



Appeal Decision

Inquiry held on 10, 11, 12 and 13 January 2017

Site visit made on 11 January 2017

by Karen L Ridge LLB (Hons) MTPL Solicitor

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 20 March 2017

Appeal Ref: APP/R3650/W/16/3150558

**Former Weyburn Works, Shackleford Road, Elstead, Godalming, Surrey
GU8 6LB**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by MMC Developments Limited against the decision of Waverley Borough Council.
 - The application Ref. WA/2015/0789, dated 27 March 2013, was refused by notice dated 4 December 2015.
 - The development proposed is the erection of 69 new dwellings, including 21 affordable, and a 60 bed care home, provision of a suitable alternative natural greenspace ('SANG'), alterations to accesses and associated works following demolition of buildings.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of 69 new dwellings, including 21 affordable, and a 60 bed care home, provision of a suitable alternative natural greenspace ('SANG'), alterations to accesses and associated works following demolition of buildings on land at Former Weyburn Works, Shackleford Road, Elstead, Godalming, Surrey GU8 6LB in accordance with application reference WA/2015/0789, dated 27 March 2013 and subject to the conditions set out in the schedule annexed hereto.

Procedural Matters

2. The description of development shown above is taken from the Council's Decision Notice rather than that on the planning application form. Both parties agree that the revised description better reflects what is proposed and therefore I have adopted it.
 3. Two Statements of Common Ground (SCG) have been submitted. The first is a general SCG covering all agreed matters and the second is a Housing SCG relating specifically to the question of a 5 year housing land supply (5 YHLS).
 4. The Council refused planning permission citing eleven reasons on its Decision Notice. During the progression of this appeal further information was forthcoming and a section 106 agreement was finalised between the parties resulting in resolution of four of the Council's reasons for refusal. Those reasons include an alleged failure to provide sufficient affordable housing, an alleged failure to mitigate the proposal's impact on infrastructure, the lack of a legal agreement to secure a Suitable Alternative Natural Greenspace (SANG)
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and a failure to demonstrate that protected species and their habitats would not be endangered.

5. The agreement made pursuant to s106 Town and Country Planning Act 1990 (as amended) (the s106 agreement) is dated 24 January 2017 and was submitted following the Inquiry, within the deadline imposed. It secures the provision of 21 affordable housing units, the SANG, sustainable urban drainage system, open space and recreational footways as well as payments to each household to encourage sustainable transport choices, highway works and footpath improvement works. I shall return to this agreement later.
6. As indicated, the execution of the agreement resulted in resolution of three of the reasons for refusal. The fourth reason for refusal which was withdrawn related to the lack of information with regard to protected species. The proposal was accompanied by an Environmental Statement¹ (ES), with a response to the Council's request for additional information contained within an ES Addendum dated 25 August 2015.
7. The Government published its Housing White Paper 'Fixing our broken housing market on 7 February 2017'. I afforded both parties the opportunity to comment on this document. I have had regard to the comments of the Appellant². The Housing White Paper is a consultation document and as such I ascribe very limited weight to it. Following receipt of these comments the Inquiry was closed in writing.

Application for costs

8. At the Inquiry an application for costs was made by MMC Developments Limited against Waverley Borough Council. Due to time constraints this application was submitted in writing, the Council responded in writing and a short final response in writing was submitted on behalf of the Appellant. The costs application is the subject of a separate Decision.

Main Issues

9. The site is located within the Green Belt, just outside the settlement boundary of Elstead. It is also within the designated Surrey Hills Area of Outstanding Natural Beauty (AONB) and within a designated Area of Great Landscape Value (AGLV). The site extends to some 10.4 hectares of which 3.6 hectares are occupied by The Former Weyburn Works. It is agreed that this smaller area constitutes previously developed land. The proposal comprises three distinct elements; housing, a care home and an area of SANG. The built development, made up of the housing and care home, would be wholly within the 3.6 hectares of previously developed land.
10. It is a matter of dispute as to whether or not the redevelopment of the previously developed land would have a greater impact on the openness of the Green Belt and the purposes of including land within the Green Belt. Consequently the main issues in this case are as follows:
 - whether or not the proposed development amounts to inappropriate development within the Green Belt having regard to relevant national and development plan policies;

¹ CDE/15

² Letter dated 24 February 2017. The Council chose not to comment.

- the effect of the proposal on the character and appearance of the AONB and the AGLV;
 - whether or not the site needs to be retained as employment land;
 - the adequacy of play space provision;
 - the appropriateness of the proposed housing mix; and
 - in the event that the proposal is inappropriate development, whether any material considerations in favour of the development clearly outweigh any harm identified, so as to amount to the very special circumstances necessary to justify development.
11. What is set out above is essentially the balancing exercise which must be undertaken in all Green Belt cases having regard to the particular issues in this case. However that is not the end of the matter, the National Planning Policy Framework (the Framework) is an important material consideration and its decision making framework contained in paragraph 14 must also be applied. In addition there are two other disputes at large which go to the heart of this appeal. The first is the familiar question of whether or not the Council has a 5 YHLS in accordance with the requirements of paragraph 47 of the Framework. The second disagreement is a more novel dispute involving the approach to be taken consequent upon the Council's inclusion of the appeal site in its 5 YHLS Statement.
12. The Appellant contends that inclusion of the site in a 5 YHLS is tantamount to a concession that development of housing on the appeal site in this Green Belt location is acceptable in principle. As a consequence of this the Appellant asserts that when working through the decision making process in paragraph 14 of the Framework, in circumstances where the development plan is absent, silent or out of date, the Council cannot argue that specific policies, namely Green Belt policies, indicate that development should be restricted. In other words the Appellant contends that, as a matter of principle, the Council has already accepted that Green Belt policies do not prohibit housing on the site and therefore the second bullet point in the second limb of paragraph 14 is either passed or not engaged. That results in a decision being taken having regard to the 'tilted balance' set out in the first bullet point. I shall return to these matters.

Reasons

The development plan

13. Section 70(2) of the Town and Country Planning Act 1990 provides that, in dealing with proposals for planning permission, regard must be had to the provisions of the development plan, so far as material to the application, and to any other material considerations. Section 38(6) of the Planning and Compulsory Purchase Act 2004 provides that, if regard is to be had to the development plan for any determination, then that determination must be made in accordance with the plan, unless material considerations indicate otherwise.
14. For the purposes of this appeal, the most relevant development plan policies include the retained saved policies of the Waverley Borough Local Plan (LP) which was adopted in 2002 and saved policy NRM6 of the South East Plan.

15. The emerging Waverley Local Plan Part 1 (Strategic Policies and Sites) is intended to replace the previously emerging Core Strategy which was withdrawn in October 2013. The Local Plan Part 1 was submitted to the Secretary of State for examination in December 2016 and an examination date is awaited. The Council does not rely on any of its policies in this appeal. Finally, the emerging Weyburn and Elstead Neighbourhood Plan is at an early stage of preparation and the main parties are agreed that it attracts no weight in the consideration of this appeal³.

Five Year Housing Land Supply

16. The Framework is a material consideration of significant weight. It seeks to boost significantly the supply of housing and requires local authorities to identify and update annually a supply of specific deliverable sites sufficient to provide five years' worth of housing (the 5YHLS). Paragraph 49 confirms that housing applications should be considered in the context of the presumption in favour of sustainable development and that relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a 5 YHLS.
17. The Council's Five Year Housing Supply Statement of 1 July 2016 contains the most recent calculations and concludes that the Council can demonstrate a 5 YHLS. This calculation is predicated on the application of a 5% buffer and delivery of the accrued backlog over the next five year period in accordance with the Sedgefield method.
18. Whilst there are no surviving adopted housing distribution policies, both parties are agreed that the West Surrey Strategic Housing Market Assessment (SHMA) represents the best available evidence for calculating objectively assessed need in the district. This is set at 9,861 dwellings from 2013 to 2032, or 519 dwellings per annum (dpa). It is notable that this is expressed as a minimum target. When the shortfall in supply⁴ is factored in, the 5 year requirement as at 1 July 2016 was some 3,469 units or 694 dpa. Thereafter the Council applied a 5% buffer to its calculations bringing the requirement to 3,642. The identified supply comprises some 3,854 dwellings which equates to a supply of 5.3 years on the Council's analysis⁵.
19. The Appellant questions some of the assumptions underlying the Council's calculations of the deliverable supply and contends that a 20% buffer should be applied due to persistent under delivery. The determinative factor is the question of which buffer to apply given that, irrespective of whether the Council or Appellant's respective supply figures are used, if a 20% buffer is applied then a 5 YHLS position cannot be demonstrated in any event.

The appropriate buffer

20. The Planning Practice Guidance (PPG) provides advice⁶ on the approach to identifying a record of '*persistent under delivery*' and indicates that varying factors may need to be taken into account in differing circumstances. The parties have each looked at delivery over the past 14 years and against three different sets of requirements. I agree that this is a sufficiently long period to

³ SCG §5.8

⁴ From 01/04/13 to 30/06/16.

⁵ Tables 1 and 2 of Five Year Housing Supply 1 July 2016; Mr Woods appendix 7.

⁶ Paragraph: 035 Reference ID: 3-035-20140306.

enable the assessment to be robust and there is no dispute as to the requirements to be applied in each of the 14 years assessed.

21. The first 4 years of assessment were made against the requirements in the Surrey Structure Plan of 2004. For the next 7 years the figures in the South East Plan of 2009 were used and in the last 3 full years assessments have been made against the SHMA figures. The 3 sets of requirements were 187 dpa, 250 dpa and 519 dpa respectively. The Council contends that these step changes in requirements, not unnaturally, have resulted in a lag in housing completions as the system seeks to adjust to making increased provision. However, I note that when the requirement increased from 187dpa to 250dpa in 2006-07 the completions continued to be met for the next 3 years such that this first step change was accommodated.
22. The Council points out that in the first 7 years examined it met its annual housing requirements but following the recession in 2008 it has failed to meet requirements in each of the 7 years of assessment from 2009-10 onwards. In addition the Council experienced something of a hiatus in terms of the grants of planning permissions when Natural England objected to the effects of additional housing on nesting birds. This objection was eventually overcome by the implementation of a strategy to provide SANGs in the local planning authorities affected.
23. The SHMA annual target was published in September 2015 and was retrospectively applied to the assessment years 2013-14 and 2014-15. The Council has responded positively to this latest step-change in housing requirements by substantially increasing the grants of planning permissions over the last few years⁷. The trend over the last three full years has been for an increase in the number of units granted planning permission and this is reflected by an increase in the number of completions which illustrates the Council's point about time lag in the system.
24. The requirement increased from 250 dpa to 519 dpa in 2013-14 which represents a significant increase. It is also worth noting that in the assessment years 2013-14 (when 143 houses were completed) and 2014-15 (when 242 completions took place), not only did the Council fail to meet the new and higher SHMA requirement but it also did not meet the previous, lower requirements of the South East Plan. This renders somewhat otiose the Council's point about not being able to meet targets which were unknown at the time and applied retrospectively. To complete the picture the last full assessment year 2015-16 shows completions of 343 dwellings which is the highest level since 2006-07.
25. It is not, in my view, a simple question of looking at each year and ascertaining whether or not the relevant target has been met. The extent of any under delivery is also a significant indicator of how the Council is performing against requirements. I appreciate that the economic recession of 2008 and ecological issues have each played a part in dampening or interrupting the rate of delivery. However the record of under delivery now extends to the immediate last 7 assessment years. Each additional year of under delivery exacerbates the problem and 7 years is a not inconsiderable period during which time the housing requirements of the district have not been met and the accumulating shortfall has been continually rising.

⁷ The grant of planning permission for 404 units in 2013-14, 697 units in 2014-15, 863 units in 2015-16.

26. The shortfall which has accrued between 1 April 2013 and 30 June 2016 alone is 874 dwellings. This must be seen in the context of a requirement during that period for some 1687 dwellings⁸. Tellingly, in the most immediate 3 year preceding period for which there are records, the rate of completions is less than half the total requirement for that particular period. The backlog equates to 1.68 year annual requirement accrued over 3.25 years.
27. Having regard to the period of under delivery, its occurrence in the immediate 7 year period preceding the date of assessment, as well as the extent of the under delivery, I conclude that there has been a persistent under delivery such as to warrant corrective action by the imposition of the 20% buffer. In coming to this conclusion I recognise that the Council has faced difficulties not of its own making and is also making efforts to increase supply. These factors provide an explanation as to the current position but they do not negate the record of under delivery. The period of under delivery and the rate at which the backlog has been accrued indicate that the best way of providing a realistic prospect of achieving the indicative supply is to increase the buffer to 20% by moving housing forward from later in the plan period.
28. The Council has taken issue with the Inspector's conclusions regarding the lack of a 5 YHLS in the Hewitt's Industrial Estate appeal decision⁹. The Council contend that the conclusions in that appeal had been influenced by a misapprehension as to the position in three other appeals in the district. I make no observations in relation to this matter other than to make it clear that I have arrived at the above conclusions having made my own independent assessment on the facts before me. It just so happens that my views on this issue coincide with those of the Hewitt's Appeal Inspector.
29. Application of a 20% buffer to the total 5 year housing requirement, including the accrued shortfall, takes the requirement to 4163 dwellings. In this scenario the Council accepts that, on its best case, if a 20% buffer is applied, the supply is 4.63 years.

Supply Issues

30. Table 2 of the Council's Five Year Housing Supply Statement of 1 July 2016 summarises the available 5 YHLS. It records a total of 3854 dwellings for the period from five distinct categories. The Framework provides advice as to when sites should be considered deliverable and provides that sites with planning permission should be considered deliverable until permission expires unless there is clear evidence that implementation will not occur within 5 years. Mr Justice Ouseley in the High Court¹⁰ has confirmed that deliverability is an assessment of the *likelihood* that housing will be delivered and he recognised that the assessment does not require *certainty* of delivery (my emphasis).
31. Two of the categories in the 5 YHLS comprise small sites of less than 5 units with planning permission and large sites with planning permission for more than 5 units. The Appellant has conducted an analysis of past delivery from small sites and concludes that on the basis of past performance the Council is too optimistic about future delivery rates from such sites. In the 14 year assessment period the highest rate of small site completions was 95 per annum with an average rate of 73 units per annum. Mr Purser calculates that the

⁸ Equivalent to 3.25 years supply.

⁹ Appeal Reference APP/R3650/W/15/3141255 dated 5 January 2017.

¹⁰ ST Modwen Developments Ltd v SSCLG [2016] EWHC 968

average contribution to the supply ranged between 19% and 47%. Moving forward the Council is relying on an annual contribution of 85 dwellings per annum which represents 16% of the SHMA annual requirement of 519 units.

32. I have reservations about examining the past delivery rates on small sites when average completions were lower because, until recently, the contributions made by small sites were made in different contexts when smaller annual housing requirements were in force. At this point I note the Council's evidence in relation to the increased number of planning permissions which have been granted over the last 3 years. This is likely to also include an increase in the number of units granted permission on small sites as indicated by the 423 units on small sites now relied upon. I recognise that small sites which currently have planning permission are likely to be time limited to 3 years and that if the assumed 423 dwellings are distributed over 3 years this would take the annual completion rate from such sites to 141.
33. I also note that the Hewitt's Inspector commented that there was a strong case for the application of a lapse rate bearing in mind the Council's record of under delivery and its record of over optimism¹¹. I must respectfully disagree, in my view the test required is that of clear evidence that a site is not going to be delivered in 5 years. I do not consider that a past record of general under delivery overcomes what is essentially a presumption that sites with planning permission should be considered deliverable.
34. Mr Purser has referred me to the judgements in the Cotswold case¹² and the case of Bloor Homes¹³ in support of his proposition that a 10% lapse rate should be applied. Both judgments acknowledge that the application of a lapse rate is a matter of planning judgment for the decision maker. The Bloor Homes case is authority for the proposition that once raised the issue must be properly grappled with. In the Cotswold case the Council had agreed that planning permissions would lapse before implementation in relation to small sites based on Council records. That is not the case here.
35. Finally, Mr Purser asserts that there is no evidence to support the view that all small sites with permission will come forward. However the presumption is that sites with planning permission will come forward unless there is clear evidence to the contrary. In this case I do not have either acceptance of the lapse of planning permissions or evidence of such a lapse. Mr Purser's contention is based on an analysis of the contributions which such sites have made historically in numerical terms. My point is that those contributions were made in a different context and it is not appropriate to extrapolate those figures to cover a period where much higher annual requirements are set out and there is evidence of increased numbers of units being granted planning permission in the last two assessment years¹⁴.
36. Mr Purser advocates that a '*slippage allowance must be the correct response to adjust for the probability of completions aligning more closely with the long term trend*'.¹⁵ Irrespective of my reservations about Mr Purser's extrapolations, I conclude that the Appellant's conclusions about the *probable* completion rate

¹¹ Appeal decision §19

¹² Cotswold DC v SSCLG [2013] EWHC 3719 (Admin).

¹³ Bloor Homes v SSCLG and Hinckley and Bosworth BC [2014] EWHC 754 (Admin).

¹⁴ Assessment years 2014-15 and 2015-16 when the number of units granted PP exceeded the annual housing requirement, 697 and 863 units in each of those years.

¹⁵ PoE Richard Purser appendix 3 paragraph 1.23(v).

in relation to small sites does not constitute the clear evidence that sites will not come forward demanded by footnote 11 of the Framework. The point applies equally to the 10% slippage rate applied by Mr Purser to large sites with planning permission which he did not specifically assess. I now turn to the large sites with planning permission which Mr Purser has examined.

Large sites with planning permission

37. The difference between the parties centred upon the rate at which houses would be built out on the larger sites with planning permission. The lead in times put forward by Mr Purser in his analysis of 5 named sites¹⁶ is not subject to challenge and appears reasonable to me. The Appellant has assumed a build out rate of 36 units per annum when one outlet is on site. On behalf of the Council Mr Woods put forward the suggestion of 50 units per annum for one outlet, contending that the usual range is between 36 and 56 for national house-builders.
38. A rate of 50 units per annum from one outlet is at the more optimistic end of the range and would entail completions at the rate of just over 4 units a month. I consider that the rate of completions is likely to be lower when there are 2 or more outlets on the same site given that each outlet is likely to be competing for buyers to some extent. In the case of the site in Cranleigh the Council is assuming that 425 dwellings will be built out in 30 months, with completions commencing in year 3. This relies upon 3 outlets producing completions at the rate of 12 a month and I consider that this is overly optimistic.
39. On balance I tend to prefer Mr Purser's estimates as to the likely lead in times and completion rates. His analysis would result in a deduction of some 300 units from the Council's supply figures¹⁷. Given the findings that I have made thus far, it is possible at this point to conclude that the 5 YHLS figure lies somewhere in the range 4.08¹⁸ years to 4.27¹⁹ years. I do not consider it productive to make further findings in relation to the remaining HLS matters in order to refine this relatively narrow range any further.

Whether or not the proposal constitutes inappropriate development

40. LP policy C1 sets out a presumption against inappropriate development in the Green Belt unless very special circumstances exist and provides that '*in all circumstances, any development which would materially detract from the openness of the Green Belt will not be permitted*'. The policy confirms that the construction of new buildings will generally be inappropriate development, other than where it is for restricted purposes or other uses of land which preserve the openness of the Green Belt and which do not conflict with the purposes of including land in it. The appeal proposal does not fall within any of the exceptions and therefore it constitutes inappropriate development in terms of policy C1.
41. Policy C1 emanates from the LP which dates back to 2002. I consider that C1 is a restrictive policy which creates and constrains housing supply²⁰ and as such

¹⁶ Contained within Table RP2 *ibid*.

¹⁷ Table RP2 *Ibid*

¹⁸ Appellant's best case on supply is 3,396 dwellings given that I have not accepted the 10% lapse rate.

¹⁹ Council's best case on supply is 3,554 dwellings given that I have accepted the Appellant's build out rate.

²⁰ *Suffolk Coastal District Council v Hopkins Homes Ltd; Richborough Estates Partnership LLP v Cheshire East, SCLG [2016] EWCA civ 168*

this is a policy for the supply of housing which is out of date in accordance with paragraph 49 of the Framework.

42. The Framework also seeks to control development within Green Belts and confirms that the Government attaches great importance to Green Belts. Paragraph 89 indicates that the construction of new buildings in the Green Belt should be regarded as inappropriate unless it falls within limited exceptions. One of the specified exceptions is contained within the 6th bullet point and relates to the partial or complete redevelopment of previously developed sites which would not have a greater impact (than the existing development) on the openness of the Green Belt and the purpose of including land within it. It is this exception which is relied upon in this appeal.
43. The above is a more recent expression of national policy and a significant material consideration. To the extent that it is at variance with policy C1 I conclude that the Framework carries more weight and it represents the test which is determinative of the issue relating to inappropriate development.

The effect on openness

44. The previously developed land comprises the buildings previously occupied by an automotive parts manufacturer, together with associated hardstanding areas and areas forming the curtilage of those structures. The site is occupied by a number of large single storey industrial and storage buildings, as well as ancillary office buildings, all of which have fallen into varying states of disrepair. These buildings are located in the central area of the site closest to Shackleford Road and between the two entry points.
45. Since operations ceased in 2008 a large workshop on the western side of the developed site was demolished leaving a concrete slab behind. In terms of any volumetric approach to the question of openness the parties are agreed that the baseline for such an assessment should have regard to the buildings which exist on site today²¹. The demolished building and any buildings which could have been built under an expired planning permission are not to be taken into consideration.
46. It is agreed that the redevelopment would result in a reduction in the built footprint currently on site by some 14% and a corresponding reduction of 8% in the built volume over that which currently exists. In simple volumetric and footprint terms the development would represent a relatively small improvement. However that is not the end of the matter given that the question of '*the visual impact on the aspect of openness which the Green Belt presents*' should also be taken into account²².
47. The above quote from the Turner case is important. It illustrates the need to distinguish between the visual impact on the aspect of the concept of Green Belt openness and the quite distinct assessment which is to be made as to the visual impact of development on the Green Belt which is part of a more general assessment as to the aesthetic effects upon the character and appearance of the area and which is considered below. As Mr Williams opined, openness in landscape terms is not to be confused with openness in Green Belt terms.

²¹ Inquiry document 22.

²² Court of Appeal in *John Turner v SSCLG and East Dorset Council* [2016] EWCA Civ 466.

48. Finally I note that the Turner case recognised that the absence of visual intrusion does not in itself mean that there is no impact on the openness of the Green Belt as a result of the location of a new or materially larger building there.
49. The existing buildings are in a relatively compact form, closely associated with each other. Whilst they run along the eastern boundary of the site with Shackleford Road due to land levels and the intervening tree and boundary planting, the development is only glimpsed from the road. The vehicular entry point on the south-eastern corner of the site provides a limited view into the site through tall metal gates. The second vehicular entry point contains a winding road providing access to the former car parking areas to the north and the yard. From this entry point two of the smaller buildings on the periphery of the industrial complex are seen at the end of the road in the middle distance. The same entry point is the beginning of a public right of way (PROW 61) which traverses the site, travelling along the internal roadway and through vegetation before skirting the north-western corner of the developed area and running into an open green area which sits behind the footplate of the demolished building. This footpath leaves the site on its southern boundary.
50. The area to the north of the existing buildings was previously used for the parking of vehicles and possibly for temporary storage and forms part of the curtilage of the previously developed land. In its current state there is some evidence of areas of hardstanding which have become overgrown and degraded. A small brick pumping station sits at the side of the path, somewhat removed from the larger industrial complex and surrounded by vegetation. I have also taken into account the traces of man-made bunds and remnants of fencing when considering the impact of the existing development on the openness of this part of the Green Belt.
51. I agree with Mr Woods, on behalf of the Council, that the existence of ruderal and other vegetation should not feature in the assessment on Green Belt openness since such vegetation is a common feature of Green Belt land. I acknowledge that such vegetation and the extent to which it screens views is highly pertinent to the landscape and visual impact assessment which I will do shortly. However the existence of such vegetation does not diminish the openness of the Green Belt and its removal would not increase openness. In any event the test required by paragraph 89 is a comparison between the effect of the existing development on the openness of the Green Belt and the effect of the proposed redevelopment.
52. The new housing would be of a completely different form to that which currently exists. The 69 dwellings would be arranged around a circular internal road, with 10 units on a spur and cul-de-sac on the parcel of land which forms the northernmost part of the previously developed land. Currently this northern area is overgrown and the hardstanding areas diminished by virtue of the encroaching vegetation. The introduction of housing onto this parcel would represent a significant change and would create the perception of a reduction in openness. This would be particularly evident along the public footpath 61 when built form otherwise confined to the south would spill over into the northern section of the brownfield curtilage.
53. The demolition of the large warehouse building resulted in a material reduction in massing. The location of that building and its resultant remaining footplate

is highly material to the current analysis of openness of the Green Belt. I say this because the warehouse was located on the edge of, and at the rear of, the complex and its demolition has created an open space, albeit with a footplate, which is next to the greenfield land beyond. Again the introduction of built development onto this footplate would result in the increased spread of development beyond the compact massing which currently exists.

54. The Appellant contends that the houses would introduce increased permeability through the development which would assist the perception of openness. However the houses are fairly tightly knit and whilst many have adjoining garages, the garages themselves have pitched roofs and in some cases accommodation over. In any event there is a depth to the development such that in many views housing would be seen beyond and behind the housing in the foreground. In most cases the existing buildings would be replaced by dwellings of increased height. The heights of the existing buildings are between 3.6 metres and 7.7 metres whilst the new dwellings would range between 8.6 metres to 11.8 metres²³. Whilst there would be a marginal increase in permeability this would be at the cost of noticeably taller development spread over a noticeably wider area.
55. On behalf of the Appellant Mr Allen contended that the heights of the replacement buildings must be seen in the general context of taller buildings in the business park. Of course this is a relevant factor when considering the effect of the proposed development on the character and appearance of the area but is not relevant to a comparative assessment of openness.
56. The analysis here requires the comparison of the more compact existing built form with a more dispersed and taller built form. Whilst there would be a relatively small volumetric reduction in built form, the development would result in a noticeable and material decrease in openness when assessed having regard to its visual aspect. My overall conclusion is that the proposal would bring increased harm to the openness of the Green Belt when compared with the development which currently exists.
57. Given that I have concluded that the proposal would have a greater effect on openness it is not strictly necessary for me to consider the second criteria of the exception in bullet point 6 of paragraph 89 since both requirements need to be satisfied to claim the exception. The second requirement is that the proposal does not have a greater impact upon the purpose of including the land within the Green Belt than the existing development. However I shall deal with it briefly for the sake of completeness.
58. The Council alleges that the redevelopment would result in greater encroachment in the Green Belt than the existing development. I find the position here more finely balanced given that it is accepted that the redevelopment is taking place within the previously developed land. Whilst the built development would be spread over a wider area, that area is defined as previously developed and for this reason I conclude that there would not be any greater degree of encroachment.
59. The consequence of the findings above is that I have concluded that the appeal proposal does not fall within the exception in bullet point 6 and therefore it constitutes inappropriate development in the Green Belt.

²³ Examination in chief of Mr Woods.

The character and appearance of the AONB and the AGLV

60. LP policy C3 is concerned with the protection and conservation of the Surrey Hills AONB and AGLV. Policy C3 sets out its primary aim of conserving AONBs and enhancing their beauty and states that development inconsistent with this aim will not be permitted other than in certain specified circumstances which are not relevant here. It further confirms that 'strong protection' will be given to ensure the conservation and enhancement of landscape character in AGLVs. These objectives are mirrored in the Framework which confirms that great weight should be given to conserving landscape and scenic beauty in AONBs.
61. The appeal sites lies within the Wealden Greensand National Character Area. At a more local level it is in the Valleys of the Upper Way-Greensand Hills Landscape Area which exhibit heavily wooded valley sides and open valley floors, with roads crossing the valleys and distinctive stone and wooden bridges. External consultants to the Council carried out a landscape study of the countryside in the borough in August 2014²⁴ to inform the 2014 SHLAA. The appeal site fell within a segment EL05-B where the agricultural character of the landscape, low visibility and inter-visibility are features. The study recognises that there may be scope for some development north of the village with specific mention of the disused works on the appeal site.
62. The area surrounding the appeal site is generally flat, with the River Wey running along the site's northern boundary where levels tend to drop towards a network of streams and ditches feeding into the river. The roadside frontage of the site and its northern sector are enclosed by mature trees with dense understorey planting. The modern Tanshire Business Park sits immediately on the site's southern boundary in an attractive wooded setting. A belt of trees wraps around the western side of the previously developed area and screens views from vantage points further to the west.
63. A combination of the topography and mature vegetation results in the site having a secluded feel. This is reflected in the Landscape and Visual Impact Assessment which assesses the zone of visual influence as somewhat limited. The principal views of the development would be from the two vehicular entry points, as well as glimpsed views along Shackleford Road. Views from public footpath 61 represent the most comprehensive and continuous public views of the site.
64. At the outset I confirm that the baseline for my assessment of the effects of the proposal on the AONB and the AGLV is essentially the appeal site in its current state. Therefore assessing the effects on these designated areas is a comparative exercise seeking to establish whether the proposal would result in an improvement in visual terms or would be more harmful to the character and appearance of the designated areas than what currently exists on site.
65. To that end the Council explicitly recognises that in views from Tanshire Business Park, Blacklands Farm and Shackleford Road the residual effects of development at year 15 would be minor and beneficial. Some local residents have raised concerns about additional lighting along Shackleford Road having an urbanising effect. Whilst the additional crossing point on the B3001 would have to have street lighting, I have not seen any suggestion that lighting would be introduced along the length of the footway. On my site visit I saw a number

²⁴ The AMEC study.

- of unlit footways on the outskirts of the village. I would agree with the joint assessment of the parties regarding the residual effects upon the road frontage and its environs.
66. The main dispute between the parties is in relation to the effects of the development upon visual receptors utilising footpath 61. In particular the Council's concerns relate to the introduction of 10 units on land which is currently free from built development and acts as a transitional area between the industrial land and the wider countryside to the north.
67. The appeal proposal would remove the unsightly and dilapidated monolithic buildings and introduce dwellings in a landscaped setting. The landscape masterplan depicts the retention of the woodland belt on the western side of the housing and on the site frontage and includes supplementary tree planting throughout the estate and along the north-western edge of the housing around plot 65. These factors would serve to soften the development and retain a relatively secluded feel inside the estate, as well as limiting views from outside the housing estate.
68. On walking the footpath and accessing the site from Shackleford Road the land to the north currently appears as a continuation of the open countryside beyond. Introduction of the housing would mean that, for about the first third of the route through the appeal site, the impression would be that of walking through a landscaped modern housing development. However there are two further considerations. Firstly the sense of dilapidation is present along this section of the footpath, with the derelict buildings coming into view to the south, the sewage station and the presence of the uneven surfacing and remnants of the hardstanding which are all visual detractors.
69. Secondly once the footpath passes plot 64 the wider countryside would come into view. Thereafter and for the remainder of the duration of the walk along footpath 61 there would be a visual improvement in the immediate environment by virtue of the removal of the disused industrial buildings and their replacement by housing. I acknowledge that the proposal would bring significant change with taller built development being spread over a wider area but I conclude that it would be more aesthetically pleasing than that which currently exists.
70. Overall I conclude that the experience of walkers along footpath 61 would be enhanced by virtue of the development. The assessment on the visual receptors on footpath 61 cannot be taken from a static viewpoint. In coming to my conclusion I have considered the visual effects along the whole of the footpath rather than individual lengths. I conclude that the residual effects at year 15 would be minor and beneficial.
71. Finally the Council have pointed to the resubmission application which does not entail development of the northern area and which, the Council contend, is more sympathetic to landscape character. Be that as it may, it does not form part of the comparative assessment I must undertake here when I am assessing the effects of the proposal and comparing them to the effects of the existing development.
72. Housing is an untypical feature in this landscape character area and would generally be considered detrimental to landscape character. However I have considered the existing influence of the Weyburn Works on landscape character

which is limited to its immediate area around the site's perimeter and the effects on the landscape character of the wider AONB and the AGLV are negligible. In this case I conclude that the proposal would represent an improvement to landscape character over what already exists.

73. In terms of the visual effects, for all of the above reasons, I conclude that the proposal would conserve the AONB and the AGLV and in some limited respects would offer modest visual improvements over that which currently exists. As such the development is in accordance with LP policy C3 and corresponding policy objectives in the Framework.

Employment land issues

74. LP policy IC2 seeks to safeguard suitably located industrial and commercial land by resisting the loss of such sites. It is accepted that the site is suitably located within the terms set out in the policy. Policy IC2 further confirms that, in giving consideration to applications which conflict with the policy, the applicant will be required to demonstrate that *'there is no need for the site to be retained for employment purposes'*. The Framework also advises against the long term protection of sites allocated for employment use where *'there is no reasonable prospect of a site being used for that purpose'*.
75. The Council's objection in relation to this issue is based on a narrow point. On the basis of submitted reports²⁵ the Council does not contend that the site can be used for employment purposes as it currently exists or that it could be redeveloped in its entirety for such purposes. Instead the Council argues that the presence of an unauthorised car park to service the Tanshire Business Park is direct evidence of *'an ongoing need for land in the immediate area of the appeal site to be used to facilitate extant employment purposes'*²⁶. This car park is situated on Green Belt land opposite the appeal site and has been there for over 2 years.
76. Two Employment Land Supply Reports are before the Inquiry both undertaken by Atkins. The most up to date is the 2016 report²⁷ which examines the available supply against three different growth scenarios. In each of the three scenarios there is a projected surplus of B1c/B2 land by 2033²⁸. The conclusions recognise that the identified potential supply is sufficient to meet future demand in purely quantitative terms. However qualitative factors could discount some available sites from meeting demand. The report's authors recommend that the Council safeguard its existing supply of B1a/b sites and seeks to re-use any surplus B1b/2 sites which are of sufficient quality to accommodate the projected modest levels of growth in the B1a/b sector. Any surplus sites which are not fit for purpose and unlikely to meet future market needs should be considered for release to alternative uses.
77. There can never be an exact match between supply and demand and some element of oversupply is necessary to provide some flexibility in the market and to facilitate churn. However it is evident from the reports that there is likely to be a significant surplus of at least 20,000 square metres of B1c/B2 land. In this case there is no prospect of the appeal premises being suitable for use as B1 office space.

²⁵ Gascoignes' Commercial/Marketing Report and Letters from Boyer

²⁶ Mr William's closing §50.

²⁷ The Waverley Employment Land Review Update dated April 2016 carried out by Atkins at CDD/15.

²⁸ Table 6-2 *ibid*.

78. A local resident, Mr Walton, gave evidence to the Inquiry²⁹ about various matters including the adequacy of the marketing of the works and its viability for commercial or employment use. Mr Walter is a Fellow of the Royal Institution of Chartered Surveyors and has extensive experience of real estate investment management. He had concerns about the marketing undertaken and the choice of agent. Gascoignes are a firm of Chartered Surveyors with offices in Guildford and were retained to market the site from the third quarter of 2008 to the fourth quarter of 2012. I note that for 2-3 years it was jointly marketed with a second agent, Hurst Warne. In any marketing exercise I conclude that a tailor-made approach to the marketing strategy is appropriate having regard to the type of premises being marketed, its location and the local market and likely demand. In this instance I am satisfied that the marketing undertaken was proportionate and appropriate to the nature of the premises being marketed.
79. Mr Walton asserts that the Gascoignes Report is now some 2 years out of date and in the meantime there has been a strong increase in commercial property prices. However, the state of the premises is unchanged and the projections of an oversupply of B2 accommodation to 2033 indicate that the demand for this type of industrial stock is declining in this area. The Marketing Report of February 2015 is quite comprehensive and sets out the various options in relation to the disused works. It concludes that speculative development for an employment use is neither realistic nor commercially viable. These findings are supported by the evident state of the premises and the conclusions of the Atkins report. The Gascoignes' Report was reviewed in light of the Atkins Report of 2014 and accepted by the Council's own Estate and Valuation Manager.
80. Gascoignes concluded that redevelopment of the site for new build B1 offices was unviable on the basis of assumed rental levels of £20 per square foot locally. Mr Walton confirms that the levels at Tanshire Business Park are now in the order of £25 per square foot. However the report also explains that it is likely that any redevelopment for office space would have to be speculative given that pre-lets are generally only required by large headquarters. Secondly the report recognises that the premises are in a secondary location, in a small village where demand for office accommodation is for relatively small office suites. Thirdly the report also indicates that there is a large selection of B1 office stock available in the region. All of these matters support the conclusion that speculative redevelopment for office accommodation is highly unlikely.
81. The only alternative use put forward by the Council is that of an overspill car park ancillary to the employment use at Tanshire Park. An application for temporary planning permission for a period of 5 years for a car park on green belt agricultural land opposite the Tanshire Business Park has been submitted. Its accompanying planning statement³⁰ records that the park is fully occupied and has 262 car parking spaces. The BOSS Group signed a 5 year lease to 2020 and they have had to unexpectedly accommodate a relatively high number of employees which has triggered the current parking problems.
82. The planning statement confirms that BOSS Group are considering a number of options including working with the newly established Elstead Neighbourhood

²⁹ Inquiry document 14- Statement of Mr Michael W T Walton.

³⁰ CDJ/02

Plan team to look for other potential parking sites in the area. A 5 year temporary permission was sought to enable BOSS Group to either re-organise activities or move to an alternative location or for Tanshire Park to work with the Council to provide a long term sustainable on-site or off-site parking provision.

83. I appreciate that using previously developed land for the additional car parking could provide a practical and commercial solution whilst alternative solutions are being explored and that unsuccessful overtures may have been made to the owners of the appeal site. Such a solution would also be preferable to using Green Belt land for car parking. However, this is not the policy test which I must apply and a car park in a different planning unit and in separate ownership would not, in my view, constitute an employment use of the appeal site such as to justify its retention for employment purposes. The car park requirements are not indicative of a demand for employment floorspace, rather they point to the requirement for additional car parking provision on a temporary basis to service an existing employment use elsewhere.
84. Having regard to all of the evidence, I conclude that there is no reasonable prospect of the site being used for employment purposes and therefore no need for the site to be retained for such purposes. Consequently the proposal satisfies the policy tests in LP policy IC2 and the Framework.

Play space provision

85. LP policy H10 requires residential development, which includes dwellings suitable for family occupation, to make appropriate provision for children's play. The proposal contains provision for a local area of play (LAP) intended to cater for children up to the age of 6 years and a trim trail within the SANG. It does not make provision for a locally equipped area of play (LEAP) and this has resulted in the Council's objection.
86. The wording of policy H10 requires an assessment as to what is appropriate in each case. The explanatory text to the policy offers further guidance in determining what is appropriate and it looks to The National Playing Fields Association (NPPA) guidance as a starting point. The NPPA³¹ states that developments of 50 dwellings or more should provide a LEAP catering mainly for accompanied children from 4 to 8 years of age. The NPPA updated guidance 'Fields in Trust'³² provides more detailed advice. For development between 10 and 200 dwellings it recommends one LAP and one LEAP³³. These are benchmark standards which can be adjusted to take account of local circumstances³⁴.
87. The development would have 69 dwellings of which the majority would be family housing. I consider that an appropriate starting point would be for the appeal site to make its own on-site provision having regard to the guidance. The site is located within the Elstead Ward where there is already an under-provision of equipped play space, 0.05 hectares per 1000 population as against the 0.25 hectares per population recommended by the Fields in Trust document. In the face of an existing deficit, on-site provision is even more important so as not to exacerbate the recognised deficiency.

³¹ Fields in Trust/National Playing Fields Association Chapter 6: The Design of Outdoor Play and Sport Facilities.

³² CDA/03

³³ Table 2, page 7 *ibid*.

³⁴ Footnote 1, p7.

88. The nearest LEAP at Burford Lodge contains play equipment, as well as hard tennis courts and a sports pitch. It would be at least a 10 minute walk from even the closest houses on the site, bearing in mind the configuration of the housing and the walking routes. This is beyond the recommended 5 minute or 400 metre walking distance³⁵. In addition the walk to Burford Lodge from the appeal site would be off-putting to some; it would involve a fairly circuitous route, past open water, through wooded areas and along narrow and uneven footpaths. Whilst I acknowledge that the proposal would result in improvements to this footpath, having regard to all of the above factors I conclude that it would not represent a convenient or suitable alternative to on-site provision.
89. The NPFA Guidance³⁶ sets out circumstances in which a Local Landscaped Area for Play could represent alternative provision to a LEAP. However it states that if there is provision for only one LEAP then the equipped play area should be provided and the landscaped option disregarded. A trim trail is proposed as part of the SANG provision. This would entail the provision of six pieces of equipment along the length of the SANG walking route. The pieces of apparatus would be relatively close together and along the rear of the housing which places it in a suitable location. However the equipment list examples include chin ups, horizontal ladder, parallel bars, run and leap, multi-bench and log vault which would indicate an external gym concept for older users.
90. I have no doubt that the trim trail and SANG would provide some additional benefits in the form of an alternative play experience for some users. I also agree that this would provide a benefit for existing residents and children. The Appellant also contends that a condition could be imposed requiring six pieces of equipment to meet LEAP requirements. However children's play equipment must be provided to certain standards and occupy a reasonably flat site surfaced with grass or a hard surface together with impact absorbing surfaces beneath.³⁷ There is no suggestion that Natural England would accept such provision on the area designated as a SANG.
91. I conclude that the trim trail would not be a wholly satisfactory substitute for the equipped play area envisaged for children between 4 and 8 years to facilitate independent play. It would also exacerbate the deficiency in equipped play areas in the ward. On balance I conclude that the proposal does not make appropriate provision for children's play contrary to policy H10 and this is a factor which counts against the proposal. I further agree that policy H10 is not a policy which would restrict housing but instead seeks to direct the type of infrastructure necessary to come forward with such housing. It is not a policy for the supply of housing in terms of paragraph 49 of the Framework.

Housing mix

92. LP policy H4 seeks to ensure the provision of a suitable range of dwellings and in particular a range of smaller units. In part it requires at least 50% of all units to be 2 bedrooms or less and not less than 80% of all the dwellings to be 3 bedrooms or less. The Framework also requires local planning authorities to deliver a wide choice of homes by planning for a mix of housing based on current and future demographic trends. The policy is concerned with the

³⁵ Fields in Trust paragraph 6.2.3

³⁶ Paragraph 6.2.7

³⁷ Inquiry document 2: FIT guidance paragraph 6.2.5

format in which housing proposals come forward. Whilst it seeks to direct the proportions of types of housing it does not act as a restraint on the supply of housing. I conclude that it is not a housing supply policy and is not caught by the terms of paragraph 49 of the Framework.

93. The much more recent SHMA³⁸ now provides the best evidence of housing needs in West Surrey and its findings are broadly similar to earlier demands in terms of the mix of housing. Its findings have been used to develop draft policy AHN3 of the emerging local plan. This policy requires the provision of 30% affordable housing on certain sites and seeks to ensure the appropriate mix of dwellings types and sizes having regard to the SHMA.
94. The SHMA sets out estimated needs from 2013 to 2033 by number of bedrooms in both the market and affordable housing sectors and across the three areas (Guildford, Waverley and Woking) in the Housing Market Area. In terms of market housing the need in Waverley mirrors that across the district; there is a requirement for 40% of such housing to be 1 or 2 bedrooms. The proposal does not make any such provision and this is a stark omission given the scale of the projected need likely to be generated by those families and persons at the lower end of the housing ladder. Finally the proposal would provide 39% (27 units) of 4 bedroom market homes which is almost double the actual requirement for 20% of such dwellings (13 units).
95. The proposal would provide 21 units of affordable housing, 5 x 1 bed, 7 x 2 bed and 9 x 3 bedroom units. Again provision is skewed towards the larger units when demand is generally for smaller units. So the development would provide 24% of 1 bed units as against a requirement for 40% and 43% of 3bed units as against a requirement for 25%. Whilst the proposal does make some provision for smaller affordable units and would contribute to the overall need for affordable housing, there remains something of a mismatch between what is proposed and what is needed. The proposal was however supported by the Council's Housing Strategy and Enabling Manager in terms of the provision of a larger proportion of 3 bedroom homes on the basis that there are more limited opportunities to develop such housing in rural locations.
96. The Appellant contends that the SHMA sets out the mix of housing which should be achieved to 2032 and as such requirements are not site specific. However this argument ignores the economic reality that, generally, developers tend to favour larger family homes and if the argument was accepted on a regular basis it would increase distortions between the supply of homes being provided and projected housing requirements.
97. The Appellant also asserts that the provision has to be seen and essentially valued in the context of the lack of a 5 YHLS and a housing shortage. However, in the face of a housing under-supply and continued under delivery and an evidenced need for smaller market and affordable homes, I conclude that it is all the more important that proposals come forward which reflect and meet those identified needs. To do otherwise would exacerbate the existing under-supply for a particular sector in housing need, namely those requiring the smaller units.
98. The contribution made by market and affordable housing in pure numerical terms is a positive factor in the balance. However the particular housing mix of

³⁸ CDD/09.

the proposal is out of kilter with the profile of housing need and it is a factor which counts against the development. In this respect it is contrary to policy H4 and I attribute moderate weight to the harm to policy objectives which seek to ensure an appropriate mix of housing.

Other material considerations

99. Some local residents and Councillors have objected to the proposal citing a variety of reasons. Three local Parish Councils³⁹ all raised objections in relation to a number of matters. I have already covered some of the issues above. It is necessary to consider any additional objections here given that, if adverse findings of harm are made, those findings must be factored into the Green Belt balancing exercise.
100. Environmental Designations: The site lies within 400 metres of the Thursley, Ask, Pirbright and Chobham Special Area of Conservation (SAC) and the Thursley, Hankley and Frensham Commons (Wealden Heaths Phase 1) Special Protection Area (SPA) and the Thursley and Ockley Bog Ramsar site. These designated areas are based upon the Thursley, Hankley and Frensham Commons Site of Special Scientific Interest (SSSI).
101. The Appellant's Environmental Statement (ES) and its Addendum considered the potential effects on the above designated sites of nature conservation interests. The report concludes that the ecological value of the appeal site is low and that suitable mitigation measures could be incorporated into the development to ensure that there are no adverse ecological impacts. The Addendum ES provided further evidence of key surveys into protected and other species at the request of the County Council who then removed their objection subject to the imposition of conditions. Surrey Wildlife Trust maintained its objection since it remained dissatisfied about the adequacy of the survey information. Further surveys were commissioned to address these concerns and these have now been accepted by Surrey Wildlife Trust.
102. A neighbouring landowner, Mr Walton, questioned the conclusions regarding the ecological value of the appeal site on the basis that his land to the north has been designated a Site of Nature Conservation Interest. This point has been recognised by Natural England and indeed the additional survey work recorded evidence of widespread reptiles and bats on the SANG land inside the appeal site. This has been taken into account in the final assessment.
103. The ES further identifies the potential for increased recreational pressure on the SPA/SAC/Ramsar site. Given the limited size of the site and the distance to the designated area, the ES deems that the effects of the development in isolation would be of negligible significance. However it is recognised that there is potential for this and other developments to combine to have cumulative effects. The provision of the SANG is the avoidance/mitigation strategy intended to address the effects of residential development within the 5 kilometre limit of the SPA.
104. Mrs Davidsen gave evidence about a number of matters which included concerns that the additional footway improvements would introduce walking access from homes on Milford Road to the SPA. The additional length of footway would be from the junction of Shackleford Road (along one side of the

³⁹ Shackleford, Elstead and Peper Harow.

triangular piece of land) and on the southern side of Milford Road leading into the village. It would represent about one half of the direct route between the Milford Road housing and the SPA entrance. I do not consider that it would materially increase the use of the SPA by these residents given that there are existing grass verges along much of the route and car parking facilities at the SPA entrance.

105. The care home is within 400 metres of the SPA and Natural England confirm⁴⁰ that increases in residential accommodation within the 400 metre limit are not normally accepted unless it can be established that there would be no likely significant effect upon the SPA from additional recreational pressure. To that end it has confirmed that a care home would be acceptable provided conditions are imposed to ensure that residents of the care home have limited mobility and require full time nursing.
106. The Appellant disputes the necessity for such a condition on the basis that persons moving into a care home are likely to have limited mobility in any event. Further the Appellant contends that such persons would not have access to their own motor vehicle and would be unlikely to be able to walk the requisite distance to the SPA. I do not accept the Appellant's proposition. The proposal is seeking a general class C2 care home use, rather than an institution where higher levels of care are required. In the circumstances I agree that, if I were minded to allow the appeal, such a condition would be reasonable and necessary. This condition together with provision of the SANG would satisfactorily protect the SPA from additional recreational pressures when the development is considered either in isolation or combination.
107. Flood Risk: a Local Councillor, Mr Williams, gave evidence to the Inquiry about his concerns in relation to flood risk and the flooding events of 2013/14 when 85 properties suffered water ingress. A Flood Risk Assessment and surface water drainage strategy are incorporated into the ES. The appeal site lies mostly within flood zone 1, with the northern part of the site, which is adjacent to the river, lying within flood zones 2 and 3. The residential development would be wholly located within an area of low risk from fluvial sources. A minor tributary of the River Wey runs north to south through the site via a culvert for the most part. This would be opened up as part of the development to allow a sufficiently sized water channel across the site. The open channels would be outside the private, rear domestic gardens, with culverts constructed to allow access to the properties. I am satisfied that they would not present a material safety hazard.
108. The redevelopment of the site would reduce its total impermeable area thereby reducing surface water run-off. The discharge of such surface water run-off would be controlled by the implementation of a sustainable urban drainage system thus ensuring that flood risk was not increased. Surrey County Council as the Local Lead Flood Authority has expressed itself satisfied with the arrangements. I conclude that these matters could be satisfactorily controlled via the imposition of conditions.
109. Highways: a transport assessment accompanied the application and assessed the likely trip generation, as well as trip distribution, from the development using the TRICS database. It is estimated that the proposal would result in less traffic generation than that which could be generated by

⁴⁰ Letter of 20 December 2016 and others.

the existing lawful use. The modelling demonstrates that the effect of the car trips generated upon the local highway network and junctions in the vicinity of the site would be negligible. The two vehicular accesses would be utilised and the County Council has confirmed that the available visibility splays are acceptable in highway safety terms. I have no reason to disagree.

110. Parking provision: some residents voiced concerns about the proposed level of parking on the site. The proposal includes some 163 car parking spaces in various forms. This is two spaces more than that recommended in the Council's own Parking Guidelines. A further 21 spaces would serve the care home with potential for 4 spaces in the form of on-street unallocated parking bays. This falls somewhat short of the Council's Parking Guidelines which require 30 spaces for the care home. However I agree with the Council that the shortfall would be relatively modest and the care home would not be located in a dense urban area such that it would result in additional pressure for on-street parking for adjoining residential users.
111. Accessibility: the site is within a reasonable walking and cycling distance to the services in Elstead village which include a range of facilities⁴¹. I have noted that bus services to local centres are hourly and that local residents say they can be unreliable and operate limited evening timetables. The proposal includes the provision of a new footway link between the site and existing footways on Milford Road which would facilitate pedestrian access from the site to the village and improvements to footpath 61. The site scored an overall green rating in the Council's SHLAA under the 'RAG' scoring scheme and I am satisfied that the site is located in a relatively accessible location.
112. Contamination: The Environmental Statement recommended that remediation of the site should take place prior to construction. This would result in the removal of asbestos contaminated soils which third parties have expressed concerns about. The County Council's Environmental Team is satisfied with the recommended measures which could be secured by condition. I concur with that assessment.
113. Heritage Assets: Somerset Bridge, a scheduled ancient monument which is grade II* listed is located a little further to the north along Shackleford Road. The bridge is a well preserved mediaeval feature thought to have been constructed by monks from Waverley Abbey. Its significance is derived from its aesthetic value and the insight it provides into the mediaeval landscape and building techniques.
114. In terms of the effect upon the setting of this asset, many of the findings which I have already made regarding the effect of the redevelopment on the character and appearance of the landscape apply equally here. The appeal site is within the rural setting of the bridge but due to the degree of separation between the two and the intervening trees and vegetation I conclude that the setting of this heritage asset would be preserved. I have come to this conclusion having taken into account the introduction of housing on the northern sector. The proposal is therefore in conformity with local plan and national policy objectives and the statutory tests which contains a requirement to have special regard to the desirability of preserving the setting of this asset.

⁴¹ SCG paragraph 6.8.1

115. Finally, Elm House is a farmhouse to the south of the appeal site within the business park. It is a non-designated heritage asset which has a modern extension to facilitate its current use as offices. Given that the historic element of Elm House is oriented away from the appeal site, with intervening development in between, I am satisfied that the development would not harm the significance of this asset or its setting.
116. Education: Mrs Carter-Manning gave evidence as to the current educational provision in Elstead. The section 106 agreement secures the payment of £46,440 towards early years' provision to be applied to a project at Peter Pan Pre-School resulting in additional places. A further payment of £50,000 is secured towards primary school provision which would be applied to a project at Waverley Abbey Junior School and would provide additional accommodation.
117. Concerns were expressed about access to the sewage pumping station which is owned and operated by Thames Water. However Thames Water was consulted upon the application and did not raise any objections.

Material considerations in support of development

118. The Appellant put forward a number of benefits in support of development. The provision of market and affordable housing in an accessible location and circumstances where there is a shortfall in housing supply is a significant benefit which is tempered somewhat by my findings regarding the housing mix. The proposal would also result in the redevelopment of previously developed land which is a significant benefit and would result in the decontamination of the land and removal of employment premises which are no longer considered viable. It would also deliver some limited visual benefits to the AONB and AGLV although the modest extent of the visual benefits is such that I afford this matter only limited weight.
119. The Appellant compares the appeal proposal to the resubmitted proposal for 61 dwellings with the northern section of the site left open. They contend that this alternative submission would deliver fewer affordable homes as a result of a reduction in market housing which essentially provides a cross subsidy. I have resisted comparisons between the two schemes on the basis that the appeal proposal must be decided on its own merits and because there is no evidence before me regarding viability considerations on the provision of affordable housing. It is not part of my remit to dismiss the appeal on the basis that there is a more beneficial scheme in the pipeline.
120. The proposal includes a 60 bedroom care home under class C2 of the Town and Country Planning (Use Classes) Order 1987 (as amended). The Council's 'Older Persons Housing Needs Survey' (2014)⁴² points to a current and projected need to prioritise increased supply of housing suitable for older people due to an ageing population. However the more specific need is for sheltered and extra care facilities for which there is a much higher demand than care homes. An open C2 use is sought and a potential operator has not been identified. In addition the Council's own survey⁴³ indicates that there is a surplus of provision of nursing homes in the area and predicts a small demand in the future. Accordingly I attribute only limited weight to this provision in support of development.

⁴² The reference is taken from the Council's committee report.

⁴³ CDD/22 The Older Persons Housing Needs Survey (2015)

121. Finally the Appellant points to the economic benefits of the development in terms of the creation of new jobs and generation of revenues locally. The development would also result in increased economic activity in the form of local construction work and jobs throughout the demolition and build period and an increase in the local population likely to deliver some benefits to the local economy. There may be additional jobs which come forward with delivery of the care home. These matters attract some weight in support of the proposal. The development would trigger payment of a New Homes Bonus but there is no evidence of a connection between the payments and the development to enable it to be taken into account in accordance with the advice in the national Planning Policy Guidance.

Conclusions in relation to Green Belt matters

122. I have found that the proposal is inappropriate development in the Green Belt and it would result in a moderate additional loss of openness over and above the existing development. I attach substantial weight to the definitional and actual harm to the Green Belt. In addition the proposal would result in minor harm in terms of the deficiency in play space provision and there would be some harm to policy objectives designed to achieve an appropriate mix of housing to which I have ascribed moderate weight.

123. I have set out above the combination of factors in support of development in this case. I attach significant weight to the redevelopment of a brownfield site which is no longer needed for employment purposes. The development would provide market housing in the context of a shortfall in the 5 YHLS and would further provide much needed affordable housing. I attribute substantial weight to this provision but adjust it downwards slightly by virtue of the housing mix. I ascribe limited weight to the other benefits I have identified.

124. When all of the above matters are considered I have come to the conclusion that the cumulative benefits clearly outweigh the harm such that very special circumstances exist. It follows that I have concluded that Green Belt policies and considerations do not indicate that development should be restricted.

Section 106 matters

125. The section 106 secures the payment of financial sums in relation to both pre-school and primary school provision, as well as a bus stop contribution of £15,000 and vouchers of £100 per household towards a bicycle or bus pass. It further secures the provision of the affordable housing. The Appellant raises no objection to any of the contributions sought. Inquiry document 11 sets out the Council's justification for each of the contributions sought in accordance with the policy tests set out in the Framework and the statutory test in regulations 122 of the Community Infrastructure Levy (CIL) Regulations 2010.

126. The requirement for the education and bus stop contributions is supported by LP policy D13 which requires adequate infrastructure to be available or provision to be made. The County Council has identified the recipients of the education contributions towards pre-school and primary school provision and these are directly related to the development and necessary to make it acceptable in planning terms. It is reasonably related in scale in kind to the housing proposed. The provision of affordable housing is supported by LP policy D14. The bus-stop contribution and vouchers are to support and encourage sustainable modes of transport.

127. The Council also gave evidence to the Inquiry as to the number of pooled contributions in relation to each of the financial contributions. The number of contributions do not exceed one in any of the instances and I am satisfied that none of the financial contributions fall foul of the pooling restrictions in regulation 123 CIL Regulations. As such those contributions which meet the statutory and policy tests can be taken into account.

Overall Conclusions

Paragraph 14 of the Framework

128. The duty in section 38(6) of The Planning and Compulsory Purchase Act 2004 enshrines in statute the primacy of the development plan. As an essential component of the 'plan-led' system, it is also reiterated in the Framework⁴⁴. The appeal site is outside the settlement boundary and constitutes inappropriate development in the Green Belt and it would result in some modest harm to openness. Policies for the supply of housing, including Green Belt policies, are out of date which reduces the weight afforded to them. However, in my view these policies are aligned with national policies in the Framework and as such the reduction in weight is relatively modest. The policies are strategic policies designed to direct development to appropriate locations and as a result of their contravention I conclude that the proposal is contrary to the development plan when considered as a whole.
129. The Framework is of course a material consideration to which substantial weight should be attached. Paragraph 14 recites the presumption in favour of sustainable development and sets out what it means for decision-taking and contains two bullet points. I have already concluded that the development does not accord with the development plan and that relevant policies are out of date. Therefore I shall progress to the second bullet point which contains two alternative limbs. The first limb requires a balance to be undertaken whereby permission should be granted unless the adverse impacts significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework as a whole. The second limb indicates that the presumption should not be applied if specific policies indicate development should be restricted. I have already concluded that Green Belt and AONB policies do not indicate that the proposed development should be restricted.
130. Given my conclusions in relation to the Green Belt I shall go back to perform the tilted balance in the first limb. Before doing so I shall address the Appellant's argument that, as a matter of principle, the test in the second limb is unnecessary by virtue of the site's inclusion as part of the Council's housing land supply. For the reasons which follow I do not accept this contention.
131. For the reasons explained in paragraph 12 of this decision letter the Appellant argues that the inclusion of the site in the 5 YHLS means that the Council has already accepted in principle that the redevelopment of the appeal site for housing is consistent with the policies set out in the Framework and as such it does not contravene Green Belt policies. The Appellant submits that, as a matter of principle, development of housing on this Green Belt land has already been accepted irrespective of the form which that development takes.

⁴⁴ §§11, 12, 196

132. Essentially Mr Stinchcombe advocates that, when looking at limb 2, only the principle of development is to be considered and this has already been accepted. Thereafter Mr Stinchcombe confirms that one must move back to the tilted balance in limb 2 of paragraph 14 when the actual form of development must be considered. In support of this proposition Mr Stinchcombe prays in aid the judgment of Mr Justice Coulson in the Forest of Dean case⁴⁵. In particular he cites paragraph 37 of the judgment:

"37. The two alternative Limbs also make sense as a matter of policy. It means that Limb 2 encompasses the standard balancing exercise in circumstances where there is a policy of restriction on development. But if the result of that standard balancing exercise comes down in favour of development, notwithstanding the restriction, then it is rational that the broader view under Limb 1, where the whole of the NPPF is considered, should be a weighted exercise, so as to give impetus to the presumption in favour of development"

133. Mr Stinchcombe argues that Mr Justice Coulson's use of the single word 'development' as opposed to 'the development' indicates that he was only considering whether the footnote 9 policies came down for or against development in principle as opposed to applying the policies to a particular individual proposal. I do not accept this proposition. Mr Justice Coulson also refers to the '*presumption in favour of development*' when referring to the limb 1 exercise. In both instances I read the word development to mean the development under consideration or the individual proposal. This seems to me to be the only sensible reading of the judgment and paragraph 14.
134. Moreover I do not accept that the Council has already conceded that housing development on the site is in conformity with Green Belt policies as a matter of principle. The 5 YHLS Statement is a monitoring device designed to inform the Council as to its present position. Paragraph 3.7 of the 5 YHLS Statement confirms that for the purpose of the statement some sites that are candidate sites for the LAA are considered deliverable within five years and have been included in appendix 3. This is indicated by the heading to Appendix 3 which features the appeal site and is entitled 'Potential Sites to be identified in the Waverley LAA'. Those sites have not yet been allocated nor have they been subject to any examination process.
135. I do not accept that the inclusion of any site in a housing land supply automatically means that restrictive policy tests have been passed and the specific merits of a given proposal can only be looked at in the tilted balance. On a Green Belt site, 70 dwelling units might be considered capable of being deliverable but the development of 70 units could take many different forms and not all of the those forms may be acceptable in Green Belt terms. The inclusion of the site in the 5 YHLS Statement merely indicates that redevelopment of the appeal site with 70 houses is capable of being acceptable but that each proposal would have to be assessed on its merits.
136. Even if the Appellant's proposition was correct and the Council had conceded that development was acceptable in principle in Green Belt terms, this concession would only apply to a 70 dwelling development. The appeal proposal is a 69 dwelling development and a care home which is a different matter entirely.

⁴⁵ Forest of Dean District Council v Secretary of State for Communities and Local Government and Gladman Developments Ltd [2016] EWHC 421

137. I now return to my decision making exercise in paragraph 14. Given that I have concluded that Green Belt and AONB policies do not indicate that this particular proposal should be restricted, I now turn to consider the tilted balance in the first limb of bullet point 2. This balance requires that planning permission must be granted unless any adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework as a whole. In this appeal all of the harms and benefits which I have identified cover the three dimensions of sustainability⁴⁶ and have been considered in the Green Belt balance. It therefore follows that I conclude that the adverse impacts of the proposal do not significantly and demonstrably outweigh the benefits. I conclude that planning permission should be granted.

Conditions

138. The Council and Appellants agreed a set of conditions which were discussed at the Inquiry. I also put forward some additional conditions for consideration by the main parties. I have considered all of the conditions in light of the advice within the National Planning Policy Guidance and I have revised some of them either as discussed at the Inquiry or in the interests of clarity and enforceability. The numbers in brackets relate to the conditions in version 2 of the parties agreed conditions.

139. In the interests of good planning it is necessary to impose conditions setting out time limits for development and to relate development to the submitted plans (1 and 2). At the Inquiry the question of a phasing strategy arose and I have incorporated a condition requiring details of a strategy if required. In the interests of the appearance of the development conditions are required to control the materials to be used for the external surfaces of the dwellings and care home and to control external lighting (3 and 5). It is necessary to ensure that garaging is retained for its intended purpose to prevent parking difficulties (4).

140. At the Inquiry we had a discussion regarding the need to control boundary treatments within each phase of development and I have imposed the condition which I suggested in substitution for condition (6) as agreed. Restrictions need to be placed on the use of the care home (7). It was agreed that bin storage details will be required in relation to the care home and affordable units (8). In the interests of a secure environment Secured by Design accreditation is necessary (9). Suggested conditions (10), (11), (12), (13), (14), (15) are all aimed at protecting existing trees on the site during demolition and construction phases. It was agreed that these matters could be dealt with more succinctly by imposition of the additional conditions which I suggested.

141. Conditions to require provision of the SANG are required (16 and 29). I have confirm that it is necessary to ensure that the Care Home is used by persons of restricted mobility, does not contain overnight staff accommodation and that no pets are allowed(17, 18 and 19). It was agreed that suggested conditions (20), (22) and (23) are unnecessary given that management of the SANG is controlled by the section 106 agreement. It was however agreed that details of the SANG management company are required (21).

142. To ensure the proper management of flood risk I shall impose suggested condition (24). An additional condition controlling finished floor levels was

⁴⁶ The economic role, the social role and the environmental role.

discussed at the Inquiry and I shall impose such a condition. Suggested conditions (25), (26), (27) and (28) are necessary to deal with contamination issues. As agreed I have merged suggested conditions (34 and 35) into the provisions. It is also necessary to secure the reinstatement of footpath 61 (30 and 37).

143. Control needs to be exercised over construction methods and hours of operation in the interests of residential amenity (31 and 33). I have imposed the alternative condition instead of suggested conditions (32 and 39) and imposed condition (40) in the interests of highway safety but removed the words 'so far as is reasonably practicable' since public safety should be maintained at all times. It is necessary to secure a scheme for the investigation of archaeological interests (36). In the interests of highway safety it is necessary to secure car parking and turning areas and I have substituted the revised condition for suggested condition (38). I have also imposed conditions to secure cycling provision and a Travel Plan Welcome Pack (41 and 42). It is not necessary to impose condition (43) to secure the junction works onto Shackleford Road given that the section 106 controls these matters. Suggested conditions (44) and (45) are necessary to protect ecological interests.
144. It is necessary to require a sustainable urban drainage scheme and I have imposed the replacement condition as agreed instead of suggested condition (46, 47 and 48). Finally it is necessary to impose a condition requiring details of the Local Area of Play to be submitted.

Karen L Ridge

INSPECTOR

Richborough Estates

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Mr Robert Williams

Of Counsel

He called

Mr Brian Woods
BA(Hons) MRTPI

Managing Director, WS Planning &
Architecture

FOR THE APPELLANT:

Mr Paul Stinchcombe QC

He called

Mr David Allen
DipLA CMLI

Allen Pyke Associates

Mr Richard Purser
BA(Hons), BPI

DPP Planning

INTERESTED PERSONS:

Ms Davidsen Elstead and Peper Harow Parish Council

Mr Williams Ward Member Waverley and Godalming

Mrs Carter-Manning Shackleford Parish Council

Mrs Emma Walton Local Resident

Mr Walton Local Resident

DOCUMENTS SUBMITTED DURING THE COURSE OF THE INQUIRY

1. Housing Statement of Common Ground, submitted by the Council and Appellant.
2. Extract from Fields in Trust, Chapter 6: The Design of Outdoor Play and Sports Facilities, submitted by the Appellant.
3. Summary proof of evidence of Mr Richard Purser, submitted by the Appellant.
4. R (Cherkley Campaign Ltd) v Mole Valley District Council [2014] EWCA Civ 567, submitted by the Appellant.
5. R (Wynn-Williams) v SSCLG [2014] EWHC 3374 (Admin), submitted by the Appellant.
6. Shropshire Council v SSCLG and BDW Trading Limited [2016] EWHC 2733 (Admin), submitted by the Appellant.
7. Opening Submissions on Behalf of the Appellant.
8. Opening Statement on behalf of Waverley Borough Council.
9. Statement of Mr Nicholas Williams.
10. Statement by Mrs Bridget Carter-Manning.
11. CIL compliance statement submitted by the Council.
12. Office copy entries of title to the appeal site, submitted by the Appellant.
13. Letter Natural England to the Council dated 14 September 2016, submitted by the Council.
14. Evidence of Mr Michael W T Walton,
15. Evidence of Mrs Dawn Davidson with 4 appendices.
16. Email correspondence between Mr James Birkett and Mr Russell, submitted by Mrs Davidson
17. Extract Surrey Landscape Character Assessment: Waverley Borough, April 2015, submitted by the Council.
18. Inspector's suggested additional conditions.
19. Extract from Planning Practice Guidance, Housing and economic land availability assessment, submitted by the Council.
20. Email Natural England to the Council dated 12 January 2017, submitted by the Council.
21. Email Natural England to the Council dated 20 December 2016, submitted by the Council.
22. Agreed note on footprint comparison submitted on behalf of the Council and Appellant.
23. Closing Statement on behalf of Waverley Borough Council.
24. Closing Statement on behalf of Mr Nicholas Williams.

25. Closing Statement on behalf of the Appellant.
26. Costs application on behalf of the Appellant.
27. Costs response on behalf of Waverley Borough Council.
28. Reply to Waverley Borough Council's Response to Appellant's Costs Applications.

PLANS SUBMITTED DURING THE COURSE OF THE INQUIRY

- A. Plan showing existing and proposed additional footway lengths.
- B. Site Access Arrangement- southern access, drawing ITB9332-GA-007.
- C. Site Access Arrangements drawing ITB9332-GA-006.

Richborough Estates

SCHEDULE OF CONDITIONS ATTACHED TO PLANNING PERMISSION

1. The development shall be begun not later than the expiration of three years beginning with the date of this permission.
2. The development shall be carried out in accordance with the approved plans. The plan numbers to which this permission relates are set out below:

| Plan Ref | Plan | Date | Notes |
|---|---|------------|-------|
| Site Layout Drawings | | | |
| 14019 S101A | Site Location Plan | 17/04/2015 | |
| 14019 S102 | Existing Site Survey | 17/04/2015 | |
| 14019 C201 | Coloured Site Layout | 18/09/2015 | |
| 14019 C202 | Coloured Sheet Elevations | 18/09/2015 | |
| 14019 C203 | Coloured Site Layout with wider context | 18/09/2015 | |
| 14019 P201 | Proposed Site Plan (Ground Level) | 18/09/2015 | |
| 14019 P202 | Proposed Site Plan (Roof Level) | 18/09/2015 | |
| 14019 P203 | Proposed Context Plan | 18/09/2015 | |
| 14019 P204 | Proposed Site Plan (Existing buildings overlay) | 18/09/2015 | |
| 2578-LA-01-P4 | Landscape Masterplan | 17/04/2015 | |
| Care Home Drawings | | | |
| 1429.OP.001 Rev B | Site Plan | 18/09/15 | |
| 1429.OP.002 Rev B | Ground Floor Block Plan | 18/09/15 | |
| 1429.OP.003 Rev A | Proposed Ground Floor Plan | 18/09/15 | |
| 1429.OP.004 Rev A | Proposed First Floor Plan | 18/09/15 | |
| 1429.OP.005 Rev A | Proposed Second Floor Plan | 18/09/15 | |
| 1429.OP.006 Rev A | Proposed Roof Plan | 18/09/15 | |
| 1429.OP.007 Rev A | Proposed Elevations Sheet 1 | 18/09/15 | |
| 1429.OP.008 Rev A | Proposed Elevations Sheet 2 | 18/09/15 | |
| Residential Floorplans and Elevation (Proposed Plans and Elevations) | | | |
| 14019 P210 | Plots 1-9 | 18/09/15 | |
| 14019 P211 | Plots 10-11 | 18/09/15 | |
| 14019 P212 | Plots 12-13 | 18/09/15 | |
| 14019 P213 | Plots 14-15 | 18/09/15 | |
| 14019 P214 | Plots 16-17 | 18/09/15 | |
| 14019 P215 | Plots 18 | 18/09/15 | |
| 14019 P216 | Plots 19 | 18/09/15 | |
| 14019 P217 | Plots 20 | 18/09/15 | |
| 14019 P218 | Plots 21 | 18/09/15 | |
| 14019 P219 | Plots 22 | 18/09/15 | |
| 14019 P220 | Plots 23 | 18/09/15 | |
| 14019 P221 | Plots 24-25 | 18/09/15 | |
| 14019 P222 | Plots 26-27 | 18/09/15 | |
| 14019 P223 | Plots 28-29 | 18/09/15 | |
| 14019 P224 | Plots 30-31 | 18/09/15 | |
| 14019 P225 | Plots 32 | 18/09/15 | |

| | | | |
|------------|---------------------|----------|--|
| 14019 P226 | Plots 33-35 | 18/09/15 | |
| 14019 P227 | Plots 36-37 | 18/09/15 | |
| 14019 P228 | Plots 38 | 18/09/15 | |
| 14019 P229 | Plots 39 | 18/09/15 | |
| 14019 P230 | Plots 40 | 18/09/15 | |
| 14019 P231 | Plots 41 | 18/09/15 | |
| 14019 P232 | Plots 42 | 18/09/15 | |
| 14019 P233 | Plots 43 | 18/09/15 | |
| 14019 P234 | Plots 44-45 | 18/09/15 | |
| 14019 P235 | Plots 46-47 | 18/09/15 | |
| 14019 P236 | Plots 48 | 18/09/15 | |
| 14019 P237 | Plots 49 | 18/09/15 | |
| 14019 P238 | Plots 50 | 18/09/15 | |
| 14019 P239 | Plots 51 | 18/09/15 | |
| 14019 P240 | Plots 52 | 18/09/15 | |
| 14019 P241 | Plots 53 | 18/09/15 | |
| 14019 P242 | Plots 54 | 18/09/15 | |
| 14019 P243 | Plots 55 | 18/09/15 | |
| 14019 P244 | Plots 56 | 18/09/15 | |
| 14019 P245 | Plots 57 | 18/09/15 | |
| 14019 P246 | Plots 58 | 18/09/15 | |
| 14019 P247 | Plots 59 | 18/09/15 | |
| 14019 P248 | Plots 60 | 18/09/15 | |
| 14019 P249 | Plots 61 | 18/09/15 | |
| 14019 P250 | Plots 62 | 18/09/15 | |
| 14019 P251 | Plots 63 | 18/09/15 | |
| 14019 P252 | Plots 64 | 18/09/15 | |
| 14019 P253 | Plots 65-66 | 18/09/15 | |
| 14019 P254 | Plots 67-69 | 18/09/15 | |
| 14019 P255 | Ancillary Buildings | 18/09/15 | |

3. Prior to the commencement of development a plan/strategy for the development of the whole site in phases (if applicable), including the provision of public open space, landscaping and planting, children’s play area and the infrastructure associated with the development (including internal access roads) within each phase shall be submitted to, and approved in writing by, the Local Planning Authority. The development shall thereafter only be carried out in accordance with the approved phasing plan/strategy unless any variation to the approved plan/strategy is first approved in writing by the Local Planning Authority.
4. No development on any phase shall take place until samples of the materials to be used in the construction of the external surfaces of the dwellings and care home on that phase have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.
5. The garaging hereby permitted shall only be used for the garaging of vehicles and domestic storage incidental to the residential occupation of the

dwelling and at no time shall the garaging be used for habitable accommodation or commercial purposes.

6. No development shall commence until a detailed scheme of external lighting of the public areas has been submitted to and approved in writing by the Local Planning Authority. The development should be carried out in strict accordance with the approved details.
7. Prior to the first occupation of any phase of the development hereby permitted details of all boundary treatment to be carried out on all the perimeter boundaries and details of any boundary enclosures to be erected or grown within that phase shall be submitted to and approved in writing by the Local Planning Authority. The approved details of perimeter boundary treatment shall thereafter be carried out and completed within each phase of development prior to any dwelling within that phase being first occupied and the boundary treatment relating to individual plots shall be carried out and completed on each respective plot prior to its first occupation in accordance with the approved details.
8. No development shall take place until details to achieve Secured by Design accreditation have been submitted to, and approved in writing by, the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Care Home

9. The Care Home hereby approved shall be used for a care home or nursing home and for no other purpose (including any other purpose in Class C2 as defined in the schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended), or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that order with or without modification.
10. Prior to the commencement of development on any phase which includes the Care Home or plots 1-9, design details of bin storage to serve the proposed Class C2 Care Home and Plots 1-9 shall be submitted to and agreed in writing by the Local Planning Authority. Prior to the occupation of the care Home or plots 1-9, the agreed bin storage facilities shall be provided and retained in perpetuity.
11. The Care Home hereby permitted shall not be occupied other than by persons of limited mobility and who require full time nursing. Persons of limited mobility shall be defined as persons whose physical condition prevents the walking beyond 400 metres. Such a physical condition shall first be verified by the Care Home Operator by means of a referral from a General Practitioner prior to the occupation of the Care Home by any potential resident.

12. The Care Home hereby approved shall not contain overnight staff or visitor accommodation. With the exception of assisted living dogs, no pets shall be kept in the Care Home hereby permitted.

Landscape Conditions

13. The development hereby permitted shall not take place until a Landscape Scheme has been submitted to and approved in writing by the Local Planning Authority. The Landscape Scheme shall include a timetable for the implementation of works and a phasing plan if applicable. Landscaping shall thereafter be carried out in accordance with the approved details.
14. All planting, seeding or turfing comprised in the approved details of landscaping for the development shall be carried out in accordance with the approved timetable. Any trees or plants which, within a period of five years from the completion of that phase of the development, die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species unless the Local Planning Authority gives written consent to any variation.

Tree Protection

15. Prior to the commencement of development or other operations being undertaken on site in connection with the development hereby approved (including works of demolition, remediation or construction) a scheme for the protection of all trees, shrubs and hedgerows shown as being retained on the approved plans shall be submitted to and approved in writing by the Local Planning Authority (The Tree Protection Scheme). The scheme shall include supervision and monitoring measures to include contemporaneous monitoring by a pre-appointed tree specialist.
16. The Tree Protection Scheme shall be produced in accordance with BS 5837 (2012) Trees in Relation to Construction Recommendations, which provides for the protection of trees, shrubs and other hedges growing on or adjacent to the site, including the protection of trees which are the subject of a Tree Preservation Order.
17. The Tree Protection Scheme shall also provide for no excavation, site works, trenches or channels (including those for services) to be cut or laid or soil waste or other materials to be deposited or stored, lighting of fires or disposal of liquids so as to cause damage or injury to the root structure of the retained trees, shrubs or hedges. The approved Tree Protection Scheme shall be implemented in its entirety before any works are carried out, including any remediation, demolition or site clearance work and thereafter retained during building operations until the completion of the development.

18. The submitted Tree Protection Scheme shall contain details of protective fencing which shall remain in place for the duration of the remediation, demolition and construction periods and which shall not be removed or repositioned without the prior written authority of the Local Planning Authority. It shall also provide details of the proposed finished levels within the tree protection zone including surface materials and the method and materials for edging. No alterations in site levels shall take place other than those in accordance with the approved survey. The survey shall include existing and proposed spot levels at the base of and around the crown spreads of all trees specified for retention on the approved plans
19. Development shall be carried out in accordance with the approved Tree Protection Scheme and in strict compliance with the approved timetable and approved monitoring measures.

SANG Matters

20. Prior to commencement of the development hereby permitted a scheme for the establishment of the proposed Suitable Alternative Natural Greenspace (SANG) shall be submitted to, and approved in writing by, the Local Planning Authority. The scheme shall include full details of boardwalks within the SANG area which are in areas at risk of fluvial flooding to demonstrate how they will be designed to allow the free flow of flood water within the floodplain. The SANG shall be implemented in accordance with the approved scheme and shall be available for use prior to first occupation of any dwelling on the development hereby permitted.
21. Prior to the first occupation of any of the dwellings hereby permitted, full details of a SANG Management Company shall be submitted to and approved in writing by the Local Planning Authority. Such details shall include arrangements in the event of dissolution of the Management Company or it otherwise ceasing to exist. The SANG shall thereafter be managed by the SANG Management Company in accordance with the approved details.

Flood Risk

22. Prior to the commencement of development details of existing and proposed site levels throughout each phase and finished floor levels of all dwellings on that phase which shall be defined relative to a datum or datum points the location of which has been previously agreed by the Local Planning Authority. The development shall thereafter only be carried out in accordance with the approved levels.

23. The development hereby permitted shall be carried out in accordance with the following details:

- a) Flood Risk Assessment (FRA) titled 'Weyburn Works, Elstead' reference number 132254-R1(1)-FRA dated 5 March 2015, prepared by RSK;
- b) Drawing Number 'Figure 3', revision P2, dated 26 February 2015;
- c) Drawing Number 'Figure 7', revision P1, dated 26 February 2015;

and the following mitigation measures detailed within:

- a) finished floor levels are set no lower than 43.58 metres above Ordnance Datum (AOD);
- b) there shall be no land raising with Flood Zones 2 and 3;
- c) all fencing and gardens located in Flood Zone 3 shall be open (e.g. hit and miss fencing) and designed to allow the free flow movement of flood water.

The mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the Local Planning Authority.

Contamination Conditions

24. No development shall take place until a scheme (the Remediation Strategy) to deal with the risks associated with contamination of the site has been submitted to, and approved in writing by, the Local Planning Authority. The scheme shall include the following components:

- a) A preliminary risk assessment which has identified:
 - all previous uses
 - potential contaminants associated with those uses
 - a conceptual model of the site indicating sources, pathways and receptors
 - potentially unacceptable risks arising from contamination at the site;
- b) A site investigation scheme, based on (a) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site;
- c) The results of the site investigation and detailed risk assessment referred to in (b) 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. The scheme shall 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 following remediation;

- d) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (c) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

The investigation and risk assessment shall be undertaken by a competent person as defined in Annex 2: Glossary of the National Planning Policy Framework 2012. Any changes to these components require the express written consent of the Local Planning Authority. The approved scheme shall be implemented in full in accordance with a timetable for implementation which has also been approved in writing by the Local Planning Authority.

25. Prior to first occupation of each phase of development a Verification Report demonstrating completion of works set out in the approved Remediation Strategy and the effectiveness of the remediation shall be submitted to, and approved in writing by, the Local Planning Authority. The Verification Report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include any necessary plan (a "long-term monitoring and maintenance plan") for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan. The long-term monitoring and maintenance plan shall be implemented as approved.
26. If, during the course of development, contamination not previously identified is found to be present on the site then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until a Supplementary Remediation Strategy has been submitted to, and approved in writing by, the Local Planning Authority. The Supplementary Remediation Strategy shall detail how this unsuspected contamination shall be dealt with together with a timetable for implementation. The Supplementary Remediation Strategy shall be implemented as approved and a completion report shall be sent to and approved in writing by the Local Planning Authority prior to the recommencement of construction or other works on the site.
27. Piling or any other foundation designs using penetrative methods shall not be permitted other than with the express written consent of the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Rights of Way Condition

28. Prior to occupation of the 30th residential dwelling surface improvements to Public Footpath No. 61 shall be implemented in accordance with a scheme which has been submitted to and approved in writing by Local Planning Authority. The scheme shall ensure that public access to Footpath 61 should be restored on its definitive route and a gap of a minimum of 1200 mm should be left in any boundary features where Footpath 61 enters and leaves Plot 61.

Construction Conditions

29. No demolition, remediation, ground works or construction works shall take place outside the following hours: 0800 to 1800 hours on Mondays to Fridays and 0800 to 1300 hours on Saturdays. There shall be no such work on Sundays or Public or Bank Holidays.
30. No development of any phase of the development hereby permitted shall take place, including any works of demolition, remediation or construction, until a Construction Management Plan incorporating a Construction Method Statement for that phase of the development has been submitted to and approved in writing by the local planning authority. The approved Statement shall be adhered to throughout the demolition and construction period throughout demolition and construction phases of development. Subsequent phases of development will require separate Construction Method Statements for the phase of the development to which they relate. The Construction Method Statement shall provide for:
- a) Details regarding the loading / unloading and storage of plant and materials used in constructing the development;
 - b) Provision of parking for vehicles of site personnel, operatives and visitors;
 - c) Construction traffic access including the routing of construction vehicles to and from the site including measures to mitigate the impact on the local highway network. The measures shall include the timing and number of movements to avoid traffic congestion and the exclusion of routes over Somerset Bridge;
 - d) Temporary traffic management measures to maintain free flow of traffic on the surrounding road network;
 - e) Arrangements for turning vehicles;
 - f) Loading and unloading of plant and materials;
 - g) Method of prevention of mud being carried onto the highway, including wheel washing facilities;
 - h) The control of construction noise;
 - i) Measures to control the emission of dust and dirt during construction (including sheeting);
 - j) A scheme for recycling / disposing of waste resulting from demolition and construction works;
 - k) The erection and maintenance of security hoarding and boundary treatments including decorative displays and facilities for public viewing, where appropriate;

- l) An implementation programme;
- m) A permanent contact on site and/or traffic manager as a main contact point for all enquiries or issues;
- n) Details of the location of any site compounds;
- o) Arrangements for the survey of the condition of the local highway and a commitment to repair damage caused by turning vehicles
- p) There shall be no burning of materials during any phase of development.

Archaeology Condition

31. No development shall take place until a Written Scheme of Investigation for a programme of archaeological work has been submitted to and approved in writing by the Local Planning Authority. The approved Written Scheme of Investigation shall be carried out in accordance with a timetable which has been approved by the Local Planning Authority.

Highway Conditions

32. Prior to the first occupation of the dwelling to which it relates, accesses, parking and turning areas for that dwelling shall be provided in a bound material in accordance with details that shall first have been submitted to and approved in writing by the Local Planning Authority. The bound material shall have a high degree of porosity to reduce the amount of surface run-off. The accesses, parking and turning areas shall thereafter be made available at all times for these purposes and retained thereafter.
33. No operations involving the bulk movement of earthworks/materials to or from the development site shall commence unless and until facilities have been provided in accordance with a scheme to be submitted to and approved in writing by the Local Planning Authority to prevent the creation of dangerous conditions for road users on the public highway. The approved scheme shall thereafter be retained and used whenever the said operations are undertaken.
34. Prior to the first occupation of any dwelling within a particular phase the following facilities shall be provided within that phase in accordance with a scheme which has been submitted to, and approved in writing by, the Local Planning Authority. The facilities shall include:
- a) The secure parking of bicycles;
 - b) The provision of safe routes for pedestrians/cyclists;
 - c) Electric Vehicle Charging Points in accordance with Surrey County Council's 'Vehicular and Cycle Parking Guidance' dated January 2012.
35. The development hereby approved shall not be first occupied unless and until a Travel Plan Welcome Pack (to include information relating to the availability of and whereabouts of local public transport, walking, cycling, car clubs, local shops, amenities and community facilities) has been submitted

to and approved in writing by the Local Planning Authority. Thereafter the agreed Travel Plan Welcome Pack shall be issued to the first time occupier of each residential dwelling and staff/residents associated with the Care Home within one month of first occupation of that particular dwelling/Care Home.

Ecology

36. The development shall be carried out strictly and fully in accordance with the mitigation set out in Section 6 Ecology and Nature Conservation Impact of the Environmental Statement for species, habitat, including the proposed SANG site, and including the biodiversity enhancements as detailed. All the appropriate ecology mitigation measures in this Statement must be included in the applicant's SANG Management Plan.
37. No site clearance, demolition, ground remodelling or other preparatory works, including the removal of trees, shrubs and grassland vegetation, shall be carried out on any phase between the months of March and September inclusive, unless nesting birds have been shown to be absent in relation to that phase and written consent has been given by the Local Planning Authority for works outside that period OR unless that phase has been cleared of vegetation in its entirety during the months October to February inclusive and has been subject to inspection and written confirmation by the Local Planning Authority.

Sustainable Urban Drainage

38. No development shall commence until a surface water drainage scheme for each phase of the development hereby permitted has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be based upon sustainable drainage principles and an assessment of the hydrological and hydrogeological conditions of the site and include timescales for the implementation and completion of the scheme. The scheme shall also include details of how it will cater for system failure or exceedance events on and off-site, as well as details of the flow control structure. The approved scheme shall thereafter be implemented in full and completed on each phase prior to first occupation of any dwelling on that phase. The completed approved surface water drainage scheme shall thereafter be retained at all times in the future

Local Area of Play

39. Prior to the commencement of development a scheme for the provision and maintenance of the Local Area of Play shall be submitted to, and approved in writing by, the Local Planning Authority. The approved scheme shall be carried out in accordance with a timetable which has been submitted to and approved in writing by the Local Planning Authority.

END OF CONDITIONS