



Appeal Decisions

Hearing held on 23 and 24 June 2015

Site visit made on 24 June 2015

by Mark Dakeyne BA (Hons) MRTPI

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

Decision date: 17 July 2015

Appeal A - Ref: APP/Z3635/W/14/3000993

Former Tennis Court Site, The Ridings, Sunbury on Thames, Surrey TW16 6NU

- 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 Cala Homes against the decision of Spelthorne Borough Council.
 - The application Ref 14/00322/FUL, dated 26 February 2014, was refused by notice dated 11 June 2014.
 - The development proposed is residential development comprising 17 dwellings, associated access, parking and landscaping.
-

Appeal B - Ref: APP/Z3635/W/15/3009449

Former Tennis Court Site, The Ridings, Sunbury on Thames, Surrey TW16 6NU

- 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 Cala Homes against the decision of Spelthorne Borough Council.
 - The application Ref 14/02189/FUL, dated 18 December 2014, was refused by notice dated 16 March 2015.
 - The development proposed is residential development providing 25 dwellings, comprising 2 and 3 bedroom houses and 2 bedroom flats, with associated access, parking and landscaping.
-

Decisions

Appeal A

1. The appeal is dismissed.

Appeal B

2. The appeal is allowed and planning permission is granted for residential development providing 25 dwellings, comprising 2 and 3 bedroom houses and 2 bedroom flats, with associated access, parking and landscaping at Former Tennis Court Site, The Ridings, Sunbury on Thames, Surrey TW16 6NU in accordance with the terms of the application, Ref 14/02189/FUL, dated 18 December 2014, subject to the conditions set out in the attached schedule.

Procedural Matters

3. For ease of reference I have referred to the different cases as Appeal A (first application for 17 dwellings) and Appeal B (second application for 25 dwellings) in this decision letter as set out in the headers. Although I have dealt with

each appeal on its individual merits, to avoid duplication I have considered the proposals together in this document. Although there are two appeals, I use singular terms such as 'appeal site' for ease of reading.

4. In relation to Appeal A, the appellants submitted a revised site layout plan¹ to the Council just before the determination of the application. However, the Council did not decide the application on the basis of the amended plan as it was received too late to allow consultation and publicity. The plan replaces a pair of semi-detached houses in the north-west corner of the site with a detached house and moves the semis to the north-east corner of the site, replacing a detached house.
5. An amendment is also proposed with Appeal B whereby the position of parking spaces is altered. The relevant revised layout and landscape plans² were submitted to the Council at around the time of the determination of the application but, as with Appeal A, they were received too late to allow consultation and publicity.
6. The appellants wrote to local residents about both revisions in April 2015. The amendments were discussed at the hearing. The revised plans do not change the substance of the proposals or materially alter the impact on neighbouring residents. For example for Appeal A the position of the flank elevation of the dwelling on Plot 10 would not change relative to the existing property to the west. The Council has no objection to the substitution of the plans at appeal stage. No party would be prejudiced by my consideration of the appeals on the basis of the revised proposals.
7. Completed unilateral undertakings under Section 106 of the Planning Act (S106) were submitted after the hearing³. Both undertakings include obligations relating to the provision of a footway on the north side of The Ridings. The undertaking in relation to Appeal B also has obligations in connection with affordable housing. I will deal with these obligations later in this decision.

Main Issues

8. Statements of Common Ground (SOCG) were prepared by the appellants and the Council in advance of the hearing. Having regard to the contents of these documents, representations made on the appeals and what I heard at the hearing, the main issues are:
 - (i) Whether the land should be retained as open space having regard to the need for the site for sport and recreation purposes and the contribution of the site to the character of the area;
 - (ii) Whether Appeal A would be acceptable in relation to affordable housing provision;
 - (iii) Whether Appeal A provides an appropriate mix of housing having regard to the needs of the community and the characteristics of the area;
 - (iv) The effect of Appeal B on the protected and other trees on the site;
 - (v) The effect on the character and appearance of the area having regard to the density and layout of the proposals and, in relation to Appeal B, the extent of hard-standing;

¹ Drawing No AAL-03-111-P01 Revision D

² See Document Nos 6 & 7

³ See Document Nos 14 & 15

- (vi) The effect on the living conditions of neighbouring residents with particular reference to visual impact, privacy and sunlight;
- (vii) Whether in relation to Appeal B the proposed flats would provide a suitable living environment for future occupants; and,
- (viii) The effect on highway safety having regard to the impact of additional vehicular movements, the provision for pedestrians and the siting of car parking spaces;

Reasons

Open Space

9. The appeal site is located within an area of Protected Urban Open Space which was designated in 1993. The site contains two tennis courts which were last used formally in connection with the adjacent St Paul's Catholic Secondary School in 1991. The site has not been available for public use, although it is understood that pupils made use of the site for a period after 1991 until the area was fenced off from the school.
10. There is no indication that the area is needed for sport and recreation for the school. In particular there are tennis courts elsewhere on the school site. It is understood that the land is now in separate ownership from the school. The Council does not point to any deficiencies in open space in the area generally and indicates that there are public tennis courts nearby.
11. The site makes some contribution to the character and appearance of the area as well-vegetated open land even though it has been left by the landowner to become somewhat overgrown. However, whilst the open and green characteristics are enjoyed by those residents around the site, the land is not visible from many public viewpoints. The only vehicular and pedestrian access to the site is via The Ridings which is a cul-de-sac. By the time The Ridings passes the site frontage it is a private road giving access to St Paul's. As such the site is somewhat tucked away and does not make a significant contribution through its amenity value to the wider area.
12. When a previous appeal for residential development was dismissed in 1997, there appeared to be some prospect of the site being brought back into sport and recreation use with the relevant body of that time, the English Sports Council, indicating that funding could still be made available. Such circumstances no longer apply.
13. The proposals would make use of vacant land located in a sustainable location in an urban area. The Council does not object to the principle of development of the land for housing.
14. In conclusion the retention of the site as open space is not justified as it is not needed for sport and recreation purposes and makes a limited contribution to the character of the area. As a result the proposals would not conflict with Policy EN4 of the Spelthorne Core Strategy and Policies Development Plan Document (CS), in particular Section d). I do not consider that the site falls within the ambit of paragraph 74⁴ of the National Planning Policy Framework (the Framework) due to the longevity of its disuse.

⁴ Existing open space or recreational land

Affordable Housing

15. The ten flat units and two 3-bed houses within the Appeal B scheme would be affordable dwellings with a tenure split of four shared ownership and eight units to rent. The 48% affordable provision is acceptable to the Council as it would exceed the 40% overall target within Policies SP2 and HO3 of the CS and would accord with that part of Policy HO3 which states that up to 50% of housing on sites of 15 or more dwellings should be affordable.
16. However, Appeal A does not include any affordable dwellings. The appellants consider that the 17 dwelling scheme would not be viable if any affordable units were provided. They submitted a viability assessment with the application and supported their stance with expert evidence at the hearing. In response the Council's independent advisor concluded that the development was capable of making a significant affordable housing contribution and confirmed this position at the hearing.
17. In considering development appraisals of the 17 dwelling scheme, the appellants and Council agree on most of the inputs, including marketing costs, developer's return, interest rates and professional fees. The difference between the parties is down to whether the assessment should be benchmarked on the basis of an Existing Use Value (EUV) or Alternative Use Value (AUV).
18. Given that the site is within an urban area and there is no objection to the principle of housing development, it would be reasonable for the landowners to have an expectation that there would be a significant uplift on the EUV. The Council recognise this by suggesting that up to 40% could be added to the EUV which would result in a landowner return of about £900,000. In contrast, based on a scheme which would be policy compliant in terms of density, mix and affordable housing provision (equating to something like the proposals with Appeal B), the appellants calculate that the landowner would expect a land price of some £1.7m based on the AUV.
19. The test in the Framework is that development should be capable of providing competitive returns to a willing land owner and willing developer to enable development to be deliverable. However, given that I conclude that Appeal B should be permitted, it is not necessary for me to come to a view on whether the EUV or AUV (or something in between) should be used as the viability benchmark. As a scheme that is policy compliant is acceptable and can be brought forward, then there would be no justification for supporting the alternative scheme that does not provide any affordable housing or indeed the right mix of dwelling types. On this basis Appeal A is not an optimal use of land as it would not provide the number of units to allow a contribution to affordable housing.
20. There is a high need for affordable housing in the Borough. Provision has not matched the target set by Policy HO3 since the CS start date of 2006 due to recessionary factors and a falling away of grant funding in recent years. Therefore, there are clear benefits arising from a scheme that provides at or close to the maximum affordable housing provision assuming it is acceptable in other respects. As a corollary an alternative scheme which may also be acceptable in other respects but does not provide affordable homes should not be supported.

21. Accordingly Appeal A would be unacceptable in relation to affordable housing provision and would conflict with Policies SP2, HO3 and HO1 of the CS as it would not maximise the contribution of affordable housing from the site having regard to the individual circumstances and viability and would not ensure effective use is made of urban land.

Housing Mix

22. Policy HO4 of the CS requires that housing developments provide at least 80% of dwellings as 1 or 2 bedroom units. The basis for this policy is that some 65% of the existing stock has three or more bedrooms whereas there is an identified need for smaller dwellings, particularly 2 bed units. I note that there may be indications in the recently published Strategic Housing Market Assessment⁵ (SHMA) that the needs for different sizes of houses in the housing market area may change but it would be premature to make judgements based on this emerging untested evidence at this stage.
23. Appeal B would provide a reasonable mix of units including affordable housing. The 68% proportion of smaller units would achieve a reasonable balance between the need for small units and the character of the area. However, Appeal A would provide less than 30% as smaller units, some 50% below the target figure. Even this proportion is on the assumption that the study included with the five dwellings shown as 2-bed units would not serve as a third bedroom. The provision would be well below the lower proportion of smaller units referred to in the Housing Type and Mix Supplementary Planning Document (SPD) which might be appropriate where development needs to reflect the character of an area. I agree that such considerations would be applicable for the appeal site. So a greater proportion of larger dwellings than 20% may be appropriate. But the majority should still have one or two bedrooms.
24. The proportion of smaller dwellings on other recently permitted housing schemes nearby at the London Irish Site and the Metropolitan Police Training Centre also did not meet the requirements of Policy HO4 or the SPD. However, the former development included a higher proportion of smaller units than Appeal A and a significant affordable housing element. The latter had different density constraints and an off-site affordable housing contribution. These other schemes are not directly comparable with Appeal A.
25. I conclude that Appeal A would not provide an appropriate mix of housing having regard to the needs of the community and the characteristics of the area and would conflict with Policy HO4 and not follow the guidance within the SPD.

Trees

26. The revised plan handing the dwellings on Plots 10 and 13/14 referred to in paragraph 4 above overcomes the Council's concerns in relation to Appeal A as the detached dwelling on Plot 10 would have sufficient garden clear of the tree canopy⁶. The trees to be removed to allow for the proposed development are not subject to the Tree Preservation Order and are of lower quality, classed as Category C in the Arboricultural Report. A robinia growing below a preserved lime near the northern boundary would be removed due to its poor shape.

⁵ See Document No 12

⁶ See SOCG

27. For Appeal B the canopies of the preserved horse chestnut and lime close to the northern boundary would cover a good proportion of the garden to the detached dwelling on Plot 10. However, the appellants' evidence⁷ shows that the BRE209⁸ two hour sunlight standards would be far exceeded and sunlight to the garden would be unaffected for much of the day. These measurements assume that the canopy is a solid mass and does not let through dappled sunlight. This technical evidence is accepted by the Council.
28. On this basis the garden to Plot 10 would not be significantly shaded despite its relatively modest garden depth. As the garden would provide a reasonable amenity and suntrap, the Council would be in a position where it could resist tree works beyond normal good arboricultural practice. The potential pressure to reduce or remove the preserved trees would not be a reason to dismiss Appeal B.
29. The Appeal B proposals would also lead to the loss of a sycamore to the site frontage which is a notable feature in The Ridings street scene. However, the tree is not preserved and the Council does not object to its removal which is needed to form a suitable vehicular access and allow the site's effective use.
30. In conclusion the effect of Appeal B on the protected and other trees on the site would be acceptable. The proposal would comply with Policy ENV7 of the CS as the preserved trees would not be felled.

Character and Appearance

31. I dealt with the merits of the loss of the area of open land earlier in this decision under the first main issue.
32. Appeal A would result in a density of 34 dwellings per hectare (dph) whereas Appeal B would involve some 50 dph. Both proposals would involve greater densities than surrounding residential development. However, the detached houses on the Benwell Meadows estate to the north date from a period when land was less scarce and estates tended to be laid out to a lower density. Heritage Close to the west is a gated community including a number of large three-storey dwellings. I note that parts of the London Irish Site to the east are currently being developed at a relatively high density.
33. A significant proportion of the dwellings on both schemes would not have a large footprint. Indeed in relation to Appeal B, the smaller flat units increase the notional density but would not involve the land take of an equivalent number of family dwellings. Having regard to these factors and taking into account the need to make efficient use of land, the densities proposed would not be inherently unacceptable and would fall close to or within the range set out within Policy HO5 of the CS of 35-55 dph for areas of predominantly family housing
34. The three-storey block of flats would have a reasonable amount of space on three sides, including the amenity area to the north and the school grounds to the east. Therefore, the fact that it would be close to the eastern boundary would not make the block appear cramped. Three storey buildings exist at Heritage Close and within other developments nearby so the scale would not be

⁷ See Document No 4

⁸ Building Research Establishment – Site layout planning for daylight and sunlight: A guide to good practice 2011

- out of character. The elevations would be broken up by some articulation and by regularly spaced fenestration.
35. With Appeal B, rows of parking spaces would front the access road and turning head which would result in a significant area of hardstanding down the spine of the site. The appellants have made some of adjustments to the layout in response to the Council's concerns but the main characteristics of the access road would not change.
36. That said the appellants have drawn up detailed soft landscaping proposals which indicate that semi-mature planting would break up the parking areas and create an avenue feel to the development. Contrasting surfacing materials would be used for the parking spaces. The extent of hardstanding would be acceptable.
37. Accordingly, the effect on the character and appearance of the area having regard to the density and layout of the proposals and, in relation to Appeal B, the extent of hard-standing, would be acceptable. The proposals would accord with Policy EN1 of the CS as they would deliver a high standard in their design and layout. Of course the site would change from open land to a housing development but the schemes that would be created would not harm the character and appearance of the area.

Living Conditions

38. The dwellings that would back onto Heritage Close and Meadows End with Appeal B would be of two storey construction. The gaps between some of the properties would be limited and the roofs would be gabled so that there would be the impression of a fairly solid wall of development. This would particularly be the case when the development was viewed from the rear facing rooms and gardens of properties in Heritage Close as there would be a run of semi-detached dwellings on Plots 4 to 9.
39. However, the separation distances would comply with the 21m measurement referred to in the Council's relevant SPD⁹. Some of the vegetation close to the common boundaries would be retained and there would be scope for additional planting so that the visual impact of the development would be softened. Moreover, Heritage Close itself is a fairly solid mass of building reaching three stories in parts so the proposals would have similar characteristics although of a smaller scale. The development proposed with Appeal A would have a similar relationship with Heritage Close, albeit that there would be a small terrace of two storey dwellings on Plots 7 to 9.
40. In terms of Meadows End the dwellings on Plots 10 to 14 with Appeal A would contain rooms in the roof space so that the buildings would be some 2m higher than the detached houses at Nos 6 and 8 Meadows End. However, the distance of about 25m that would be achieved between the main rear elevations would be reasonable, representing about the midpoint between guidelines on separation for two and three storey development set out in the SPD.
41. With Appeal A, the dwellings on Plots 1 to 4 facing the existing dwellings on The Ridings would contain front facing dormers. But the separation distances of around 25m front to front would be acceptable.

⁹ Design of Residential Extensions and New Residential Development SPD April 2011

42. Although the dwellings on the northern part of the appeal site would be to the south of Meadows End, the distance apart would be sufficient such that the developments would not lead to significant losses of sunlight to the rear gardens of Nos 6 and 8. At the site visit my impression was that, even when the sun is lower in the sky during the winter months, the proposals would not result in much less sunlight reaching Nos 6 and 8, taking into account the effect of existing vegetation and the overall aspect looking south. These impressions gain support from the guidance within BRE209.
43. The rear elevation of No 14 Dunnell Close would face the flank wall of the proposed dwelling on Plot 10 on both schemes. However, there would appear to be a reasonable separation of over 15m so I do not consider that the relationship would be unduly overbearing for the occupants of No 14.
44. I conclude that the effect on the living conditions of neighbouring residents with particular reference to visual impact, privacy and sunlight would be acceptable. There would be compliance with Policy EN1 of the CS as the development would achieve a satisfactory relationship with adjoining properties and would avoid significant harmful impacts in terms of loss of privacy, daylight, sunlight or overbearing effect. The environment would change and there would be a perception of loss of privacy but the relationships would be within acceptable bounds. Conditions could be imposed to ensure that additional development did not take place in the rear facing roof slopes so that reasonable levels of privacy were maintained.

Living Environment

45. Some of the living rooms and bedrooms at ground floor level within the two flat blocks proposed with Appeal B would have windows close to nearby parking spaces. However, the buildings would have a landscape margin of no less than 2m between windows and parking spaces. The landscape plan shows hedge planting between the buildings and the parking spaces. Most parking spaces could be assigned so that occupiers enjoy surveillance of their own vehicle. There would be 10 parking spaces along the frontage to match the number of units within the blocks so all spaces close to the flats would be assigned and the SPD guideline that unassigned parking should be located at least 5m from a habitable room window would not be breached. The relationship between the flats and parking spaces would be acceptable.
46. There would be two meaningful areas of communal amenity space for the flats to the north and south of the respective blocks. The amount of space meets the quantitative requirement in the SPD. Although the space for Plots 22-25 would be smaller and would lie adjacent to The Ridings, the landscape plan indicates that the area would be screened by hedge planting and enclosed by post and rail fencing such that a pleasant area would be created. The larger area to the north would be treated in a similar manner providing an appropriate setting for the flats. Given that occupiers of flats would tend to use such areas for sitting out and leisure less frequently I consider that the amenity space would be fit for purpose.
47. Accordingly in relation to Appeal B the proposed flats would provide a suitable living environment for future occupants and would comply with Policy EN1 of the CS and relevant guidance in the SPD.

48. The local residents point to shortfalls in the amenity space available for the house on Plot 1 in Appeal B and a number of the houses in Appeal A. However, the Council does not object to the garden sizes. Most of the garden sizes in both appeal proposals would accord with the guidance in the Council's SPD. The garden areas would be adequate for the future occupants of the houses.

Highway Safety

49. The Ridings is a cul-de-sac currently serving a small number of dwellings. However, as the access to the secondary school campus which also includes a day nursery, there is considerable vehicular and pedestrian activity during school start and finish times. Information collected by local residents suggests that the appellants' figures underestimate the existing peak movements.
50. That said a small development of 17 or 25 dwellings would not lead to a significant increase in traffic movements during peak periods. At other times the relative increase in traffic movements would be greater but the overall numbers using the carriageway would be low.
51. Green Lane is particularly busy during morning and afternoon peaks given the concentration of schools in the area and the proximity to Sunbury Railway Station and the Sunbury Cross major junction with the M3. Local residents also refer to congestion caused by those wanting to access the nearby health centre. But the traffic generated by the development would not materially worsen congestion.
52. The appellants' evidence indicates that The Ridings effectively operates as a shared surface during school start and finish times with pedestrians walking on the carriageway. Some of the photographs submitted by the residents show pupils in the road. However, when I visited in the morning peak most pedestrians, including school pupils, were making use of the footways alongside the road. Where the pavement on the northern side terminates pedestrians crossed the road to the southern footway. Moreover, traffic speeds, although fairly low, were above that which I would have expected for a shared surface access road. Parked cars and manoeuvring vehicles in the carriageway also represent a further potential hazard for pedestrians.
53. I appreciate that I visited during the part of the term when some pupils have left school or are elsewhere. However, as it is clear that pedestrians are present in significant numbers, the advice within Manual for Streets 2 about footways being provided along both sides of the highway is applicable.
54. For these reasons and having regard to the need to provide a safe pedestrian route into the development and encourage walking as a mode of travel, I agree with the Council that it would be necessary to provide a continuous footway on the northern side of The Ridings, including along the site frontage. The S106 obligations facilitate this for the section of land beyond the appeal site. The ownership of the strip is not certain but it would seem to me, given the position of lighting columns and the likely extent of the highway verge, that sufficient land would be available within the adopted highway to provide a footway of 1.8m width to correspond to the existing pavement.
55. So far as the site frontage is concerned, the plans for Appeal B show a footway. For Appeal A only a narrow highway verge is shown but there would be scope

to amend the layout to provide a footway of suitable width and such a requirement could be conditioned.

56. Appeal A proposes four parking spaces backing onto The Ridings whereas with Appeal B only a single space for Plot 2 would be located in a similar position. Both schemes would result in cars crossing the footway across the site frontage. However, the existing dwellings on the south side of the road have a similar arrangement. Residents would be likely to reverse slowly and with care, particularly when the road is busy. Pedestrians would be able to see the slow moving vehicles as pedestrian visibility splays could be provided. For these reasons the parking arrangements would be satisfactory.
57. The parking provision for both schemes would accord with the Council's standards. The site is close to the railway station and bus routes. Therefore, whilst I note local concerns that the development would be likely to increase on-street parking on The Ridings and Springfield Grove due to potential levels of car ownership, I do not consider that insufficient parking provision would be a reason to dismiss the appeals.
58. I conclude that the effect on highway safety having regard to the impact of additional vehicular movements, the provision for pedestrians and the siting of car parking spaces would be acceptable subject to the provision of a footway. There would be compliance with Policy CC2 of the CS as the developments would be compatible with the transport infrastructure in the area taking into account traffic movements, the capacity of the local transport network, the cumulative impact of development and highway safety. A safe and suitable access would be achieved for all people in accordance with paragraph 32 of the Framework.

Other Matters

59. Concerns have been raised that local infrastructure, including health services and schools, would be unable to cope with additional development. The national and local press have reported on queues forming at Sunbury Health Centre. The Council adopted its Community Infrastructure Levy (CIL) Charging Schedule in April 2015 so that developments will need to make CIL contributions. Based on what I was told at the hearing these contributions will be able to fund additional school infrastructure but not health service projects as the relevant health funding bodies have not specified their requirements. However, there is an expectation that the health service will provide the necessary facilities to meet the needs of the local population notwithstanding the position in relation to CIL. Resisting the development on the grounds of the capacity of local infrastructure would not be justified.
60. There is evidence that air pollution around Sunbury Cross exceeds recognised levels. There are also indications that air pollution at the roadside St Ignatius School on Green Street breaches European standards. The Council is aware of the issue of air quality in the surrounding area but there is no evidence that the appeal schemes themselves would be subject to unacceptable air quality or that traffic arising from the developments would materially worsen the situation.
61. The proposals would incorporate Sustainable Drainage systems (SuDS) such that run-off would be at greenfield rates. The development would be unlikely to exacerbate surface water flooding in storm conditions such as that

experienced in The Ridings. Although reference was made to the frequency of power cuts, there is no evidence before me that the site could not be provided with an adequate electricity supply.

62. The main house on the St Paul's Catholic School site is a listed building of early 19th century origin. The building has 20th century school buildings on its northern and eastern sides. The houses in both schemes would be some distance from the listed building and would be of domestic scale such that there would be no adverse impact on the setting. The nearest flat block on Appeal B would be two-storey, stepping down from the three-storey block further into the site, and preserving the setting of the listed building.
63. The appellant has undertaken some local consultation. The fact that the Lower Sunbury Residents Association consider that this has not gone far enough is not a reason to withhold planning permission.

Obligations

64. The footway provisions within both unilateral undertakings are justified for the reasons set out in paragraphs 52 to 54 of this decision. The affordable housing provisions of the S106 related to Appeal B are required so that the development would contribute to the significant need for affordable housing and comply with Policies SP2 and HO3 of the CS.
65. However, as I am allowing Appeal B only, it is only the obligations within the corresponding S106 that I need to consider against the tests within paragraph 204 of the Framework. I conclude that they are necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development. Therefore, they meet the tests within CIL Regulation 122. I have taken them into account in the decision on Appeal B. The conditionality clause set out under (c) within paragraph 3.3 of the undertaking takes effect.

Conditions

66. I have considered the conditions put forward in the SOCG and discussed at the hearing. I make changes to conditions suggested by the Council where necessary for clarity, having regard to the tests set out at paragraph 206 of the Framework.
67. A condition setting out the approved plans is necessary for the avoidance of doubt and in the interests of proper planning. Conditions to control materials, landscaping and tree protection are required in the interests of the appearance of the development. Soft and hard landscaping details are sufficient but information on boundary treatments is needed.
68. Permitted development rights should only be removed in exceptional circumstances. Given the relationship of the dwellings to existing development and the position of trees on the site I consider that such circumstances exist. The creation of a third floor of accommodation within the roof spaces of all the houses or openings in the side elevation of the dwelling on Plot 10 would have privacy implications for adjacent residents.
69. Renewable energy provision in accordance with the submitted statement would be reasonable as would waste and recycling facilities for the flats. A number of conditions are needed to give effect to the proposals for access, visibility

splays, parking, the frontage footway and SuDS drainage. The assignment of parking spaces should also be controlled (paragraph 45 refers). Information about different modes of travel and a requirement for cycle storage/parking are needed to encourage sustainable transport choices. Details of external lighting are required to ensure a safe development and to prevent light pollution.

70. In view of the nature of the access road and the proximity of the school and existing houses, a Construction Management Plan (CMP) is necessary which should include controls on vehicular movements during school start and finish times and dust mitigation. The County Archaeologist refers to the potential of the site so a programme of archaeological work is required. The appellants' Site Assessment points to the need for remediation measures which can be secured by a condition. Similarly the ecological report recommends some mitigation which should be given effect by a condition.
71. In view of the Government's advice within the Planning Practice Guidance about taking care with the imposition of pre-commencement conditions, I have only incorporated a 'conditions precedent' requirement on those relating to tree protection, the CMP, archaeology and site remediation as these measures all need to be in place or have been undertaken before commencement. I have tied other conditions to the commencement of the dwellings rather than the development as a whole.

Conclusions

72. The proposal for 25 dwellings would be acceptable judged against the main issues. Appeal B would provide housing, including much needed affordable homes, in a sustainable location and would have economic benefits from construction jobs, increased local spend and the New Homes Bonus. The development would give rise to building on open land and some modest off-site impacts but the social and economic benefits would outweigh any environmental harm. The proposal would achieve sustainable development in accordance with the National Planning Policy Framework and would comply with the development plan overall. Therefore, it should be approved without further delay.
73. The proposal for 17 dwellings (Appeal A), whilst acceptable in other respects, would not provide any affordable dwellings or the right mix of homes. This stems from the scheme's failure to make efficient use of the site. Therefore, it would not achieve the social gains of Appeal B. The economic benefits and the boost to the supply of housing would not outweigh this failure to respond to the housing needs of the area and the limited environmental harm. Appeal A would not accord with the affordable housing and housing mix policies of the development plan.
74. There was some discussion at the hearing about the supply of housing land. Based on the housing requirement in the CS of 166 dwellings per annum, the Council can demonstrate a five year supply of housing land. But the emerging evidence base, including the SHMA, suggests that full objectively assessed needs (OAN) are likely to be significantly greater than the existing constrained housing requirement. That said the emerging OAN has not been tested and development constraints such as the Green Belt have not been taken into account so no new requirement was before me. Therefore, whilst it is likely that the housing requirement will significantly increase in the emerging Local Plan, it would be premature to judge what that requirement will be.

75. In any event, so far as Appeal B is concerned I have judged the proposal to be acceptable when undertaking the normal planning balance so whether or not there is a five year supply of housing would not alter my decision.
76. With regard to Appeal A even if there was no five year supply of housing I consider that the adverse impacts of granting planning permission for a scheme without affordable homes and the required housing mix would significantly and demonstrably outweigh the benefits. This is in the light of it having been demonstrated that an acceptable and viable scheme can provide a policy compliant proportion of affordable dwellings, the right housing mix and a greater contribution to the supply of housing.
77. For the reasons given above I conclude that Appeal B should be allowed but Appeal A dismissed.

Mark Dakeyne

INSPECTOR

Attached

Appeal B – Schedule of Conditions

Appearances

Documents and Plans submitted during and after the Hearing

Richborough Estates

APPEAL B - SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans and Drawing Numbers:
 - (i) Site Location Plan
 - (ii) Site Layout Plan AAL-14-234-P16 dated February 2015
 - (iii) Plans and Elevations Plots 1 & 2 AAL-14-234-PO3 dated Nov 2014
 - (iv) Plans and Elevations Plot 3 AAL-14-234-P04 dated Nov 2014
 - (v) Plans and Elevations Plots 4 & 5, 8 & 9 AAL-14-234-P05 dated Nov 2014
 - (vi) Plans and Elevations Plots 6 & 7 AAL-14-234-P06 dated Nov 2014
 - (vii) Plans and Elevations Plot 10 AAL-14-234-P07 dated Nov 2014
 - (viii) Plans and Elevations Plots 11 & 12 AAL-14-234-P08 dated Nov 2014
 - (ix) Plans and Elevations Plot 13 AAL-14-234-P09 dated Nov 2014
 - (x) Plans and Elevations Plots 14 & 15 AAL-14-234-P10 dated Nov 2014
 - (xi) Plans and Elevations Plots 16-21 AAL-14-234-P11 dated Nov 2014
 - (xii) Plans and Elevations Plots 22-25 AAL-14-234-P12 dated Nov 2014
 - (xiii) Street Scenes AAL-14-234-P14 dated Dec 2014
 - (xiv) Garden Dimensions AAL-14-234-P15 dated Feb 2015
 - (xv) Landscape Proposals L90-250 Rev B updated 27.02.15.

Materials, Landscaping and Tree Protection

- 3) Prior to the commencement of the erection of any of the dwellings hereby permitted, details of the materials to be used for the external surfaces of the buildings and the block paving for the parking areas shall be submitted to and approved by the local planning authority. The development shall be carried out in accordance with the approved details.
- 4) A programme for the implementation of the soft and hard landscape works shown on Landscape Proposals Drawing Number L90-250 Rev B shall be submitted to and approved in writing before the erection of any of the dwellings hereby permitted. The landscape works shall be carried out in accordance with the programme and approved plan. The planting so provided shall be maintained as approved for a period of 5 years from when it is carried out, such maintenance to include the replacement in the current or next planting season whichever is the sooner, of any trees or shrubs that may die, are removed or become seriously damaged or diseased, with others of similar size and species.
- 5) No site clearance or building operations shall commence until tree protection fencing has been installed in accordance with the details set out in the Arboricultural Report of Ruskins Group Consultancy dated November 2014 (ref: 0813-1336 Rev 2) submitted with the application. The protective fencing shall be maintained on site throughout the construction works period. The burning of materials shall not take place within 6m of the canopy of any tree or tree group to be retained on the site or on land adjoining. All other tree protection measures set out within the report shall be adhered to throughout the construction period.

- 6) None of the trees shown to be retained on Landscape Proposals Drawing Number L90-250 Rev B shall be damaged or destroyed, uprooted, felled or pruned other than in connection with the Tree Works recommended by Arboricultural Report of Ruskins Group Consultancy dated November 2014 (ref: 0813-1336 Rev 2). Any trees removed, or dying or being severely damaged or becoming seriously diseased within 5 years of the commencement of the development shall be replaced with trees of a size, species, position and in accordance with a programme to be agreed by the local planning authority.
- 7) Before the erection of any of the dwellings hereby permitted commences, a plan indicating the positions, design, materials and type of boundary treatment to be erected shall be submitted to and approved in writing by the local planning authority. The boundary treatment in connection with each dwelling shall be completed in accordance with the approved details before that dwelling is occupied. Thereafter the boundary treatments shall be retained as approved.

Permitted Development Rights

- 8) Notwithstanding the provisions of Class A of Part 1 of Schedule 2 of the Town and Country Planning General Permitted Development Order 2015 (or any order revoking and re-enacting that Order) no windows or other openings of any kind shall be formed in the western side elevation of the dwelling on Plot 10 of the development hereby permitted.
- 9) Notwithstanding the provisions of Classes A, B and C of Part 1 of Schedule 2 of the Town and Country Planning General Permitted Development Order 2015 (or any order revoking and re-enacting that Order) no extensions, other form of enlargement or roof alterations to the houses hereby permitted shall take place.

Energy and Waste

- 10) The development shall be carried out in accordance with the Energy Statement prepared by Abbey Consultants (Southern) dated 18/12/14.
- 11) Prior to the commencement of the erection of any of the flats on Plots 16-25, details of communal collection points for refuse, waste and recyclable materials for the flats shall be submitted to and approved in writing by the local planning authority. Prior to the occupation of any flat within the particular building, the approved communal collection points and the bin stores shown on Drawing Nos AAL-14-234-P11 or AAL-14-234-P12 shall be provided. Thereafter the facilities shall be retained as approved.

Highways, Parking, Drainage and Lighting

- 12) No dwellings hereby approved shall be commenced until the proposed vehicular access to The Ridings has been constructed and provided with visibility splays in accordance with a scheme to be first submitted to and approved in writing by the local planning authority and thereafter the visibility zones shall be kept permanently clear of any obstruction over 1.05m high.

- 13) Prior to the occupation of any of the dwellings hereby permitted, pedestrian visibility splays measuring 2m by 2m shall be provided to each side of the main vehicular access onto The Ridings the depth measured from the back of the footway and the widths outwards from the edges of the access. Prior to the occupation of the dwelling on Plot 2, pedestrian visibility splays of the same dimensions shall be provided to each side of the driveway. No obstruction to visibility between 0.6m and 2m in height above ground level shall be erected within the area of such splays.
- 14) No dwelling shall be occupied until the access road and turning head has been provided to wearing course or in accordance with any interim measures to allow vehicles to access the dwellings and turn that have been submitted to and approved in writing by the local planning authority. The access road and turning head shall be completed in accordance with the Landscape Proposals Drawing Number L90-250 Rev B prior to the occupation of the final dwelling on the development.
- 15) Prior to the occupation of any dwelling, a Travel Statement shall be submitted to and approved in writing by the local planning authority to provide to residents of the development information on non-motorised forms of transport to and from the development. The approved Travel Statement shall be provided to the new household upon occupation of any dwelling.
- 16) No dwellings hereby approved shall be commenced until the proposed footpath to the site frontage shown on the approved Site Layout Plan AAL-14-234-P16 has been provided. The footpath shall be a minimum of 2m in width.
- 17) Prior to the occupation of any dwelling hereby permitted, details of the assignment of parking to each dwelling shall be submitted to and approved in writing by the local planning authority. The parking for each dwelling shall be provided in accordance with the Landscape Proposals Drawing Number L90-250 Rev B prior to that dwelling's occupation and thereafter retained. The parking spaces shall measure a minimum of 2.4m wide by 4.8m deep.
- 18) Prior to the occupation of each dwelling, cycle storage/parking shall be provided for that dwelling in accordance with a scheme submitted to and approved in writing by the local planning authority. For the flats a minimum of 1 secure, lit and covered cycle space per flat shall be provided. The cycle storage/parking shall thereafter be permanently retained.
- 19) Surface water drainage shall be provided in accordance with the Flood Risk and Drainage Statement dated November 2014 prior to the occupation of any of the dwellings hereby permitted and thereafter retained in accordance with the Statement.
- 20) Prior to the commencement of the erection of any dwellings hereby permitted, details of all proposed street and external lighting shall be submitted to and approved in writing by the local planning authority. The external lighting shall be provided in accordance with the approved

details prior to the completion of the development and thereafter retained.

Construction Management

- 21) Prior to the commencement of any site clearance, a Construction Management Plan shall be submitted to and approved in writing by the local planning authority. The approved statement shall be adhered to throughout the construction period. The Statement shall include details of:
- (a) parking for vehicles of site personnel, operatives and visitors;
 - (b) loading and unloading of plant and materials;
 - (c) storage of plant and materials;
 - (d) on-site turning for construction vehicles;
 - (e) provision of boundary hoardings/fencing behind any visibility splays and the frontage footpath;
 - (f) hours of construction - working hours not to exceed: 0800 - 1800 hours Monday to Friday; 0800 - 1300 hours on Saturdays with no working on Sundays, Bank and Public Holidays;
 - (g) timings of HGV movements to and from the site with no movements to take place between the 0800 - 0900 hours and 1500 and 1600 hours on Mondays to Fridays;
 - (h) vehicle routing and traffic management plan;
 - (i) measures to prevent the deposit of materials on the highway;
 - (j) before and after construction condition surveys of the highway and a commitment to fund the repair of any damage caused;
 - (k) measures to manage and mitigate the impact of dust, noise and vibration;
 - (l) means of communicating with local residents during works; and,
 - (m) a Site Waste Management Plan to identify the volume and types of material arising from site clearance and construction works, how and to what extent materials will be recovered and re-used on site and how off-site disposal of waste will be minimised and managed.

Archaeology

- 22) No development shall take place until a programme of archaeological work has been implemented in accordance with a Written Scheme of Investigation which has been submitted to and approved in writing by the local planning authority.

Contamination

- 23) No development shall take place until a detailed Remediation Method Statement has been submitted to and approved in writing by the local planning authority to deal with the proposed alleviation measures set out in Paragraph 6.4 of the Geo-Environmental Site Assessment dated June 2013 (Ref: 26455-R01 (00)). The site shall be remediated in accordance with the Remediation Method Statement. Prior to the occupation of any dwelling, and on completion of the agreed contamination remediation works, a validation report that demonstrates the effectiveness of the remediation carried out shall be submitted to and approved in writing by the local planning authority.

Ecology

- 24) The development shall be carried out and incorporate the recommendations and enhancements set out within Section 6 of the Ecological Assessment dated December 2014 (Ref: ECO3410.EcoAs.vf1) unless the local planning authority approve in writing any variation.

END OF SCHEDULE OF CONDITIONS

Richborough Estates

APPEARANCES

FOR THE APPELLANTS:

Douglas Bond BA (Hons) MRTPI	Woolf Bond Planning LLP
Caroline Green MRTPI	Cala Homes
Anthony Lee MRTPI MRICS	BNP Paribas Real Estate
Thomas Sykes MRICS	BNP Paribas Real Estate
Simon Avery BA (Hons) B Phil Dip UD MRTPI	Bell Cornwall LLP
Gerald Waller C Eng MICE MICWEM MAE	The Civil Engineering Practice

FOR THE LOCAL PLANNING AUTHORITY:

Phillip Hughes BA (Hons) MRTPI	PHD Chartered Town Planners
Malcolm Kempton Dip Estate Man FRICS	Kempton Carr Croft
Petrina Fround	Kempton Carr Croft
Scott Dickson BA (Hons) MSc	Surrey County Council

INTERESTED PERSONS:

Alan Doyle	Local Resident and Member of The Ridings Action Group
George Rushbrook	Local Resident and Member of The Ridings Action Group
Dr Anthony Lien	Local Resident
Jill Bowles	Local Resident and Member of The Ridings Action Group

DOCUMENTS AND PLANS SUBMITTED DURING THE HEARING

1. Statement of Common Ground between the appellants and the Council relating to Appeal B
2. Draft Unilateral Undertaking for Appeal A submitted by the appellants
3. Draft Unilateral Undertaking for Appeal B submitted by the appellants
4. Statement with appendices from Simon Avery submitted by the appellants
5. Copy of letter dated April 2015 sent to local residents about amended plans submitted by the appellants
6. Revised Site Layout Plan for Appeal B (Drawing No AAL-14-234-P16 dated February 2015) submitted by the appellants
7. Revised Landscape Proposals for Appeal B (Drawing No L90-250 Revision B updated 27.02.15) submitted by the appellants
8. Site Layout Plan for Former London Irish Rugby Club Site, The Avenue, Sunbury on Thames submitted by the Council
9. Community Infrastructure Levy Charging Schedule for Spelthorne Borough Council dated December 2014 submitted by the Council
10. Listing description for St Paul's School, The Ridings, Sunbury submitted by the Council
11. Policy CO1 of the CS submitted by the Council

DOCUMENTS SUBMITTED AFTER THE HEARING

12. SHMA for Runnymede BC and Spelthorne BC Final Draft Report dated May 2015 submitted by the Council
13. Cabinet Report on SHMA dated 24 June 2015 submitted by the Council
14. Completed Unilateral Undertaking for Appeal A dated 3 July 2015 submitted by the appellants
15. Completed Unilateral Undertaking for Appeal B dated 3 July 2015 submitted by the appellants