



Ministry of Housing,  
Communities &  
Local Government

Mr David Neame  
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Our ref: APP/R3650/W/15/3132971

29 March 2018

Dear Sir,

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78  
APPEAL MADE BY BEWLEY HOMES PLC  
LAND AT LOWER WEYBOURNE LANE, FARNHAM  
APPLICATION REF: No WA/2014/0391**

1. I am directed by the Secretary of State to say that consideration has been given to the report of Peter Rose BA MRTPI DMS MCMI, who held a hearing on 26-27 May and 6 December 2016 into your client's appeal against the decision of Waverley Borough Council to refuse planning permission for your client's application for planning permission for the erection of 140 no. dwellings, vehicular and pedestrian access, car and secure cycle parking, landscaping and ecological enhancement, and servicing, in accordance with application ref: WA/2014/0391, dated 6 March 2014.
2. On 23 August 2016, this appeal was recovered for the Secretary of State's determination, in pursuance of section 79 of, and paragraph 3 of Schedule 6 to, the Town and Country Planning Act 1990.

**Inspector's recommendation and summary of the decision**

3. The Inspector recommended that the appeal be allowed and that planning permission be granted subject to conditions.
4. For the reasons given below, the Secretary of State disagrees with the Inspector's recommendation. He has decided to dismiss the appeal and refuse planning permission. A copy of the Inspector's report (IR) is enclosed. All references to paragraph numbers, unless otherwise stated, are to that report.

## **Matters arising since the close of the hearing**

5. Since the hearing, the Waverley Borough Local Plan Part 1 and the Farnham Neighbourhood Plan have both become part of the development plan. The Secretary of State has considered the appeal in the light of current development plan policies.
6. On the 17 March 2017 the Secretary of State wrote to the main parties to afford them an opportunity to comment on the implications, if any, of the Inspector's Report on Farnham Neighbourhood Development Plan 2013-2031, which was published on 24 February 2017.
7. On 27 March 2017 the Secretary of State wrote to the main parties to afford them an opportunity to comment on the implications, if any, of the Inspector's Report on the following appeal decision: Former Weyburn Works, Shackleford Road, Elstead, Godalming, Surrey GU8 6LB (APP/R3650/W/16/3150558), issued 20 March 2017.
8. On 18 May 2017, the Secretary of State wrote further to the main parties to afford them an opportunity to make representations on the Supreme Court judgment on the cases of Cheshire East BC v SSCLG and Suffolk Coastal DC v SSCLG, which was handed down on Wednesday 10 May 2017.
9. On 12 September 2017, the Secretary of State wrote further to the main parties, to afford them an opportunity to make representations on the implications, if any, of:
  - a. the Waverley Borough Local Plan Part I Main Modifications document that was published on 22 August 2017
  - b. the Inspector's Report on the following appeal decision: Frensham Vale, Lower Bourne, Farnham, GU10 3HS (APP/R3650/W/16/3163124), issued 17 July 2017
  - c. the Inspector's Report on the following appeal decision: Longdene House, Hedgehog Lane, Haslemere GL27 2PH (APP/R3650/W/16/3165974), issued 4 September 2017
  - d. further information received from parties
10. On 8 November 2017, the Secretary of State wrote to parties to notify them that the decision would be delayed because a judicial review challenge concerning the Neighbourhood Planning Written Ministerial Statement (WMS) of 12 December 2016 was heard in the High Court on 7 and 8 November 2017, and the judgment may be relevant to this case.
11. On 16 January 2018, the Secretary of State wrote to parties to notify them that the decision would be further delayed because the Report on the Examination of the Waverley Borough Local Plan Part 1 was likely to be published shortly and may be relevant to this case.
12. On 13 February 2018 the Secretary of State wrote to parties to afford them the opportunity to make comments on the Local Plan Inspector's Final Report and the associated Final Schedule of Main Modifications.

13. A list of post-inquiry representations, and representations received in response to these letters, is set out at Annex A. Copies of these letters may be obtained on written request to the address at the foot of the first page of this letter.
14. An application for a full award of costs was made by Bewley Homes PLC against Waverley Borough Council (IR9). This application is the subject of a separate decision letter.

### **Policy and statutory considerations**

15. In reaching his decision, the Secretary of State has had regard to section 38(6) of the Planning and Compulsory Purchase Act 2004 which requires that proposals be determined in accordance with the Development Plan unless material considerations indicate otherwise.
16. In this case the development plan consists of saved policy NRM6 of the South East Plan 2009, saved policies of the Waverley Borough Local Plan 2002, the Waverley Borough Local Plan Part 1 (LP), adopted on 20 February 2018, and the Farnham Neighbourhood Plan (FNP), made on 28 July 2017. The Secretary of State considers that the relevant development plan policies include D1, D4, SP2, RE1, RE3, FNP10, FNP11 and FNP14.
17. Other material considerations which the Secretary of State has taken into account include the National Planning Policy Framework ('the Framework') and associated planning guidance ('the Guidance'), as well as the Farnham Town Council Design Statement 2010.

### **Main issues**

#### *Five-year housing land supply*

18. The Inspector's assessment of housing land supply is set out at IR129-143. However, this has been superseded by the publication of the Inspector's Final Report, and the adoption of the Waverley Borough Local Plan Part 1. For the reasons given at paragraphs 18-56 of the Final Report and paragraphs 6.2-6.12 of the Local Plan, the Secretary of State agrees with the Local Plan Inspector and the Council that there is a 5-year housing land supply. He considers that the tilted planning balance in paragraph 14 of the Framework does not apply.

#### *Housing allocations*

19. The Secretary of State has taken into account that the site is not allocated for housing in the Neighbourhood Plan. He has further taken into account that in the light of the increase in housing need identified in the Local Plan, the Neighbourhood Plan does not meet full local need and further sites will in due course have to be identified. However, the Local Plan states at paragraph 6.24 that 'The additional housing required in Farnham ... will be allocated in Local Plan Part 2, unless Farnham Town Council decides to commence an early review of the Neighbourhood Plan'. The Secretary of State considers this is an appropriate approach and therefore considers that in the circumstances of this case, the fact that the Neighbourhood Plan does not currently meet the full local need is a neutral matter.
20. Having regard to the fact that paragraph 6.24 of the Local Plan expressly makes provision for an early review of the Neighbourhood Plan, and noting that Farnham Town

Council (in its representation of 15 February 2018) confirms that it has commenced an early review of the Farnham Neighbourhood Plan, he disagrees with the appellant's assertion that paragraph 14 of the Framework is engaged. He considers that the publication of the Local Plan does not undermine the Neighbourhood Plan in relation to housing requirement and supply. The Secretary of State further notes the appellant's view that the appeal site will be required by the Council to meet its minimum housing delivery obligations; however, he considers that the Town Council's early review is the appropriate way to establish whether it should be brought forward as an allocation.

#### *Landscape character*

21. For the reasons given at IR112-122, the Secretary of State agrees with the Inspector at IR122 that the scheme would have a moderate adverse impact upon local landscape character. He considers that in this respect it is in conflict with LP Policy RE1 and Neighbourhood Plan Policy FNP10. He considers that this harmful impact carries moderate weight.

#### *Building in the countryside*

22. The appeal site is outside the Neighbourhood Plan's Built Up Area Boundary, and in Local Plan terms is in Countryside Beyond the Green Belt. Its countryside location has recently been confirmed in both these elements of the Development Plan. The Secretary of State considers that the conflict with the relevant policies, particularly the policies of the Neighbourhood Plan, carries substantial weight against the proposal. In reaching this conclusion, he has taken into account paragraph 198 of the Framework, which states that where a planning application conflicts with a Neighbourhood Plan that has been brought into force, planning permission should not normally be granted.

#### *Farnham/Aldershot Strategic Gap*

23. The appeal site forms part of the Farnham/Aldershot Strategic Gap, and LP Policy RE3 states that pending a more focused review in Local Plan Part 2, the Farnham/Aldershot Strategic Gap will continue to be protected by resisting inappropriate development in accordance with Policy RE1. The Secretary of State has taken into account the Inspector's assessment at IR100-104 and agrees that both settlements would generally remain visually separate and that the proposed development would not materially harm the distinctive physical identity of the two.

24. The Secretary of State has also considered the issue of coalescence between Badshot Lea and Weybourne and the Inspector's assessment at IR105-111. Although he agrees with the Inspector that specific site characteristics would significantly mitigate the particular local impact, he has taken into account that there would be a loss of open land between the two settlements and the physical distance on the ground between built development in Badshot Lea and Weybourne would thereby be reduced (IR111). The Secretary of State considers that there would be conflict with NP policy FNP11, and that this matter carries significant weight against the proposal.

#### *Other matters*

25. The Secretary of State has taken into account the Inspector's reasoning at IR166-167, the fact there is now a 5-year housing land supply, and the Government's aim to boost significantly the supply of housing. He agrees with the Inspector that the scheme would provide considerable and much-needed housing benefits in terms of both affordable

dwellings and market provision, and considers this carries substantial weight in favour of the appeal. For the reasons given in IR168 the Secretary of State considers that the economic benefits associated with investment in construction and associated employment and a subsequent increase in local household expenditure and demand for services carry moderate weight. For the reasons given in IR169 he further considers that the environmental benefits associated with a landscape and ecology management plan, improvements to drainage, and subterranean replacement of power lines carry moderate weight.

26. The Secretary of State agrees with the Inspector's analysis of design and other factors at IR123-128 and IR153-164, and considers that these other factors do not weigh against the proposal.

### **Planning conditions**

27. The Secretary of State has given consideration to the Inspector's analysis at IR180-193, the recommended conditions set out at the end of the IR and the reasons for them, and to national policy in paragraph 206 of the Framework and the relevant Guidance. He is satisfied that the conditions recommended by the Inspector comply with the policy test set out at paragraph 206 of the Framework. However, he does not consider that the imposition of these conditions would overcome his reasons for dismissing this appeal and refusing planning permission.

### **Planning obligations**

28. Having had regard to the Inspector's analysis at IR146-152, the planning obligations dated 2 July 2015 and 25 May 2016 (IR5), paragraphs 203-205 of the Framework, the Guidance and the Community Infrastructure Levy Regulations 2010, as amended, the Secretary of State considers that the obligations, with the exception of the contributions relating to the Planning Infrastructure Project and the Travel Plan, comply with Regulation 122 of the CIL Regulations and the tests at paragraph 204 of the Framework. Like the Inspector, the Secretary of State attaches no weight to the non-compliant contributions (IR148). Overall, the Secretary of State does not consider that the obligations overcome his reasons for dismissing this appeal and refusing planning permission.

### **Planning balance and overall conclusion**

29. For the reasons given above, the Secretary of State considers that the appeal scheme is not in accordance with Local Plan Policies RE1, or Neighbourhood Plan Policies FNP10 and FNP11, and is not in accordance with the development plan overall. He has gone on to consider whether there are material considerations which indicate that the proposal should be determined other than in accordance with the development plan.

30. The Secretary of State considers that the housing benefits of the proposal carry substantial weight, and the economic and environmental benefits both carry moderate weight.

31. The Secretary of State notes the appeal site's location outside the Neighbourhood Plan's Built Up Area Boundary, and in Countryside Beyond the Green Belt. He considers that the conflict with the relevant policies, particularly the policies of the Neighbourhood Plan, carries very substantial weight against the proposal. In reaching this conclusion, he has taken into account paragraph 198 of the Framework, which states that where a planning application conflicts with a Neighbourhood Plan that has been brought into force,

planning permission should not normally be granted. He further considers that the impact in terms of coalescence between Badshot Lea and Weybourne carries significant weight, and the harmful impact on landscape character carries moderate weight.

32. The Secretary of State considers that there are no material considerations which indicate that the proposal should be determined other than in accordance with the development plan.
33. The Secretary of State therefore concludes that the appeal should be dismissed and planning permission refused.

### **Formal decision**

34. Accordingly, for the reasons given above, the Secretary of State disagrees with the Inspector's recommendation. He hereby dismisses your client's appeal and refuses planning permission for the erection of 140 no. dwellings, vehicular and pedestrian access, car and secure cycle parking, landscaping and ecological enhancement, and servicing, in accordance with application ref: No WA/2014/0391, dated 6 March 2014.

### **Right to challenge the decision**

35. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged. This must be done by making an application to the High Court within 6 weeks from the day after the date of this letter for leave to bring a statutory review under section 288 of the Town and Country Planning Act 1990.
36. A copy of this letter has been sent to Waverley Borough Council and all other interested parties who asked to be informed of the decision.

Yours faithfully,

*Maria Stasiak*

Maria Stasiak  
Authorised by Secretary of State to sign in that behalf

## Annex A – Schedule of representations

### Representations received in response to the Secretary of State's reference back letter of 17 March 2017

Party	Date
Waverley Borough Council	5 April 2017
Neame Sutton	9 and 20 April 2017
Farnham Town Council	31 March 2017
Badshot Lea Community Association	31 March 2017
The Farnham Society	31 March 2017

### Representations received in response to the Secretary of State's reference back letter of 27 March 2017

Party	Date
Waverley Borough Council	5 April 2017
Neame Sutton	9 and 20 April 2017
Farnham Town Council	6 April 2017
Badshot Lea Community Association	31 March 2017
The Farnham Society	31 March 2017

### Representations received in response to the Secretary of State's reference back letter of 18 May 2017

Party	Date
Waverley Borough Council	1 June 2017
Neame Sutton	1 and 16 June 2017
Mr H Powis - landowner	31 May (x 2), 19 June (x 2) and 5 July 2017
Farnham Town Council	30 May 2017
Badshot Lea Community Association	29 May and 5 July 2017
The Farnham Society	29 May, 16 June and 14 July 2017
Neame Sutton	8 and 29 August 2017
Mr H Powis	16 July and 17 August 2017
Farnham Town Council	25 July 2017
Badshot Lea Community Association	28 July, 9 and 18 August 2017

**Representations received in response to the Secretary of State's reference back letter of 12 September 2017**

<b>Party</b>	<b>Date</b>
Waverley Borough Council	26 September 2017
Neame Sutton	22 September and 3 October 2017
Mr H Powis	18 September, 2 October and 4 December 2017
Farnham Town Council	22 September 2017
The Farnham Society	9 October 2017

**Representations received in response to the Secretary of State's reference back letter of 16 January 2018**

<b>Party</b>	<b>Date</b>
Mr H Powis	1 February 2018
Farnham Town Council	24 January 2018
The Farnham Society	23 January 2018

**Representations received in response to the Secretary of State's reference back letter of 13 February 2018**

<b>Party</b>	<b>Date</b>
Waverley Borough Council	5 March 2018
Neame Sutton	22 February and 13 March 2018
Farnham Town Council	15 February 2018
Badshot Lea Community Association	26 February 2018
The Farnham Society	27 February and 13 March 2018

**General representations**

Jeremy Hunt MP	20 March 2017
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# Report to the Secretary of State for Communities and Local Government

by Peter Rose BA MRTPI DMS MCSI

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

Date: 15 February 2017

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Town and Country Planning Act 1990

Waverley Borough Council

Appeal made by

Bewley Homes PLC

Richborough Estates

Hearing held on 26 and 27 May, and 6 December 2016

Land at Lower Weybourne Lane, Farnham, GU9 9LQ

File Ref: APP/R3650/W/15/3132971

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**File Ref: APP/R3650/W/15/3132971**

**Land at Lower Weybourne Lane, Farnham, GU9 9LQ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Bewley Homes PLC against the decision of Waverley Borough Council.
- The application Ref: WA/2014/0391, dated 6 March 2014, was refused by notice dated 17 July 2015.
- The development proposed is erection of 140 no. dwellings, vehicular and pedestrian access, car and secure cycle parking, landscaping and ecological enhancement, and servicing.

**Summary of Recommendation: that the appeal is allowed**

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**1. PROCEDURAL MATTERS**

*Appeal recovery*

1. The appeal was recovered for determination by the Secretary of State by letter dated 23 August 2016 for the reason that 'the appeal involves a proposal for residential development of over 25 units in areas where a qualifying body has submitted a neighbourhood plan proposal to the local authority but the relevant plan has not yet been made'.

*Hearing arrangements*

2. The Hearing initially closed on 27 May 2016. On 15 August, 2016, the Council advised the Inspectorate of further evidence relating to five-year housing land supply, and subsequent publication of the Farnham Neighbourhood Plan Regulation 15 document dated July 2016 (the Neighbourhood Plan). The Hearing was re-opened and closed again on 6 December 2016 following consideration of those specific matters and any further relevant updates. This included implications arising from the Council's also subsequently published Waverley Borough Pre-Submission Local Plan Part 1: Strategic Policies and Sites August 2016 (the Pre-Submission LP).

*The Council's decision*

3. The Council's decision to refuse planning permission was taken contrary to the recommendation of its officers. The Council's decision notice identified five reasons, but Reason 3 (infrastructure contributions) and Reason 4 (affordable housing) were not contested at the Hearing as both would be addressed by accompanying planning obligations.
4. In relation to Reason 5, the agreed Statement of Common Ground signed and dated 18 May 2016 explains the proposed access arrangements would be acceptable to the Council, and no objection is raised by the highway authority.

*Documents*

5. At the Hearing in May, a unilateral undertaking dated 2 July 2015 and a completed Section 106 agreement dated 25 May 2016 were tabled. A further drawing comprising a coloured version of the Master Plan and referenced A-01-002 Rev PL2 was also submitted. The Council raised no objection to

inclusion of these documents as part of the appeal, and I consider no interests would be prejudiced.

6. By email dated 9 January 2017 the appellant also subsequently drew my attention to Appeal decision Ref: APP/R3650/W/15/3141255 dated 5 January 2017 and relating to Hewitt's Industrial Estate, Elmbridge Road, Cranleigh, Surrey GU6 8LW. Whilst noting that decision, its content does not alter my own conclusions which I have reached based upon the evidence submitted to the Hearing, and this is not a matter upon which I rely.

#### *Site visit*

7. An accompanied visit was undertaken on 27 May 2016. I also undertook a preliminary and unaccompanied visit prior to the Hearing on 25 May when I viewed the site and its surroundings from public areas.
8. I consider the appeal on the above basis.

### **2. APPLICATION FOR COSTS**

9. At the Hearing an application for costs was made by Bewley Homes PLC against Waverley Borough Council. This application is the subject of a separate Report.

### **3. THE PROPOSAL**

10. The application seeks full planning permission for development of 140 dwellings and associated facilities. The development would comprise 84 open market dwellings and 56 affordable homes and would provide a broad mix of house types and sizes. The scheme would include access and a new junction configuration from Lower Weybourne Lane, off-site highway improvements, pedestrian and cycle linkages, and an emergency access through the adjacent residential development of Badshot Park.

### **4. THE SITE AND SURROUNDINGS**

11. The appeal site lies adjacent to the settlement of Badshot Lea, and is an area of agricultural land of some 4.73 hectares. The site comprises a series of paddocks, some of which are currently used for grazing of horses and other animals. Access is provided from Lower Weybourne Lane to the north, opposite which is a community facility including accommodation for sea cadets. To the west, the site is enclosed by a railway embankment and planting, to the east by a relatively modern housing development at Badshot Park. To the south the site adjoins further open land. The site slopes gently from Lower Weybourne Lane and is largely visible from the road.

### **5. MATTERS AGREED BETWEEN THE COUNCIL AND THE APPELLANT**

12. There is significant common ground between the Council and the appellant, set out in the original Statement of Common Ground. This includes recognition that the appeal site is suitably located in relation key services and facilities in Badshot Lea and Farnham, and acceptance at the time of its writing that the existing developed area boundaries identified in the Local Plan were out-of-date. There is also recognition of the housing and economic benefits of the scheme, and of other benefits including enhancement of biodiversity within the site, creation of

pedestrian and cycle connections to the existing network, and off-site highway works.

13. The outstanding matters of dispute between the main parties are agreed to be:
  - 1) the effect the development may have upon the Farnham/Aldershot Strategic Gap, and including the relationship between Badshot Lea and Weybourne;
  - 2) the effect the development may have upon the landscape character of the appeal site and its surroundings, and;
  - 3) more generally, whether the Council is now able to demonstrate a five-year supply of housing land and implications arising.
14. Whilst only limited evidence has been submitted, aspects of detailed design also remain in dispute and which I address under other matters.
15. Additionally, a supplementary Statement of Common Ground has been produced in relation to housing land supply signed and dated 1 December 2016, and sets out agreed details in that regard. Significant areas of disagreement remain. The Council's position is that 1 July 2016 data should be combined with a 5% buffer as the baseline for the appeal. The appellant's view is that the correct position is data relating to 1 April 2016 combined with a 20% buffer. Based upon 1 July 2016 data, the Council's position with a 5% buffer is that it has a land supply amounting to 5.3 years. The appellant's alternative assessment of the 1 July 2016 data, and based upon a 20% buffer, is that the Council has a supply accounting for 3.2 years.
16. These contrasting positions also reflect what the appellant considers to be over-optimistic assumptions in relation to delivery, and there is a fundamental difference between the parties as to whether a 5% or 20% buffer should apply.

## **6. PLANNING POLICY**

17. The development plan includes saved provisions of the Waverley Borough Local Plan 2002 (the Local Plan), and is currently accompanied by the Neighbourhood Plan and the Pre-Submission LP.

*Local Plan*
18. In relation to house building, the Local Plan covers the period from 1991 to 2006 consistent with the timescale of the Surrey Structure Plan 1994.
19. The appeal site is identified by the Local Plan as Countryside Beyond the Green Belt and as forming part of the Farnham/Aldershot Strategic Gap (the Gap).
20. Policy C4 seeks to ensure that the Farnham/Aldershot Strategic Gap is protected by resisting inappropriate development in accordance with Policy C2. Policy C2 seeks to protect the countryside beyond the Green Belt for its own sake and to strictly control building in the open countryside away from existing settlements.
21. Policy D1 states, amongst other matters, that the Council will promote and encourage enhancement of the environment, whilst Policy D4 seeks to ensure high quality design which integrates well with the site and complements its surroundings.

22. Farnham Town Council's Farnham Design Statement 2010 (the Design Statement) also sets out design guidelines for Weybourne and Badshot Lea. The Design Statement is intended to supplement planning policies in the Local Plan as they relate to Farnham. It includes statements that the essential rural character of Badshot Lea should be preserved by protecting the pattern of development in the village, and that green spaces around the village of Badshot Lea should be protected.
23. The Design Statement further asserts that it is vital that the narrow belt of open country, which separates Badshot Lea from Weybourne and Hale and, ultimately Aldershot (known locally as the Strategic Gap), is retained, if Badshot Lea is to retain its distinctive community. (sic)

*Waverley Borough Pre-Submission Local Plan August 2016  
(the Pre-Submission LP)*

24. The Council's intention is for the appeal site to remain outside any defined settlement boundary.
25. Policy SP2 seeks to maintain Waverley's character whilst ensuring that development needs are met in a sustainable manner by, amongst other actions, focussing development at four main settlements, one of which is Farnham.
26. The Plan relies upon the Council's Housing Land Supply as of 1 April 2016, rather than the authority's submitted update, and identifies an allocation of some 2,330 new homes in Farnham between 2013 and 2032.
27. Policy RE1 identifies areas as Countryside beyond the Green Belt where the intrinsic beauty of the countryside will be recognised and safeguarded in accordance with the Framework.
28. The Plan also refers to the Farnham/Aldershot Strategic Gap between Farnham, Badshot Lea and Aldershot. It identifies the Gap as being vulnerable to development and indicates that it has played an important role in preventing coalescence of Farnham and Aldershot. It refers to the current saved Policy C4 which seeks to protect the Gap from inappropriate development through the application of normal countryside policy (Local Plan Policy C2), as well as promoting enhancement of the landscape, conservation of wildlife sites, and improved public footpaths and bridleways.
29. Further, paragraph 13.43 recommends a much more focussed policy be developed to safeguard the strategically important land separating Farnham from Aldershot. It states that the detailed designation of this new Gap will be set out in the Local Plan Part 2 but that the broad location of the Gap is shown on Plan 8. Whilst it further states that, pending the review, the existing defined area and accompanying saved Local Plan Policy C4 will be retained, Plan 8 indicates a substantial reduction in the broad extent of the revised Gap away from the appeal site and excluding its incorporation.
30. Policy RE3 refers to the need for development to respect and enhance the distinctive character of the landscape in which it is located, and to resist inappropriate development in the Farnham/Aldershot Strategic Gap pending its review.
31. The Pre-Submission LP has yet to be formally examined and adopted.

### *Emerging Neighbourhood Plan*

32. The Neighbourhood Plan seeks to ensure that development is absorbed within the environmental constraints identified and can be supported by sufficient infrastructure to ensure the quality of life of existing and future residents. The planning strategy is to positively seek opportunities to help meet the strategic development needs of the area by focussing well-designed development on brownfield sites within the built-up area of Farnham, whilst also proposing further sites for housing and business on a range of greenfield sites. Outside the revised Built Up Area Boundary, priority will be given to protecting the countryside from inappropriate development and the Plan seeks to allow only limited development. The appeal site lies outside the Boundary.
33. The Plan identifies protecting the separate identity of Farnham as a key objective. It states that the gap between the built up areas of Farnham (at Badshot Lea and Weybourne) and Aldershot to the north and north east is already very narrow and comprises an area of high landscape value and sensitivity. The Plan seeks to resist any intensification of development in the narrow gap beyond the defined Built Up Area Boundary so as not to reduce the separate identity of the two distinct settlements and increase coalescence between them. In this respect, Policy FNP10 seeks to protect and enhance the countryside outside the Built Up Area Boundary by resisting inappropriate development.
34. More locally, the Plan further states that residents are keen to ensure the retention of the separate identities of distinct areas within the town. It refers to Badshot Lea and Weybourne being separated by a railway line and to a single field gap on Lower Weybourne Lane which breaks the built-up frontage of the two settlements. It further indicates that, whilst not of high landscape value, this remaining gap has an important role in separating these two distinct areas of Farnham. Policy FNP11 states that development will not be permitted outside the Built Up Area Boundary if it would result in increasing coalescence between various places, but including Farnham and Aldershot, and between Badshot Lea and Weybourne.
35. Policy FNP14 identifies a number of specific Housing Site Allocations, but these do not include the appeal site.
36. The Neighbourhood Plan is the subject of on-going examination, and has yet to be made.

### *National Planning Policy Framework (the Framework)*

37. The Framework contains a number of national policies of direct relevance to the main issues identified, and to other associated matters, and I make specific reference as part of my detailed findings to follow. The same also applies to specific advice set out in the government's Planning Practice Guidance (the Guidance).

## **7. THE CASE FOR BEWLEY HOMES PLC**

### *Summary*

38. This proposal is consistent with government advice which seeks to increase housing supply through development of appropriate sites. Development of this

site for housing is suitable and achievable, and the land is available. The site is recognised by the Council's Land Availability Assessment August 2016, and the scheme was previously recommended for approval by Council officers.

39. The Statement of Common ground acknowledges the sustainable characteristics of the location in relation to key services and facilities. The development is in a settlement that has been chosen by the Council as appropriate for further housing.
40. Local opposition is not a ground for refusing planning permission.
41. Significant weight should be given to the previous judgment of Council officers in recommending, after detailed consideration and a comprehensive Committee report, that planning permission should be granted.

*Farnham/Aldershot Strategic Gap*

42. The impact upon the strategic gap is not material in the context of the wider gap that exists, a conclusion corroborated in the Little Acres Nursery decision (Appeal decision Ref: APP/R3650/A/13/2196705 dated 23 April 2014 and relating to Little Acres Nursery, St Georges Road, Badshot Lea, Farnham, Surrey, GU9 9NT).
43. There is no policy support in the Local Plan for protecting the 'gap' between Weybourne and Badshot Lea and this should be given little weight. Officers considered the effects carefully as part of their previous assessment and recommended approval.

*Landscape character*

44. Whilst it is asserted that 'some harm' would accrue, this has not been supported by detailed technical evidence.
45. The appellant's evidence is that the site is not of merit or of value in landscape terms, and has a degree of visual containment with strong physical boundaries. Adjacent features of the railway line and existing housing contribute to an existing urban edge. The site is of low ecological value with no known historical or cultural interest.
46. The resultant harm to landscape character could not be less in the context of a residential scheme of this scale, as endorsed by the Council's housing land availability assessments.

*Design*

47. The design of the scheme was previously supported by Council officers in their recommendation to Committee.

*Five-year supply of housing land*

48. The Council has failed to provide enough housing for over 7 years, and the level of house building in the Borough has been derisory relative to requirements.
49. The Council can only satisfy paragraph 47 of the Framework if all identified housing sites are delivered and only on the basis of a 5% buffer. Both positions are not credible.



50. The Council has failed to apply a 20% buffer as required by paragraph 47 of the Framework, relies upon sites which are allocations in an emerging plan and which still has much objection and consequent hurdles to clear. Such sites cannot be relied upon and do not comply with Footnote 11 of the Framework at this stage. The Council is also over-optimistic in its estimates of other sites which will come forward.
51. Five-year housing land assessment should be an annual process, and the 1 April 2016 position is the appropriate basis upon which the appeal should be determined.

*Other*

52. There are significant questions regarding the future progress of both the Pre-Submission LP and the Neighbourhood Plan. There are outstanding objections and challenges to be addressed by both, and questions as to whether the procedures followed by the Pre-Submission LP have been compliant with the relevant regulations.

*Benefits and the planning balance*

53. The benefits of the proposal would be considerable. The scheme would provide 84 units of market housing, 56 units of affordable housing for which there is an immediate and pressing need, and associated construction and economic benefits. Social benefits would accrue from the very significant range of units and tenures to be provided, and within a location forming part of the Borough's largest settlement. The proposal would ensure that designated land elsewhere is not required. Environmentally, the Borough is 72% constrained by environmental, ecological or landscape designations and the same impacts as would arise elsewhere would not be incurred. The scheme would enhance the biodiversity interest of the site, and improve pedestrian safety.
54. The primary policy document is the Framework. Very little weight can be given to the development plan because the policies are out-of-date as they relate to the supply of housing. The emerging Pre-Submission LP is early in its preparation, and the same is true of the Neighbourhood Plan. There are significant concerns about both, and those relating to the Neighbourhood Plan were recently expressed at the public hearing held on 25 November 2016.
55. The development plan is out-of-date by virtue of paragraph 49 and the tilted balancing exercise of paragraph 14 is operative. This places a burden of proof upon the Council to show impacts which significantly and demonstrably out-weigh the benefits and the proposal does not come close in that regard.

## **8. THE CASE FOR WAVERLEY BOROUGH COUNCIL**

*Summary*

56. The Council considers its objections are well-founded and that it is reasonable to withhold planning permission, particularly in light of the authority's new evidence regarding the existence of a five-year housing land supply.

*Farnham/Aldershot Strategic Gap*

57. The Council maintains the appeal site performs an important landscape function as part of a wider strategic gap between Farnham and Aldershot and its loss would be seriously harmful.
58. In more local terms, the site provides an important gap between Badshot Lea and Weybourne, and serves to prevent coalescence between the two and to retain respective identities.

*Landscape character*

59. The appeal proposals would inevitably cause serious harm to the character and appearance of the countryside by reason of the numbers of dwellings, their size and bulk, and the construction of the access road.
60. The Framework requires planning to take account of the roles and character of different areas and to recognise the intrinsic character and beauty of the countryside. The existing verdant appearance of the appeal site would irrevocably change and the resulting urbanising impact would be harmful to this important part of the countryside.
61. The site has a value locally to residents and passers-by, and has local significance as a green space around the settlement. The site is also referenced within Segment FN11 - B of the Waverley Borough Council Landscape Study - Part 1: Farnham and Cranleigh August 2014 and which indicates that the area has some visual link with the settlement of Badshot Lea. The site is well contained and that adds to the appropriateness of retention.
62. The Minister of State for Housing and Planning's letter dated 27 March 2015 also affirms the importance of the impact of development upon landscapes outside designated areas.

*Design*

63. The design is inappropriate. It would comprise one long cul-de-sac, would not be integrated into the adjacent development, and an opportunity for a better quality development would be lost.

*Five-year supply of housing land*

64. The Waverley Borough Council Five Year Housing Supply 1 July 2016 identifies a housing land supply of 5.3 years for the period from 1 July 2016 to 30 June 2021.
65. This assessment uses the objectively assessed housing need set out in the West Surrey Strategic Housing Market Assessment September 2015 and which identifies a figure of 519 new dwellings per annum. The assessment includes a buffer of 5%, and allows for under-supply between 1 April 2013 and 30 June 2016. It identifies a housing requirement of 3642 dwellings, a housing supply of 3854 dwellings, and an average annual supply of 771 dwellings.
66. A 5% buffer is appropriate and previous shortfalls may be explained with reference to general economic circumstances and, more particularly, to an absence of residential permissions in the key Farnham and Cranleigh growth areas between 2009 and 2011 due to an impasse relating to arrangements for

the Thames Basin Heaths Special Protection Area (SPA). At the time of the Hearing, no recent appeal decisions had found the Council to require a 20% buffer.

67. The Council complies with paragraph 47 of the Framework, and with the definition of deliverable housing sites set out in its Footnote 11 and, unlike in May, its policies for the supply of housing may also now be considered to be up-to-date on that basis.
68. Whilst a year has not passed since the previous assessment, the July update is a response to the needs of the Council and is in-keeping with the authority's practice of not necessarily relying upon a regular cycle of full annual reviews.

*Other*

69. It is submitted that occupants will be heavily reliant upon the use of private motor vehicles.
70. The Council will continue to look at each application on merit as they emerge, and, as evidence of the reasonableness of its decision-making, has previously granted permission for two housing sites in the countryside to the south-east.

*Benefits and the planning balance*

71. The development would incur a harmful loss of strategic gap and of a valued local landscape. The site forms part of the countryside and needs to be protected as such. The protection to be afforded to the site is enhanced by the up-to-date status of the relevant development plan policies given the context of a five-year housing land supply. The scheme would incur a serious urbanising effect upon the local area which would not be out-weighted by the benefits of the scheme.
72. The existence of a five-year supply is realistic and that means that it is now more appropriate to dismiss the appeal than in May 2016.

## **9. OTHER REPRESENTATIONS**

### **1. Representations made in person**

73. **Councillors Cockburn, MacLeod and Storey** attended the Hearing and expressed opposition to the scheme. A similar position was taken by **Zofia Lovell, Cliff Watts and David Howell** who attended on behalf of interested local parties. Whilst various detailed contributions were made by the speakers throughout the event, there was broad consistency in their opposition which I summarise as below.

*Overview*

74. The need for future development of housing in Farnham is accepted, but this scheme would involve an unacceptable loss of an important open site. The site is of landscape significance and development would be contrary to the expectations of the emerging Neighbourhood Plan, and contrary to the wishes of local people.

*Farnham/Aldershot Strategic Gap*

75. The site forms the last gap between Badshot Lea and Weybourne. It is a distinctive feature as part of the local area in views from the main frontage to

Lower Weybourne Lane. Passers-by have an awareness of this gap which is significant in separating two villages.

76. Whilst accepting possibilities for review of the wider strategic gap between Farnham and Aldershot, the contribution of the appeal site as a particular local part of that gap between Badshot Lea and Weybourne should be maintained.

*Landscape character*

77. The site makes an important open contribution to local character and appearance.

*Design*

78. The density of development is too high. The site had previously been identified in assessments by the Council for possible development of a smaller number of dwellings. Two-storey dwellings with rooms in roofs, and apartment buildings, would look out-of-place.

79. The Farnham Design Statement 2010 is an important consideration.

*Five-year supply of housing land*

80. A number of housing applications amounting to substantial development have already been proposed in and around Badshot Lea. The need for housing is recognised and accepted, but not in this particular location, and the development would amount to excessive growth of the village out-of-keeping with local opinion. The appeal site is amongst the least favoured by local consultation results in possibilities for development previously canvassed by the Badshot Lea Community Association.

81. The Council's failure to deliver the number of dwellings required and to have previously been unable to identify a five-year supply should not reflect badly upon the authority. Rather, the absence of delivery is significantly a matter for developers beyond the control of the Council.

82. The divergence between a growing number of dwellings being authorised by the Council in recent years and house builders' delivery on the ground is widening and the Council cannot do anything about that.

*Other*

83. There would be problems of overlooking between dwellings.
84. Local bus services are contracting, and future occupiers would be dependent upon private transport.
85. Surrey Wildlife Trust recommends retention of the site as part of the local green infrastructure.
86. The existing unmaintained condition of the site reflects upon the recent inactions of the owner.
87. There is concern about implications for possible further development of adjoining land, and regarding possibilities of additional access through the adjacent housing.

88. Dialogue between the appellant and local residents has been inadequate, and was more in the nature of presentation rather than consultation.
89. Notwithstanding rejection of officer advice, Council members are well-trained in planning matters. The Committee is intelligent and well-rounded and its opinion should not be disregarded.
90. A permission granted for the development of land to the north of Lower Weybourne Lane includes local community use and further demonstrates that the Council is not opposed to the principle of development.

*Neighbourhood Plan*

91. The process is an important response from the local community to plan-making and reflects the efforts of interested local people. The Neighbourhood Plan enjoys significant support locally and recognises the distinctiveness of Farnham as an entity. The site forms part of a series of distinct villages but each shares a loyalty to the area as a whole.
92. There is no shortage of acceptable housing sites and these will be identified through the Neighbourhood Plan.
93. Not all developers oppose the Neighbourhood Plan.
94. Paragraph 185 of the Framework acknowledges the precedence of a Neighbourhood Plan where in conformity with a local plan.

**Representations made in writing**

95. A number of written representations have been received in response to the Council's publicity of the appeal, principally from nearby residents. These include similar views to those presented to the Hearing and set out above. A petition in opposition has also been submitted on behalf of residents of Badshot Park.
96. The representations raise very similar concerns to those expressed in person at the Hearing. A number of further concerns are also raised, including occurrences of local flooding. Representations also suggest that the existing village of some 540 dwellings is part of a local area currently facing applications totalling some 440 further homes. Other reference is made to the history of the site, and to a lack of local facilities and services necessary to support the development. The site is suggested to have some ecological value for safe migration of species between different feeding areas. A representation also suggests the appellant's traffic modelling to be flawed.
97. The various representations made to the Council in its determination of the application are summarised in the authority's Committee report. Aside from statutory and organisational responses and observations internal to the authority, some 227 letters of objection appear to have been initially received, and a further 16 later representations. The points made substantially relate to matters which have been referred to above, but a number of other issues are also raised, including possible implications for crime and for property values. Objections were also recorded from Farnham Town Council and these have been articulated as above by the Town Councillors who gave evidence to the Hearing.

## 10. INSPECTOR'S CONCLUSIONS

98. My use of parentheses [ ] in the following conclusions indicates particular reference to foregoing paragraphs above summarising the submitted evidence.

### 1. Farnham/Aldershot Strategic Gap

99. I find the concerns raised regarding the Strategic Gap have two distinct aspects. The first is alleged coalescence between Farnham and Aldershot, the second is alleged coalescence between Badshot Lea and Weybourne.

#### *Coalescence between Farnham and Aldershot*

100. As a general principle, I regard the term coalescence to reflect an amalgam of possible considerations and dimensions. It is about physical proximity and about sightings of settlements as one development in the same view, about the extent to which such views may occur, and about what this may mean for the respective identities and settings of settlements. This would significantly reflect matters of location, scale, distance, exposure and perspective.
101. The physical character and appearance of the appeal site is such that it undoubtedly forms part of the open countryside and positively contributes to the local environment accordingly. The site has some exposure in views from all sides, but particularly in public views from Lower Weybourne Lane to the north. Nevertheless, whilst comprising a large expanse of open land, it is particularly enclosed by the railway and its slightly elevated embankment and planting to the west, and also by the extensive residential development of Badshot Park to the east. Further, views through the site are significantly constrained by the arrangement of paddocks and accompanying hedgerows and other planting. [11]
102. The appellant's evidence identifies a separation distance between the main settlements of Farnham and Aldershot of some 1.89 kilometres, but Badshot Lea lies in between the identified points of reference. At its closest point to Aldershot, the submitted evidence shows the appeal site to be some 94 metres wide along its main frontage to Lower Weybourne Lane.
103. Although few specific details have been provided, occurrences where Farnham and Aldershot might appear as one, or significantly closer, as a direct consequence of this particular development would seem likely to be very limited. Rather, Plan 8 of the Pre-Submission LP illustrates how the scheme would instead be seen as an essentially westward expansion of Badshot Park and so contribute to consolidation of built development within Farnham itself rather than as a more significant outwards encroachment from Farnham towards Aldershot. [29]
104. Development within the Strategic Gap would be at the expense of open land. Nonetheless, given the already enclosed and relatively narrow character of the appeal site itself and, more particularly, its location and orientation relative to Aldershot, I am satisfied that both settlements would generally remain visually separate and that the proposed development would not materially harm the distinctive physical identity of the two. This conclusion would also seem to have some resonance with Council sentiments which appear to underlie Plan 8 in indicating a possible contraction in the extent of the Gap designation to exclude the appeal site. [29]

*Coalescence between Badshot Lea and Weybourne*

105. Whilst the site is allocated in the Local Plan as part of the Strategic Gap, Policy C4 refers to the relationship between Farnham and Aldershot. The spatial relationship between Badshot Lea and Weybourne is materially different in its geography, reflecting a different orientation, juxtaposition, extent and physical character. The justification to Policy C4 does not make specific reference to avoiding coalescence between Badshot Lea and Weybourne, but between Farnham and Aldershot, and I find little support from the Local Plan in that regard. Further, both Badshot Lea and Weybourne are defined by the Neighbourhood Plan to be part of Farnham itself and, indeed, as one formally defined 'Weybourne and Badshot Lea Distinctive Character Area' in recognition of its 'individual character'. [20]
106. The appeal site's frontage as the visible intervening space between Badshot Lea and Weybourne is already limited in its extent and, irrespective of whether the site is developed, the two settlements would still be effectively separated by the considerable interposing physical barrier of the railway line and its embankment and adjacent planting. I consider the presence of this substantial feature, running along the full western boundary of the appeal site and in an exposed and slightly elevated position, would provide a far more significant impediment to any possible perceptions of coalescence than would retention of the open character of the appeal site itself. It also provides a more visually imposing definition of the western boundary and accompanying identity of the settlement than the existing openness of the site. Little technical evidence has been offered to persuade me otherwise. [11]
107. I agree with the Council Committee report of the application which describes the railway line as a 'distinct juncture' between the built-up housing estates to the east and development to the west, and note it further refers to the land as an in-fill site between existing developed parts of the village.
108. The Council's Waverley Borough Council Land Availability Assessment August 2016 (the LAA) identifies the appeal site for possible development of 90 dwellings. The LAA is expressly clear, however, that its terms of reference are merely to identify rather than to allocate sites for development, and that identification does not imply the Council would necessarily grant permission. Further, any densities of development identified would remain to be assessed through submission of a planning application. I attach only very limited weight to it accordingly.
109. Notwithstanding the Council's email of 13 September 2016, the Neighbourhood Plan seeks for the site to retain its existing essentially open character and attaches importance to avoiding coalescence between Badshot Lea and Weybourne. Even so, the Plan is still at a relatively early stage of preparation, has yet to be formally tested and endorsed in overall terms, and I can only attach limited weight in accordance with paragraph 216 of the Framework. Given the possible contraction of the Gap as identified in the Pre-Submission LP to exclude the appeal site, matters of consistency between the expectations of the Neighbourhood Plan and the Pre-Submission LP would also remain to be addressed. [29, 33, 34]
110. I note the different interpretations offered regarding the relative circumstances of appeal decision Ref: APP/R3650/A/13/2196705 dated 23 April 2014 relating to

Little Acres Nursery, St Georges Road, Badshot Lea, Farnham, Surrey, GU9 9NT, but I consider these do not have specific implications for my findings.

111. The scheme would lead to a loss of open land between the two settlements, and the physical distance on the ground between built development in Badshot Lea and Weybourne would thereby be reduced. Even so, and notwithstanding the allocation of the site in the Local Plan as part of a much wider Strategic Gap, I consider that particular local impact to be significantly mitigated by the specific site characteristics described. Further, the absence of specific, more local reference in Policy C4, and the early, emerging status of the Neighbourhood Plan, are also relevant factors leading me to conclude that the overall implications for physical and visual coalescence between Badshot Lea and Weybourne would be limited. [20, 36]

## **2. Landscape character of the appeal site and its surroundings**

112. Whilst comprising greenfield land and of a rural character, the appeal site otherwise has no formal designation in relation to landscape quality, contains few specific notable landscape features, and accommodates no formal public rights of way. The site is sub-divided into smaller plots, and includes a central area of hardstanding and a collection of various small derelict buildings. [11]
113. The rear of adjacent residential properties in Badshot Park provides a visual backdrop to much of the site, and this boundary does not have a particularly defining or otherwise distinctive character or appearance in general views of the appeal site. The railway embankment makes for a highly prominent feature along the western boundary as described.
114. Although the site presents a generally pleasant, relatively open, rural impression from Lower Weybourne Lane, it is not visible as a single entity and nor is that quality of view evident throughout the site. The relatively neglected and sub-divided nature of the site also contributes to an absence of any overall physical uniformity or other distinctiveness.
115. The appellant's Landscape Appraisal and accompanying evidence similarly describe a disparate and fractured pattern of land use lacking a coherent, intact and agriculturally productive character and appearance, and concludes the site and its surroundings to be of overall low sensitivity to change.
116. Paragraph 109 of the Framework states that the planning system should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes. I accept that 'valued' may not necessarily equate just to formally designated national landscapes, and I appreciate that most open land adjacent to residential areas may have a value to local residents, as evidenced by representations made to the appeal. Nevertheless, I am not persuaded on the evidence before me that the intrinsic character and quality of the appeal site would place it in the category of being a valued local landscape in the sense intended by the Framework. Even so, I must also still have regard to the Minister of State for Housing and Planning's affirmation by letter dated 27 March 2015.
117. I note that Segment FN11 - B of the Waverley Borough Council Landscape Study - Part 1: Farnham and Cranleigh August 2014 indicates that, due to its location, lack of inter-visibility and landscape qualities, the area to the west of



Badshot Lea could have capacity for development. It indicates that the area has some visual link with the settlement of Badshot Lea and suggests development would not appear out of context with the adjacent land use. [61]

118. The proposed scheme would extend the urbanising effects of adjacent development at the expense of a pleasant, relatively tranquil rural field which contributes to the open character of the locality, but I consider that opportunity cost would still be limited by the existing undistinguished landscape character, and that the resulting impact would be significantly mitigated by the constituent features described. [11]
119. Further, in the context of a Local Plan intended to meet housing needs up until 2006 and the Council's acceptance of development elsewhere in the countryside to meet current needs, Policy C2 can only be afforded limited weight. Policy C2 also establishes that away from existing settlements, the countryside will be protected for its own sake. The Framework's aim towards the countryside is now materially different in its emphasis. Rather, a core planning principle is instead now defined to be to recognise the intrinsic character and beauty of the countryside. Policy C2 is therefore inconsistent with the Framework in this regard and to that extent, and this similarly curtails the weight to be attached by virtue of paragraph 215. I also note, in turn, that the Farnham Design Statement is intended to supplement the Local Plan, and its various relevant provisions must also be qualified and weighed in that same context. [20]
120. I have regard to the commitments given in the Neighbourhood Plan, including to protect the countryside, but the weight to be attached is tempered by its emerging status, and the same applies to the Pre-Submission LP. [31, 32-36]
121. Given the site characteristics described, I am also satisfied the scheme would not conflict with the Framework's principle of seeking to take account of the different roles and character of different areas.
122. Whilst I therefore find the scheme would have some adverse impact upon local landscape character, such harm would be no more than moderate in scale.

### **3. Other representations** (not otherwise addressed as above)

123. Although a concern has been raised regarding the appellant's traffic modelling, such matters were considered previously by the Council prior to its decision. Such concerns also appear to have been raised during the Member site visit and further observations were offered by the appellant in response. The matter was not raised at the Hearing and the Statement of Common Ground confirms that the proposed access arrangements are acceptable to the Council, and that no objection is raised by the highway authority. It is also agreed that the proposed package of off-site highway works is appropriate and would be of benefit, and that the new T-junction configuration would conform with the highway design requirements set out in the Department for Transport's Manual for Streets and associated guidance. On that basis, the submission appears to be sound. [96]
124. This overall weight of evidence leads me to find that any adverse residual cumulative impacts in connection with traffic would undoubtedly fall short of the threshold of severe identified by the Framework as a trigger level necessary to prevent development. Should the appeal be allowed, a condition would still be necessary, however, to address arrangements for implementation of the access.

125. The Statement of Common Ground confirms the whole of the appeal site lies within Flood Zone 1. Notwithstanding concerns towards local flooding, appropriate submissions accompany the application and the Council's Committee report refers to the views of both the Environment Agency and of the authority's own flood risk consultants. The report finds the proposed development to be acceptable in respect of flooding and drainage issues and I have little reason to disagree. Should I find the development to be acceptable, a condition would be considered still requiring full details of schemes for surface water and foul water drainage to be approved, and an overall drainage strategy addressing any off-site implications arising, and an agreed programme for implementation.
126. The application is accompanied by ecological assessments. These have been assessed by the Council and the authority's report advises there has been further review by Surrey Wildlife Trust. The Trust considers that the appraisals and surveys provide a satisfactory assessment of the site's ecology, and that the retained 'green corridor' to the western boundary is likely to be beneficial to particular species. I also note that the appellant's Ecological Impact Assessment dated October 2013 (the October 2013 assessment) generally concludes that the site is dominated by improved grassland of low nature conservation value and of negligible potential to support protected species.
127. Subject to various detailed actions, the Council's Committee report finds the proposal would not prejudice the ecological value of the site and I have little reason to conclude otherwise. Should I find the development to be acceptable, a condition would be considered requiring the development to be carried out in accordance with the recommended mitigation and other measures set out in the submitted October 2013 assessment, further details of which would need to be submitted to and be approved by the Council and including a programme for implementation.
128. Reference is also made to the possible effect of the scheme upon local property values. The Guidance advises that the Courts have taken the view that planning is concerned with land use in the public interest. This means that protection of purely private interests, such as possible impact of a development on the value of a neighbouring property, are not matters to which decision-makers should attach weight.

#### **4. Other matters**

##### *1. Five-year housing land supply*

129. The Framework requires the local planning authority to identify and update annually a supply of specific deliverable housing sites sufficient to provide five years' worth of housing relative to its full objectively assessed needs for market and affordable housing, and including an additional buffer of 5%.
130. No up-to-date housing requirement has yet been formally established and endorsed for Waverley as part of its current Local Plan process.
131. It was agreed common ground in May 2016 that the authority remained unable to demonstrate a five-year supply. The Council indicated to the Hearing at that time that, based upon data for 1 April 2016, it considered its supply had increased to 4.52 years relative to a housing requirement for some 3250

- dwellings. This would represent an increase in supply from 4.33 years as assessed in October 2015, and from 3.96 years at the time of its decision.
132. The Framework further requires that, where there has been a record of persistent under-delivery of housing, local planning authorities should increase the buffer to 20% moved forward from later in the plan period so as to provide a realistic prospect of achieving the planned supply and to ensure choice and competition in the market for land. The Guidance advises that the factors behind persistent under-delivery may vary from place to place and, therefore, there can be no universally applicable test or definition of the term. Further, it advises that the assessment of a local delivery record is likely to be more robust if a longer term view is taken since this is likely to take account of the peaks and troughs of the housing market cycle.
133. The appellant maintains a 20% buffer to be required, whilst the Council considers 5% to be appropriate. With a 5% buffer the Council considers it is able to deliver 5.3 years of housing land based upon 1 July 2016 data. The appellant calculates that a 5% buffer using the 1 July 2016 data would only yield 3.7 years but reflecting a lower available supply. It is agreed common ground that a 20% buffer based upon 1 July 2006 data would reduce the Council's assessment of its land supply to 4.6 years, and a similar calculation based upon the appellant's alternative data of available supply would reduce the supply to 3.2 years. [48-51, and 64-68]
134. The Council identifies varied levels of housing delivery between 2002/3 and 2016/17 as set out in Appendix 1 to its Five Year Housing Supply statement of 1 July 2016. This shows the Council met its annual housing requirement defined by the Surrey Structure Plan 2004 in four years from 2002/3 to 2005/6. It then met its requirement relative to the South East Plan 2009 in the three years from 2006/7 to 2008/9, but subsequently fell short of the same requirement in the four years from 2009/10 to 2012/13. It has since fallen short of its annual target of 519 dwellings as set out in the West Surrey Strategic Housing Market Assessment September 2015 for the three years from 2013/14 to 2015/16. Delivery in the first quarter of 2016/17 was 85 dwellings and did not appear on track to meet the annual target.
135. Although I heard evidence of how issues relating to the Thames Basin Heaths Special Protection Area had significantly constrained the Borough's supply of housing between 2009 and 2011, delivery in subsequent years remained below requirement. Whilst reference has also been made to the general economic recession around 2008/9 and its implications for the housing market, those circumstances would apply to all authorities and the Framework dates from 2012 and would have been drafted in that context.
136. I accept there may well be contributory factors underlying the authority's performance as indicated, and that the Council does not enjoy full control over its housing delivery, but such factors serve as explanation of past performance, rather than as justification for a future 5% buffer. The long-term perspective recommended by the Guidance does show a general overriding pattern of housing under-delivery in Waverley. More particularly, this pattern applies to the last seven full reporting years, and data so far available for the current year indicates little prospect for change. Indeed, the Council's Five Year Housing Supply statement of 1 July now identifies an annual housing requirement for

some 728 dwellings and yet completions in each of the last three full years identified in Appendix 1 were less than half that figure. [48]

137. Although pointed out to me at the Hearing that no appeal decision up to that time had found a 20% buffer to be required, I particularly note reference made in Appeal decision Ref: APP/R3650/W/15/3008821 dated 18 April 2016 relating to 35 Frensham Vale, Lower Bourne, Farnham, GU10 3HS. This decision states that there appeared to be 'at least a borderline' case of a 20% buffer being warranted. The wording does not say unequivocally that a 20% buffer should apply. Even so, it finds the position to be 'at least' a borderline case and, in a scale of progression, I am unclear as to precisely what further intervening status may exist beyond 'at least' borderline but short of a 20% classification. That decision also did not have the benefit of data for the first quarter of 2016/17 showing a similar pattern of delivery. I further note some endorsement of the conclusion reached in that decision in a further subsequent decision Ref: APP/R3650/W/15/3136799 dated 10 August 2016 and relating an outline application for residential development at Low Lane, Badshot Lea, Farnham, Surrey GU9 9NA.
138. Accordingly, in light of all the above factors, I consider a 20% buffer to be appropriate.
139. Further differences remain between the main parties in relation to delivery on large sites with outstanding permissions, sites identified through the Council's Land Availability Assessment, and through various strategic allocations, and in relation to consistency with Footnote 11 of the Framework. Nevertheless, it is agreed common ground that a 20% buffer applied to either the 1 April 2016 or 1 July 2016 data would render the Council's supply of housing land less than five years irrespective of any other differences in underlying site details. Hence, further assessment of site-specific matters would have no bearing upon the key question for the purposes of this appeal as to whether, ultimately, the Council is able to demonstrate a five-year supply of housing land. [15,16]
140. Even so, taking the Council's more favourable data and applying a 20% buffer would mean this shortage would be no less than 0.4 years, but up to 1.8 years applying a 20% buffer to the appellant's less favourable alternative data.
141. Applying a degree of caution to the disputed figures, and allowing for the significant uncertainties relating to the status of some of the allocations and other delivery issues as set out in the various submissions, my assessment is that the latest evidence suggests supply is likely to be between the two disputed headline figures at around four years. The uncertainties regarding significant numbers of allocations would also, in any case, be relevant to the robustness of Council's contention of a 5.3 year supply based upon a 5% buffer in light of the marginal level of its calculated supply.
142. Given my finding of the need for a 20% buffer, I therefore conclude the authority is unable to demonstrate a five-year supply of housing land and that the resulting shortfall of no less than 0.4 years, and quite probably greater, is a highly significant material consideration to which I attach weight accordingly.
143. I have no clear basis to find that an authority's assessment of housing supply necessarily has to run from April each year, or that only one such assessment

may be made per annum. In this regard, I recognise it is also important for planning decisions to reflect the latest, most appropriate information if available.

144. In the absence of a five-year supply of deliverable housing land, it follows, by virtue of paragraphs 47 and 49 of the Framework, that relevant policies in the development plan for the supply of housing are to be considered out-of-date. Further, by virtue of being out-of-date, relevant provisions of the presumption in favour of sustainable development under paragraph 14 of the Framework are also engaged.

145. In accordance with the judgment of the Court of Appeal in *Suffolk Coastal District Council and Hopkins Homes Limited and the Secretary of State for Communities and Local Government, and Richborough Estates Partnership LLP and Cheshire East Borough Council 2016* (EWCA Civ 168), I find that Policy C4, and its defined strategic relationship to Policy C2 of the saved Local Plan both, to varying degrees, create or constrain housing supply. Accordingly, they are to be considered out-of-date. I also note both are acknowledged as policies for the supply of housing in the Statement of Common Ground for the purposes of paragraphs 14 and 49.

*2. Unilateral undertaking and section 106 agreement*

146. The unilateral undertaking makes a commitment for agreed contributions to mitigate the impact of development upon the nearby Thames Basin Heaths Special Protection Area. This includes contributions to the maintenance, improvement and operation of the Suitable Alternative Natural Green Space (SANG) at Farnham Park. This would not relate to matters of infrastructure.

147. The section 106 agreement contains a range of other commitments, including provision of 56 dwellings as affordable housing, contributions to sustainable transport and to secondary education, and arrangements for open space. It also includes provision for highway works in response to matters raised by the highway authority.

148. The section 106 agreement includes a commitment to fund a Planning Infrastructure Project in the vicinity but no specific need has been identified by the authority. It further includes a contribution towards monitoring of a proposed Travel Plan but I am unconvinced as to the necessity for that contribution given that such a function would appear to be more akin to the local planning authority's mainstream service activities. I note that Clause 3.4 of the agreement makes provision to disregard any aspects I find to be non-compliant with relevant requirements and for such provisions to cease to have effect. In this regard, I propose to attach no weight to the contributions identified in relation to the Planning Infrastructure Project and Travel Plan monitoring.

149. The local planning authority, in conjunction with other relevant services, has provided evidence of compliance with the relevant requirements of Regulations 122 and 123 of the Community Infrastructure Levy (CIL) Regulations 2010 and this is not disputed. I also have regard to the Framework, and to the relevant advice of both the Guidance, and of the Planning Inspectorate's Procedural Guide Planning Appeals - England, published 5 August 2016.

150. The Council indicated at the Hearing that it was satisfied with the form and content of the documents as deeds.

151. I find the undertaking and agreement to be generally fit-for-purpose. Accordingly, subject to my reference to Clause 3.4 above, I take into account the commitments and accompanying terms as considerations of my decision.
152. I also received a further update from the Council at the re-opening that the contributions remain compliant with the Council's position in relation to Regulation 123, and both parties again confirmed the SANG contributions would not relate to provision of infrastructure. I also note that, post-May 2016, there was an issue regarding future capacity of Farnham Park and that this has since been resolved.

### *3. Design*

153. In design terms, the scheme would involve a dispersed pattern of development feeding off a central access road. Dwellings would be of traditional vernacular design and detailing and of a scale and form in-keeping with other buildings in the locality. Whilst concerns are raised regarding storey heights, buildings do not exceed three storeys and most would be generally lower. The Farnham Design Statement 2010 indicates that the essential rural character of Badshot Lea should be preserved by respecting the pattern of development in the village, but the Council also notes in its Committee report the significant amount of new housing development which has occurred over the last few decades, and the large mix of housing styles resulting. [47,63, 78]
154. I note the scheme benefitted from a density analysis undertaken at the previous initiative of the Council, and also reference made to previous Council indications of smaller numbers of dwellings as part of housing land availability assessments. Nonetheless, the conclusion set out in the Committee report is that whilst the density of development is slightly higher than nearby areas, it is not significantly different, would be appropriate to the adjacent character, and would serve to ensure efficient use of land. I concur with that assessment. [47]
155. I acknowledge that alternative approaches could be taken to layout and design but, from the limited evidence provided, I do not find the particular solution adopted to be unreasonable. Whilst not physically inclusive of the adjacent development, the development would adequately reflect the distinctiveness of the setting in accordance with the expectations of the Framework and I do not find the design to be materially harmful or that Policies D1 or D4 would thereby be offended.

### *4. Other factors*

156. I have had regard to all other matters raised, both at the Hearing and in written evidence, and including references made to various other planning appeals and decisions. In this respect, whilst recognising the importance of consistency for fairness and other aspects of planning decisions, the particular planning circumstances of all cases will be different, and each will be necessarily fact and context sensitive.
157. The section 106 agreement would provide for mitigation to address various matters raised, including school capacity.
158. Concern has been raised regarding the possibility of further development of adjacent land, but such matters do not form part of the appeal proposal and

- would be for separate consideration, as appropriate, should any further proposals formally emerge as planning applications in due course. [87]
159. Whilst concerns are raised regarding the implications for living conditions of existing residents of Badshot Park, particularly in terms of outlook and overlooking, the Council's assessment is that the relationship of the proposed dwellings to surrounding development would be acceptable, and I note its conclusion that separation distances between proposed dwellings and boundaries would not be significantly different to existing configurations. I also find the scheme would not offend the Framework's aim to secure a good standard of amenity for existing and future occupants of land and buildings. [83]
160. Although views from within some adjacent dwellings would change, the Courts have generally held that private views are not in themselves regarded as a planning matter even though they may be of significance to occupiers.
161. Whilst the proposal would involve a relatively self-contained development, a limited pedestrian and cycle access link also incorporating emergency vehicular access would be accommodated additional to the main point of vehicular access (denoted as Point 7 on Master Plan Ref: A-01-002 Rev PL2), and I note possibilities for Point 6 which I understand have been hitherto curtailed by uncertainties of land ownership.
162. I have no reason to find any likely increase in crime or flooding as a consequence of the development. [96, 97]
163. I have also noted the planning history of the site and the various references made to pre-application and other discussions and consultations, and including the appellant's Statement of Pre-Application Consultation. I note suggestions from local interested parties that the extent and outcome of pre-application dialogue was disappointing, but the proposal has nonetheless evolved through such discussions, and I am required to consider the application on the terms submitted.
164. In summary, I have little reason to conclude that other factors raised, either individually or cumulatively, would alter the conclusions I have reached on the main issues. In reaching this finding, I also have regard to all other matters as set out in Annex C to this decision and as raised at the Hearing.

#### *5. Sustainable development*

165. The Framework makes clear that housing applications should be considered in the context of the presumption in favour of sustainable development. The purpose of the planning system is to contribute to the achievement of sustainable development. Sustainable development is defined by the Framework with reference to the policies in paragraphs 18 to 219 taken as a whole. In this instance, the presumption in favour of sustainable development is triggered by paragraph 49. The Framework further identifies economic, social and environmental dimensions to sustainable development.
166. The scheme would undoubtedly provide considerable and much needed housing benefits, in terms of both affordable dwellings and market provision, and such benefits would be consistent with the social dimension of sustainable development. This would be accompanied by provision of other incidental services and facilities through the planning obligations.

167. I note that the Council's Statement of Case dated March 2016 indicates that some 1,531 households were registered on the Council's housing needs register, and the West Surrey Strategic Housing Market Assessment September 2015 further indicates a possible need for some 314 affordable homes per annum. In that context, I regard the affordable housing provision of the development to be highly beneficial, aside from the wider contribution of the scheme to market supply.
168. The investment represented by the development would also be consistent with the economic dimension. The economic benefits would include investment in construction and related employment for its duration, and a subsequent increase in local household expenditure and demand for services. It would also include financial contributions to the Council through New Homes Bonus payments but, noting the advice of the Guidance, I only attach minimal weight to this wider general benefit to the local planning authority insofar as it may relate to the specific planning merits of the scheme. In particular, there was no evidence before the Hearing as to how any such receipts might be deployed and no evidence of any connection to the development or any way in which the development might be made more acceptable in planning terms.
169. In environmental terms, the scheme would incur loss of an open field between Badshot Lea and Weybourne. The site lacks any formal recognition for its landscape quality and is characterised by a degree of visual containment and a relatively developed setting. It is also relevant that the scheme would include a comprehensive landscape and ecology management plan and improvements to drainage, and proposals for subterranean replacement of the existing power lines. I attach moderate collective weight to these other various countervailing environmental benefits to be set against the loss of the field. [85, 96]
170. It is agreed common ground that the site occupies an accessible location. Whilst acknowledging the Council's concerns regarding issues around immediate access to services from the site, the section 106 agreement also includes a significant contribution towards sustainable transport.
171. In summary, reflecting the scale of the development proposed, the scheme would offer substantial overall benefits consistent with the economic and social dimensions of sustainable development as expected of the Framework, and I find the net adverse environmental implications would be relatively limited.

## **5. Overall planning balance**

172. Paragraph 12 of the Framework reminds us of the statutory status of the development plan as the starting point for decision-making. It explains that proposed development which accords with an up-to-date Local Plan should be approved, and that proposed development that conflicts should be refused unless other material considerations indicate otherwise.
173. The proposal would conflict with aspects of the development plan to the extent described. Lack of accord with the development plan is a potentially weighty and substantial factor militating against a scheme and in favour of dismissing an appeal, but this still falls to be assessed and balanced against the other material considerations identified.



174. The degree of conflict with Policies C2 and C4 would be modest in overall extent for the reasons indicated and, furthermore, I find both policies to be out-of-date. Accordingly, I afford this conflict with the development plan only limited weight.
175. I attach only limited weight to each of the Neighbourhood Plan and the Pre-Submission LP reflecting their relatively early stages of preparation. I afford similar weight to the Farnham Design Statement to the extent to which it is consistent with the Framework.
176. The expected centrality of the development plan in decision-making also has to be qualified where the plan is out-of-date. In particular, the presumption in favour of sustainable development set out in paragraph 14 of the Framework states that, where relevant policies in the development plan are out-of-date, planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole, or unless specific policies in the Framework indicate development should be restricted.
177. Applying this test of paragraph 14, I find that the aggregate scale of benefits arising from development would be substantial. I am satisfied the moderate harm to local landscape character, and the limited harm to coalescence between Badshot Lea and Weybourne, taken together, would not significantly and demonstrably out-weigh those overall benefits.
178. I therefore conclude that the proposed scheme would constitute sustainable development as clarified by the rebuttal presumption set out in Cheshire East Borough Council and the Secretary of State for Communities and Local Government and Renew Land Developments Ltd [2016] EWHC 571 (Admin). Further, I find this is a material consideration which out-weighs the adverse starting point of the development plan in the wider planning balance.
179. In summary, the development plan comprises an out-of-date Local Plan, is accompanied by a yet-to-be adopted replacement Local Plan, and a yet-to-be made Neighbourhood Plan, and paragraphs 14, 49, 215 and 216 of the Framework are all variously engaged by the particular circumstances of this proposal. In accordance with section 38(6) of the Planning and Compulsory Purchase Act, 2004, as reflected in paragraph 12 of the Framework, I find that the presumption in favour of sustainable development indicates to me a decision other than in accordance with the development plan taken as a whole, and thereby warrants a grant of planning permission in this instance.

## **11. CONDITIONS**

180. I have considered the largely agreed list of conditions put forward by the main parties to the Hearing in the event that the Secretary of State considers that planning permission should be granted. In assessing such matters, I also have regard to the advice set out in the Guidance and in the Framework in terms of both justification for individual conditions and of appropriate wording.
181. I recommend a condition be imposed specifying the relevant drawings as this would provide certainty. For the purposes of further clarity and future reference, a submission of existing and proposed site levels would also be required.

182. To ensure the development would provide a satisfactory character and appearance, conditions are recommended requiring details to be agreed of landscaping, of external materials, and of boundary treatments.
183. To safeguard the free and safe movement of vehicles and pedestrians, conditions would require implementation of the proposed site access and visibility splays in accordance with an agreed programme. The proposed emergency access via Badshot Park, and appropriate parking and turning areas, would need to be implemented prior to first occupation of the dwellings.
184. To promote sustainable transport, conditions would require implementation of an updated Travel Plan to reflect current circumstances, and provision for cycle parking.
185. Details would also be required to be agreed of external lighting, both in response to issues of public safety but also with regard to any possible further ecological implications. More generally, to safeguard the ecological value of the site, a condition would require implementation of the development in accordance with the recommended mitigation and other measures set out in the submitted Ecological Impact Assessment.
186. To safeguard existing planting within the site, a condition would require a scheme to protect existing trees and hedges during the period of construction and which are proposed to be retained as part of the development.
187. To identify and protect any possible heritage value of the site, a scheme of archaeological investigation would be necessary.
188. To ensure the creation of satisfactory living conditions for both future and neighbouring residents, a condition would require details to be approved of schemes for surface and foul water drainage. To further safeguard against any outstanding risk of flooding, a condition would specify minimum floor levels. To similarly protect the living conditions of future and neighbouring occupiers, a condition would require details of arrangements for refuse storage to be approved. The development should also be implemented in accordance with the submitted Noise Assessment.
189. Whilst I have little clear evidence of site contamination, it would still be necessary to safeguard the living conditions of future occupiers of the development by ensuring that appropriate arrangements would be made for identification and treatment of any on-site contamination.
190. To protect the living conditions of nearby occupiers during construction, it would be necessary for the works to be undertaken in accordance with a Construction Method Statement (the CMS), the precise terms of which would remain to be agreed. The CMS would embrace a range of issues discussed at the Hearing as possible separate conditions, and would include arrangements for liaison with neighbouring occupiers during the course of the works. The hours of operation for the works would be appropriately restricted.
191. To safeguard the character and appearance of the site and future living conditions, details would be required to be agreed of the proposed arrangements for treatment of the overhead power lines, and of details of the proposed areas of open space.

192. Whilst the authority has requested a condition withdrawing Permitted Development rights in relation to new windows and dormers, the case has not been sufficiently made as to why the particular circumstances of the scheme, or aspects of it, are so exceptional as to justify such a withdrawal of future residents' entitlements. In this respect, the Guidance makes clear that conditions restricting the future use of Permitted Development rights will rarely pass the test of necessity and should only be used in exceptional circumstances.

193. The main parties suggest before and after condition surveys of the highway and a commitment to fund repair of any damage caused. I do not consider that to be necessary to the grant of planning permission in this instance and, given its potentially wide implications beyond the application site, would be a matter more reasonably considered under other arrangements rather than through a planning condition.

## **12. CONCLUSION**

194. For the above reasons, I conclude that the appeal scheme constitutes sustainable development which should be permitted.

## **13. RECOMMENDATION**

195. Subject to the conditions set out in Annex A, I recommend that the appeal be allowed.

*Peter Rose*  
INSPECTOR

Richborough Estates

## **ANNEX A: SCHEDULE OF CONDITIONS**

### **Time limit**

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

### **Drawings**

2. The development hereby permitted shall be carried out in accordance with the following approved drawings Ref: A-03-230 PL1, 231 PL1, 221 PL1, 232 PL1, 240 PL1, 241 PL1, 203 PL1, 300 PL1, 301 PL1, 302 PL1, 310 PL1, 200 PL1, 202 PL1, 201 PL1, 210 PL2, 220 PL1, 430 PL1, 521 PL1, 470 PL1, 531 PL1, 530 PL1, 520 PL1, 511 PL1, 510 PL1, 501 PL1, 460 PL1, 500 PL1, 450 PL1, 451 PL1, 440 PL1, 421 PL1, 420 PL1, 410 PL1, 401 PL1, 400 PL1, 371 PL1, 370 PL1, 360 PL1, 355 PL1, 354 PL1, 353 PL1, 352 PL1, 351 PL1, 350 PL1, 343 PL1, 342 PL1, 341 PL2, 340 PL1, 331 PL1, 330 PL1, 320 PL1, 321 PL1, 311 PL1, 296 PL1, 295 PL1, 291 PL1, 260 PL1, 251 PL1, 250 PL1, 290 PL1, 281 PL1, 280 PL1, 271 PL1, 270 PL1, 600 PL1, A-01-003 PL1, A-01-004 PL1, A-05-101 PL1, A-05-102 PL1, 04BD001A, A-01-001 PL2, and A-01-002 Rev PL2 (coloured Master Plan).

### **Pre-commencement**

3. No development shall take place until full details of existing and proposed site levels have been submitted to the Local Planning Authority and the proposed levels have been approved in writing, and the development shall be implemented in accordance with the details as approved.
4. No development shall take place until full details of the external materials to be used in the construction of all buildings and of all ground surfaces of the development hereby permitted have been submitted to and been approved in writing by the Local Planning Authority, and the development shall be implemented in accordance with the details as approved.
5. No development shall take place until full details of all proposed boundary treatments have been submitted to and been approved in writing by the Local Planning Authority. The works shall be implemented in accordance with the approved details, and in accordance with an agreed programme.
6. No development shall take place until full details of all trees and hedges to be retained and of the proposed measures for their protection during development have been submitted to and been approved in writing by the Local Planning Authority. The protective measures to be approved shall be implemented before any equipment, machinery or materials are brought onto the site and shall be retained until all equipment, machinery and surplus materials have been removed from the site.
7. No development shall take place until a detailed landscaping scheme has been submitted to and been approved in writing by the Local Planning Authority. The scheme shall be carried out in accordance with the agreed details and be

implemented in accordance with a programme to be agreed in writing by the Local Planning Authority. The landscaping shall be maintained to the satisfaction of the Local Planning Authority for a period of 5 years after planting, and such maintenance shall include the replacement of any trees and shrubs that die or have otherwise become, in the opinion of the Local Planning Authority, seriously damaged or defective. Such replacements shall be of the same species and size as those originally planted.

8. No development shall take place until arrangements for an archaeological investigation of the site have been submitted to and been approved in writing by the Local Planning Authority. The arrangements shall include proposals for an initial trial investigation and for mitigation of damage to deposits of importance identified. The investigation shall be undertaken by an appropriately qualified archaeologist in accordance with an agreed programme, and shall include arrangements for the recording of findings and subsequent publication of results.
9. No development shall take place until full details of schemes for surface water and foul water drainage, and an overall drainage strategy addressing any off-site implications arising, have been submitted to and been approved in writing by the local planning authority, and the details shall be implemented as approved and in accordance with an agreed programme.
10. The arrangements for the main vehicular and pedestrian access to and from Lower Weybourne Lane hereby approved shall be implemented in accordance with a programme to be submitted to and be approved in writing by the Local Planning Authority prior to the commencement of any development, and this shall include the visibility splays indicated which shall thereafter be kept permanently clear of any obstruction over 1.05 metres in height.
11. No development shall take place until a site investigation of the nature and extent of any contamination has been carried out in accordance with a methodology which has previously been submitted to and been approved in writing by the Local Planning Authority. The results of the site investigation shall be made available to the Local Planning Authority before any development begins. If any contamination is found during the site investigation, a report specifying the measures to be taken to remediate the site to render it suitable for the development hereby permitted shall be submitted to and be approved in writing by the Local Planning Authority. The site shall be remediated in accordance with the approved measures and in accordance with an agreed programme. If, during the course of development, any contamination is found which has not been identified in the site investigation, additional measures for the remediation of this source of contamination shall be submitted to and be approved in writing by the Local Planning Authority. The remediation of the site shall incorporate the additional measures in accordance with details and a programme of works to be approved in writing by the Local Planning Authority.
12. No development shall take place until details of all external lighting have been submitted to and been approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details, and in accordance with an agreed programme.

13. No development shall take place until details of the proposed treatment of, and proposed arrangements for, the existing overhead power lines have been submitted to and been approved in writing by the Local Planning Authority, and the scheme shall be implemented in accordance with the approved details, and in accordance with an agreed programme.
14. No development shall take place until full details of all areas of proposed open space, including all play areas, have been submitted to and been approved in writing by the Local Planning Authority. Provision shall be made in accordance with the approved details, and in accordance with an agreed programme.
15. The development hereby permitted shall be carried out in accordance with the recommended mitigation and other measures set out in the submitted Ecological Impact Assessment dated October 2013, full details of which shall be submitted to and be approved in writing by the Local Planning Authority prior to the commencement of any works and this shall include a programme for implementation.
16. No development shall take place until a Construction Method Statement has been submitted to and been approved in writing by the Local Planning Authority. The approved Statement shall be implemented and adhered to throughout the period of development. The Statement shall include details and arrangements for the following matters:
  - (i) parking of vehicles of site operatives and visitors;
  - (ii) loading and unloading of plant and materials and associated delivery arrangements;
  - (iii) storage of plant and materials used in constructing the development;
  - (iv) erection and maintenance of security hoardings;
  - (v) provision of wheel washing facilities and other measures required to mitigate the impact of construction traffic upon the public highway;
  - (vi) measures to control the emission of dust and dirt during construction;
  - (vii) management of waste;
  - (viii) arrangements for any burning of waste or other materials if to be undertaken on site;
  - (ix) location of any site huts/cabins/offices, and;
  - (x) arrangements for public liaison with adjacent occupiers both prior to and during construction works.

### **Pre-occupation**

17. No dwelling hereby approved shall be first occupied unless and until the specified spaces for vehicles to be parked and for vehicles to turn corresponding to that part of the site have been provided in accordance with the approved drawings. Thereafter the approved parking spaces, including garages, and turning areas, shall be retained and be permanently available for such purposes.

18. The development hereby approved shall not be first occupied unless and until the proposed emergency vehicle/pedestrian/cycle access to Badshot Park has been constructed in accordance with a scheme and arrangements to be submitted to and be approved in writing by the Local Planning Authority.
19. The development hereby approved shall not be first occupied unless and until a scheme for the secure parking of bicycles has been submitted to and been agreed in writing by the Local Planning Authority and has been implemented as approved. The scheme shall be thereafter retained.
20. No dwelling hereby approved shall be first occupied unless and until such time as it is served by arrangements for refuse storage in accordance with a scheme which has been previously submitted to and been approved in writing by the Local Planning Authority. The arrangements shall be thereafter retained.
21. The development hereby approved shall not be first occupied unless and until a full and updated Travel Plan has been submitted to and been approved in writing by the Local Planning Authority. The Travel Plan shall accord with the principles set out in the submitted Transport Assessment dated January 2014 and with the aims of the accompanying Residential Travel Plan and shall be implemented in accordance with an agreed programme.
22. The development hereby permitted shall be carried out in accordance with the recommendations of the submitted Noise Assessment dated December 2013.
23. Finished floor levels of the dwellings hereby approved shall not be set less than 150 millimetres above surrounding finished ground levels.
24. No external works in connection with the development shall be undertaken on site except between the hours of 08:00 and 18:00 Mondays to Fridays and 08:00 to 13:00 Saturdays, and not at all on a Sunday or a Bank Holiday.

## **ANNEX B: APPEARANCES**

### FOR THE APPELLANT:

Sasha White, of Queen's Counsel	Instructed by Neame Sutton Ltd
David Neame	Director, Neame Sutton Ltd
Duncan McInerney	Director, EDP
Andrew Morris	Strategic Land Director, Bewley Homes PLC
Victoria Groves	Planning Manager, Bewley Homes PLC

### FOR THE LOCAL PLANNING AUTHORITY:

Brian Woods, Managing Director, WS Planning and Architecture	Instructed by Waverley Borough Council
Barry Devlin (26 May only)	Council Solicitor

### INTERESTED PARTIES:

Councillor Carole Cockburn	Borough and Town Councillor
Councillor Andy MacLeod	Borough and Town Councillor
Councillor Christopher Storey (6 December only)	Borough Councillor
Zofia Lovell	South Farnham Residents' Association
Cliff Watts	Badshot Lea Community Association
David Howell	Farnham Society Planning Committee



## **ANNEX C: DOCUMENTS**

### **APPELLANT'S INITIAL CORE DOCUMENTS:**

Proof of Evidence - Planning Matters by Neame Sutton dated January 2016 and accompanying Appendices 1-13

Written Statement in respect of Landscape and Design Matters by EDP dated January 2016 and accompanying plans DM1-DM10, and Appendix DM1

Documents as set out in Schedule of Hearing Documents:

Primary and secondary legislation (CD01-CD06)

National policy and guidance (CD07-CD09)

Waverley Borough Council policy, guidance and background documents (CD10-CD15)

Farnham Town Council documents (CD16)

Appeal scheme documents (CD17-CD18)

Folders 1 and 2 (Full detailed planning application)

### **LOCAL PLANNING AUTHORITY'S INITIAL SUBMISSIONS:**

Statement of Case by WS Planning and Architecture dated March 2016, and accompanying Appendices 1-9

### **INITIAL JOINT SUBMISSION BY THE LOCAL PLANNING AUTHORITY AND APPELLANT:**

Statement of Common Ground signed and dated 18 May 2016

### **SUBSEQUENT DOCUMENTS SUBMITTED TO THE HEARING ON 25 MAY**

#### **By the appellant:**

1. Schedule of appearances
2. Opening submissions
3. Master Plan Ref: A-01-002 Rev PL2 (coloured version)
4. Plans and Appendix to written statement of Duncan McInerney (A3 compendium)
5. Waverley District Constraints (two A3 plans)
6. Appeal decision Ref: APP/R3650/W/15/3129019 dated 31 March 2016 and relating to Land to the east of Alfold Road, and west of Knowle Lane, Cranleigh, Surrey, GU6 8RU

7. Unilateral Undertaking dated 2 July 2015
8. Final costs application
9. Closing submissions

**By the local planning authority:**

10. Notification letters dated 8 February 2016 and 25 April 2016
11. Waverley Borough Local Plan 2002 front cover and explanatory extracts
12. Appeal decision Ref: APP/R3650/A/13/2196705 dated 23 April 2014 and relating to Little Acres Nursery, St Georges Road, Badshot Lea, Farnham, Surrey, GU9 9NT
13. Appeal decision Ref: APP/R3650/W/15/3008821 dated 18 April 2016 and relating to 35 Frensham Vale, Lower Bourne, Farnham, GU10 3HS
14. Housing Option Site Maps
15. Update on 5-Year Housing Supply as at 1 April 2016
16. Surrey County Council CIL Education Infrastructure Justification Statement
17. Highway authority Informative Note
18. Highway authority comments dated 29 August 2014
19. Email to Kathryn Pearson from Sarah Wells dated 25 May 2016
20. Committee report relating to application Ref: WA/2016/0266 for dormitory and teaching block at T S Swiftsure, Lower Weybourne Lane, Badshot Lea, GU9 9LQ
21. Committee report dated 27 April 2016 relating to outline application Ref: WA/2015/1569 for 265 dwellings and related works at Knowle Park
22. Farnham Design Statement 2010
23. Draft Farnham Neighbourhood Plan (Regulation 14) 31 October 2014

**Jointly by the local planning authority and appellant:**

24. Section 106 agreement dated 25 May 2016
25. Schedule of suggested and agreed planning conditions

**By other parties:**

26. Badshot Lea Community Association Survey 2013 (from Mr Watts)

**SUBSEQUENT DOCUMENTS SUBMITTED PRIOR TO RE-OPENING**

**By the appellant:**

27. Letter dated 24 August 2016

28. Supplementary Hearing Statement - Planning Matters dated October 2016, and accompanying Appendices 1-8
29. Housing Land Supply Response Note dated 29 October 2016, and accompanying Annexes 1-9

**By the local planning authority:**

30. Waverley Borough Council Draft Five Year Housing Supply 1 July 2016 attached to email of 15 August 2016
31. Waverley Five Year Housing Supply 1 July 2016 - Liverpool (backlog methodology) attached to email of 15 August 2016
32. Waverley Five Year Housing Supply 1 July 2016 - Sedgefield (backlog addressed in first five years) attached to email of 15 August 2016
33. Email of 15 August 2016 enclosing link to Farnham Neighbourhood Plan Regulation 15 document dated July 2016
34. Email from Council dated 13 September 2016 confirming there are no updates to the Neighbourhood Plan that will affect the Council's case
35. Non-draft version of Waverley Borough Council Five Year Housing Supply 1 July 2016 received by email dated 2 December 2016

**Jointly by the local planning authority and appellant:**

36. Statement of Common Ground - Housing Land Supply Matters dated 1 December 2016 received by email dated 1 December 2016

**DOCUMENTS SUBMITTED TO THE HEARING ON 6 DECEMBER (AND SUBSEQUENT)**

**By the appellant:**

37. Appeal decision Ref: APP/R3650/W/15/3136799 dated 10 August 2016 and relating to Low Lane, Badshot Lea, Farnham, Surrey GU9 9NA
38. Updated submissions (summary)
39. Appeal decision Ref: APP/R3650/W/15/3141255 dated 5 January 2017 and relating to Hewitt's Industrial Estate, Elmbridge Road, Cranleigh, Surrey, GU6 8LW, and submitted by email dated 9 January 2017

**By the local planning authority:**

40. Hearing notification letter dated 16 November 2016
41. Farnham Neighbourhood Plan Regulation 15 document dated July 2016 (via Councillor Cockburn)
42. Waverley Borough Pre-Submission Local Plan Part 1: Strategic Policies and Sites August 2016

43. Web links to Farnham Neighbourhood Plan, Strategic Housing Land Availability Assessment 1 April 2008, Local Plan 2002, Land Availability Assessment 2016, and to Pre-Submission LP, by emails dated 9 and 19 December 2016

**By other parties:**

44. Farnham Neighbourhood Development Plan note of matters and issues for discussion, Public Hearing, 25 November 2016 (from Mr Watts)
45. Background paper to five-year housing land supply dated 23 September 2016 (from Councillor MacLeod)

Richborough Estates



# Ministry of Housing, Communities & Local Government

[www.gov.uk/mhclg](http://www.gov.uk/mhclg)

## RIGHT TO CHALLENGE THE DECISION IN THE HIGH COURT

These notes are provided for guidance only and apply only to challenges under the legislation specified. If you require further advice on making any High Court challenge, or making an application for Judicial Review, you should consult a solicitor or other advisor or contact the Crown Office at the Royal Courts of Justice, Queens Bench Division, Strand, London, WC2 2LL (0207 947 6000).

The attached decision is final unless it is successfully challenged in the Courts. The Secretary of State cannot amend or interpret the decision. It may be redetermined by the Secretary of State only if the decision is quashed by the Courts. However, if it is redetermined, it does not necessarily follow that the original decision will be reversed.

### SECTION 1: PLANNING APPEALS AND CALLED-IN PLANNING APPLICATIONS

The decision may be challenged by making an application for permission to the High Court under section 288 of the Town and Country Planning Act 1990 (the TCP Act).

#### Challenges under Section 288 of the TCP Act

With the permission of the High Court under section 288 of the TCP Act, decisions on called-in applications under section 77 of the TCP Act (planning), appeals under section 78 (planning) may be challenged. Any person aggrieved by the decision may question the validity of the decision on the grounds that it is not within the powers of the Act or that any of the relevant requirements have not been complied with in relation to the decision. An application for leave under this section must be made within six weeks from the day after the date of the decision.

### SECTION 2: ENFORCEMENT APPEALS

#### Challenges under Section 289 of the TCP Act

Decisions on recovered enforcement appeals under all grounds can be challenged under section 289 of the TCP Act. To challenge the enforcement decision, permission must first be obtained from the Court. If the Court does not consider that there is an arguable case, it may refuse permission. Application for leave to make a challenge must be received by the Administrative Court within 28 days of the decision, unless the Court extends this period.

### SECTION 3: AWARDS OF COSTS

A challenge to the decision on an application for an award of costs which is connected with a decision under section 77 or 78 of the TCP Act can be made under section 288 of the TCP Act if permission of the High Court is granted.

### SECTION 4: INSPECTION OF DOCUMENTS

Where an inquiry or hearing has been held any person who is entitled to be notified of the decision has a statutory right to view the documents, photographs and plans listed in the appendix to the Inspector's report of the inquiry or hearing within 6 weeks of the day after the date of the decision. If you are such a person and you wish to view the documents you should get in touch with the office at the address from which the decision was issued, as shown on the letterhead on the decision letter, quoting the reference number and stating the day and time you wish to visit. At least 3 days notice should be given, if possible.