



---

## Appeal Decision

Inquiry held on 25 February – 7 March 2025

Site visit made on 27 February 2024

**by S Wilkinson BA, BPI, Dip LA, MBA, MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 25<sup>th</sup> March 2025**

---

**Appeal Ref: APP/C1950/W/24/3354772**

**Former Hook Estate and Kennels, Coopers Lane Road/Firs Wood Close, Northaw, EN6 4BY**

- 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 Swing Ltd against the decision of Welwyn Hatfield Council.
- The application Ref is 6/2023/2418/OUTLINE.
- The development proposed is for outline planning application with all matters reserved except for primary means of access for C2 (extra care) dwellings, ancillary community facilities, extensive landscaping, and access from Coopers Lane Road.

---

### Decision

1. The appeal is allowed and outline planning permission is granted with all matters reserved except for primary means of access for C2 (extra care) dwellings, ancillary community facilities, extensive landscaping, and access from Coopers Lane Road. at Former Hook Estate and Kennels, Coopers Lane Road/Firs Wood Close, Northaw, EN6 4BY in accordance with the terms of the application, Ref 6/2023/2418/OUTLINE, subject to the conditions in the attached schedule.

### Preliminary Matters

2. Northaw and Cuffley Parish Council had Rule 6 status at the Inquiry and presented evidence on four topics including Green Belt, Infrastructure and Sustainability, Biodiversity and Environmental Impact.
3. Class C2<sup>1</sup> is defined as residential institutions including care homes.
4. The appeal is submitted in outline with only access to be determined at this stage. At the commencement of the Inquiry the appellant confirmed that the height and parameter plan was inconsistent with the site location plan. As this represented a minor drafting error this change was accepted and I am satisfied that no party has been prejudiced by this amendment. During the course of the Inquiry the appellants altered the affordable housing element of the scheme to include a financial contribution for housing.
5. The appeal was accompanied by a draft S106 Agreement which was discussed at the Inquiry. I received a completed Agreement on 20 March 2025 to which further reference is made in this decision.

---

<sup>1</sup> Class C2 Town and Country (Use Classes) Order 1987 as amended

6. The Government issued a revised National Planning Policy Framework (the Framework) on 12 December 2024. In response to this the Council wrote to the parties identifying the appeal site as within the new definition of Grey Belt<sup>2</sup>.
7. The Development Plan comprises the Welwyn Hatfield Local Plan 2023, (the Local Plan) and the Northaw and Cuffley Neighbourhood Plan 2023 (NCNP).
8. An unaccompanied site visit was made on the 24 February and again on 4<sup>th</sup> March when the site was viewed from points C and H identified on the site visit itinerary.

### **Main Issues**

9. The Council's decision identifies four reasons for refusal. During the Inquiry the Council stated that it would not defend reasons 3 and 4 as these matters were addressed by the draft S106 Agreement. However, these matters remain as main issues given the position of the R6 party and are addressed in this decision.
10. The main issues are:
  - The effect of the appeal scheme on the Green Belt and whether it would accord with policy
  - The effect of the scheme on the character and appearance of the area
  - Whether the proposed development would preserve the setting of designated heritage assets with particular regard to Hook House a Grade II listed building
  - The effect of the appeal scheme on protected species with particular regard to the Great Crested Newt and the site's biodiversity, and
  - The location of the development with regard to access to shops and services.

11. These matters are considered as part of the overall planning balance.

### **Reasons**

#### **The Green Belt**

##### *Context*

12. The revised Framework introduced new provisions regarding Grey Belt Land with a requirement that the Golden Rules apply where major housing development is proposed in the Green Belt.
13. The Framework advises that the fundamental aim of Green Belt policy is to prevent urban sprawl and that the essential characteristic of the Green Belt is its permanence and openness. The site comprises 11.4ha Green Belt.
14. Paragraph 143 of the Framework identifies that the Green Belt serves five purposes. These are (a) to check the unrestricted sprawl of large built up areas, (b) to prevent neighbouring towns merging, (c) to assist in safeguarding the countryside from encroachment (d) to preserve the setting and special

---

<sup>2</sup> Grey Belt land definition included in the glossary to the Framework

character of historic towns, and (e) to assist in urban regeneration by encouraging the recycling of derelict land.

15. On application of these purposes to the appeal site whilst it lies close to housing in Northaw Park and Firs Park Crescent it does not lie on the edge of a large built up area and its development would not lead to unrestricted urban sprawl or to the merger of neighbouring towns given its location over 2km from Potters Bar and several kilometres from Waltham Cross. Furthermore, the appeal scheme would not affect the setting and special character of a historic town. Purposes a), b) or d) would not be infringed by the appeal scheme. Purpose e) is not directly related to the appeal scheme. Regarding purpose c) this is addressed later in this decision.

*Whether the site is previously developed land*

16. Until the 1930s the site was grazing pasture but between 1930-1980 it was owned and operated by the Greyhound Racing Association (GRA) as the leading greyhound kennels in the UK. Since 1980 many of the main kennels have been demolished and staff accommodation has been retained as private houses on Hook Lane with more recent residential development including Northaw Park on the southern boundary of the appeal site.
17. The legacy of the site's former use is evident in the retained chain link fencing and posts which marked out the grazing paddocks, remnant foundations of the hydrotherapy pools, dispersed blocks of concrete, a small building and parts of made up ground around the site. Despite the age of the above ground infrastructure this has not blended into the landscape. A small fenced compound comprising the sewerage treatment plant for Northaw Park sits towards the south western edge of the site.
18. The extent of retained structures across the site falls within the definition included in the glossary to the Framework as previously developed land. I find that the site is previously developed land.

*Whether the appeal scheme would be not inappropriate development in the Green Belt*

19. Paragraph 154 of the Framework lists certain types of development considered not inappropriate. These include the partial or complete redevelopment of previously developed land which would not cause substantial harm to the openness of the Green Belt. This wording is not included in policy SADM34 which was adopted against the previous Framework.
20. Although there is no definition of 'openness' within the Framework, Planning Practice Guidance (PPG) refers to assessments of openness as being informed through consideration of spatial and volumetric aspects, the duration of the development and the degree of activity likely to be generated.
21. The site is located on a northeast facing slope above Northaw Brook which forms its northern boundary. Its other boundaries to both the east and west are well treed and whilst its southern boundary is also well treed a section lies adjacent to Northaw Park.
22. The parameter plan identifies that development would be restricted to the central and southern parts of the appeal site (around 2.61ha) and would be designed to take advantage of the slope with development restricted to up to

- 7m height located on the southern part with the 2 and 3 storey (of 10.5-13.5m height) development located to the north part of the site.
23. Whilst layout is a reserved matter the illustrative masterplan identifies that a pavilion building, other ancillary buildings and roads and parking areas would extend across the central part of the site retaining its northern section free from development.
24. The site was included in a Green Belt Assessment (2013) as Parcel GB52: land west of Cuffley. The Parcel is characterised by limited development, assessed as only 0.7% of the total area which is confined largely to linear strips atop ridges. Furthermore, this assessment identified that the Parcel had large blocks of woodland and high hedgerows leading to a strong sense of enclosure and that the area was a generally tranquil area.
25. Whilst development would account for 23% of the site area, in contrast to 0.7%, this has to be set against the extent of the Parcel GB52 which is a broad sweep of open land. The parameters included in the scheme identify how it would have limited impact with the taller buildings proposed for the lower slopes. There would be some cut and fill of the landform to accommodate the development platforms but the cross section included in the appellant's evidence identifies that this would be limited in scale.
26. The appeal site is currently not in use for agricultural purposes but is managed, resulting in occasional vehicular movements and limited activity. In contrast the appeal scheme would introduce a new level of activity resulting from the movement of people across the site with daily traffic movements, estimated to be around 36 and 22 two way movements for the morning and evening peaks. However, this limited amount of movement has to be set against that currently generated by neighbouring residential development.
27. Whilst the impacts arising from the scale of proposed development and activities would be significant they would be contained by the existing tree belts which limit longer views from the east, west and north. Whilst the scheme could be seen from Northaw Park views would be limited by the proposed separation distances identified on the illustrative masterplan. Given the distance between the appeal site and the riding school on Northaw Road West the visual impacts would be seen in the context of Northaw Park itself.
28. For these reasons, whilst the scale of development would be significant it would not cause substantial harm to the openness of the Green Belt; the appeal scheme would not be inappropriate development in the Green Belt.

#### *Application of the Golden Rules*

29. Given that the appeal scheme is for major housing development by reason of Paragraph 155d) of the Framework the Golden Rules set out in Paragraph 156 apply. These require contributions to affordable housing, infrastructure and green space.

#### *Affordable housing*

30. Policy SP7 requires that 30% of housing on previously developed sites in the Green Belt are affordable. However, there is no explicit reference in this policy which states that affordable housing is not required for C2 schemes.

31. Paragraph 157 of the Framework is clear that in the absence of a pre-existing requirement for affordable housing a 50% affordable housing contribution applies. I am persuaded by the Council's evidence that in the absence of a clear policy on affordable housing for C2 development this 50% default position applies and not the 15% position as advocated by the appellant.
32. Whilst this approach departs from that taken by an Inspector colleague in a recent decision<sup>3</sup>, I do not have before me the evidence which informed his position; in contrast the Council's case is clear on this point and one which I give considerable weight in my determination of this main issue.
33. In this case the inclusion of 10% of dwellings being sold at a 20% discount to the market price together with a contribution broadly estimated to be around 5% or £1million does not meet this test as there is no existing policy requirement for C2 development to which a 15% uplift can be applied. The scheme does not comply with Paragraph 156a) of the Framework.

#### *Infrastructure*

34. The S106 Agreement includes financial contributions to indoor and outdoor sports facilities, Oakmere library, sustainable transport and for a waste transfer station. These measures accord with Paragraph 156b).

#### *Open Space*

35. The S106 Agreement includes financial contributions towards off site public open space. This would be directed towards public realm improvements in Home Wood and Northaw Great Wood which are local to the site. These improvements would be to existing footpaths, boardwalks and signage. These provisions are consistent with Paragraphs 156c) and 159 of the Framework.
36. As the appeal scheme does not comply Paragraph 156a) this is a material consideration to be weighed into the planning balance

#### **Character and appearance**

37. Policy SADM16 requires development to preserve the Borough's natural and historic landscapes. SP9 is a broad design policy and for this appeal its most relevant parts require that development relates well to its surroundings, preserves local distinctiveness, is legible and of high quality. Policy D2 requires development to respond positively to existing character with reference to design guidance included in the appendix.

#### *Landscape effects*

38. Both main parties identify that the most important landscape receptors are confined to the site itself and the LCA Area 53 – Northaw Common Parkland. I accept this basis for consideration which reflects the contained nature of the site.

#### *The site*

39. The appeal site does not lie in a valued landscape as defined by Paragraph 187a) of the Framework. Both main parties identify the range of landscape

---

<sup>3</sup> APP/N0410/W/24/3348677

character assessments and typologies<sup>4</sup> which the site lies within. Consistent with these is the site's context of undulating hills, woodland with arable farmland and pasture, deciduous woodland and peri urban uses including horse grazing with a dispersed settlement pattern largely confined to ridgelines.

40. The site lies on a north east facing slope above the Northaw Brook which slopes from 111m-62mAOD. A range of physical and perceptual attributes contribute to its value as defined in landscape guidance<sup>5</sup>. These include its natural heritage of grassed areas, linear shrub belts and well wooded boundaries. These features are compromised by the presence of the fence lines and remnant structures which define the former exercise paddocks formerly used by the GRA. These features adversely contrast with the surrounding landscape of pasture and arable fields. They undermine its landscape condition and are not representative of a parkland character.
41. The site's cultural heritage relating to its former use as farmland linked to Hook Farm has been severely compromised following the use of the site by the GRA. I do not consider that the site has any associations with the Oshwal Centre located in Hook House given that this has been a recent change in occupation and that there is a boundary between the two. The site contains no footpaths thereby reducing its recreational value. However, the site has a sense of tranquillity being located on a downward slope away from the M25 motorway. Furthermore, it allows a scenic appreciation of the valley and the presence of Northaw and its Parish Church.
42. When considered overall these factors result in the site having a medium value.
43. Given the outline parameters of the appeal scheme, the site would have a medium susceptibility to the proposed development. I accept that this contrasts with the Council's assessment but it reflects my conclusion that it does not have a parkland character.
44. On those parts of the site proposed for housing the extent of change proposed by the scheme would be significant arising from the proposed height of built form, varying from 7.5m – 13.5m, and the creation of the development platforms. However, beyond these areas in the 77% of the site which would remain undeveloped for dwellings the impacts would be limited in scale.
45. The landscape effects would be irreversible and when taken as a whole they would result in moderate adverse impacts. However the landscape effects would not be significant.

#### *LCA-53 Northaw Common Parkland*

46. The LCA-53 extends north from the M25 motorway to the east of Potters Bar up to the southern edge of Hertford. Northaw village lies towards its centre.
47. The LCA is characterised by an undulating topography with particular landscape features including, tree belts, blocks of woodland and high hedgerows providing a sense of enclosure for areas of pasture. These features and that only 23% of the site would be developed result in the appeal scheme having minimal impacts on LCA-53

---

<sup>4</sup> CDs M5, M6, E2 and E8

<sup>5</sup> TGN 02/21: Assessing Landscape Value Outside National Designations

48. In this context the effects of the appeal scheme on the LCA would be minor adverse.

#### *Visual effects*

49. The main parties agreed a set of viewpoints and visual receptors from around the site which determined the route of the accompanied site visit. The Zone of Theoretical visibility (ZTV) is restricted by topography and the natural features which limit the exposure of the receptor to a range of different views. My conclusions reflect the outcome of this site visit and understanding of the wireframes submitted by the appellant for 15 years post completion.

50. The greatest visual impacts would be experienced by the residents of Northaw Park whose properties face north and east towards the site. These are particularly sensitive to the proposed changes. However, the proposed scheme would limit the extent of adverse impact by the proposed separation distance to the bungalows together with the landscaping belts within the scheme. I acknowledge that there would still be an adverse contrast with the more open nature of the site as existing but the scheme would still allow for views to the south side of the valley. There would be only moderate adverse visual impacts on these properties.

51. From viewpoints C and H the extent of tree cover from along Coopers Lane Road and the height of the hedges along Northaw Road West prevent any views towards the appeal site.

52. From viewpoint D located on the southern edge of Coopers Lane Road and viewpoint F located close to the appeal site's entrance the topography again prevents any views into the body of the site.

53. From viewpoints G and B located along Bridleway 010 due to the extent of the site's wooded edge only limited glimpses into the site could be obtained. However in the spring and summer months these views would be completely obscured.

54. From viewpoint A located to the north of the site by the entrance to Park Farm only slithers of the site can be seen but this would be in the context of Northaw Park which would be dominant. Given the distance involved from this point there would be negligible impacts on the receptor. The mitigation planting identified on the illustrative masterplan could reduce entirely the scheme's visual impacts.

#### *Conclusion on character and appearance*

55. Overall given the extent of landscape effects I find that there would be moderate adverse impacts on the site but with only minor adverse impacts on the LCA-53. The visual impacts would be confined to the resident receptors within the neighbouring development. However, given that there would be some harm to the landscape character of the site itself I conclude that the appeal scheme conflicts with policies SADM16, SP9 and D2.

#### **Designated heritage assets**

56. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 places a statutory duty on decision makers, to have special regard to the

- desirability of preserving listed buildings or their setting. The Framework defines 'setting' as the surroundings in which a heritage asset is experienced.
57. Historic England's guidance<sup>6</sup> advises that the setting itself is not a heritage asset. Its importance lies in what it contributes to the significance of the heritage asset or the ability to appreciate that significance.
58. Policy SADM15 seeks to protect historic assets from the cumulative impact of small scale changes and that proposals should respect their setting. Policy D2 requires development to reflect a strong sense of place consistent with its character analysis.
59. Both main parties accept that the appeal site lies in the setting of the Grade II listed Hook House and the Council acknowledge that if harm is found then the public benefits of the appeal scheme outweigh the harm. The R6 party identify that the appeal scheme would lead to harm to this asset.
60. Hook House, now known as Oshwal House, dates from 1839 and was built on the land of Hook Farm originally located to the northwest of the House. Its significance derives from its architectural and historic interest. It was designed as a Tuscan style villa with painted stucco walls with a shallow slate roof. Its defining feature is the large open well internal staircase, dating from the seventeenth century which was apparently taken from the Gobions House in North Mymms Parish on its demolition.
61. Its principal elevation faces south over what was originally a level area of parkland whilst to the north the land slopes down from to the Northaw Brook before rising to the village of Northaw to the north west. Tythe maps from 1849 identify that the land to the north and east (part of which now comprises the appeal site) was farmed as arable or meadow. Furthermore, tythe maps from 1895 and 1906 identify that the appeal site comprised land in the same ownership as the House. This identifies a historical functional relationship between the two.
62. The house is now used as administrative offices supporting the Oshwal Centre. Development associated with this Centre includes an extensive area of car parking lying immediately south of the House and a Jain temple to the south east on what had been the parklands in front of the house. Hook Farm was redeveloped for a large event building to the west of the House.
63. The scale of development around Hook House including housing in Northaw Park and Firs Park Crescent together with the remnant structures from the GRA in the appeal site has broken any functional relationship which once existed between the House and its rural setting. Given the architectural treatment of its southern elevation its setting would have best been appreciated from the parkland to the south which has now been completely developed.
64. The site visit was undertaken when tree foliage was minimal but views into the site from the rear of the asset were obscured by the density of tree belts along the shared boundary. Only the 'buffer' land within the site lying immediately to its north east could be seen from the first floor windows. It is acknowledged that from the southern edge of the site there are limited glimpses of the House. However increased foliage during the spring and summer months would make these views negligible.

---

<sup>6</sup> The Setting of Heritage Assets, Planning Note 3



65. Given the parameters included in the proposed scheme, Hook House would not become overshadowed by modern housing developments as the R6 party state. The existing shrub belts within the site and those proposed as part of the appeal scheme would further screen the proposed development resulting in negligible impacts.
66. The relative containment of the appeal site means that it is not possible to appreciate the significance of Hook House from viewpoints along Coopers Lane Road and Firs Wood Close. This relationship would not be altered by the appeal scheme.
67. When viewed from the riding school on Northaw Road West the tree line of the woods to the south of the House would be a dominant part of the skyline framing the House. Given the nature of the proposed scheme which includes the higher development on the lower part of the site Northaw Park would be dominant and the single storey dwellings would be hidden from view by existing and proposed landscaping. The proposed higher buildings would not be seen given the site's topography.
68. I acknowledge the importance of published guidance<sup>7</sup> on how the cumulative effects of small-scale changes within a setting could affect how the significance of a heritage asset is appreciated. Whilst existing development to its south has compromised the setting of the House the changes that would be introduced by the appeal scheme would have no effect on the relationship of the site to Hook House.
69. Paragraph 215 of the Framework requires that great weight must be given to the protection of this designated heritage asset and given the duties of the decision maker under S66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 special regard is to be had to the desirability of preserving the building and its setting.
70. There would be no loss of the fabric of the building itself. Furthermore, no harm would arise from the appeal scheme on the setting of Hook House. For this reason the proposal would not conflict with Policies SADM15 and D2.

*Northaw Conservation Area (CA) and the Parish Church of St Thomas a Becket*

71. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 places a statutory duty on decision makers to pay special attention to the desirability of preserving or enhancing the character or appearance of that area. This is consistent with policies SADM15 and D2.
72. The CA is itself a designated heritage asset with its setting largely determined by its relationship to the surrounding farmland. The CA lies just over a kilometre from the appeal site. It comprises a collection of buildings, some of which are listed. The CA is characterised by an irregular pattern of single storey buildings softened by greenery including the village green.
73. Due to intervening topography, intervisibility between the appeal site and the asset is limited and I have no evidence of any functional relationship between the CA and the appeal site. Accordingly, the appeal scheme would not undermine the significance of this asset.

---

<sup>7</sup> Historic England GPA2

74. The Grade ii\* listed Parish Church dates from 1881 with additions in 1887 and 1893. Its materials include rock cut stone with a slate roof. The tall tower is completed with clasped buttresses with crocketed finials. Its interior includes features such as a perpendicular chancel arch and rood and a polygonal stone pulpit with murals signed by Ward Hughes.
75. The church exercises a unique presence in the locality. Whilst the church can be clearly seen from the site there is no evidence of any functional relationship between the church and the appeal site. Accordingly, the appeal scheme would not undermine its significance.

### *Conclusions*

76. Whilst the appeal site was originally an area of arable land and meadow farmed by the occupants of Hook House this functional relationship has been eroded by development since the early part of the twentieth century. In its existing form the site is not in agricultural use and does not contribute to the ability to appreciate and understand the historic interest of the asset as a country house supported by its estate.
77. The appeal scheme would not conflict with policies SADM15 and D2. I conclude that there would be no harm to the setting and significance of the asset, as expressed in the terms of the Framework. No heritage balance is therefore required.

### **Location of Development**

78. There is general agreement between the parties that the site's location does not allow access by a range of transport modes. Coopers Lane Road is unlit and has no public footways or dedicated cycleways in the vicinity of the site. However, running along the western boundary of the site is Bridleway 10 and along the southern edge of Coopers Lane Road is Bridleway 17.
79. A recently introduced limited public bus service, Route 242, runs between Potters Bar and Waltham Cross. Outside the morning peaks this has an hourly service from 06.42 – 19.10 on weekdays and an hourly service between 07.40-17.36 on Saturdays with no Sunday service. Potters Bar, the largest town in the area, has a full range services.
80. Policies SP1, SP4, SP13, SP1, SADM1 and SADM3 are consistent with the Framework in requiring development to be located on sites which allow access by a range of transport modes. They identify that planning obligations can be used to improve access by public transport, walking and cycling.
81. The form of retirement living proposed by the appeal scheme is aimed at those aged 75+ years. Supporting evidence included with the appeal identifies that the scheme could include a range of services such as a consulting room, hairdressers, pool, bar, restaurant, community area, allotments, spa and gym. These services are designed to cater for the anticipated needs of residents and critically could reduce the need for travel outside the site.
82. The Transport Assessment identifies that the amount of traffic generated by the scheme during the morning and evening peak travel periods could be accommodated within the design capacity of the existing road network. The Highway Authority's original objection has been resolved through a revised visibility splay for the access from Coopers Lane Road.

83. Access to a broad range of services located in either Potters Bar or Waltham Cross could be met through the operation of an electric vehicle transport service for the benefit of residents. This would be an on demand service between 06.30 and 22.30 hrs each day. This is included as an obligation in the S106 Agreement.
84. Whilst I acknowledge the concerns of the R6 party on this matter I conclude that the range of service provided on site would limit demand for private transport to access services. The suggested arrangements for the electric vehicle transport service would reduce the numbers of trips by private vehicles generated by the scheme.
85. I conclude that the appeal scheme would not conflict with SP1, SP4, SP13, SP1, SADM1 and SADM3 and is consistent with Paragraph 110 of the Framework.

### ***Protected species and biodiversity***

86. The appeal site lies around 1.5km south of Northaw Great Wood SSSI with Firs and Pond Woods managed by the local wildlife trust lying immediately south of the site on Coopers Lane Road. Local wildlife sites which include Hook Copse, woodland, south west of Northaw Brook and pastures and grassland lie partly in the site.
87. Consistent with policies SP11 and SADM16 the appeal is accompanied by ecological surveys completed during the last 4 years. These include desk top studies, walkover surveys and on-site species-specific surveys including those for Great Crested Newts (GCN) and bats with additional surveys for badgers.
88. The results of the surveys identify that only one of the two badger setts was occasionally active; this was confirmed during the site visit. There is no evidence that any of the existing structures include bat roosts although it was accepted that the tree belts are likely be used for roosting purposes. However the scheme would not involve the loss of any veteran trees in these areas.
89. Surveys identified that the site provides habitat for 49 breeding birds including Firecrest and Cuckoo. The proposed scheme would limit the degree of harm to its fauna given that only around 23% of its area would be developed and boundary tree belts and veteran trees across the site would be retained. A suggested planning condition would limit the times of year construction activities could commence to support breeding and nesting.
90. To mitigate for any potential loss of habitat for GCN the appellant has already completed a District Level Licensing Impact Agreement with Natural England. To reduce impacts on the site's population of slow worm and grass snake, measures which would be controlled by planning conditions could support their translocation away from the areas of proposed works.
91. Given the date when the application for planning permission was submitted there is no statutory requirement for the appeal scheme to achieve a 10% uplift in Biodiversity Net Gain (BNG). However, the scheme includes a range of measures which could be controlled through planning condition to preserve and enhance areas of existing woodland, ponds and grassland. This includes those paddocks bordering the site's entrance through the planting of a species rich meadow grass. Around 330 trees would be planted on site of which 80 would be semi mature.

92. It is estimated that the overall BNG would be around 14.8% with the potential to deliver around 28%. This is in excess of the 10% requirements required by adopted policy.
93. To conclude the appeal scheme does not conflict with policies SP11 and SADM16 which require the protection of ecological networks, the enhancement of ecological assets and their long term conservation.

### **Infrastructure**

94. The Community Infrastructure Levy (CIL) Regulations 2010 and paragraph 58 of the Framework set a number of tests for planning obligations: they must be necessary to make the development acceptable in planning terms, be directly related to the development, and be fairly and reasonably related in scale and kind to the development. The Council submitted a CIL compliance schedule identifying how each suggested obligation is consistent with its adopted policies and the requirements of the Regulations.
95. The Agreement includes a series of obligations in favour of the Council. These include a covenant for affordable housing in the form of a discount of 20% on market sale of 10% of the units. Furthermore, the S106 Agreement includes a financial contribution of a further 5% derived from the applied discount as a commuted sum of around £1,015,826 directed towards housing need for the Borough. Taken together this does not comply with Paragraph 156a) of the Framework although it is broadly in line with Paragraphs 64 and 65.
96. Other obligations include contributions towards sustainable transport measures of £362,610 based on a formulae prepared by the County Council which would be directed towards a number of projects in the Goff Oaks and Cuffley area, improved accessibility at Cuffley station and Cuffley traffic management scheme. These are consistent with Policy SP13
97. Other obligations require contributions towards Indoor and Outdoor sports facilities. These include £66,524 towards indoor sports facilities directed towards maintenance/repair of existing swimming pools in the Borough or a new swimming pool.
98. An obligation includes £1,763 towards Northaw and Cuffley bowling club with a further contribution of £64,513 directed towards local sports facilities. A further contribution of £9,003 would be made towards the 3G sports pitch provision and changing rooms. The moneys could be directed towards indoor walking sports including bowls, football, basketball and netball. These provisions are consistent with the needs of the residents of the scheme and the Council's 2020 Sports Strategy and Policy SP13.
99. Other obligations include a contribution of £157,650 as required by local health care providers<sup>8</sup> directed towards improving capacity at a local medical centre. This would be consistent with policy SP13.
100. Another obligation includes £16,836 for Home Wood and Northaw Great Wood, lying to the north of the site, to improve existing footpaths, boardwalks and signage. These provisions are consistent with the Council's Green Infrastructure Plan and Policies SP12 and SP13.

---

<sup>8</sup> CD L23

101. Other obligations include commuted sums towards Oakmere Library and a waste transfer station. These measures are consistent with the County Council's requirements for Developer Contributions.
102. The scheme allows for Biodiversity Net Gain consistent with policies SP11 and SADM16 to ensure that the scheme delivers a BNG. Obligations require the long term management and monitoring over a 30 year period to ensure that this is delivered.
103. The S106 Agreement includes obligations for the provision and management of open space throughout the appeal scheme and the establishment of a management company.
104. Consistent with the proposed C2 use of the scheme, obligations prescribe the range of care services which the provider would have to maintain.
105. The Agreement includes provision for an on demand electric vehicle service which would be wheel chair accessible. This would be subject to a strategy and plan to ensure delivery for the lifetime of the development. This is consistent with transport policies SP4, SP13 AND SADM3 in requiring restraint on the use of private vehicles.
106. The S106 Agreement includes a monitoring fee of about £5,000 which is based on a standard assessment of staff time; this is in line with the Guidance. An additional monitoring fee is also required to ensure the delivery of the scheme's travel Plan at £1,200pa. This is consistent with Policy SADM3
107. I conclude that the S106 Agreement includes the provision of infrastructure, which is necessary, directly required and fairly and reasonably related in scale to this development. To conclude I am satisfied that each of these obligations fall within the provisions of Regulation 122(2) of the CIL Regulations and Paragraph 58 of the Framework.

## **Planning balance and overall conclusions**

### **The Development Plan**

108. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning decisions are made in accordance with the development plan unless material considerations indicate otherwise.
109. Both main parties acknowledge that there is an undersupply of housing land. In these circumstances there is a presumption in favour of sustainable development as defined by the Framework. The test included in Paragraph 11d)ii. of the Framework applies to this case and requires that any adverse impacts of the appeal scheme would have to significantly and demonstrably outweigh the benefits.
110. The fact that policies are deemed as out of date does not mean that they carry no weight. To carry weight policies must be consistent with the Framework, as explained in Paragraph 232, which amongst other things, states that the closer that local policies are to those in the Framework, the greater weight that may be given to them. As such it is perfectly possible for policies which are deemed out of date by reason of an inadequate land supply to still carry significant weight.

111. Given my findings on the main issues above the most important policies relate to the outstanding matters of Green Belt, landscape character and appearance. Therefore the most important policies include SP9, SADM16, SADM 34 and CNNP policy D2.
112. Whilst policy SADM 34 is consistent with the Framework in seeking to protect the Green Belt from inappropriate development it does not account for the exception in respect of Grey Belt land and whilst it is permissive of development on PDL it does not include the test of substantial harm on openness. For this reason, I accord only moderate weight to the conflict between the policy and the appeal scheme.
113. The degree of conflict with this policy has to be tempered by the particular characteristics and context of the appeal site. The site is previously developed land which does not contribute to Purpose a), b), and d). In respect of purpose c) whilst there would be harm because the site lies outside a settlement boundary it does not have a marked rural character or contribute to the character of the wider area; its contribution to this purpose is limited. The scheme would not result in substantial harm to openness. However, for major development in the Green Belt it fails Paragraph 156a).
114. Landscape and design policies SP9, SADM16 and D2 accord with Paragraph 135 and 187 of the Framework in ensuring that development integrates landscape and maintains local distinctiveness, legibility and a strong sense of place. I find that substantial weight should be accorded to the conflict between the appeal scheme and these policies. However, whilst the scheme would result in moderate adverse impact on the site its impact on local landscape character would be limited given the site's self containment and the limited views from surrounding receptors.

### **Material considerations**

115. The appeal scheme has a range of benefits to be considered as part of the overall planning balance. Several of these are inter related and for this decision I have linked these together where necessary.

#### *Provision of housing*

116. Both main parties accept that the Council cannot demonstrate a five year housing land supply (5YHLS). The figures differ with the appellant estimating that the supply is 1.55 compared to the Council's figure of 2.3 YLS. Furthermore, the Council has only delivered 52% of homes against its requirement for the period 1<sup>st</sup> April 2020-31<sup>st</sup> March 2023.
117. For the purposes of this appeal, I have adopted the Council's position regarding the housing land supply shortfall. That should not be interpreted, however, as any indication that I necessarily agree with that position. I simply have adopted this figure to inform the planning balance. However, it is indicative of the Council's difficulties in achieving a policy compliant housing land supply.
118. The local plan was adopted under the 2012 Framework and accordingly has less onerous housing targets than those which currently exist. In their report, the Examining Inspectors acknowledged that the full objectively assessed housing need amounted to 15,200 dwellings for the plan period (2016-2036) but that opportunities for additional dwellings on sites identified in the plan was for 13,400 dwellings.

119. Given this shortfall, policy SP2 commits the Council to an early review commencing within one year of its adoption. The Council's local development framework requires the submission of a new draft plan to the Secretary of State by 2026 with adoption by 2027. However, the standard method would apply, and would increase the housing requirement from 760 to 840 dwellings p.a. It is understood that a preliminary scoping of the new plan has commenced and that a public consultation exercise was completed at the end of 2024.
120. Given the current shortfall in housing land the preferred option of achieving a plan led solution to the current shortfall is at least two years away. In this context the provision of additional 150 dwellings carries substantial weight in the overall planning balance.

*The provision of 150 homes for older persons*

121. The Statement of Common Ground identifies that there are currently 89 units of housing with care in the Borough.
122. Both main parties accept that there is a critical need to provide housing for older people. In the calculation of demand for C2 housing with care both accept that there is no preferred approach as it is largely dependent on the preferences of individuals in how they anticipate future housing needs can best be provided dependent on both their health and wealth.
123. The Council's calculation of future demand is derived from several sources. These include the SHOP@toolkit by Housing LIN and other assessments including SHMA<sup>9</sup> updates and the 2018 based population projections. This identifies demand for 621 units of all specialist housing for the elderly during the plan period although this assessment did not fully account for the shortfall in provision at that time. This contrasts with the appellant's assessment of demand of 339 units in 2023, 424 units by 2033 and 537 units for sale by 2043 based on the application of the HILL toolkit. Given the high levels of home ownership across the Borough there is particular demand for market C2 accommodation.
124. Policy SP7 requires that within strategic development sites 5% of all housing units should meet the varied needs of an ageing population and the policy includes a requirement that 200 units should meet specialist needs including nursing care.
125. To date almost 9 years into the plan period no schemes for Class C2 housing with care have the benefit of planning permission. Whilst 33 units have permission on a site north east of Welwyn it is unclear whether this would actually be for C2 housing. Whilst 114 C2 units have the benefit of planning permission on the former Shredded Wheat site it appears that this scheme will not proceed as a new application for a revised scheme for 141 C2 units has just been submitted. An application for 51 extra care dwellings at Elizabeth House remains undetermined.
126. This snapshot demonstrates that to date the supply of units is not keeping pace with the anticipated demand given the length of the plan period. This may reflect the constraints highlighted by the appellant<sup>10</sup> in respect of the difficulties

---

<sup>9</sup> Strategic Housing Market Area

<sup>10</sup> PoE of Mr Garside

in finding appropriate sites, the minimum size required to ensure viability and a need to deliver without phasing.

127. These matters reflect the importance of schemes for Class C2 development and in this regard the comments of the County's Adult Social Care team<sup>11</sup> in support of the scheme are instructive. When taken in the round this issue has substantial weight in the overall planning balance.

*Reduction in pressures on the NHS and health and well being*

128. The appellants evidence, uncontested by the Council or Rule 6 party acknowledges that the development of a dedicated scheme which caters directly for the needs of elderly residents would have particular benefits for the NHS.
129. These benefits are largely derived from the creation of an indoor and outdoor living environment designed to keep necessary services in a discrete area within easy reach of accommodation. This designs out the potential for accidents caused by obstructions to mobility. The number of shared facilities together with a high level of care delivered on a 24/7 basis would allow carers to understand the specific health needs of their clients. I accord this matter significant weight.
130. Whilst many of the stated benefits included in the appellants evidence<sup>12</sup> appear to be overstated by their reliance on simple metrics, I find that the appeal scheme would deliver health benefits leading to savings for the NHS. I accord this significant weight.

*Freeing up under occupied homes*

131. The provision of 150 new units of specialist accommodation would free up dwellings from the existing stock. Whilst it would be unrealistic to assume that all future residents would move from within the Borough there would be some benefits for the reuse of the existing housing stock. Given the Council's housing land supply position this would be of particular benefit which I accord moderate weight.

*Delivery of affordable housing*

132. The appeal scheme includes 135 market dwellings with 15 dwellings 'affordable' through a discounted sale with a financial contribution of around £1m directed towards addressing borough wide housing needs.
133. In common with the local housing market evidence, demand for C2 accommodation continues to be driven by market demand<sup>13</sup> from households selling their homes intending to move to retirement housing.
134. Whilst the appeal scheme does not include 50% affordable housing as required by Paragraph 156a) of the Framework, given that local demand leans towards the provision of market dwellings, I still accord moderate weight to the inclusion of 15% of affordable units.

---

<sup>11</sup> CD L17

<sup>12</sup> CD G23, G24 & G26

<sup>13</sup> CD L17



### *Economic benefits*

135. The appellant identifies a range of economic benefits based on metrics derived from national studies. These have not been contested by the Council.
136. In summary these benefits include employment opportunities for construction and sales staff of around 97 jobs delivering around £4.4m in Gross Value Added (GVA). Furthermore, it is anticipated that once operational the scheme would employ around 40 FTEs generating around £1.1m p.a.
137. It is acknowledged that there would be limited economic benefits by residents spending in the local area. However, given that the scheme includes a restaurant and on site facilities this would be limited in scale.
138. Overall the economic benefits derived from employment are accorded moderate weight in the planning balance.

### *Open Space*

139. The appeal scheme includes the provision of open space within the site and in the local woods. Given the scale of improvements proposed this is accorded moderate weight in the overall balance.

### *Biodiversity Net Gain*

140. The BNG arising from the scheme would be in excess of the adopted policy requirement of 10%; this is accorded moderate weight.

### **Planning balance**

141. The Government attaches great importance to Green Belts and maintains that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping them permanently open.
142. In this case the potential harm from this scheme is reduced because the appeal scheme is not inappropriate development. The site's location does not contribute to three purposes as outlined in Paragraph 143 a), b) and d) and even though the appeal scheme represents development in the countryside due to its self containment and current physical state it makes only a marginal contribution to purpose c). For this reason, the harm which would arise from its development would be limited. Given the amount of affordable housing proposed which conflicts with Paragraph 156a) this can be balanced against the local market conditions and the scheme's other benefits.
143. Whilst the appeal scheme would result in landscape harms these would be largely limited to the site itself. Visual impacts would be limited due to the site's topography and tree belts.
144. As set out above, there are substantial benefits arising from the scheme. These include the provision of housing and in particular C2 housing with care. These matters carry substantial weight not least as a consequence of the Council's chronic five year housing land supply exacerbated by the shortfall in allocated sites. This is unlikely to be resolved through a plan led solution within the next two years. Other benefits of the scheme including the savings to the NHS and improvements to health and wellbeing are accorded significant weight. These matters meet the social objectives of the Framework.

145. The economic objectives of the Framework would be achieved by the scheme. Although much of the economic benefit would be temporary, arising during the construction period, there would be sustained employment in the services and facilities on the site, together with additional spend in local shops and services. The savings which would arise to the NHS and social care is a further consideration. These benefits attract moderate weight.
146. The environmental benefits of the Framework would be achieved through the scheme's contribution to BNG. This attracts significant weight. I also consider that the provision of other benefits related to open space and community space above the policy requirements, and footpaths through the site, attract significant weight.
147. When considered overall, whilst I accord substantial weight to the limited harm arising to the Green Belt, this is clearly outweighed by the planning benefits of this scheme.
148. I have taken account of the matters raised by interested parties together with the conflict with Green Belt and landscape policies but the benefits of the appeal scheme would significantly and demonstrably outweigh the harm identified when assessed against the policies of the Development Plan, when taken as a whole. As such the proposed development benefits from the Framework's presumption in favour of sustainable development.
149. Accordingly, the appeal is allowed and planning permission is granted.

### **Conditions**

150. I have considered the suggested conditions following the discussion at the Inquiry and the advice in both the Framework and the Government's Planning Practice Guidance. The conditions and wording set out in the schedule below reflect that discussion although I have amended a number to make them more concise, precise and enforceable. Whilst the schedule includes several pre-commencement conditions I accept that in this instance they are necessary for the development to prevent harm and disturbance given the site's proximity to surrounding residential properties and its landscape and ecological context.
151. In addition to the standard conditions relating to outline schemes and the submission of reserved matters, it is necessary, in order to provide certainty, to identify the plans to which the decision relates, but only insofar as they relate to the matter of access and the parameters of the proposed scheme.
152. The R6 party requested that there should be a phasing plan to allow consideration of the impacts of the scheme. However, I accept the appellant's evidence that phasing could frustrate delivery given the business model to which C2 schemes adhere to. Accordingly, I have not imposed a planning condition to give effect to this.
153. Given the nature of the previous use, conditions requiring contamination surveys, necessary remediation, verification and remedial works during construction activities are required to protect the surrounding environment and the living conditions of future and existing residents.
154. To protect the living conditions of surrounding residents and users of local highways during the construction period I have imposed a condition requiring a Construction Management Plan requiring full details of matters affecting the

- movement of vehicles to the site. Given the site's location in the Green Belt and neighbouring local wildlife sites I have imposed a condition requiring details of a Construction Environmental Management Plan.
155. I accept the comments of the local wildlife trust in respect of the presence of badgers on the site, and for this reason have imposed a condition requiring re survey of the site to determine whether badger setts are still active with remedial action taken as required by Natural England.
156. I have imposed a condition requiring detailed designs of a surface water and drainage scheme to prevent flooding and to ensure the disposal of water from the site for a range of rainfall events and to ensure that the proposed sustainable drainage system (SuDs) can work for the life of the development. Related to drainage, an additional condition requires details of the management and maintenance of the SuDs to ensure its effectiveness and the submission of a verification report required to confirm that the scheme has been completed as required by the submitted details.
157. I have imposed a condition requiring a construction phase surface water management plan given the existing drainage across the site and the adjacent Northaw Brook which require protection from pollution.
158. I have imposed a condition to examine whether the existing sewerage treatment plant would be affected by the appeal scheme. This condition is necessary given that there is a possibility that the proposed treatment works would have the capacity to serve Northaw Park. To avoid the risk arising from pollution a condition requires confirmation that all foul water network upgrades have been satisfactorily completed.
159. Although the site is PDL it is necessary to complete a Written Scheme of Archaeological Investigation to identify the presence of any artifacts as a precautionary approach consistent with policy SADM15.
160. Consistent with the site's biodiversity and ecological values I have included a condition requiring that existing hedgerows, trees or shrubs should not be removed between 1<sup>st</sup> March-31<sup>st</sup> August unless a competent ecologist has undertaken a thorough survey to determine whether nesting birds are present. Given the results of the ecological surveys a lighting scheme is required directed at the protection of dark corridors to limit impacts on roosting and commuting bats.
161. To protect the safety of future residents of the development I have imposed a planning condition to ensure that fire hydrants are located across the site. To maintain highway safety for both the residents of the development and those existing in Northaw Park and Firs Park Close I have included a condition requiring the introduction of traffic calming measures. This may in part address the concerns of interested parties.
162. Given that the application is for C2 development I have imposed a condition requiring that at least 20% of all dwellings comply with Building Regulations Part M4(2) standards to enable accessible and adaptable dwellings.
163. In order to protect local air quality I have imposed a condition requiring the development to be completed as required by the construction mitigation measures.

164. Suggested conditions 25 and 26 included in the draft schedule are unnecessary given that road design will be tailored to the proposed client group living at the scheme and that there are sufficient number of conditions included regarding protection against flood risk as required by the flood risk assessment submitted by IDOM 2024.

*S Wilkinson*

INSPECTOR

## Schedule of Conditions

1. Details of the appearance, landscaping, layout, and scale, (hereinafter called, the reserved matters) shall be submitted to and approved in writing by the local planning authority before any development begins 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 before the expiration of three years from the date of this permission.
3. The development hereby permitted shall be carried out in accordance with the following approved plans: drawing number P24\_0394\_DE\_001\_12 (Land Use and Heights Parameter Plan); drawing number P24\_0394\_DE\_001\_02 (Location Plan); and drawing number JNY11265-RPS-0100-005 (Site Access Visibility Splay).
4. The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the reserved matters to be approved.
5. Development must not commence until the following components of a scheme to deal with the risks associated with contamination of the site has been submitted to and approved in writing by the local planning authority:
  - a. A site investigation scheme, to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site. This should include an assessment of the potential risks to: human health, property (existing or proposed) including buildings, crops, pests, woodland and service lines and pipes, adjoining land, ground waters and surface waters, ecological systems, archaeological sites and ancient monuments. The site investigation scheme must also include the recommended and identified risks as per the submitted desktop study by IDOM (ref: GEA-22278-21-263 April 2023). For any works involving excavations below the chalk groundwater table, a ground investigation should first be carried out to identify appropriate techniques and to avoid displacing any shallow contamination to a greater depth, which could impact the chalk aquifer.
  - b. The site investigation results and the detailed risk assessment and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
  - c. A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in (ii) are complete and identifying any requirements for longer term monitoring of pollutant linkages, maintenance and arrangements for contingency action. Any changes to these components require the express consent of the local planning authority. The scheme shall be implemented as approved.
6. Development must not 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. The CMP shall include details of:

- a. Construction vehicle numbers, type), 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) and to avoid school pick up/drop off times;
  - h. Provision of sufficient on-site parking prior to commencement of construction activities;
  - i. Post construction restoration/reinstatement of the working areas and temporary access to the public highway; and
  - j. where works cannot be contained wholly 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.
7. Development (including demolition, ground works, vegetation clearance) must not commence until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. The CEMP must include the following:
- a. Pollution (dust) control measures;
  - b. Protection of adjacent habitats;
  - c. Risk assessment of potentially damaging construction activities;
  - d. Identification of "biodiversity protection zones";
  - e. Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements);
  - f. The location and timing of sensitive works to avoid harm to biodiversity features;
  - g. The times during construction when specialist ecologists need to be present on site to oversee works;
  - h. Responsible persons and lines of communication;
  - i. Use of protective fences, exclusion barriers and warning signs; and
  - j. Mitigation relating to the below species and habitats:
    - Nesting birds.
    - Bats (trees).
    - Reptiles.
    - Badgers.
    - Veteran trees.
    - Buffer zones for the following Local Wildlife Sites (Woodland SW of Northaw Brook Pastures, Northaw Brook Pastures, Hook Copse, Grassland by Hook Copse, and Hook Lane).

The approved CEMP shall be implemented throughout the construction period in accordance with the approved details.

8. Development must not commence until the results of a further site re-visit to determine whether badger setts are still active has been submitted to and approved in writing by the Local Planning Authority.
9. Development must not commence until a detailed construction phase surface water management plan for the site has been submitted to and approved in writing by the Local Planning Authority. The scheme shall subsequently be carried out in accordance with the approved details.
10. Development must not commence until details demonstrating how existing residential properties served by the sewage treatment works on the site would be unaffected by its replacement by the new mains connection has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
11. Development must not commence until an Archaeological Written Scheme of Investigation has been submitted to and approved by the local planning authority in writing. The scheme shall include an assessment of archaeological significance and research questions; and:
  - a. The programme and methodology of site investigation and recording;
  - b. The programme and methodology of site investigation and recording as required by the evaluation;
  - c. The programme for post investigation assessment;
  - d. Provision to be made for analysis of the site investigation and recording;
  - e. Provision to be made for publication and dissemination of the analysis and records of the site investigation;
  - f. Provision to be made for archive deposition of the analysis and records of the site investigation; and
  - g. Nomination of a competent person or persons/organisation to undertake the works set out within the Archaeological Written Scheme of Investigation.

The development shall take place in accordance with the programme of archaeological works set out in the Written Scheme of Investigation. The development shall not be first occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the approved Written Scheme of Investigation and the provision made for analysis and publication where appropriate.

12. No removal of hedgerows, trees or shrubs shall take place between 1st March and 31st August inclusive, unless a competent ecologist has undertaken a careful, detailed check of vegetation for active birds' nests immediately before the vegetation is cleared and provided written confirmation that no birds will be harmed and/or that there are appropriate measures in place to protect nesting bird interest on site. Any such written confirmation must be submitted to and approved by the Local Planning Authority prior to any such works commencing.
13. No development above ground level shall take place until a scheme for the provision of fire hydrants, necessary for firefighting purposes at the site, has been submitted to and approved in writing by the Local Planning Authority.

The development must not be occupied until the scheme has been implemented in accordance with the approved details.

14. No development above ground level shall take place until details of traffic calming measures along the developments access road from Firs Wood Close has been submitted to and approved in writing by the Local planning Authority. The approved details shall be installed prior to first occupation of the development and be thereafter retained and maintained at all times.
15. No development above ground level shall take place until a sensitive lighting scheme consistent with guidance published by the Bat Conservation Trust and Institution of Lighting Professionals (2023), has been submitted to and approved in writing by the Local Planning Authority. The development must be carried out in accordance with the approved scheme.
16. Prior to or in conjunction with the submission of each reserved matters application, in accordance with the submitted Flood Risk Assessment (by IDOM, January 2024), 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 must be implemented prior to first occupation of the development. The scheme shall address the following matters:
  - a. Evidence of a Plan A and Plan B scenario, outlining an alternative strategy and discharge location if infiltration, as Plan A, was proven to be unfavourable. Surface water runoff rates will be attenuated to a total of the greenfield QBAR rate.
  - b. Greenfield and Brownfield runoff rates and volumes to be provided and the method of calculation to be evidenced.
  - c. Provision of surface water storage, 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% AEP (1 in 30 year) and 1% AEP (1 in 100) rainfall events (both including allowances for climate change).
  - d. Detailed designs, modelling calculations (using FEH13 or FEH22 rainfall data, CV value of 1 and including an allowance for urban creep) and plans of the of the drainage conveyance network in the:
    - 3.33% AEP (1 in 30 year) critical rainfall event plus climate change to show no flooding outside the drainage features on any part of the site.
    - 1% AEP (1 in 100 year) critical rainfall plus climate change event to show, if any, the depth, volume and storage location of any flooding outside the drainage features, 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. It will also show that no runoff during this event will leave the site uncontrolled.
  - e. The design of the attenuation basin will incorporate an emergency spillway and any drainage structures include appropriate freeboard allowances. 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% AEP (1 in 100) rainfall event plus climate change allowance.

- f. In-principle agreement consent is required for discharge to a watercourse. This should be sought through the Environment Agency for main river and the LLFA for ordinary watercourses.
  - g. 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.
  - h. 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.
  - i. A maintenance and management plan detailing the activities required and details of who will adopt and maintain the all the surface water drainage features for the lifetime of the development.
17. Prior to or in conjunction with the first application for approval of reserved matters for the development hereby permitted, a scheme setting out the arrangements for the delivery of accessible housing must be submitted to and approved in writing by the local planning authority in accordance with the following requirements:
- a. A schedule of units, together with appropriate plans and drawings, must be submitted to and be approved by the local planning authority setting out details of the number, layout, and location of all units that will comply with Part M4(2) of the Building Regulations. At least 20% of all new dwellings must meet Building Regulations Part M4(2) standards for 'accessible and adaptable dwellings; and
  - b. All units specified as M4(2) 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.

The person carrying out the building work must inform the Building Control body which requirements apply and written verification of the completion of all dwellings in accordance with part (a) above will be supplied to the local planning authority within 30 days of their practical completion.

18. Following completion of measures identified in the approved remediation scheme under Condition 5 and prior to occupation of the development, a verification report that demonstrates the effectiveness of the remediation carried out, together with any necessary monitoring and maintenance programme and copies of any waste transfer notes relating to exported and imported soils, shall be submitted to and approved in writing by the Local Planning Authority. The monitoring and maintenance programme must be implemented as approved.
19. Prior to first occupation of the development, details of the maintenance and management of the sustainable drainage scheme must be 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:

- a. A timetable for its implementation.
  - b. Details of SuDS feature and connecting drainage structures and maintenance requirement for each aspect including a drawing showing where they are located.
  - 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 scheme throughout its lifetime. This will include the name and contact details of any appointed management company.
20. 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), has been submitted to and approved in writing by the Local Planning Authority. The verification report shall include a full set of "as built" drawings plus photographs of excavations (including soil profiles/horizons), any installation of any surface water drainage structures and control mechanisms.
  21. Prior to first occupation of the development, confirmation must be provided that all foul water network upgrades required to accommodate the additional flows from the development have been completed; or a development and infrastructure phasing plan must be submitted to and approved in writing with the Local Planning Authority. Where a development and infrastructure phasing plan is approved, no occupation shall take place other than in accordance with the approved details.
  22. If contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation must be undertaken in accordance with the requirements of Condition 5, and where remediation is necessary a remediation scheme in accordance with the requirements of Condition 5, which shall be submitted to and approved in writing by the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report in accordance with Condition 18 shall be submitted to and approved in writing by the Local Planning Authority. The monitoring and maintenance programme must be implemented as approved.
  23. The development must be carried on in accordance with the construction phase mitigation measures set out in the submitted Air Quality Assessment (by IDOM, November 2023).

**END OF SCHEDULE**

## INQUIRY DOCUMENTS

ID1	Appellants Openings
ID2	Council Openings
ID3	Rule 6 Openings
ID4	Statement of Mr Foxlee
ID5	Listing description of Parish Church of St Thomas a Beckett
ID6	Northam CA – Conservation Area Statement
ID7	Appeal decision – APP/N0410/W/24/3348677 dated 14 February 2024
ID8	Court of Appeal Decision [2025] EWCA Civ 32
ID9	Updated extracts from the Planning Practice Guidance
ID10	Accompanied SV itinerary
ID11	Plan of the scheme overlayed over the area of Previously Developed Land
ID12	Statement from Ms Saunders
ID13	Planning Stmt fr the Shredded Wheat site
ID14	Draft conditions
ID15	Draft S106 Agreement
ID16	Rule 6 Closings
ID17	Council Closings
ID18	Appellant’s Closings

### **Document submitted following the close of the Inquiry**

Completed S106 Agreement dated, 20 March 2025

**APPEARANCES**

FOR THE APPELLANT:

Mr R Warren KC instructed by Mrs K Ventham of Stantec who called:

Mr B Pyecroft PGDip TP MRTPI	Director Emery Housing
Mrs S Dix BEng(Hons) MCHIT MTPS MCILT	Director of RPS
Mr R Glavin BSc(Hons) MSc MCIEEM	Managing Director Idom Merebrook Ltd
Mr A Beaumont BSc(Hons)	Director AA Environmental Ltd
Mr I Froneman BArch ACiFA IHBC	Director Cogent Heritage
Mr J Donagh MSc MIED	Director Stantec
Mr R Garside BSc(Hons) MRICS	Director Newsteer
Mr A Cook BA(Hons) MLD CMLI CEnv MIEMA	Executive Director Pegasus Group
Mrs K Ventham BSc(Hons) MSc MRTPI	Director Stantec
Mr B Nash	Solicitor, Osborne Clark
Mr J Protheroe	Stantec

FOR THE LOCAL PLANNING AUTHORITY:

Ms C Parry, of Counsel instructed by Welwyn Hatfield Borough Council Legal Services called:

Mr D Elmore BSc MSc	Principal Major Development Officer
Mr M Wilson BA(Hons) MSc MRTPI	Planning Policy and Implementation Manager
Ms S Wilson BA(Hons) MSc	Built Heritage Consultant Place Service Essex CC
Mr B Brown BSc MA CMLI	Director, Wynne Williams Associates
Ms J Ratta	Solicitor, Trowers and Hamblins

FOR THE RULE 6 PARTY

Ms L Peters LGCI PSLCC CPFA CILCA	Clerk to the Parish Council
-----------------------------------	-----------------------------

INTERESTED PARTIES:

Mr Foxlee	On behalf of local residents
Ms S Saunders	Director of Northaw Park Management Company
Ms N Shoffman	Director of Northaw Park Management Company
Ms Z Wilson	Herts and Middx Badger Group (Site Visit only)