles and responsibilities of the people or organisation(s) delivering the HMMP;
 - (c) The planned habitat creation and enhancement works to create or improve habitat to achieve the biodiversity net gain in accordance with the approved Biodiversity Gain Plan;
 - (d) The management measures to maintain habitat in accordance with the approved Biodiversity Gain Plan for a period of 30 years from the completion of development; and
 - (e) The monitoring methodology and frequency in respect of the created or enhanced habitat, has been submitted to, and approved in writing by the local planning authority. The HMMP shall be implemented and carried out in accordance with the approved details.
23. Prior to commencement of development an Arboricultural Method Statement (including any demolition, groundworks and site clearance) shall be submitted to and approved in writing by the Local Planning Authority. The Statement should 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 Area' (defined by a radius of $dbh \times 12$ 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,
 - 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 Method Statement.
24. Notwithstanding the details shown on the approved drawings, no on-site works above slab level shall commence until a detailed scheme for the offsite highway improvement works (as shown on drawing numbers ITB13085-GA-028 Rev C and ITB13085-GA-036 Rev A) has been submitted to and approved in writing by the Local Planning Authority. No dwelling shall be occupied until the

improvement works have been completed in accordance with the approved details.

25. No works above initial damp 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(s) has been implemented in accordance with the approved details.
26. No development above ground level shall commence until a Climate Change and Energy Statement (to include a whole life carbon assessment) has been submitted to and approved in writing by the Local Planning Authority.

The statement shall generally be in accordance with the Energy & Sustainability Statement (July 2022) and demonstrate how the development will make the fullest contribution to minimising carbon dioxide emissions and enhancing the sustainability credentials of the development, through a range of design, technological, landscape and ecological measures, in accordance with the following energy hierarchy:

- i) Be lean: use less existing energy;
- ii) Be clean: supply and use energy efficiently; and
- iii) Be green: use renewable energy.

The statement shall also demonstrate how efficiency measures will enable a maximum potable water usage of 110 litres per person per day to be achieved.

The measures set out within the statement shall thereafter be implemented in full prior to the first occupation of the associated phase of the development.

27. Prior to first occupation of the development a detailed verification report, (appended with substantiating evidence demonstrating the approved construction details and specifications have been implemented in accordance with the surface water drainage scheme), shall be submitted to and approved in writing by the Local Planning Authority. The verification report shall include photographs of excavations and soil profiles/horizons, any installation of any surface water structure and Control mechanism.
28. Prior to the first occupation / use of the development hereby permitted one new bus stop with suitable kassel kerbing and shelters on each side of Shenley Road and Theobald Street shall be provided and thereafter retained as shown in accordance with drawing numbers ITB13085-GA-028 Rev C and ITB13085-GA-036 Rev A and in accordance with details/specifications that shall have been submitted to and approved in writing by the local planning authority.
29. Prior to the occupation of any dwelling / use of the development hereby permitted speed reduction measures and associated amended speed limits (subject to consultation) on Shenley Road shall be completed and thereafter retained in accordance with details/specifications to be submitted to and approved in writing by the Local Planning Authority.

30. Prior to the first occupation of the development, details/specifications and a programme for delivery of the identified pedestrian and cycling access points from the site onto Williams Way and Theobald Street shall be submitted to and approved in writing by the Local Planning Authority. The approved access points shall be implemented in accordance with the agreed programme for delivery and once delivered retained as such thereafter.
31. Prior to the first occupation of the development, details/specifications and a programme for delivery of a new pedestrian and cycling access from the site to Newberries Primary School shall be submitted to and approved in writing by the Local Planning Authority. The submitted details shall ensure that the approved access will be a minimum 3 metres wide and gradients of not greater than 5% can be provided. The approved pedestrian and cycle access shall be implemented in accordance with the agreed programme for delivery and once delivered shall be retained as such thereafter.
32. Prior to the first occupation of the development, the vehicular access (at Shenley Road) as shown on drawing number ITB13085-GA-028 Rev C shall have been completed in accordance with details/specifications that shall have been submitted to and approved in writing by the Local Planning Authority. The approved access shall be retained thereafter. Prior to use appropriate arrangements shall be made for surface water to be intercepted and disposed of separately so that it does not discharge from or onto the highway carriageway.
33. Prior to the first occupation / use of the development hereby permitted a visibility splay shall be provided in full accordance with the details indicated on the approved drawing number ITB13085-GA-028 Rev C. The splay shall thereafter be retained at all times free from any obstruction between 600mm and 2m above the level of the adjacent highway carriageway.
34. Delivery of Visibility Splays 0.65m x 0.65m pedestrian visibility splays shall be provided to each side of the accesses at Theobald Street and at Williams Way prior to first occupation of the development. The splays shall be measured from the point where the edges of the access way cross the highway boundary, 0.65 metres into the site and 0.65 metres along the highway boundary therefore forming a triangular visibility splay. The splay shall thereafter be retained at all times free from any obstruction between 600mm and 2m above the level of the adjacent highway carriageway.
35. The development hereby permitted shall not be first occupied until any Traffic Regulation Orders (TROs), including for parking restrictions / clearway / waiting restrictions / speed limits that are required as part of improving access and accessibility to the site are in place and implemented.
36. The development hereby approved shall not be first occupied until details of the maintenance and management of the sustainable drainage scheme have been submitted to and approved in writing by the Local Planning Authority. The drainage scheme shall be implemented prior to the first occupation of the development hereby approved and thereafter managed and maintained in accordance with the approved details in perpetuity. The Local Planning Authority shall be granted access to inspect the sustainable drainage scheme for the

lifetime of the development. The details of the scheme to be submitted for approval shall include:

- 1) A timetable for its implementation,
- 2) Provision of a complete set of as built drawings for site drainage.
- 3) Details of SuDS feature and connecting drainage structures and maintenance requirement for each aspect including a drawing showing where they are located.
- 4) Details of SuDS feature and connecting drainage structures and maintenance requirement for each aspect including a drawing showing where they are located.
- 5) 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 scheme throughout its lifetime.
- 6) Arrangements for adoption and any other measurements to secure the operation of the scheme throughout its lifetime including name and contact details of any appointed management company.

37. No dwellings hereby approved shall be occupied until confirmation has been provided that either:-

1. Foul water Capacity exists off site to serve the development, or
2. A development and infrastructure phasing plan has been submitted to and agreed in writing by the Local Planning Authority in consultation with Thames Water. Where a development and infrastructure phasing plan is agreed, no occupation shall take place other than in accordance with the agreed development and infrastructure phasing plan, or
3. All Foul water network upgrades required to accommodate the additional flows from the development have been completed.

38. No topsoil to be used in the construction of the development hereby permitted shall be imported from an outside site unless the said soil is certified in writing by a competent professional as being suitable for use. In the event soil is imported from an outside site, a scheme shall be submitted to, and approved in writing by the Local Planning Authority, verifying that any imported topsoil, is certified as suitable for use, prior to the first site usage.

APPEARANCES

FOR THE APPELLANT:

RUPERT WARREN KC, LANDMARK CHAMBERS

Called:

Philip Allin BA (Hons) DipTP MRTPI

Clare Brockhurst FLI, BSc (Hons), Dip LA

FOR THE LOCAL PLANNING AUTHORITY:

TOM COSGROVE KC, CORNERSTONE BARRISTERS

Called:

Jacqueline Bakker MLA CMLI

Steven Stroud BA(Hons) LLB(Hons) MA MRes MSc MSt MRTPI

FOR THE RULE 6 PARTY:

WAYNE BEGLAN, CORNERSTONE BARRISTERS

Called:

Valerie Scott BSc (Hons), MCD, MRTPI

Claire Browne, BSc (Hons), DipLA, CMLI

INTERESTED PARTIES:

Cllr Lucy Selby

Cllr Caroline Clapper

Cllr Helen Jones

Cllr Rosemary Gilligan

Rosamund Grey

Graham Taylor

Paul Boothe

Alfred Boyden

Trevor Barton

Mark Robinson

Christopher Langdon

Richard Kirk

Ian Ellis

Alison Robinson

Dr Aroscho Fernadez

DOCUMENTS

ID1 Opening Statement – Council

ID2 Opening Statement – Appellant

ID3 Opening Statement – R6

ID4 Statement by Cllr Lucy Selby

ID5 Statement by Oliver Dowden – read by Cllr Selby

ID6 Statement by Cllr Caroline Clapper

ID7 Statement by MR Samuelson – read by Cllr Helen Jones

ID8 Statement by Cllr Rosemary Gillighan

ID9 Statement by Rosamund Grey

ID10 Statement by Graham Taylor

ID11 Statement by Paul Boothe

ID12 Statement by Alfred Boyden

ID13 Statement by Trevor Barton

ID14 Statement by – Stephen Rose – read by Mark Robinson

ID15 Statement by Christopher Langdon

ID16 Statement by Richard Kirk

ID17 Statement by Ian Ellis

ID18 Statement by Alison Robinson

ID19 Statement by Dr Aroscho Fernadez

ID20 Felling Licence

ID21 Closing Statement – Council

ID22 Closing Statement – Appellant

ID23 Closing Statement – R6

ID24 UU final



Costs Decision

Inquiry held on 3-6 February 2026

Site visit made on 3 February 2026

by Mr M Brooker DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23rd March 2026

Costs application in relation to Appeal Ref: APP/N1920/W/25/3374962

Land South of Shenley Hill, Radlett WD7 7EL

- 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 Fairfax Acquisitions Ltd for a full award of costs against Hertsmere Borough Council.
 - The inquiry was in connection with an appeal against the refusal of planning permission for the erection of up to 195 new homes (50%affordable), safeguarded land for the expansion of Newberries Primary School and provision of a new medical centre, along with associated access, landscaping and parking.
-

Decision

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

The submissions for Fairfax Acquisitions Ltd

2. The costs application was submitted in writing at the Inquiry.
3. I will not repeat the entirety of the applicant's case in this decision given that they have been provided in writing but in summary, the applicant refers to the council's substantive unreasonable behaviour with regards to preventing development which should clearly have been permitted. As advanced to by the applicant, the site is grey belt and there is no evidence that the appeal site makes a strong contribution to any of the three relevant Green Belt purposes and therefore planning permission should have been granted and the appeal should not have been necessary.

The response by Hertsmere Borough Council

4. The response was made in writing after the Inquiry sat during an agreed hiatus to deal with this and the execution of a planning obligation. Again, I will not repeat the entirety of the council's case given that they have been provided in writing, but in summary the council state that the costs application is without merit and that whether or not the appeal site is grey belt is a matter of planning judgement and notes that *"Four experts later told the inquiry they agreed with the Planning Committee's judgment that the site was not 'grey belt.'*

Reasons

5. Parties in planning appeals normally meet their own expenses. However, the Planning Practice Guidance (PPG) 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.

6. The site lies within the Green Belt where development is inappropriate unless specified exemptions apply. At the heart of this particular appeal is whether or not the appeal site was grey belt as defined by the National Planning Policy Framework.
7. The members of the council's planning committee departed from the recommendation of their officers, as they are reasonably entitled to do so, and contrary to notable evidence before them including the council's own legal advice.
8. The applicant has referred to an absence of evidence to support members decision. However, it is clear from the evidence before me that due consideration was given to the relevant planning matters, including (as referred to by the council) relevant guidance and local knowledge, and also the comments of local residents.
9. I do not agree that the Council's case on Grey Belt, that the site made a 'strong' contribution to purposes A and B, was unreasonable. While I did not find in the council's favour in reaching my decision in the determination of the appeal, I am satisfied that the council robustly evidenced and substantiated their decision with evidence from two expert witnesses, as complemented by evidence from the Rule 6 party.
10. That, even in the costs application, there was continued debate as to the interpretation of policy and with regards the evidence before the appeal, for instance that "Ms Brockhurst accepted that Ms Bakker's judgment that the site might be perceived as a substantial part of the gap between Radlett and Borehamwood was reasonable" but that in re-examination Ms Brockhurst explained "that Ms Bakker was **not** reasonably entitled to say that Radlett and Borehamwood had in fact merged" demonstrates to me that there is evidence to support both parties positions and that ultimately it is a matter for planning judgement.
11. I do not agree that the council's consideration of landscape character when evaluating the sites contribution to the relevant Green Belt purposes is wholly unreasonable because it is an influencing factor in the visual and spatial considerations.
12. As such, I am satisfied that the council did not prevent or delay development which should clearly be permitted nor did the council fail to provide substantive evidence to support their position at appeal and I do not consider that they were irrational in reaching such a position.

Conclusion

13. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

Mr M Brooker

INSPECTOR



Costs Decision

Inquiry held on 3-6 February 2026

Site visit made on 3 February 2026

by Mr M Brooker DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23rd March 2026

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 - The application is made by Hertsmere Borough Council for a full award of costs against Fairfax Acquisitions Ltd.
 - The inquiry was in connection with an appeal against the refusal of planning permission for the erection of up to 195 new homes (50%affordable), safeguarded land for the expansion of Newberries Primary School and provision of a new medical centre, along with associated access, landscaping and parking.
-

Decision

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

The submissions for Hertsmere Borough Council

2. The costs application was submitted in during a hiatus in the Inquiry agreed to deal with costs and the execution of a planning obligation.
3. I will not repeat the entirety of the applicant's case in this decision given that they have been provided in writing but in summary, the it is the council's case that the Appellant's application for an award of costs against the Council is totally without merit and should not have been made and that the Council has been put to unnecessary expense and additional time in responding to the application.

The response by Fairfax Acquisitions Ltd

4. The response was made in writing after the Inquiry sat during an agreed hiatus to deal with this and the execution of a planning obligation. Again, I will not repeat the entirety of the council's case given that they have been provided in writing, but in summary say the council's approach is "confused and unattractive".

Reasons

5. Parties in planning appeals normally meet their own expenses. However, the Planning Practice Guidance (PPG) 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.
6. A costs application made in respect of another costs application is unusual but not without precedent. Indeed, two such (successful) applications were

submitted by the applicant. For such an application to succeed I consider that it would be necessary to demonstrate that the earlier costs application was hopeless, with no chance of success and hence that party had behaved unreasonably in pursuing such an application and resulting in the respondent incurring unnecessary and wasted expense in the appeal process.

7. The previous costs application was founded in matters that were of considerable importance to the determination of the related appeal and matters at dispute between the parties. While I did not find in favour of the earlier costs application, I consider that it is some way short of being hopeless.

Conclusion

8. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted in this instance.

Mr M Brooker

INSPECTOR

Richborough