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## Appeal Decision

Inquiry Held on 20-23 & 27-28 February 2018

Site visits made on 19, 26, 27 and 28 February 2018

**by Richard Schofield BA(Hons) MA MRTPI**

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

**Decision date: 28 March 2018**

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**Appeal Ref: APP/C3620/W/17/3177732**

**ERA Site, Cleeve Road, Leatherhead KT22 7SA**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Allois Properties Leatherhead Limited against the decision of Mole Valley District Council.
  - The application Ref MO/2016/1280/OUTMAJ, dated 4 August 2016, was refused by notice dated 13 December 2016.
  - The development proposed is redevelopment of the site for mixed use commercial and residential including landscaping, means of access and car parking.
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. The appeal was made in outline but only the matter of appearance was reserved for future consideration. I have determined the appeal on this basis, albeit that the application contained no detailed landscape proposals or internal building layouts, which are factors that have had a bearing on my considerations.
3. The Council confirmed at the inquiry that, following the submission by the appellant of a S106 agreement and additional information in relation to highways, protected species, renewable energy and refuse collection, it no longer intended to defend reasons for refusal 4 to 8 as set out in the decision notice. Based upon all that I have read and heard I have no reason to consider that this position is inappropriate.
4. The parties confirmed at the inquiry that a more accurate description of development was that used by the Council on its decision notice and by the appellant on the appeal form. This also appears to be the description under which the application was consulted upon. Thus, although the description in the header above is that from the original application form, I have considered the appeal on the basis of the agreed, revised description, being:

*Outline application (with some matters reserved) for consideration of access, landscaping, layout and scale, in respect of a mixed use commercial and residential scheme of 117 dwellings (85 Private Market & 32 Affordable) car parking and open space provision.*

5. During the inquiry I undertook several unaccompanied visits to the site, walking from there to Leatherhead town centre and railway station by various routes. I also visited the site in the late evening, between c. 1930 and 2000, and drove around the local road network. The parties agreed, on the final day, that an accompanied visit was not necessary.

### **Main Issues**

6. The main issues are:
- whether the layout, scale and landscaping (with particular regard to the provision of public open space) of the appeal proposal would comply with local and national planning policy and guidance for the design of new development;
  - whether, having regard to local and national planning policy and guidance, and other relevant local evidence, it has been adequately demonstrated that the appeal site is not required to meet the District's employment land requirements;
  - whether, on the basis of the evidence in relation to noise, the appeal proposal would provide appropriate living conditions for future residents and would not give rise to adverse impacts upon the living and working conditions of the occupiers of neighbouring properties; and
  - the effect of the proposed development on the living and working conditions of the occupiers of neighbouring buildings, with regard to noise, privacy and outlook.

### **Reasons**

#### *Housing Land Supply in Mole Valley and its Implications*

7. It is common ground between the parties that the Council is unable to demonstrate a five-year supply of deliverable housing sites. On the basis of all that I have read and heard I have no reason to depart from this agreed position.
8. Where this is the case paragraph 49 of the National Planning Policy Framework (the Framework), which is a material consideration of significant weight, advises that relevant policies for the supply of housing should be considered out-of-date. It is common ground that Core Strategy policy CS2 is such a policy. I agree.
9. This does not, however, lead to an automatic assumption that planning permission should be granted. Rather, paragraph 49 aims to ensure that in situations where, as here, the existing development plan policies have failed to secure a sufficient supply of deliverable housing sites, the "*presumption in favour of sustainable development*" is duly applied
10. The mechanism for applying that presumption is set out in paragraph 14 of the Framework. This explains that where relevant policies are out-of-date then (unless material considerations indicate otherwise) 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 where specific policies in the Framework indicate that development should be restricted.

11. This does not equate to a blanket approval for residential development in locations that would otherwise have conflicted with development plan policies. If the adverse impacts of the proposal significantly and demonstrably outweigh the benefits, then planning permission should still be refused. This is the decision making process that I follow here, having full regard to s38(6) of the Planning and Compulsory Purchase Act (2004), which is clear that, "*the determination shall be made in accordance with the plan unless material considerations indicate otherwise*".

### *Design*

12. The appeal site is a large, campus style business park situated within a mixed-use area of Leatherhead. There is access through the site to a range of additional commercial premises.
13. There are some residential blocks to the immediate south west of the site, on Park View Road, and some low key dwellings to the south east on Cleeve Road. Construction of residential units is underway on a site formerly part of Therfield School, while the so-called Alpha and Beta blocks to the north-west, and Stokes House at the front of the site, have consent for residential conversion through the prior approval regime<sup>1</sup>.
14. Even so, from the site one is only really aware of the Park View Road development. The dominant perception is that of being within a wider area of business and commercial uses, which are very apparent to the north and north-west, from numerous areas of the site. This is reinforced by the regular passage of commercial vehicles along the internal roads. As such, I do not consider that the site reads at all as an incongruous spur of commercial development into a residential area. If anything, Park View Road is perceived as a curious incursion into a long established commercial zone.
15. There is no dominant design ethos to the wider townscape around the site, although the dwellings on the nearest residential streets have a reasonably consistent plan form, being runs of short terraces and semi-detached units, oriented to face the road with, generally, deep rear gardens.
16. This mixed character does not, however, make the area around the site particularly incoherent. Or, at least, it is no more incoherent than any other mixed use area of any other town. It may not be of any particular architectural merit, but nor is it particularly harmful.
17. This being so, the suggestion that the appeal scheme would offer the chance to introduce a more coherent townscape character and structure, acting as a transition between the Park View Road development on the west and the under construction dwellings to the east is unconvincing. Not least because the appellant's Townscape Analysis, and consideration of the appeal scheme's influence upon the townscape and the site, was produced after the application scheme had been designed. It had no influence upon the appeal scheme and reads as a *post hoc* justification of it.
18. Being prosaic, the appeal site is what it is; a reasonably unassuming business park, designed to fulfil a specific function. It is neither an exemplar of business park development nor is it an eyesore that is out of place in its context. Either way, it has a limited visual envelope and, as such (the main access

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<sup>1</sup> Albeit that planning hurdles to the redevelopment of the latter remain.

notwithstanding), has a limited impact upon the wider area. As such, the value of a townscape analysis extending well beyond its immediate environs is debateable. Of arguably greater importance are the wider influences around the site's extensive boundaries and the inter-relationships between the buildings and uses within the site.

19. That said, the site is not unattractive. Although the so-called South Building is typical of 1980s office design, the Main Building is an imposing, well-proportioned, inter-war style block and the two (along with the more utilitarian Workshop) are set within open, landscaped grounds, which are a foil for their scale.
20. The appeal proposal would, in broad terms, enhance the hard and soft landscaping of the site, notwithstanding the loss of some trees along the boundary with the rear gardens of dwellings on Cleeve Road (to which I return below), but that would be a necessary and expected corollary of the type of development proposed. The site's landscaping does not *require* enhancing particularly, nor does the 'value' of the open space on the site need increasing. It is private space on a private business park, the extent of which is not readily apparent from the public realm, and the function and value of which is a matter for the users of that business park.
21. Even if changes were desirable, there is no reason to suppose that new landscaping or additional planting, or the tidying up of parts of the site, could only be achieved by building on most of the available space.
22. Similarly, the thesis that the "*blank, treeless expanse of grass*"<sup>2</sup> behind the Main Building would be improved by relocating a carpark onto it, however well planted, which would in turn enhance the outlook from dwellings on Park View Road, is implausible.
23. With the exception of the notable oak, the trees on the boundary between the site and the dwellings on Cleeve Road are not particularly striking specimens. That said, they provide a soft edge to the boundary and serve to filter, to varying degrees, views of the site from the Cleeve Road dwellings. They are a prominent feature in views across the site and assist in tying it into the wider treed townscape to the west. A considerable number would be felled in order to accommodate the houses proposed upon the extant carpark.
24. Although some replacement planting would be introduced here<sup>3</sup>, I am not persuaded that it would have the visual impact, or perform the role, of the current trees, being largely lost behind the overly dense swathe of housing proposed. Indeed, the reason given for the loss of the trees, which are generally healthy, is to accommodate the proposed development. I consider this to be a poor justification for the loss of trees that perform a useful role. A more sympathetic design approach would have sought to retain and enhance what is already present.
25. Turning to the details of the proposal itself, this would be comprised of four, largely disparate, elements spread across the site. Indeed, as such, it would lack coherence and read as something of a 'hotch potch' of units slotted onto the available spaces around the existing buildings. It would, if anything, add to any alleged incoherence in relation to the site and its wider surroundings by

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<sup>2</sup> Mr Chard's Proof

<sup>3</sup> And elsewhere on the site

- conflating two distinct uses without any clear design rationale, let alone a compelling consideration of the practical implications arising.
26. The first element is Block 1. This mainly four storey apartment block would sit very tight to the access road, following it as it turns the corner into the main body of the site. Its scale would broadly reflect that of Stokes House, which lies on the opposite side of the access road. Its presence so close to the footway, however, particularly given the lack of space around it, would give rise to an unwelcome corridor effect on entering the site. It would place the building firmly at odds with the more spacious context of the other tall buildings in the vicinity.
  27. A play area is proposed beside Block 1. This would be a Locally Equipped Area of Play (LEAP), which, it was agreed, requires a 20 metre buffer between it and the nearest habitable room facade. It may be that all of the habitable rooms could be placed so that their windows faced the access road, thus overcoming the issue. In the absence of any internal layouts for Block 1, however, there can be no certainty that this could be achieved satisfactorily. It would not be desirable in any case, as this would compromise the ability for there to be natural overlooking of the play area. This situation would be far from desirable and likely to give rise to safeguarding concerns.
  28. In addition the play area would be surrounded by car parking spaces. Again, this is far from ideal. Any safety concerns could be overcome by the provision of suitable fencing (although this is not regarded as best practice<sup>4</sup>), but children would still be faced with the unwelcome prospect of playing next to manoeuvring vehicles, with the attendant undesirable noises and smells that would arise. One must question whether such a play area would be well used.
  29. The extent of the play area would be such that there would be very little outdoor space available for other recreational activities or, indeed, for just sitting outside. The usability of the limited space available would, again, be compromised by its proximity to the car parking spaces proposed.
  30. Area 2 would be made up of a series of back-to-back terraced and semi-detached dwellings. They would be gable end on to the dwellings on Cleeve Road and at a considerably higher density than such. Consequently, they would be at odds with the prevailing grain and pattern of development of the area against which they would be abutting.
  31. Their orientation would also present a series of gable ends, interspersed with runs of fencing or hedging, onto the internal roadway at extremely close quarters. The area would, in effect, turn away from the wider site. This lack of visual interest to the road and the failure of the area to engage with the wider site would be a major flaw. It would be demonstrative of the lack of attention to basic design considerations, with too many dwellings being pushed into a constrained area<sup>5</sup>, thus compromising the scope for an optimum layout.
  32. It may be that front doors could be placed into the gable ends, facing the internal road, which might break up the facades to a limited extent. There is a strong likelihood, though, that this would appear as an after-thought rather

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<sup>4</sup> See ID14 - Design for Play

<sup>5</sup> Indeed, Mr Chard (in response to my questions) noted that "you couldn't get the same numbers in if you had active frontages", which rather reflects my concern that design has played second fiddle to quantum.

- than as part of a considered design response to the whole area. In any case, there is no evidence before me that it would be feasible.
33. It was suggested that the four cul-de-sacs off the internal road would function as Home Zones, with different surface materials denoting separate areas. In reality, however, they would be short, intensive blocks of development dominated by rows of frontage parking, rather than being reflective of the typical home zone concept, which tend to feature streets containing extensive planting, along with features to encourage social interaction.
  34. In addition, the network of alleyways running between and behind the dwellings (the reasons for which could not be explained) would, in my judgement, be an unwelcome feature with the potential to support anti-social behaviour and/or compromise building security.
  35. Block 2A would be three storeys high, located on a finger of green space at a crossroads well within the site, and comprised entirely of affordable housing units. It would be a lone, and incongruous, residential block marooned among the commercial buildings surrounding it, lacking any sort of desirable residential situation or sense of integration with a wider community. The lack of space around it would result in it appearing cramped on its plot, again at odds with its wider surroundings.
  36. The Local Area of Play (LAP) proposed beyond it would be situated next to the roadway, with car parking spaces on two sides. As with that at Block 1, its functionality would be severely compromised. The lack of any meaningful additional green space for other residents to use recreationally would, again, be a significant shortcoming.
  37. The four storey Blocks 2B, 2C and 4, along with the five houses that would be hemmed in and dominated by them, would be located at the northwestern corner of the site. There would be little open space around Blocks 4 and 2B, which would be pushed right up to the site boundaries (with potential attendant implications for the living conditions of future residents), appearing crammed into the site corners. This area would also be dominated by car parking spaces, negating any positive sense of arrival. The number and proximity of spaces by the proposed houses, notably those running the length of the rear garden of the house nearest block 2B, would compromise the sense of quiet enjoyment of them by any future occupiers.
  38. The residential blocks on Park View Road would be clearly visible from this area, with a more limited awareness of the Alpha and Beta units (with their potential residential conversion) further north. There would not, however, be any linkage or sense of connection between the three sites. This complete lack of permeability, with the area accessed via a convoluted route through the wider commercial site, would compound the sense of these dwellings being an isolated enclave of residential development, surrounded chiefly by areas of car parking (within and without the site) and commercial units. Dwellings here would appear neither logical nor desirable.
  39. This area would also have 50% of the affordable housing units to be provided on the site, with blocks 2A and 2B comprised entirely of affordable dwellings. Such a concentration, particularly in an out of the way corner of the wider site,

- would not sit at all comfortably with the aim of national planning policy<sup>6</sup> to create inclusive, mixed and balanced communities.
40. The relationship of the proposed LAP play space with its surroundings would be better than that of the other areas of the site, being well overlooked and away from the through road. Nonetheless, the wider open space would still be heavily influenced by the close proximity of car parking provision, which must impact on the degree to which it would be a pleasant recreational environment
  41. A plan was submitted to the inquiry, in response to the Council's concerns about the overall amount of green space to be provided on the site, which suggested that 40% of the site would be open space. Much of it, however, would be incidental space, or private space associated with houses. My attention was also drawn to the ratios of open space to dwellings on recently consented sites nearby. Notwithstanding this, good design is not a function of mathematics and each site is different, needing to respond to its context. In this instance, I have found the practical situation and usability of the proposed play areas and open space, which would be directly associated with the proposed dwellings, to be deficient in their own right.
  42. In landscape/townscape terms the appeal site's sensitivity to change is low. Development on the site, generally speaking, would be unlikely to have an adverse impact upon the wider character and appearance of the area. This, however, rather misses the point. The appeal scheme would result in an overly dense development that pays little, if any, heed to its immediate context.
  43. Blocks of residential development would be disconnected from each other, from the public realm and from their wider surroundings; open space would lack functionality; and future residents of the proposed dwellings, notably of Block 2A and those in the north western corner of the site, would lack any sense of place or community attachment.
  44. In short, rather than being a considered scheme aiming to successfully integrate a range of land uses on the basis of a coherent masterplan, the proposal seeks merely to fill in plots of land scattered across an active business park. It is not an appropriate design response to the site, its surroundings and its current use. Given the brevity of the Design and Access Statement, and its almost complete lack of site analysis, opportunities and constraints, this is perhaps unsurprising.
  45. I conclude, therefore, that the layout, scale and landscaping (with particular regard to public open space) of the appeal proposal would fail to comply with local and national planning policy and guidance for the design of new development. It would conflict with Core Strategy (CS) policies CS14 and CS16, and Mole Valley Local Plan (MVLN) policies ENV22, ENV23, ENV24 and ENV53. These seek, among other things, to resist development of a poor quality design; to ensure the provision of appropriate on-site open space facilities; to secure a satisfactory environment for occupiers of new development; to ensure design and layout is appropriate to the site in terms of scale and form; to prevent overdevelopment and a cramped appearance; and to preserve and enhance existing tree cover.

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<sup>6</sup> Paragraph 50 of the Framework

46. The proposal would also conflict with paragraphs 58, 61 and 69 of the Framework. These advise that planning decisions should ensure new developments function well, establish a strong sense of place, address the connections between people and places and the integration of new development into the built environment, and create safe and accessible environments, which encourage the active and continual use of public areas.
47. Paragraph 64 is clear that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.

#### *Employment Land*

48. The dispute between the parties on this matter came down to whether the evidence presented in support of the use of the appeal site for housing was sufficiently robust to demonstrate compliance with relevant local and national planning policy.
49. The appeal site is covered by MVLP policy E2, being "*safeguarded existing industrial and commercial land*". It is identified as such on the relevant Proposals Map. Its loss to other uses is restricted unless its retention for industrial/commercial use "*...has been fully explored without success*".
50. The Framework, at paragraph 22, states that planning policies should avoid the long term protection of sites allocated for employment use "*...where there is no reasonable prospect of a site being used for that purpose.*"
51. Although the MVLP is more emphatic than the Framework, the ambition of both documents is the same. While noting the thrust and parry of semantics played out at the inquiry, the requirements come down to an onus on an applicant or appellant to demonstrate that the likelihood of a site being developed for employment uses is slim. As such, I find no conflict between the MVLP policy and the requirements of the Framework.
52. E2 was conceived some years ago. This does not, however, negate its worth. There may not have been a review of the sites protected by it<sup>7</sup>, but the policy allows for their release where that is demonstrated to be appropriate (which accords with national planning policy).
53. There is no substantive evidence before me to suggest that the operation of the policy has contributed to the housing shortfall in the area. Nor does the most up-to-date evidence of economic development needs for the district as a whole<sup>8</sup>, being the Council's Economic Development Needs Assessment (EDNA), support a significant change of tack. As such, while the evidential basis for the policy may be aged, the necessity for it does not appear to have altered dramatically. It is not out-of-date in terms of its designations.
54. The Council was of the view that both marketing and viability evidence was necessary to demonstrate compliance with local and national policy. The appellant's evidence in support of the release of the site focussed solely on viability. In short, it was submitted that the redevelopment of the relevant land within the site for employment uses was not viable and, therefore, that

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<sup>7</sup> As anticipated by CS policy CS12.

<sup>8</sup> As opposed to Greater Leatherhead



- marketing evidence was unnecessary. The site was not needed to support employment requirements as it could not, in reality, be developed for such.
55. This argument has merit, not least as neither policy referred to by the Council requires a specific set of evidence to be provided. I also give little weight to the Council's interim policy requirements, which have not been consulted upon and which do not form part of the development plan.
56. I consider that viability is, however, only half of the story. It may well be that specific forms of modelled development would be unviable on a given site, and I am wary of the Council's largely unsubstantiated assumptions in respect of its examples of achievable development appropriate to the appeal site.
57. Nonetheless, the robust marketing of a site would provide the opportunity for those parties otherwise unaware of it to come to their own view on its possibilities, bearing in mind any specific site requirements that they may have. A desktop viability exercise patently would not.
58. The EDNA's assessment of the suitability of the appeal site is at a high level, looking at the wider employment area within which it sits. Even so, based on all that I have heard and seen, I certainly do not consider that it can reasonably be argued that the appeal site is poorly located such that it would be fundamentally unattractive or unable to compete with other sites in the south west M25 market.
59. It is a short walk to the station and to Leatherhead town centre, and there is straightforward access to the strategic road network. Leatherhead itself clearly remains a location that is considered a realistic possibility for commercial occupiers, being part of a market that is in a state which, by the appellant's own evidence<sup>9</sup>, "*bodes well for the new speculative development delivered to the market in towns such as ... Leatherhead.*"
60. Nor do I consider that the apparent lack of interest in the South Building for commercial uses, following marketing, can be taken as a proxy for a lack of interest in vacant employment land on the wider site.
61. I am not unsympathetic to the appellant's argument that the re-development of the appeal site plots for housing would, in effect, have no bearing on the supply of employment floorspace in the area insofar as there would be no loss of such. This would be in marked contrast to the Council's apparent approach, which certainly smacks of inconsistency, with regard to proposals for Claire House, James House and Fairmont House in Leatherhead.
62. The EDNA is also of the view that the area's needs to 2033 can largely be met by currently available and planned floorspace<sup>10</sup>. It states that there will be Class B floorspace surpluses throughout the new plan period<sup>11</sup>.
63. This view is tempered, however, by its judgement that such surpluses will not reach a level whereby the reallocation of employment sites for alternative uses should be actively considered or promoted. They will, rather, allow for churn in the district market. "*Where existing employment sites are considered suitable for continued employment use they should, on balance, be retained for that*

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<sup>9</sup> ID6

<sup>10</sup> EDNA para 11.7

<sup>11</sup> Ibid para 8.40

use”, it states<sup>12</sup>. Furthermore, I am mindful that the relevant policies refer to employment *land* not *floorspace*.

64. The apparently synonymous use of “*floorspace*” and “*sites*” (i.e. land) in the EDNA is not helpful here, and the Council was unable to give a coherent explanation of how vacant employment land had been factored into forward assessments of floorspace supply and demand. Nonetheless, the underlying message of the EDNA, which is an evidential document of substantial weight, is that extant employment sites should be retained going forward.
65. There is some evidence<sup>13</sup> that the local highway authority would not wish to see additional HGV traffic coming from the site onto Cleeve Road, but not every potential user would have such a requirement. Nor is there evidence before me to demonstrate that any potential highways impacts could not be mitigated.
66. In conclusion, therefore, on balance I do not consider that it can be concluded with any certainty that, having regard to local and national planning policy and guidance, and other relevant local evidence, it has been adequately demonstrated that the appeal site is not required to meet the District’s employment land requirements. As such, the proposal would conflict with MVLP policy E2 and with paragraph 22 of the Framework, the requirements of which are set out above.

#### Noise

67. There is no dispute that the noise monitoring undertaken in relation to the original planning application was insufficiently robust. As such, the Council’s reason for refusal was, clearly, justified.
68. Subsequent to the lodging of the appeal, the Council and appellant agreed a course of action to secure additional noise data in order that the reason for refusal might be overcome. A number of monitoring points were agreed along with time periods over which data would be collected at them.
69. It is evident that the appellant failed to adhere to either part of the agreement, with one monitoring point being moved some distance from the agreed position, one not being used at all and time periods for the monitoring being truncated.
70. The rationale for the relocation of monitoring point MP2, proposed at the location for Block 2A, was the apparent lack of security for the equipment at the chosen location. The appellant acknowledged<sup>14</sup>, however, that there are means of securing or overseeing noise monitoring equipment if necessary. Construction works at the Therfield School site would have an impact but no compelling reason was advanced as to why monitoring could not have waited until their completion, in order to secure a true reflection of local circumstances.
71. Proposed Block 2A would be situated at a crossroads within the site, where vehicles including HGVs turn to access, and exit, buildings in the Axis Centre adjacent to the appeal site. In addition, there would be a workshop building on

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<sup>12</sup> Ibid

<sup>13</sup> CD E15

<sup>14</sup> Mr Sugiura response to my questions.

- one side of the crossroads and a commercial building on the other, from which, albeit low level, industrial noise was readily apparent during my site visits.
72. The relocation of MP2 further along the internal roadway some distance from the site of the proposed block is a significant failing. The new monitoring site appears to have very little in common with that originally agreed and the sound environments do not appear comparable.
  73. There was no obvious justification for the failure to monitor at agreed point MP4. The implications of the lack of monitoring at MP4 are self-evident, with there being a less robust means of assessing any potential noise constraints upon proposed Block 4 and the houses that would be next to it.
  74. The monitoring at point MP3 was only undertaken for a day, rather than the full week agreed. The justification for this appears to be an allegedly tight timescale to gather the required data. Given the nature of the appeal site and the obvious potential for significant constraints on residential development upon it, this seems somewhat short sighted.
  75. This location is close to the rear of a sizeable commercial building. Although it contains a large amount of office accommodation, it also houses a workshop. It is reasonable to suppose that activities here would have potentially adverse impacts upon residential units and, as such, that just 24 hours' monitoring, in December when workshop doors are much more likely to remain shut than might be the case in the summer months, is unlikely to be representative of the typical noise environment at this location.
  76. Finally, the scope for marrying up the noise monitoring data at MP1 with the available, limited, traffic data is limited at best and there does not appear to have been any consideration of the potential implications of permitted changes of use in relation to some of the buildings, which could also give rise to adverse noise impacts.
  77. Overall, then, I am far from persuaded that the noise assessment undertaken by the appellant is sufficiently robust, in terms of longevity or coverage, to allow one to establish with any certainty what the true noise environment for the relevant site areas might be.
  78. That said, there was debate about whether this actually mattered insofar as there was agreement that noise mitigation measures would be necessary in at least some of the buildings. As such, the precise levels and nature of noise was neither here nor there.
  79. To my mind, given the, arguably uncomfortable, relationship between much of the proposed development and the existing site context, it does matter. There is an over reliance on mitigation in relation to the envelope of the proposed buildings to achieve a high sound insulation performance rather than a rounded consideration, in advance, of, for example, site layout and building orientation.
  80. Without sufficiently comprehensive noise data in place in advance of the site layout process, rather than being secured by condition for future attention, it is difficult to see how there can be any certainty that buildings are appropriately located and positioned (regardless of whether any necessary noise mitigation is achievable or, indeed, desirable in relation to the restrictions that it may place upon any future residents' enjoyment of their dwellings). This is, in my view, further evidence of the scheme's significant design failings.

81. I conclude that, on the basis of the evidence provided in relation to noise, there can be no certainty that the appeal proposal would secure appropriate living conditions for future residents and would not give rise to adverse impacts upon the living and working conditions of the occupiers of neighbouring buildings. It would conflict with MVLP policy ENV22 which seeks, among other things, to ensure that new development provides a satisfactory environment for new occupiers.

#### *Living conditions*

82. The proposed terraced houses would present what it is reasonable to presume would be largely blank (to avoid issues of privacy) two storey gable ends in very close proximity to the rear garden boundaries, and in some cases rear elevations, of some of the dwellings on Cleeve Road. This is a consequence of the overly dense layout. They would appear oppressive upon what is currently a relatively open outlook, over the appeal site, from these dwellings, most notably upon that from the rear gardens of some of those closest to the boundary. In these instances, the combination of short rear gardens and an abruptly truncated outlook would be very harmful.

83. The proposal would also locate parking spaces close to, in some case directly next to, the garden boundaries. It may well be possible to ensure that any noise from manoeuvring vehicles, or closing doors, would not be a nuisance. Even so, there would be a change to the current environment, where cars are separated from the Cleeve Road dwellings by a deep grassed area<sup>15</sup>. This would, in my view, result in a marked change to the current conditions experienced by residents of affected properties when using their rear gardens.

84. Turning to matters of privacy, the orientation of some of the proposed dwellings is such that there would be oblique views from their rear elevations over some of the rear gardens of the terrace of bungalows on Cleeve Road. Whether this would be harmful, given the distances involved and the angle of view, is open to debate. There would almost certainly be a perception of being overlooked, whatever the reality. Nonetheless, the fact that it is an issue at all is, when combined with the other range of concerns, a further indication of the scheme's design deficiencies.

85. The outlook from all floors of Cedar House and Oak House, the two blocks on Park View Road abutting the appeal site, is currently very open, over the grassed expanse to the rear of the South Building and Main Building on the appeal site. There is nothing dramatic about this outlook, but it is pleasant and unassuming.

86. As noted above, I do not find it a tenable proposition that the outlook would be in any way enhanced by having a car park relocated into it. Furthermore, given the proximity of the car park to the two blocks, with parking spaces situated almost directly behind the iron railings of the boundary fence, it would be highly likely that the general noise and smells associated with manoeuvring vehicles would give rise to an adverse change in the living conditions of the occupiers. They may not be of a level that could be classed as a nuisance, but there would certainly be a marked change in environment, particularly for residents using their balconies and ground floor outdoor seating areas.

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<sup>15</sup> And where, it is reasonable to assume, there is little car park use at the weekends.

87. It was suggested that an acoustic fence could be erected along the boundary, if it was required<sup>16</sup>, but no assessment of the implications of this upon outlook has been undertaken.
88. There is legal provision for the maintenance of a buffer zone on the appeal site beside the two blocks, wherein built development should not take place. Car parking is explicitly excluded from this definition but that cannot be inferred as meaning it is expressly permitted. This must be a matter of fact and degree, taking into account the now established living environment of the residents of Cedar House and Oak House.
89. Finally, the LAP play area for Block 2A would be directly outside one of the office blocks within the Axis complex. With regard to noise, there is nothing in the guidance<sup>17</sup> presented to me to indicate that the location of a play area by an office building is inappropriate. That said, these documents focus solely on habitable facades of dwellings; office accommodation is not addressed.
90. It is not unreasonable to consider that one might well require less disturbance when concentrating on work or holding a meeting than, say, watching television in a front room. To this end, I consider that there could well be adverse implications for the occupiers of this office building in relation to the noise that would arise from use of the proposed play area.
91. Future, different, occupiers might not be so affected. This is pure supposition, however, and I see no reason to consider that the optimum working environment of another office based business would be any different to that of the incumbent. Acoustic fencing could address noise concerns, but the office block is so close to the boundary that such a structure could not fail to have adverse impacts upon the outlook of employees.
92. In addition, the location of a play area directly outside the ground floor windows of the office block, in such close proximity, would almost certainly give rise to adverse impacts upon the privacy of workers. It is not satisfactory to suggest that this could be addressed by closing the blinds of the office windows.
93. I conclude, therefore, that the appeal proposal would have an adverse effect on the living and working conditions of the occupiers of neighbouring buildings, with regard to noise, privacy and outlook. It would conflict with MVLP policy ENV22. This seeks, among other things, to ensure that new development does not significantly harm the amenities of the occupiers of neighbouring properties.

### **Planning Balance and Conclusion**

94. The appeal proposal would offer some benefits. It would provide market and affordable housing (on brownfield land in a constrained district) in an area where there is a considerable shortage of both. Notwithstanding my concerns about the distribution of the proposed dwelling mix, this is a benefit that attracts substantial weight.
95. There would be some economic benefits arising during and post-construction, to which I attach moderate weight. The scheme would also result in additional

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<sup>16</sup> Which seems unlikely on the basis of the evidence provided to the inquiry.

<sup>17</sup> CCB6; ID14

Council Tax and Community Infrastructure Levy receipts for the Council. As these are a means of offsetting increased public expenditure in a local area arising from an increased population, I consider that both attract very little weight as benefits in the planning balance.

96. Nonetheless, I have found that the appeal scheme would conflict with development plan policy in relation to design, employment land release, noise data and living conditions. Indeed, there is no doubt in my mind that the appeal proposal would conflict with the development plan when taken as whole and I afford this conflict very significant weight. The conflict with design policy attracts very substantial weight in its own right.
97. I conclude, therefore, that the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. Indeed, the adverse impacts arising from the scheme's design shortcomings would alone be sufficient to lead me to this conclusion. I further conclude that the appeal should be dismissed.

*Richard Schofield*

INSPECTOR

Richborough Estates

**ANNEX A: APPEARANCES**

*FOR THE LOCAL PLANNING AUTHORITY:*

Mr Tom Cosgrove QC

Instructed by Mole Valley District Council

He called:

Mr Stephen Turner MA MSc HonFIOA  
Mr Nicholas Pocknall MRICS  
Mr Richard Pestell MPhil MRTPI  
Mr Joseph Cunnane MRTPI

Stephen Turner Acoustics  
Hurst Warne  
Peter Brett Associates  
Cunnane Town Planning

*FOR THE APPELLANT:*

Mr Christopher Boyle QC

Instructed by Barton Willmore

He called:

Mr Michael Sugiura CEng BSc MSc (Tech)  
MIOA  
Mr Matthew Chard BA(Hons) Dip(Hons)  
MAUD CMLI  
Mr Piers Leigh MRICS  
Mr Mark Harris BA(Hons) Dip TP MRTPI

Michael Sugiura Limited  
Barton Willmore  
Avison Young  
Barton Willmore

*INTERESTED PERSONS:*

Mrs Frances Smith  
Mr Tony Russell

Leatherhead Residents Association  
Local resident

Richborough Estates

## **ANNEX B: DOCUMENTS**

### **Submitted to the Inquiry**

- ID1 Mr Sugiura Noise Rebuttal - Supplementary Note
- ID2 Council's Opening Submissions
- ID3 Mr Russell's submission
- ID4 Mr Sugiura note re Park View Road and proposed car park relocation
- ID5 Joint Statement of Office Demand for Leatherhead
- ID6 CBRE Research article, Thames Valley & M25 Office, H2 2017
- ID7 Figure MDC 10C – measurements and area sizes
- ID8 Mr Turner Further Noise Statement
- ID9 Procedures for vehicles accessing the site after 2000 hours
- ID10 Mr Pocknall finance rates clarification
- ID11 Claire House and James House & Fairmont House – proposed uses
- ID12 Agreed dwelling mix
- ID13 Illustrative Masterplan for Park View Road
- ID14 Design For Play
- ID15 Professional Practice Guidance on Planning & Noise
- ID16 Noise Monitoring –Agreed Locations Plan
- ID17 Masterplans of land adjacent to Therfield School and land at the corner of Cleeve Road & Randalls Road.
- ID18 Council's Closing Submissions
- ID19 Appellant's Closing Submissions

### **Received after the close of the Inquiry**

- ID20 Schedule of Accommodation
- ID21 Supplemental Agreement and Deed of Covenant
- ID22 Executed S106 Agreement