Planning Inspectorate

Appeal Decision

Inquiry held on 6 October 2026

Site visit made on 5 and 6 October 2026

by Zoe Raygen DipURP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3rd November 2026

Appeal Ref: 6009089
Land at Little Bushey Lane, Bushey WD23 4SD

- 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 Redrow Homes Ltd against the decision of Hertsmere Borough Council.
- The application Ref is 24/1522/OUT.
- The development proposed is residential development (up to 280 dwellings) with access from Little Bushey Lane, a mobility / community hub (Class E), along with car parking, drainage and earthworks, open space and all ancillary and enabling works (Outline Application with Appearance, Internal Access, Landscaping, Layout and Scale Reserved for subsequent approval).

Decision

1. The appeal is allowed and outline planning permission is granted for residential development (up to 280 dwellings) with access from Little Bushey Lane, a mobility / community hub (Class E), along with car parking, drainage and earthworks, open space and all ancillary and enabling works (Outline Application with Appearance, Internal Access, Landscaping, Layout and Scale Reserved for subsequent approval) at land at Little Bushey Lane, Bushey WD23 4SD in accordance with the terms of the application, Ref 24/1522/OUT subject to the conditions in the attached schedule.

Applications for costs

2. An application for an award of costs was made at the Inquiry by Redrow Homes Ltd against Hertsmere Borough Council. With agreement the process was completed by written representations after the Inquiry. This application is the subject of a separate Decision.

Preliminary Matters

3. The planning application the subject of this appeal was for outline planning permission with all matters reserved for future consideration except for access. I have considered the appeal on the same basis. Various parameter plans have been submitted which deal with land use, access and movement, density, height and scale, street hierarchy, and urban design principles and form part of the application the subject of the appeal. The Masterplan has been considered as illustrative only.

4. With agreement, the appellant submitted a signed Section 106 Agreement (S106) after the Inquiry. This is a material consideration which I return to later in my decision.

5. A planning application for 310 houses on a site larger than the appeal site was refused planning permission by the Council[1]. A subsequent appeal was dismissed in 2023[2]. Since that time, a legal challenge has clarified the process relating to sites at risk of flooding. In addition, there has been changes to the National Planning Policy Framework (the Framework) including the latest 2026 iteration. Consequently, while the appeal decision is a material consideration in the determination of this appeal, there have been changing circumstances in terms of the extent of the appeal site, number of houses and policy guidance since its issue. The weight given to it is therefore very limited.

6. On 7 October, the Council approved its Regulation 19 version of the Hertsmere Local Plan (the emerging plan) for consultation before submission to the Secretary of State. The appeal site forms an allocation for 280 houses and a community/mobility hub (HBUSA5) within the emerging plan. In addition, the land at the adjoining Harts Farm forms an allocation for 57 dwellings (HBUSA6). The plan is still at an early stage with the potential for alteration and hence carries limited weight. Nevertheless, it provides a useful demonstration of the Council's intentions for Bushey in the emerging plan.

7. The Council refused planning permission for the proposed development at its Planning Committee on 19 March 2026 for one reason. This reason for refusal incorporated a number of matters including it being inappropriate development in the Green Belt and associated harms, landscape harm, inadequate highways infrastructure mitigation, flood risk and unsustainable location.

8. On 17 July 2026, following a further meeting of the planning committee, and the receipt of legal advice, the Council advised that it was adopting a position of neutrality, confirming that it did not oppose the grant of planning permission. In the Statement of Common Ground (SOCG) it is agreed between the main parties that outline planning permission can be granted for the proposal subject to conditions and a signed Section 106 agreement.

9. Therefore, with agreement, I held roundtable discussions at the Inquiry to allow my questioning of the evidence and for interested parties to put forward their views. In that context the main issues are:

   - Whether the proposal is inappropriate development in the Green Belt including whether the appeal site is Grey Belt;
   - the effect on the openness of the Green Belt and whether the proposal would conflict with the purposes of the Green Belt;
   - the effect of the development on the character and appearance of the area;
   - the effect of the proposal on highway safety;
   - the effect of the proposal on flooding; and
   - if the proposal is inappropriate development in the Green Belt, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the development.

[1] 22/1071/OUT
[2] APP/N1920/W/23/3314268 (the 2023 appeal)

Reasons

Green Belt

10. Policy CS13 of the Hertsmere Local Plan Development Plan Document Core Strategy 2013 (the Core Strategy) states that there is a general presumption against inappropriate development within the Green Belt, and such development will not be permitted unless very special circumstances exist. It goes on to say that the Green Belt boundary will remain unchanged from that shown on the Hertsmere Local Plan (2003).

11. Policy SADM26 of the Hertsmere Local Plan Site Allocations and Development Management Policies 2016 (the Local Plan) states that the Council will assess all applications for development in the Green Belt in accordance with Policy CS13 of the Core Strategy and seeks to ensure that development follows a number of principles. There have been a number of iterations of the Framework since the adoption of the development plan. Nevertheless, the principle of protection of the Green Belt from inappropriate development underlies Framework policy, albeit definitions of not inappropriate development have changed considerably. Despite that I find the policies not to be materially inconsistent with the Framework.

12. Policy GB7(g) of the Framework states that development in the Green Belt would not be inappropriate where four criteria would be met, the first of which involves assessing whether the appeal site can be considered as grey belt.

13. The appeal site forms a number of paddocks used for grazing horses forming open undeveloped land containing and encompassed by hedgerows and trees. Annex B of the Framework defines grey belt land as land in the grey 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 Policy GB2 of the Framework. Importantly, therefore the definition does not rely on the land being previously developed land.

14. Purpose (a) is to check the unrestricted sprawl of large built up areas. The Planning Practice Guidance (the PPG), does not define a large built up area other than to state it is not a village or a hamlet. The Council has recently commissioned an independent assessment of the Green Belt[3] (The GBA) which has classified settlements as either large built up areas, towns or historic towns for the assessment against the purposes of the Green Belt. As the majority of development within the Core Strategy is directed towards Borehamwood, the study designates Bushey as a town for the purposes of the assessment. Hence, the conclusion is drawn that the part of the Green Belt where the appeal site is located does not contribute to purpose (a) as Bushey is not a large built up area.

15. Even if I were to consider that Bushey is a large built up area, I am satisfied that the appeal site is partially enclosed by existing development to the south, west and north, as well as the M1 to the east weakening the land's contribution to purpose (a) such that it would only make a moderate rather than strong contribution in accordance with guidance in the PPG.

16. Purpose (b) is to prevent neighbouring towns from merging with each other. There is no dispute that Bushey is a town for the assessment of purpose (b). From my site

[3] Hertsmere Green Belt Assessment Final Report April 2026 AECOM Limited

visits and travels in the local area I am satisfied that the proposal forms only a small part of the gap between the towns and due to the nature of land forms, vegetation and built form does not contribute to the visual separation between the towns. It therefore only makes a weak contribution to this purpose following the guidance in the PPG. My findings concur with those of the GBA.

17. The appeal site is not in the setting of a historic town and does not therefore contribute to purpose (d). Consequently, I am satisfied that the appeal site does not strongly contribute to purposes (a), (b) or (d) of the Green Belt and can be considered as grey belt land.

18. Purpose (c) of the Green Belt is to assist in safeguarding the countryside from encroachment and purpose (e) to assist urban regeneration by encouraging the recycling of derelict and other urban land. All parts of the Green Belt play an equal role in respect of purpose (e). The proposal would result in the development of the countryside. However, it is but a small part of the Green Belt as a whole, and, given the distance on this side of Bushey to Borehamwood, its loss would not prevent all the remaining Green Belt across the area of the plan from serving all five of the Green Belt purposes in a meaningful way. Consequently, criterion (i) of GB7(g) is met.

19. The main parties agree that there is a substantial shortfall in housing land supply and therefore criterion (ii) of GB7(g) is also met.

20. The main parties agree that the appeal site is a sustainable location for the development. Although the majority of development is focused on Borehamwood within the development plan, Policy CS2 of the Core Strategy directs 25% of new housing to Bushey due to the available facilities and services. Local facilities including the town centre and schools are all within about 1.5km or approximately a 20 minute walk.

21. The nearest bus stops are though some distance away. Furthermore, interested parties highlight the reduction in the local bus service. However, secured within the S106 agreement is provision for bus stops closer to the appeal site and funding for five years for an additional bus service to serve the area, after which the Highway Authority considers the scheme would have been operating a sufficient time for it to become independently viable. There is nothing substantive to suggest otherwise. In addition, there will be travel planning for all residents of Bushey and the local schools, as well as a contribution towards the improvement and provision of the cycle and walking routes within Hertfordshire County Council in accordance with the County Council's Local Cycling and Walking Infrastructure Plan. Finally the development includes the provision of a Mobility Hub where there will be facilities to encourage other means of transport than the car.

22. I saw that much of Little Bushey Lane is the subject of speed reduction measures in the form of speed bumps. However, the appellant confirmed at the Inquiry that there is no suggestion that these would be removed. In addition, they would not prevent the bus from operating along this route.

23. Consequently, the location of the development should limit the need to travel, particularly by the private car and will offer a genuine choice of transport modes for residents and users in accordance with Policy TR3 of the Framework forming a sustainable location for the development in accordance with criterion (iii) of GB7(g).

24. Criterion (iv) requires that development such as that proposed here should comply with Policy GB8 of the Framework concerning the Golden Rules. The S106 agreement secures the provision of 50% affordable housing as well as all necessary and required contributions to local infrastructure and the provision of green space. The Urban Design Principles and Legibility Plan identifies significant areas of publicly accessible amenity green space and play areas totalling about 6.85 hectares. Furthermore, the Public Rights of Way (PROW) through the appeal site will be sited mainly within landscaped corridors. The proposal also includes for at least 10% Biodiversity Net Gain on site. Consequently, good quality green spaces will be delivered within a short walk of homes which will make a positive contribution to the landscape setting of the development, support nature recovery and meet local standards for green space provision.

25. As a result, the proposals would meet Policy GB8 of the Framework and criterion (iv) of Policy GB7(g) resulting in it being not inappropriate development in the Green Belt. This being the case, there is no need for me to consider the effect on openness, the purposes of the Green Belt, or to consider whether there are any other matters which amount to Very Special Circumstances.

26. For the reasons above, I conclude that as not inappropriate development the proposal would meet the requirements of Policy CS13 of the Core Strategy. I return to Policy SADM26 later in my decision.

Character and appearance

27. The appeal site is located within the two Landscape Character Areas (LCA), LCA22 Borehamwood Plateau and LCA 23 Elstree Ridge and Slopes, as defined in the Hertfordshire Landscape Character Assessment. This is accompanied by the Hertsmere Landscape Sensitivity Assessment (2020) where the appeal site is located within the two sensitivity assessment units (SAU) of 22c Bushey Fringe and 23c Bushey Fringe Ridge and Slopes.

28. The appeal site forms a number of paddocks on the eastern fringe of Bushey, hence is open undeveloped land enclosed by a mixture of hedgerows and trees. It is undulating with a stream running through it, together with PROW. Houses on the edge of the Bushey are visible from within the site as well as Harts Farm buildings. The site has a degree of enclosure formed both by vegetation and land form although I saw at my site visit that houses can be seen from the wider landscape, particularly their roofs.

29. This is consistent with a number of sensitive features of both SAU, including PROW, open slopes, hedgerows and trees and a rural character as setting to Bushey and Bushey Heath.

30. The appeal proposal will inevitably change the character of the land through the introduction of 280 houses which would result in a major change. The effect on the character of the area would though be moderated by the residential development which forms part of the existing character from both within the site and the wider landscape area. Importantly one of its key characteristics, the hedgerows and trees would be largely retained and enhanced. Furthermore, the PROW would continue to be routed through the site accommodated in landscape corridors, with a large area of open space central to the development. Moreover, a large part of the site would be retained as green space including substantial buffers to the east and south

facilitating its integration into the settlement edge. Hence the rural setting of the town would be maintained.

31. While therefore there would be a major adverse effect on construction, overtime this would be reduced as the landscape strategy matures to an overall limited adverse effect on landscape character.

32. Visually the appeal site is well contained as demonstrated by the appellants zone of visual influence plan, hence views into the site from further afield are very limited. I saw at my site visit that occasional views of roof tops of the existing housing are visible, but the site is largely concealed by vegetation, landform and existing development. Consequently, the proposal is mostly going to be visually appreciated from public viewpoints close to the appeal site primarily from the PROW which traverse the appeal site and Little Bushey Lane itself.

33. Although the PROW currently pass through open countryside, users are already aware of the proximity of Bushey through views of existing housing and traffic noise from the M1. The proposal would change the experience of the route for a short distance where it passes through the development. Nevertheless, the PROW would be contained within a substantial area of open space, and the affected section would be relatively limited before the route emerges into open countryside

34. Currently, there is hedgerow along Little Bushey Lane which filters views of the appeal site. However, in some areas it is absent and therefore the appeal site and the contribution it makes to the rural setting of Bushey is visible. The masterplan shows the housing could be set back from Little Bushey Lane and it would be seen in the context of the existing housing that is located along the road. There would also be some removal of hedgerow to allow for the proposed access which would be harmful. Initially therefore there would be a major adverse effect, which would reduce to moderate over time as the landscape mitigation matures.

35. Therefore, there would be adverse impacts but, taking into account the proposed mitigation, these are largely contained, and limited to the immediate local area of the appeal site. Advantage would be made of the existing planting on the site, together with the retention of the field pattern, which would limit the effect on local character and appearance. Moreover, I have seen no substantive evidence to suggest that the principles of the landscape mitigation would not achieve its aim of filtering views of the development and integrating the development into the settlement edge. Much will depend on the layout of the dwellings and their appearance, together with the specific detail of the landscaping scheme, all of which would be reserved for future consideration by the Council. Consequently, I find that overall the proposal would cause limited harm to the character and appearance of the area.

36. While I appreciate that the masterplan is illustrative only, it provides one way of approaching the development that I have found would cause limited harm to the character and appearance of the area. The actual layout would be for the Council to approve under any reserved matters application. However, a condition would be necessary to achieve accordance with the parameter plans which largely follow the indicative layout of the masterplan.

37. For the reasons above, I conclude that the proposal would be harmful to the character and appearance of the area. It would therefore conflict with Policy CS12 of the Core Strategy which requires that development must conserve and enhance the natural environment of the Borough. It would also conflict with Policy SADM26 of the

Local Plan in as much as the scale of the development would not be compatible with its landscape setting, albeit the harm caused in both instances would be limited. It would also conflict with Policy N2 of the Framework which seeks to conserve or enhance landscape character and the natural beauty of the countryside.

38. There is though no dispute that the development itself could not be a well designed place which would comply with Policy DP3 of the Framework. I see no reason to disagree.

Highway safety

39. Agreement has been reached between the appellant and the Council regarding highway matters such that Hertfordshire County Council as the Highway Authority (the HA) and National Highways as the authority responsible for the Strategic Road Network together with Active Travel England raise no objection to the proposal. However, residents remain concerned particularly regarding the use of Little Bushey Lane and the capacity of local junctions to accept further traffic from the development.

40. I spent some time in the area and especially on Little Bushey Lane at both drop off and pick up times at the schools and at peak hours for traffic. I was advised that traffic levels may have been reduced on the 5 October due to the closure of one of the schools. Nevertheless, I also visited at peak times on Tuesday 6 October.

41. I observed some parking of vehicles on Little Bushey Lane such that in areas it is effectively reduced to a single carriageway forcing drivers to wait to get through and make progress. I do not doubt residents assertions that there have been accidents and collisions, notwithstanding the very low level of actual reported injury collisions in the last five years.

42. I appreciate therefore the circumstances that have led to residents being concerned about these proposals and how residents consider these to be busy roads given the steady stream of traffic at these peak times. Nevertheless, it was confirmed at the Inquiry that all necessary committed and known proposed development had been considered when preparing the appellant's Transport Assessment (the TA). The TA demonstrates to the satisfaction of the HA and NH that there would not be a severe impact on the road network as required by policy TR6(4) of the Framework.

43. The TA establishes that the majority of junctions in the local area will experience increases in vehicular traffic of less 10% and in most cases less than 5%. The one to receive the largest increase would be Little Bushey Lane/Coldharbour Lane, but even then, after detailed analysis, there would still be substantial capacity at the junction.

44. The detailed modelling of the Little Bushey Lane/Aldenham Road/Bushey Mill Lane undertaken at the time of the 2023 appeal indicated that the junction was already operating above its theoretical capacity prior to the additional traffic being considered. It is likely therefore to still be the case now. However, the TA shows that there would only be a 4.6% increase in traffic with the proposal before me now. As such the HA is content that the highway mitigation measures in the form of the contributions towards the bus service, travel planning and walking/cycling routes would be sufficient to adequately mitigate the impact of the additional traffic on the junction. There is no compelling evidence to persuade me otherwise.

45. For the reasons above, I conclude that the proposal would not be harmful to highway safety. Consequently there would be no conflict with Policy CS24 of the Core Strategy and SADM40 of the Local Plan which together seek to ensure that development supports providing a safe, efficient and affordable transport system that allows access for all to everyday facilities and does not cause or add significantly to road congestion or unduly harm the flow of vehicles.

Flooding

46. The appeal site lies within Flood Zone 1 with the areas of Flood Zone 2 and 3, which were included in the appeal site for the 2023 appeal, excluded from the current proposal before me. However, it does include land at medium and high risk of surface water flooding. Agreement has been reached between the main parties on drainage matters such that the Lead Local Flood Authority (LLFA) raises no objection to the proposal. In addition the Council sought an independent review of the conclusions of the appellant's Flood Risk Assessment (FRA) and the LLFA. The review was carried out by Tetra Tech who concluded that the FRA, flood modelling and drainage strategy proposed were robust and in line with national and local policies. Consequently, in according with Policy F5 of the Framework a sequential test is not required as the Environment Agency and the LLFA are content, from the evidence submitted, that users would remain safe from current and future surface water risk for the lifetime of the development without increasing flood risk elsewhere.

47. Nevertheless, interested parties maintain objections on flooding grounds, particularly siting incidences of flooding of Little Bushey Lane, flooding of gardens particularly following the development of Rossway Drive and the incidence of sewage in the local area.

48. Thames Water in its consultation response stated that the scale of the development does not materially affect the sewer network and therefore it has no objection. However, it acknowledges that it is working on a strategy to reduce groundwater entering the sewer network and hence is aware of existing issues may be occurring as experienced by local residents. Thames Water also seek to ensure that surcharging of the system is avoided, and this is addressed in the drainage strategy. These matters can be appropriately addressed through the imposition of conditions on any permission.

49. The appellant notes that the interested parties reports of historic flooding matches well with the conditions that have been assumed in the baseline modelling that had been undertaken to ascertain flood risk and assess post development scenarios. Much of the information that the interested parties consider is missing is submitted within the FRA and the drainage strategy which has been agreed by the key experts and independently verified. I have seen no substantive evidence which would lead me to take a different view.

50. For the reasons above, I conclude that the proposal would not be harmful to flooding and would therefore comply with policies SADM13 and SADM14 of the Local Plan which seek to ensure that development seeks to avoid the risk of flooding.

Other Matters

51. The tenant of Harts Farm spoke about the impact of the loss of the paddocks for horse grazing on their equine business both from a personal view but also on the community. About 40 horses graze on the land forming part of the business which

supplies DIY livery, an affordable option for local horse owners, for which the business owner has a long waiting list. Furthermore, the stables are used by the Life Enhancement Group who bring disabled users to the facility twice a week. This is in addition to the users who experience positive mental health benefits from being in the environment and working with and riding horses.

52. The loss of the paddocks would, according to the tenant, inevitably mean that the facility would have to close. While they stated there was little other such facilities in the local area and it would be difficult for owners to find suitable grazing land for the horses, creating an animal welfare issue, I have seen no substantive evidence of this. I am also aware that as a private business the tenant is on an annual rolling lease which is at risk of not being renewed at any time. I therefore give the harm to the community associated with the loss of the facility moderate weight.

53. There are a number of listed buildings in the vicinity of the appeal site. However, I saw at my site visit that they are situated a sufficient distance from the appeal site to ensure that, having considered the significance and the contribution setting makes to their significance, the appeal site does not contribute to their setting. As such, no harm will be caused to their significance by the proposal.

Conditions

54. A list of conditions was submitted by the main parties prior to the Inquiry with just two areas of disagreement. I have had regard to the Framework and the advice in the PPG and imposed conditions accordingly.

55. Conditions requiring the submission of the reserved matters, the timescale for the implementation of the development, as well as one to secure compliance with the approved plans are necessary to ensure clarity. In order to achieve precision I have imposed the Council's version of condition 4. In some instances in my decision I have referred to the parameter plans and therefore clarity and certainty is required around these plans on implementation (1-4).

56. A condition requiring the implementation of firefighting infrastructure is necessary to ensure efficient operation for the emergency services (5).

57. A condition is necessary to secure improvements to the PROW on site in the interests of pedestrians and to improve other means of travel than the car (6). I have not imposed the requirement to replace the existing culvert crossing as this is outside the appeal site boundary and is not necessary to make the development acceptable.

58. A condition is imposed to ensure that the sewage infrastructure is appropriate to accommodate the development (7). A condition is necessary to seek details of a Waste Management Plan in order to promote the sustainable management of waste arisings and contribution towards resource efficiency (8).

59. Conditions regarding noise mitigation are necessary to ensure that residents are protected from transport noise and noise associated with the mobility hub (9 & 10).

60. A condition ensuring that air source heat pumps and other plant or machinery is affixed on anti-vibration mounts is necessary to protect residents from vibration (11).

61. Conditions regarding contamination and its remediation together with the control of soil importation are necessary to ensure safe living conditions for future residents and to ensure water courses and biodiversity are protected (12-16).

62. An Arboricultural Method Statement is necessary prior to the commencement of development on site to ensure that existing trees and hedges are protected before work starts (17). A condition requiring an intrusive ground investigation is required to avoid displacing any shallow contamination to a greater depth and to prevent any potential migration of pollutants to a public water supply abstraction (18).

63. A construction environmental management plan is required to be agreed prior to commencement of works to protect the character and appearance of the area and to provide ecological environmental and biodiversity benefits (19).

64. A landscape and ecological management plan is necessary to ensure that appropriate ecological and biodiversity enhancements are delivered (20). A lighting scheme is necessary to be secured by condition to protect wildlife and ecology (21).

65. Conditions 22 and 23 are necessary to protect highway safety. Conditions 24-30 are necessary to ensure that the development achieves a high standard of sustainability and ensure that flood risk is adequately addressed with the development and it does not increase flooding elsewhere.

Legal agreement

66. A signed and dated legal agreement was submitted after the Inquiry and secures a number of obligations. These include 50% affordable housing, contributions towards travel planning, cycling and walking routes, schools travel plans, waste transfer, education, health care, bus service, as well as a monitoring fee for the Council and the County Council. In addition there are obligations regarding the provision of off-site highway works, submission of travel plan, diversion of PROW, different types of open and play space and its maintenance, the provision of the mobility and community hub and biodiversity net gain.

67. In the context of the delivery of 280 houses and the consequent increase in population, I am satisfied that the obligations securing contributions are necessary, directly related to the development and fairly and reasonably related in scale and kind to the development. In addition I am content that the offsite highway works are necessary to enhance connectivity to local services and facilities. A travel plan, the diversion of the PROW and the mobility hub are required to encourage means of transport other than the car. Open space, and biodiversity net gain obligations are necessary to meet policy requirements in the development plan and the Framework. Moreover, the monitoring contributions are reasonably related to the number and complexity of obligations.

68. Consequently, the obligations contained in the Section 106 agreement meet the requirements of the Community Infrastructure Regulations and the Framework.

Planning Balance and Conclusion

69. I have found that the proposal would be in conflict with development plan policies which seek to protect the character and appearance of the area. Both policies are not materially inconsistent with the Framework. While the development would accord with many other policies of the development plan, conserving and enhancing the

natural environment is a legitimate concern, hence the proposal would conflict with the development plan as a whole.

70. Policy S5(5) of the Framework states that where development is not inappropriate in the Green Belt, as is the case here, proposals should be approved unless the benefits of doing so would be substantially outweighed by any adverse effects when assessed against the national decision making policies of the Framework.

71. The proposal would provide 280 dwellings at a time when the Council has a substantial housing land supply shortfall of only 0.98 years. This is a benefit of substantial weight. The provision of 50% affordable housing at a time when there is also a very significant shortfall is also a substantial benefit. Compliance with the Golden Rules also attracts substantial weight. The scheme will provide a significant level of open space and play areas which will be available to existing residents, as will the offsite transport infrastructure and mobility hub. Both of these matters attract significant weight.

72. Biodiversity Net Gain of over 10% attracts limited weight as does sustainable construction and materials.

73. The harm associated with the conflict with Policy N2 of the Framework would be limited. Hence the very substantial benefits would not be substantially outweighed by the adverse effects in this instance.

74. I have had due regard to the Public Sector Equality Duty (PSED) contained in Section 149 of the Equality Act 2010, as the tenant identified that the development would negatively affect people with the protected characteristic of disability. Since there is the potential for my decision to affect persons with a protected characteristic, I have had due regard to the equality principles set out in Section 149 of this Act. Allowing this appeal may result in a negative impact to these individuals by restricting the opportunity for disabled persons to enjoy the therapeutic value of being amongst and riding horses. Despite this, it would be proportionate having regard to the legitimate and well-established planning policy aims to locate development in suitable locations based on the pattern of development and housing supply. Therefore, I confirm that even taken alone or alongside the other adverse effects the PSED considerations do not outweigh the substantial benefits of the development.

75. As a result, there are material considerations, including the Framework, which is a consideration of critical importance, which outweigh the conflict with the development plan and the appeal should be allowed.

Zoe Raygen

INSPECTOR

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY

FOR THE APPELLANTS

Mr Zack Simons Kings Counsel	Instructed by Mrs Kathryn Ventham, Senior Director, Twenty5 Planning Ltd
Mrs Kathryn Ventham	Senior Director, Twenty5 Planning Ltd
Mr Will Gardner	Director, The Environmental Dimension Partnership Ltd
Ms Shelley Dix	Director, SLR Consulting Ltd
Mr Simon Mirams	Partner, Ridge and Partners LLP
Mr John Baird	Partner, Osbourne Clark

FOR THE COUNCIL

Ms Olivia Davis Counsel	Instructed by Kalvinder Aratoon, Hertsmere Borough Council
Mr Steven Stroud	Director, James Bailey Planning on behalf of Hertsmere Borough Council
Ms Kalvinder Aratoon	Hertsmere Borough Council

INTERESTED PARTIES

Councillor Maxie Allen	Bushey Park Ward Hertsmere Borough Council
Mr Darren Nathan	Chair, the Little Bushey Community
Ms Claire Hendry	Tenant, Harts Farm Stables

DOCUMENTS SUBMITTED AT THE INQUIRY

1. Opening on behalf of the appellant
2. Opening on behalf of the Council
3. Hard copies of documents contained in appellant's email 5 October 2026 (Flooding Statement of Common Ground, Highways Statement of Common

Ground, addendum to Ms Ventham's proof of evidence and draft list of conditions)

4. Speaking notes Councillor Maxie Allen
5. Email dated 6 October regarding level of school traffic on Monday 5 October due to school closure
6. Document explaining the Council's morning fee contribution request.
7. Application for Costs from the appellant
8. Council's cost rebuttal
9. Signed Section 106 Agreement

CONDITIONS SCHEDULE

1) Details of the internal access, 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. The first application for reserved matters shall include details of the phasing of the development.

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.

- Site Location Plan – edp8864_d001d (dated 22 November 2024)
- Land Use Parameter Plan - edp8864_d004d (dated 26 November 2024)
- Access and Movement Parameter Plan - edp8864_d007c (Dated 26 November 2024)
- Density Plan - edp8864_d008a (dated 29 October 2024)
- Height and Scale Plan - edp8864_d009a (dated 29 October 2024)
- Parameter Plan – Street Hierarchy - edp8864_d012b (dated 26 November 2024)
- Urban Design Principles and Legibility Plan - edp8864_d013c (dated 26 November 2024)
- General Arrangement Proposed Access and Emergency Access – SK04 Rev. A (dated 22 November 2024)

5) Prior to first occupation of the relevant phase of the development, a scheme for the provision of adequate water supplies and fire hydrants, necessary for firefighting purposes within that development phase shall be submitted to and approved in writing by the Local Planning Authority and thereafter implemented in accordance with the approved details. The relevant phase of development shall not be occupied until the scheme(s) has been implemented in accordance with the approved details.

6) Prior to the first occupation of the development hereby permitted an on-site PROW improvement plan and details of the phased implementation of works shall be submitted and approved in writing by the Local Planning Authority. Thereafter the works shall be implemented in accordance with the agreed phasing programme. The section of Public Right of Way 040 on the undeveloped land within the application site shall be finished in a loose bound stone surface, prior to first occupation of the development.

7) No development shall be occupied until confirmation has been provided that either:

   i) all sewage works upgrades required to accommodate the additional flows from the development have been completed; or

   ii) development and infrastructure phasing plan has been agreed with the Local Authority in consultation with Thames Water to allow development to be occupied. 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.

8) 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 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.

9) Prior to any above ground development, the applicant shall submit to, for approval in writing by the Local Planning Authority, details relating to a scheme to protect the proposed development from noise due to transport sources which shall be implemented before any part of the accommodation hereby approved is occupied.

   The scheme shall ensure that indoor ambient noise levels in living rooms and bedrooms meet the standards within BS 8233:2014. Good acoustic design should be implemented throughout the development to reduce façade noise levels as much as possible.

   Where opening windows raises the internal noise levels above those within BS8233, other methods of ventilation/attenuation will have to be implemented. To assess overheating with windows closed, a CIBSE TM59 (Fixed Temperature method -CIBSE Guide A (2015a)) overheating assessment must be undertaken and submitted for review and approval if required.

   If mechanical ventilation is going to be installed, details of the system being installed must be provided such as the ventilation rates that the system can deliver. Ventilation rates for the development must comply with the latest building regulation requirements.

   Outdoor amenity areas should meet the 55dB WHO Community Noise

   Guideline Level. A slight relaxation of this level (up to 3dB) will be considered, if it can be demonstrated that all reasonable steps have been taken to reduce the level as much as possible, (such as noise barriers, shielding, good acoustic design etc). If outdoor amenity areas cannot comply, then it should be shown through measurements that a suitable place is available within 5 minutes' walk from the development that complies with the amenity noise level.

10) Concurrent with any reserved matters application for the mobility hub building, a noise impact assessment shall be submitted which assesses noise from the building at the nearest residential properties. This report must include details of the noise monitoring exercise and internal noise levels for the premises and details of the façade noise levels at residential properties. Noise measurement

results in terms of day time and night-time LAeqs, LA90s and LAmax (f) will be required along with a BS4142 assessment.

This report must then inform a scheme of sound insulation for the building which shall be submitted to and approved in writing by the Local Planning Authority before any further development takes place. The scheme shall be developed in accordance with the approved scheme of sound insulation.

11) Any Air Source Heat Pump(s) or other Plant/Machinery such as Air Conditioning Units and or Combined Heat and Power (CHP) shall be affixed upon anti-vibration mounts.

12) No development shall take place before an investigation and risk assessment, in addition to any assessment provided with the planning application, is completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme shall be submitted to and approved in writing by the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons, and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

    i) a survey of the extent, scale and nature of contamination;

    ii) an assessment of the potential risks to : human health, property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes, adjoining land, groundwaters and surface waters, ecological systems, archaeological sites and ancient monuments;

    iii) an appraisal of remedial options, and proposals of the preferred option(s). This must be conducted in accordance with DEFRA and Environment Agency's 'Land Condition and Risk Management (LCRM).

13) No development shall take place before a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing any unacceptable risks to human health, buildings and other property and the natural and historic environment identified in the investigation and risk assessment, submitted in accordance with the condition above, has been submitted to and approved in writing of the Local Planning Authority, if required. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

14) No development shall take place before the remediation scheme approved under the condition 13., if required, is carried out in accordance with its terms. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works.

    Following completion of measures identified in the approved remediation scheme, a verification report (referred to in PPS23 as a validation report) that demonstrates the effectiveness of the remediation carried out must be submitted prior to first occupation and is subject to the approval in writing of the Local Planning Authority.

15) In the event contamination is found at any time when carrying out the approved development, which was not previously identified, it must be reported in writing

immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with details to be agreed in writing with the Local Planning Authority and Affinity Water. Where remediation is necessary, a remediation scheme must 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 shall be submitted to and approved in writing by the Local Planning Authority.

16) 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.

17) Prior to commencement of development an Arboricultural Method Statement (including any 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:

i) Measures for the protection of those trees and hedges on the application site that are to be retained,

ii) Details of all construction measures within the 'Root Protection Area' (defined by a radius of dbh x 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,

iii) 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.

18) Prior to the commencement of the development, no works involving excavations (e.g. piling or the implementation of a geothermal open/closed loop system) shall be carried out until the following has been submitted to and approved in writing by the Local Planning Authority in consultation with Affinity Water:

i) An Intrusive Ground Investigation to identify the current state of the site and appropriate techniques to avoid displacing any shallow contamination to a greater depth.

ii) A Remediation Strategy/Report if found to be needed following the results of the intrusive investigation detailing how contamination (if found) will be dealt with. The remediation strategy shall be implemented as approved with a robust pre and post monitoring plan to determine its effectiveness.

iii) A Risk Assessment identifying both the aquifer and the abstraction point(s) as potential receptor(s) of contamination.

iv) A Foundations Works Method Statement and Risk Assessment detailing the depth and type of excavations (e.g. piling) to be undertaken including mitigation measures (e.g. appropriate piling design, off site monitoring boreholes etc.) to prevent or minimise any potential migration of pollutants to public water supply. Any excavations must be undertaken in accordance with the terms of the approved method statement.

19) Prior to the commencement of development (excluding Preliminary Works) within the relevant Phase, Sub Phase or Development Plot, a Construction

Environmental Management Plan (CEMP: Biodiversity) shall be submitted to and approved in writing by the local planning authority.

The CEMP (Biodiversity) shall include details of the following:

i) Risk assessment of potentially damaging construction activities.
ii) Identification of "biodiversity protection zones."
iii) 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).
iv) The location and timing of sensitive works to avoid harm to biodiversity features.
v) The times during construction when specialist ecologists need to be present on site to oversee works.
vi) Responsible persons and lines of communication.
vii) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.
viii) Use of protective fences, exclusion barriers and warning signs.

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the local planning authority.

20) Development shall not commence above slab level until a Landscape and Ecological Management Plan (LEMP) has been submitted to and approved in writing by the Local Planning Authority. The content of the LEMP shall satisfy the trading rules of the approved biodiversity metric and ensure the delivery of the minimum number of habitat, hedgerow and river units to achieve a net gain in biodiversity and include the following:

i) Description and evaluation of features to be managed, with each habitat parcel linked to the appropriate line in the metric;
ii) Aims and objectives of management, i.e. the habitat and condition score as defined in the metric that must be achieved;
iii) Appropriate management options for achieving the target habitats and their condition, as described in the approved metric;
iv) Prescriptions for management actions, only definitive measures are acceptable;
v) Preparation of a work schedule (including a 30 year annual work plan capable of being rolled forward in perpetuity), clearly marked on plans;
vi) Details of the body or organisation responsible for implementation of the plan;
vii) Ongoing monitoring plan and remedial measures to ensure habitat condition targets are met;
viii) Details of species selected to achieve target habitat conditions as identified in approved metric, definitively stated and marked on plans; and
ix) A scaled plan detailing the location of proposed ecological enhancements (to include Bat Boxes, Bird Boxes, Hedgehog Nest Domes, Hibernacula and Refugia, Bird Boxes, Habitat Piles, and Bee Bricks).

The LEMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the LEMP will be secured by the developer with the management body(ies) responsible for its delivery.

The LEMP shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development delivers the fully functioning biodiversity objectives of the originally approved scheme.

The LEMP shall be implemented and carried out in accordance with the approved details.

21) Prior to occupation of development or installation of any external lighting, a lighting scheme, including a sensitive lighting scheme, compliant with the Bat Conservation Trust and Institution of Lighting Professionals (2023), shall be submitted to and approved in writing by the Local Planning Authority. The lighting scheme will show how the development will be suitable for nocturnal wildlife. The development must be carried out in accordance with the approved plan.

22) Prior to the first occupation of the development hereby permitted, the vehicular accesses shall be provided and thereafter retained at the position shown on the approved plans on drawing number SK04 Rev A. Arrangements shall be made for surface water drainage to be intercepted and disposed of separately so that it does not discharge from or onto the highway carriageway.

23) No development shall commence until a Construction Management Plan (in accordance with the best practice guidelines as described in the Construction Logistics and Community Safety (CLOCS) Standard), 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 Plan. The Construction Management Plan shall include details of:

i) The construction programme and phasing;
ii) Hours of operation;
iii) Details of any highway works necessary to enable construction to take place;
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, including through temporary diversions where necessary;
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 to safeguard the amenities of neighbouring occupiers and 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.

24) Prior to or in conjunction with the submission of each reserved matters application, in accordance with the submitted Flood Risk Assessment (Rev P1, Rappor Consultants Ltd) updated technical note (Hydraulic Modelling and Drainage Technical Note, Rev P4, Rappor Consultants Ltd) and drainage layout (Preliminary Drainage Layout, Rev P10, 240437-RAPP-V1-XX-DR-D-3100, Rappor Consultants Ltd), detailed designs of a surface water drainage scheme incorporating the following measures shall be submitted to and agreed with the Local Planning Authority. The approved scheme will be implemented prior to the first occupation of the development. The scheme shall address the following matters:

i) Surface water runoff rates will be attenuated to QBAR as stated within section 6 Hydraulic Modelling and Drainage Technical Note.

ii) Provision of surface water attenuation 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).

iii) Detailed designs, modelling calculations and plans of the of the drainage conveyance network in the:

1. 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.

2. 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.

iv) The design of any 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.

v) 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.

vi) 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.

25) Development shall not commence until details and a method statement for interim and temporary drainage measures during the construction phases have been submitted to and approved in writing by the Local Planning Authority. This information shall provide full details of who will be responsible for maintaining such temporary systems and demonstrate how the site will be drained to ensure there is no increase in the off-site flows, nor any pollution, debris and sediment to any receiving watercourse or sewer system. The site works and construction phase shall thereafter be carried out in accordance with approved method statement, unless alternative measures have been subsequently approved by the Planning Authority

26) The development hereby approved shall not be 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:

i) a timetable for its implementation.

ii) details of SuDS feature and connecting drainage structures and maintenance requirement for each aspect including a drawing showing where they are located.

iii) 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.

27) Prior to first use of each phase 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.

28) Prior to or in conjunction with any reserved matters submission, a detailed design shall be submitted to and approved in writing by the Local Planning Authority for any proposed watercourse alteration that demonstrates the design

is in strict accordance with the Land Drainage Act 1991 (culverting shall only be acceptable for access purposes). Details submitted for any proposed watercourse alteration must demonstrate there is adequate space for each watercourse to be naturalised and enhanced, that flood risk is suitably managed for all storms up to and include the 1% Annual Exceedance Probability (AEP) (1 in 100 year) plus climate change, that exceedance events of the channels do not impact the proposed development and that that they are easily maintainable and accessible. The details shall include long sections and cross sections of the proposed watercourses including details of any proposed crossings. The development shall be constructed in accordance with the approved plans.

29) Prior to the first occupation of the development, a detailed maintenance and management plan for all watercourses on site shall be submitted to and approved in writing by the Local Planning Authority and adhered to for the lifetime of the development.

30) Prior to, or in conjunction with any Reserved Matters application, detailed hydraulic modelling of the ordinary watercourses/flow paths shall be carried out and submitted to and approved in writing by the Local Planning Authority. The modelling shall demonstrate that the development will not result in an increase in flood risk elsewhere, incorporating all watercourses, upstream exceedance flow routes and flows through the site. The modelling should include proposed ground levels and site layout and demonstrate that the development will not increase flood risk for all events up to and including the 1% AEP (1 in 100 year) plus climate change event.