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## Appeal Decision

Inquiry Held on 14-17 January 2020

Site visit made on 15 January 2020

**by Mike Hayden BSc DipTP MRTPI**

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

**Decision date: 21 February 2020**

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**Appeal Ref: APP/Q3820/W/19/3236721**

**Land at Steers Lane, Forge Wood, Pound Hill, Crawley, West Sussex**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
  - The appeal is made by Danescroft (RLP Crawley) LLP against Crawley Borough Council.
  - The application Ref CR/2018/0894/OUT, is dated 4 December 2018.
  - The development proposed is the erection of up to 185 residential dwellings, with the associated vehicular and pedestrian access via Steers Lane, car parking and cycle storage and landscaping.
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### Decision

1. The appeal is allowed and outline planning permission is granted for the erection of up to 185 residential dwellings, with the associated vehicular and pedestrian access via Steers Lane, car parking and cycle storage and landscaping on land at Steers Lane, Forge Wood, Pound Hill, Crawley, West Sussex, in accordance with the terms of the application, Ref CR/2018/0894/OUT, dated 4 December 2018, subject to the conditions set out in the schedule at the end of this decision and the S106 undertaking referred to below.

### Application for costs

2. Applications for costs were made by Danescroft (RLP Crawley) LLP and Crawley Borough Council against each other. These are the subject of a separate Decision.

### Procedural Matters

3. The application was submitted in outline with matters relating to layout, scale, appearance and landscaping reserved for subsequent approval. Access was the only detailed matter fixed for determination as part of the appeal. I have dealt with the appeal on this basis.
4. A number of plans were submitted as part of the application and appeal, including a site location plan, concept plan, access plans, sketch layout, landscape masterplan, sketch street scenes, floor layouts, and diagrams showing tenure distribution, building heights and unit sizes. Some of these were updated by the appellant during the appeal process, in particular to deal with disputed points about internal space standards, floor layouts and garden sizes. However, these were submitted well in advance of the inquiry and the Council had sufficient opportunity before and during the inquiry to consider and respond to the evidence, so I am satisfied that the presentation and discussion of the Council's case was not prejudiced.

5. The appellant confirmed that all except the site location, concept and access plans were intended to be illustrative, to show how the proposed development could be accommodated on the appeal site. I have taken these into account in so far as they indicate the potential extent and form of the proposed built development, open space and landscaping and inform my assessment of the visual, landscape and amenity impacts of the proposed development.
6. The appellant also submitted a unilateral undertaking (UU) under S106 of the 1990 Act. It comprises planning obligations to secure affordable and low cost housing on site; the provision of open space, a kick about space and landscaping, plus an off-site contribution to allotments; the implementation of a landscape and ecological management plan; the provision and maintenance of a sustainable drainage system; the implementation of highway works and a financial contribution towards the upgrade of bus stops; the establishment of a residential management company to manage the estate roads and other communal parts of the proposed development; a contribution to tree mitigation; and the implementation of a bird hazard management plan. The UU was discussed with the main parties at the inquiry and amended to clarify a number of its obligations. The signed and executed Deed was submitted after the close of the inquiry and constitutes a material consideration, which I have taken into account in reaching my decision.

### **Main Issues**

7. Following the submission of the appeal against non-determination, the Council's Planning Committee resolved that it would have refused the application on two grounds. The second putative reason for refusal concerned the absence of an agreement to secure affordable housing and the infrastructure needed to support the proposed development. However, in the light of the amended UU, the Council confirmed at the inquiry that the second reason for refusal was resolved.
8. With regard to the first putative reason for refusal, it is common ground that the appeal site is suitable for housing, given that it is identified in Policy H2 of the Crawley Borough Local Plan (2015) (CBLP) as a broad location for housing development, with the capacity to deliver a minimum of 75 dwellings. The dispute between the main parties is over the scale of housing proposed in this appeal and whether up to 185 dwellings would be acceptable in terms of its effect on the character and appearance of the surrounding area, the mix and location of affordable housing, and the standard of environment and quality of life it would provide for its future residents. In my pre-inquiry case management note I identified this as one of two likely main issues for the appeal. For the sake of clarity, I have sub-divided this first main issue into matters to do with character and appearance, affordable housing and those concerning the amenity or living conditions of future occupiers.
9. The second main issue identified in my pre-inquiry note was whether the Council is able to demonstrate a 5 year supply of deliverable housing land and therefore whether the so called 'tilted balance' in paragraph 11(d)(ii) of the National Planning Policy Framework (the Framework) is triggered. However, it is common ground<sup>1</sup> that the Council can demonstrate a 5 year supply of housing land against the adopted housing requirement in the CBLP and therefore that paragraph 11(d) is not engaged in this case. Nevertheless, the extent of unmet

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<sup>1</sup> Paragraphs 2.1 and 2.2 of the Housing Supply Matters Statement of Common Ground and confirmed by David Neame in cross examination

need in the borough for market and affordable housing and therefore the weight to be given the provision of additional housing remains a matter in dispute.

10. In view of these points, and having regard to everything else I have read, heard and seen, the main issues in this case are:

- i) Whether the appeal site is capable of accommodating up to 185 dwellings in a form and layout that would respect the character and appearance of the surrounding area and achieve a high quality of design;
- ii) Whether the proposal would allow for an appropriate mix and location of affordable housing to be provided;
- iii) Whether the proposed development would be capable of achieving a high standard of amenity for its future occupiers, with particular regard to open space and recreation provision, internal space standards, private amenity space, privacy, and the existing and future noise environment; and
- iv) The contribution of the proposed development to the housing needs of the borough.

## Reasons

### *Character, Appearance and Design*

11. The appeal site is located on the northern edge of Forge Wood, an emerging new neighbourhood in the north-east sector of Crawley, which has planning permission for 1,900 dwellings, a school, a local centre with shops and a community hall, employment uses, parkland and open space. Development is well underway at Forge Wood with new housing estates built to the south and east of the appeal site, the school open and parkland laid out. Significant areas of woodland have been retained within Forge Wood, amongst other things, to respect the existing landscape of the area and encourage ecological diversity<sup>2</sup>. They also contribute a sylvan character to parts of the new neighbourhood, which is particularly evident along Balcombe Road and Steers Lane.
12. The appeal site itself is a triangular piece of former agricultural but now unused land, approximately 5.5 hectares (ha) in area. It comprises the southern part of a larger parcel of unused land, the northern section of which forms the blue line area for this appeal. The site lies immediately to the north of Steers Lane and to the west of Balcombe Road. It is bounded on both frontages by a line of mature trees, which are subject to a Tree Preservation Order<sup>3</sup> (TPO), and an understorey of mixed hedge and scrub. A belt of mature trees runs north-south across the middle of the site, also subject to the TPO.
13. Elsewhere within the site are groups of self-seeded silver birch and other semi-mature trees, which appear to have naturally inhabited the site over the last 10-15 years, as they do not feature in aerial photographs of the site contained in the 2006 Forge Wood Design Statement<sup>4</sup>. Other than one Silver Birch, these are not subject to any TPO. The site is otherwise open grassland, extending to the north into the blue line area, the northern edge of which is marked by a line of mature trees along the rear garden boundaries of the residential properties that front Radford Road.

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<sup>2</sup> Paragraph 3.6 of the North East Crawley, Forge Wood, Design Statement (July 2006) (CD7.6)

<sup>3</sup> TPO No. 09/2017

<sup>4</sup> Figure 2 on page 9 of CD7.6

14. The boundary planting along the Steers Lane and Balcombe Road frontages of the site forms part of the structural landscaping identified in Policy CH7 of the CBLP and on the Local Plan Map as making an important contribution to the town and its neighbourhoods, in terms of character and appearance, structure, screening and softening. The semi-mature trees within the site serve to reinforce the screening effect of the understorey. However, it is principally the mature boundary landscaping which gives the site its sylvan character, and which in turn contributes to the overall character and appearance of the area.
15. Based on the concept plan and illustrative layout, the appeal proposal would extend housing development across the site, but retain the majority of the structural landscaping along the Steers Lane and Balcombe Road frontages, as well as the tree belt through the centre of the site. Access would be via a signalised junction on Steers Lane opposite Somerley Drive, the main entrance into phase 1A of Forge Wood to the south. The width of the access and the need to widen the carriageway and lay a new footpath to the bus stop on Steers Lane would require the removal of a number of protected trees on this frontage. However, the Council confirmed that the same form of access and extent of tree removal on this frontage would be necessary for the minimum allocation of 75 dwellings. The illustrative plans envisage the replacement of these trees, which could be secured by condition.
16. Much of the interior landscaping, other than the central tree belt, would be removed to make way for the proposed development. This would diminish the wooded appearance of the site, but its allocation for housing in the CBLP establishes the principle of a change from open land to urban development. The conceptual layout and form of the proposed development would allow the retention of the key elements of landscaping on the site necessary to maintain the sylvan character of the area. A condition could be imposed to require supplementary boundary planting to enhance the structural landscaping and reinforce its screening effect. On this basis the proposal would comply with Policy CH7 of the CBLP. The S106 UU also provides for replacement planting either on or off-site through a tree mitigation contribution, in accordance with Policy CH6.
17. With regard to the form and layout of the proposed development, the concept plan envisages a continuation of the character areas from the Forge Wood Design Statement into the proposed scheme. It would constitute an extension to the Forge Wood neighbourhood, via the cruciform junction arrangement with Somerley Drive, with an arrangement of open spaces and landscape features within and on the edges of the site. As such it would maintain the neighbourhood structure of the town in accord with Policy CH1 of the CBLP. The illustrative plans show an overall density, height of dwellings, massing and space between buildings which would be broadly consistent with other parts of Forge Wood, based on what is already on the ground and permitted.
18. On the Steers Lane frontage, the character and appearance of the street has already changed with the development of Phase 1A of Forge Wood. Apart from the original line of detached dwellings on large plots nearest the junction with Balcombe Road, the experience of travelling along Steers Lane is of housing to the south set just behind the structural landscaping, but clearly visible through the trees, particularly either side of the main entrance at Somerley Drive. The illustrative layout<sup>5</sup> shows a design for the appeal site which would reflect this

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<sup>5</sup> Proposed Sketch Layout Plan 18028/SK35

character on the north side of Steers Lane, with dwellings respectfully set back from the structural landscaping. Although shown as closer to the road either side of the proposed access, the houses on the appeal site would still be subdued and softened by the landscape screen, maintaining a sylvan character along the street.

19. In terms of the pattern of development on the Steers Lane frontage, the guidance in the Forge Wood Design Statement<sup>6</sup> expects predominantly detached housing within a landscaped frontage and access via informal drives or from within the body of the development. The illustrative layout shows a landscape frontage and access from both informal drives and rear parking courts. Whilst the illustrated dwelling type on this frontage varies, the use of short blocks of terraces and pairs of semi-detached dwellings as part of the mix<sup>7</sup> still allows for a spacious and loose-knit urban form to be achieved, with reasonable gaps between the blocks. The layout of this frontage is a matter that would be subject to detailed control at the reserved matters stage. However, a layout based on that shown in the sketch layout plan would be in keeping with the character of Forge Wood on the south side of Steers Lane. Similarly, on the Balcombe Road frontage, the illustrative plans show a loose-knit layout of blocks, with ample space around and between them and an appropriate set back from the structural landscaping.
20. At the apex of the appeal site on the junction of Steers Lane and Balcombe Road, the sketch plans show a three-storey apartment block, which the concept plan highlights as an opportunity for a landmark feature building. This is an important corner in Forge Wood and its treatment within the proposed development should ensure it preserves the sylvan character and appearance of Balcombe Road seen travelling northwards. Again this would be subject to control as part of the reserved matters. However, the illustrative layout, both that submitted with the original application and the revised scheme<sup>8</sup>, shows there is ample space at this corner to accommodate a landmark building, with a generous setback from the structural landscaping, such that any building would be seen through but softened by the tree belt.
21. Whilst three-storey buildings have generally been positioned further away from the main road frontages in other phases of Forge Wood, a more bespoke design approach to this corner is justified. A well-designed, three-storey block, which acts as a landmark to the proposed development behind the wooded edge to the site, would be sympathetic to the character and appearance of the emerging neighbourhood and its landscape setting.
22. With regard to unit typology and built form, the use of standardised house type designs and block layouts would be consistent with the urban design approach permitted in other parts of Forge Wood. I consider below the ability of the proposed scheme to satisfy the CBLP's noise, internal space, garden size, privacy, open space and parking standards. However, even if the layout were to require adjustment at the reserved matters stage to address amenity standards, the Council confirmed at the inquiry that the changes needed to achieve an acceptable scheme would be small scale. I have seen little evidence to show this would require a significant departure from the approach to unit typologies, built form or layout proposed on the illustrative plans.

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<sup>6</sup> Paragraphs 5.17 and 5.18 of CD7.6

<sup>7</sup> As shown in the Illustrative Street Scenes 18028/SK38A and Sketch Layout Plan

<sup>8</sup> Submitted in June 2019

23. With respect to parking provision, it is common ground that the number of spaces on the illustrative layout exceeds the Council's parking standards and thereby accords with Policy IN4 of the CBLP<sup>9</sup>. Whilst there are areas of frontage parking shown, these are not disproportionately associated with the affordable housing units, with at least as many private as affordable houses allocated with frontage parking. Where they do occur in larger numbers, such as on the Balcombe Road frontage or along Main Street, there is sufficient surplus parking capacity to remove some spaces and break up the frontage with more landscaping. These are details that would be subject to control as part of the reserved matters for layout and landscaping.
24. Parking courtyards are used selectively to accommodate car parking away from the main street frontages and around blocks of flats, but do not dominate the illustrative layout. Whilst I acknowledge the need for natural surveillance of courtyard parking to reduce opportunities for anti-social behaviour and crime, most of the courtyards illustrated would be overlooked by surrounding flats and houses. Where this is not the case, flats over garages (FOGs) have been included to provide natural surveillance, an acceptable urban design solution, which has been deployed on Phase 1A of Forge Wood. Overall, therefore, the illustrative parking layout would comply with Policy CH3e) of the CBLP in respect of design security principles.
25. In terms of the other principles of good design in Policy CH2 of the CBLP, the illustrative plans show a layout with frontages onto streets, clearly defined public and private spaces, the potential for attractive and safe public spaces connected by a network of footpaths, and routes which are easy to navigate with recognisable junctions and landmarks. It would also meet the normal requirements of development in respect of design quality and context in criteria a) and b) of Policy CH3.
26. Overall, based on the illustrative material submitted, I conclude that the appeal site is capable of accommodating up to 185 dwellings in a form and layout that would respect the character and appearance of the surrounding area and achieve a high quality of design. It would comply with Policies CH1, CH2, CH3a), b) and e), CH6 and CH7 of the CBLP. Consequently, it would accord with paragraph 122 of the Framework in making efficient use of land whilst maintaining the area's prevailing sylvan character and setting. It would also be consistent with the design principles in paragraph 127 of the Framework, which seek to ensure developments are sympathetic to local character, add to the overall quality of the area, maintain a strong sense of place and optimise the potential of the site to accommodate an appropriate amount of development.

#### *Mix and location of affordable housing*

27. In line with Policy H4 of the CBLP, the appeal proposal provides for 40% affordable housing on site, with a tenure split of 70% affordable rented and 30% shared ownership housing, secured through the S106 UU. Policy H3 and its reasoned justification also require a mix of house types and sizes across all affordable tenures in line with the Strategic Housing Market Assessment (SHMA). The illustrative scheme would achieve the recommended mix across the affordable housing tenures as a whole, but not if applied separately to shared ownership and affordable rented tenures. There would also be an imbalance in the ratio of flats to houses between the affordable and market housing.

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<sup>9</sup> Paragraph 2.2 of the Design Statement of Common Ground

28. However, the 106 UU obliges the appellant to secure the approval of the local planning authority to the mix of sizes and tenure split as part of an Affordable Housing Scheme, to be submitted to the Council prior to implementation. There is sufficient flexibility within the illustrative layout for an appropriate mix to be agreed through this mechanism, to meet the expectations of Policy H3 in full. On this basis, the appeal proposal would not conflict with Policy H3.
29. With regard to its location within the site, the Affordable Housing Supplementary Planning Document (SPD) expects affordable housing to be integrated with market housing to minimise social exclusion. It recommends this is done by integrating small clusters of affordable housing throughout the development<sup>10</sup>. The layout would need also to satisfy the freehold transfer and management requirements of the affordable housing provider and ensure an equitable distribution of market and affordable housing in the favourable and less favourable parts of the site<sup>11</sup>.
30. The illustrative plan<sup>12</sup> shows a clustering of affordable housing units at the Balcombe Road/Steers Lane apex, around the northern edge of the site, and a few on the Steers Lane frontage. I am not persuaded that such a distribution would be skewed towards the noisiest or less favourable parts of the site. There would be an equal number of market units on the Balcombe Road frontage where road traffic noise levels would be greatest, and the northern edge of the site offers a preferred outlook across the open land to the north. Whilst there may be an opportunity to reduce the cluster sizes and further integrate them with the market housing, this is not determinative and is a detail that could be included in the Affordable Housing Scheme over which the Council would have control under the S106 UU. I conclude that the proposed development would allow for an appropriate, policy compliant mix and location of affordable housing.

### *Amenity and Living Conditions*

#### Open space and recreation provision

31. Policy ENV5 of the CBLP requires on site provision of open space for larger housing sites to meet the amenity and recreational needs of occupiers. The Green Infrastructure SPD<sup>13</sup> requires the provision of play space, amenity green space, outdoor sports space and allotments on-site for residential developments of between 50-199 dwellings. The appeal proposal makes provision for each of these types of open space on-site in line with the standards in the SPD.
32. The illustrative plans show amenity green space within the SuDS area along the northern boundary of the site and within the structural landscaping belts, all of which are capable of providing useable as well as aesthetic amenity green space. Two play spaces would be integrated within the eastern verge of the central tree belt and community vegetable gardens as part of the communal gardens around the proposed blocks of flats in the south east and north east corners. The Design SoCG<sup>14</sup> confirms that the quantity of amenity green space, play space and allotments would exceed the SPD requirements. The S106 UU obligations provide for details to be specified in an Open Space Strategy for approval by the Council before implementation and for delivery prior to the occupation of each phase.

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<sup>10</sup> Paragraph 3.18 of CD4.2

<sup>11</sup> Paragraphs 3.19 and 3.22 of CD4.2

<sup>12</sup> Tenure distribution diagram 18038/SK15C

<sup>13</sup> Table 4 of Green Infrastructure SPD, 2016 (CD4.4)

<sup>14</sup> Table 2 of the Design SoCG

33. The S106 UU also makes a binding provision for a 'kick about space' within the blue line area adjacent to the northern edge of the site in line with the requirements of the SPD, with an alternative option for a financial contribution towards provision off-site. A financial contribution towards the provision of allotments elsewhere in the borough would also be secured by the UU. Subject to these provisions the Council confirmed at the inquiry<sup>15</sup> that its concerns in respect of open space and recreation provision were resolved. On this basis, the S106 UU and suitably worded reserved matters conditions would ensure compliance with Policy ENV5 and the Green Space SPD.

#### Internal space standards

34. Whilst initially a matter of dispute in this appeal, based on the updated illustrative unit floor plans submitted with the appellant's evidence<sup>16</sup>, it is now common ground<sup>17</sup> between the parties that the proposed dwellings are capable of meeting the Nationally Described Space Standards (NDSS). Accordingly, and again subject to appropriate conditions, the proposal would comply with Policy CH5 of the CBLP in this regard.

#### Private amenity space

35. Policy CH5 of the CBLP also expects residential development to be designed to include external amenity space adequate to meet basic privacy, amenity and usability requirements for the level of occupancy. To this end the Council's adopted Urban Design SPD<sup>18</sup> sets specific private amenity space standards for different sizes of dwelling.
36. The illustrative layout would not satisfy the guidance in respect of every plot. Although the schedule submitted by the appellant<sup>19</sup> calculates each plot to meet or exceed the requirements, a standard of 75sqm rather than 90sqm has been applied to some of the 3-bed/5-person units and the appellant's figures include front garden amenity space, which would not offer usable, private amenity space. On the basis of the Council's assessment<sup>20</sup>, the private rear gardens to 64 houses would be below the standards. Of these the Council agreed that 24 gardens could be amended to meet the requirements by adjusting boundaries, which I note would also resolve most of the more contrived garden shapes. But it would leave 40 plots, which, based on the Council's calculations, would only be able to satisfy the standards by using a different dwelling typology or by removing units from the scheme. This accounts for 32% of the 124 houses in the sketch layout and 21% of the total units.
37. However, layout is a reserved matter and altering dwelling typologies or deploying some bespoke dwelling designs to suit smaller plot sizes would be feasible amendments, which could be made at reserved matters stage. Also the standards in the Urban Design SPD are guidance, which the Council acknowledges carry lesser weight<sup>21</sup>. As such they have been applied flexibly on other parts of Forge Wood, including Phase 3A where the Council accepted that although 50% of the units did not satisfy the requirements, this would be compensated for by the provision of public amenity land and open space within the development.

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<sup>15</sup> Paragraph 22 of the Council's closing statement

<sup>16</sup> Drawings P110-P117 in Appendix 8 of David Neame's PoE

<sup>17</sup> See paragraph 1.1 of SoCG on Nationally Described Space Standards

<sup>18</sup> Table 1 of CD4.3

<sup>19</sup> Drawing P101H and schedule of Accommodation in Appendix 8 of David Neame PoE

<sup>20</sup> Annotated Schedule of Accommodation and Site Plan P101H (inquiry document 13)

<sup>21</sup> Paragraph 5.24 of Officer report to Planning Committee on Phase 3A of Forge Wood (App 5 to D. Neame PoE)

38. In this case, at least 68% of the houses could be provided with a private garden area to meet the amenity space standards. The scheme would also provide a policy compliant level of public open space on-site and its residents would have ready access to very substantial areas woodland and parkland off-site within the Forge Wood neighbourhood to the south of Steers Lane. On this basis, the proposed development would be able to provide an appropriate level of amenity space overall. Subject to reserved matters conditions, therefore, it would comply with the expectations of Policy CH5 and the Urban Design SPD in this regard.

#### Privacy

39. Policy CH3c) of the CBLP expects development proposals to achieve a good standard of amenity and not cause unreasonable harm by way of overlooking. The Urban Design SPD specifies a minimum separation distance of 21 metres between the rear facing windows of opposing dwellings to safeguard privacy. In most cases the illustrative layout would achieve or exceed this standard. In a handful of circumstances the separation distances shown are less than this. However, potential solutions were discussed at the inquiry and I am satisfied the layout could be adjusted at reserved matters stage to ensure no unacceptable levels of overlooking remained throughout the development.
40. For example, the proximity of the dwellings on plots 5 and 6 to the FOG at plot 14 and the separation distance between plots 14 and 19 could be resolved by relocating plot 14 to sit above the flat on plot 19, which would also improve the outlook for the future occupiers of plot 14. The south facing end elevation to the flats at plots 27-34 could be designed to ensure no habitable room windows faced the rear of plots 55 and 56, given that the floor layout for the flats shows their principle orientation would be on the east and west facing elevations. The relationship between plots 73 and 76 could be resolved by moving the rear facing bedroom window on plot 76 to the side.
41. The occupiers of the residential properties on Radford Road have expressed concerns about overlooking at the rear. However, the significant separation distances between the dwellings on the north side of the proposed development and the rear gardens and windows of the properties on Radford Road, together with the intervening landscape, would prevent any material loss of privacy. On this basis, the proposed development would comply with the requirements of Policy CH3c) and the Urban Design SPD with regard to privacy.

#### Noise environment

42. The proposed residential properties would be sensitive to noise. Policy ENV11 of the CBLP permits noise sensitive development where the users will not be exposed to unacceptable noise disturbance from existing or future uses. The principle sources of noise for the appeal site are road traffic along Balcombe Road and to a lesser degree on Steers Lane, and in future, the potential for noise from aircraft using a possible second runway at Gatwick airport to the north.
43. An Unacceptable Adverse Effect (UAE) from transport noise is considered to occur where noise exposure is above 66dB in the daytime and 57dB at night. The Noise Annex to the CBLP defines the 66dB noise contour for the second runway at Gatwick. It cuts across the appeal site from east to west, with the blue line land in an area predicted to be exposed to aircraft noise above 66dB from a second runway. However, the proposed residential development site lies to the south of the 66dB contour and, therefore, based on current modelling, would not be subject to UAE from aircraft noise in future.

44. Strips of land along the eastern and southern boundaries of the site are exposed to traffic noise from Balcombe Road and Steers Lane above the 66dB and 57dB thresholds. Accordingly, the illustrative layout shows dwellings set back from these frontages. On Steers Lane it is only at night that noise would be above the UAE level, so dwellings are illustrated set back behind the line of the 57dB contour. On the Balcombe Road frontage dwellings would be positioned to act as a noise barrier so that internal areas of the site would not be exposed to noise levels above 66dB in the daytime and 57db at night. The dwellings on Balcombe Road would also be designed with single aspect internal layouts and no habitable room windows on the elevations facing the road. Illustrative floor layouts submitted with the appellant's evidence<sup>22</sup> show how this could be achieved. Subject to certain alterations, which could be secured through reserved matters conditions, it is common ground that satisfactory internal layouts in relation to road noise could be achieved on the Balcombe Road frontage<sup>23</sup>.
45. For private and communal amenity areas, the Noise Annex states that the UAE is considered to occur at 63dB for road noise and 66dB for aircraft noise, below which they can be enjoyed as intended. The Council seeks a standard of no greater than 50dB from road traffic noise in garden areas or where this is not achievable by means of mitigation, no more than 55dB across the whole or a proportion of the private amenity area. The appellant's noise modelling outputs<sup>24</sup> demonstrate that based on the illustrative layout, noise levels of less than 50dB at night and less than 55dB during the daytime would be achieved on the majority of private or communal garden areas.
46. The SoCG on Noise Matters identifies a range of other mitigation measures, including acoustic screening such as bunding, fencing and walling, and appropriate glazing and ventilation to secure a maximum internal noise level in bedrooms of 45dB and to deal with the effects of noise from a second runway at Gatwick. These could be secured by condition as part of a noise mitigation scheme to be submitted as part of the reserved matters. Likewise, construction noise could be controlled through a Construction Management Plan, which could also be secured by condition. Overall, these measures would ensure a satisfactory noise environment for the proposed development and allow compliance with Policy ENV11 of the CBLP.

#### Conclusion on living conditions and amenity

47. Therefore, based on the illustrative material submitted, I conclude that the appeal site is capable of achieving a high standard of amenity and acceptable living conditions for its future occupiers, with particular regard to open space and recreation provision, internal space standards, private amenity space, privacy and the existing and future noise environment. The illustrative material shows how the scheme could be accommodated whilst complying with Policies CH3c), CH5, ENV5 and ENV11 of the CBLP. Suitably worded conditions and the S106 UU would provide the local planning authority with control over the details of these factors at the reserved matters stage. Consequently, the proposal would also accord with paragraph 127f) of the Framework which seeks to create places with a high standard of amenity for existing and future occupiers.

<sup>22</sup> Plans P113-P116 in Appendix 8 to D. Neame PoE

<sup>23</sup> Paragraph 1.2 of the SoCG on NDSS

<sup>24</sup> Appendix 3 to David Trew PoE

## *Housing Needs*

48. It is common ground that the Council can demonstrate a supply of deliverable sites sufficient to provide at least 9.59 years' worth of housing against the adopted housing requirement in the CBLP<sup>25</sup>. Housing is also currently being delivered in Crawley well in excess of the number of homes required under the Housing Delivery Test (HDT) for both 2018 and 2019<sup>26</sup>. Whilst there is significant unmet need arising in Crawley due to the borough boundaries being tightly drawn around the urban area, under the duty to co-operate (DtC) the adjoining local planning authorities within the housing market area (HMA), Horsham and Mid-Sussex District Councils, are meeting the majority of that unmet need through their current adopted local plans. In addition, the total anticipated housing land supply in Crawley of 6,280 dwellings for the period 2015-2030<sup>27</sup> exceeds the housing requirement in the CBLP. As such, for the purposes of this appeal, the evidence indicates that the adopted housing requirement and objectively assessed housing need (OAN) for Crawley Borough are currently provided for.
49. Whilst local housing need in Crawley is set to increase in the emerging Local Plan Review (LPR) for the period 2020-2035, the LPR has only just been published under Regulation 19 and has yet to be submitted for examination. Therefore, it is too early to tell with any certainty what the ultimate housing requirement for Crawley might be or the degree to which the adjoining councils within the HMA may be able to provide for any of Crawley's future unmet housing need through the DtC. Accordingly, it is common ground that limited weight can be attached to the LPR in this case<sup>28</sup> and I concur with this.
50. However, the Council acknowledges that the anticipated housing delivery in the CBLP is front-loaded and that the tailing off of completions later on in the plan period, from 2023/24 onwards, is likely to result in Crawley failing the HDT from the 3-year period of 2024-26 to the end of the plan period<sup>29</sup>. The appeal site is identified for a minimum of 75 dwellings for delivery in 2025/26. The additional 110 dwellings proposed in this appeal would usefully supplement the housing supply, potentially from 2023/24 onwards, and thereby help to reduce the predicted drop off in delivery. This would support the Government's objective in paragraph 59 of the Framework of significantly boosting the supply of homes. It would also support the delivery of the borough's housing requirement of a minimum of 5,100 dwellings set out in Policy H1 of the CBLP, allowing for some non-implementation of sites within the anticipated supply.
51. With regard to affordable housing, the latest assessment indicates that affordable housing needs in Crawley are acute, with a need ranging from 197 dwellings per annum (dpa) to 527dpa<sup>30</sup>. The delivery of affordable housing over the first 3 years of the plan period has fallen significantly short of this level of need, with 404 affordable dwellings built between 2015-18 at an average of 134dpa<sup>31</sup>. The appeal proposal would provide for 74 affordable housing units at 40% of the total, amounting to an additional 44 units above that which would be

<sup>25</sup> Paragraph 2.1 of the Housing Supply Matters SoCG and Appendix B of the Crawley Annual Monitoring Report, April 2017-March 2018 (AMR)

<sup>26</sup> 181% of the HDT in 2018 and 235% of the HDT in 2019

<sup>27</sup> Appendix B of the AMR

<sup>28</sup> Paragraph 5.9 of the SoCG on Planning Issues

<sup>29</sup> Paragraph 3.16 of the AMR

<sup>30</sup> Paragraphs 5.21-5.24 of the Northern West Sussex HMA, Affordable Housing Needs Model Update, 2014 (CD4.11)

<sup>31</sup> Table 3.3 of the 2017-18 AMR

provided within the minimum allocation of 75 dwellings. It would also deliver 10% of the units as low cost housing. The provisions of the S106 UU would secure the delivery of both the affordable and low cost housing in line with the requirements of Policy H4 of the CBLP and the expectations of paragraphs 62 and 64 of the Framework. As such the proposal would make an important contribution to meeting the affordable housing needs of the borough and addressing the current shortfall in the delivery of affordable housing.

#### *Other Matters*

52. Vehicular access to the site would be via a four-arm signalised junction on Steers Lane with Somerley Drive, with provision for pedestrians and cyclists, the design of which has been agreed with West Sussex County Council as the Highway Authority<sup>32</sup>. Public Right of Way (PRoW) No. 3377 crosses the site, but the illustrative layout shows how it's route would be protected and enhanced as part of the proposed development. Improvements are also proposed to the PRoW where it meets and crosses Steers Lane and Balcombe Road<sup>33</sup>.
53. The site is within acceptable walking distance of local facilities within Forge Wood, including the primary school, proposed local centre, parks and recreation facilities, all of which would be connected by a network of footways and cycle paths. Employment opportunities are available nearby at Manor Royal and Gatwick Airport, and new employment floorspace is being provided within Forge Wood. Bus services from Steers Lane provide access to the employment areas, as well as the railway station and the town centre. To ensure good access to and uptake of bus services, a new footpath is proposed to the bus stop on Steers Lane adjacent to the site and a financial contribution towards the upgrade of bus stops, shelters and timetabling would be secured by the S106 UU. A travel plan is also proposed to encourage the use of sustainable travel modes.
54. The proposed development would place additional traffic onto the local highway network, which is already busy at peak times. This has been modelled as part of the transport assessment submitted with the application and found to be acceptable. The above transport and highway improvement measures, combined with the accessibility of the site to local services and facilities by sustainable modes of travel, would serve to mitigate the impact of the proposal on the highway network and reduce the need for future residents of the development to travel by private car. All of these are matters of common ground between the appellant and the Highway Authority<sup>34</sup> and the measures could be secured by condition or the provisions of the S106 UU. On this basis, the proposal would comply with Policy IN3 of the CBLP and paragraph 108 of the Framework in respect of sustainable transport and safe and suitable access. Consequently, it would not result in an unacceptable impact on highway safety or a severe residual cumulative impact on the road network in line with paragraph 109 of the Framework.
55. In terms of ecological impacts, the proposal would not harm any designated or ancient woodland. The loss of trees on site would be mitigated and compensated for by replacement planting within the structural landscaping and central tree belt on site, together with the management of the trees and open land within the blue line area to the north of the development site. The S106

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<sup>32</sup> Drawing number ITB14028-SK-018 Rev D

<sup>33</sup> Drawing nos. ITB14028-SK-018 Rev D and ITB14028-SK-024 Rev A

<sup>34</sup> Section 8 of Transport and Highways SoCG

UU makes provision for this in the form of a Landscape and Ecological Management Plan relating to the land within both the red and blue line areas, which would require the approval of the local planning authority.

56. Surveys revealed the site is used by a wide range of nesting birds, including four notable species. However, it is common ground that the retention of the trees on the boundary and within the central belt, and the vegetation on the area to the north, would retain suitable bird nesting habitat within the scheme<sup>35</sup>. Vegetation clearance would need to avoid the bird nesting season and a bird hazard management plan would be required to minimise the potential for birdstrike risk to aircraft operating in and around Gatwick airport. Whilst no bat roosts were recorded, the site is frequented by foraging bats and therefore sensitive lighting and a variety of measures to enhance the opportunities for bats are recommended. All of these measures could be secured by condition and provisions in the S106 UU. It is common ground that the combination of mitigation and compensatory measures proposed would be sufficient to ensure an ecological net gain from the scheme<sup>36</sup>. As such it would comply with Policy ENV2 of the CBLP.
57. The site has modest archaeological potential. However, subject to an condition to secure a programme of archaeological investigation, and mitigation if required, it is common ground between the Council and appellant<sup>37</sup> that no archaeological harm would result from the proposed development. This would satisfy Policy CH12 of the CBLP.
58. The site is at low risk of flooding and the surface water drainage strategy for the proposed development includes a Sustainable Drainage System (SuDS), with swales along the northern boundary of the site, to manage run-off and avoid any increase in flood risk elsewhere. This would accord with the approach to flood risk set out in Policy ENV8 of the CBLP. The design and implementation of the drainage strategy could be required by condition and the future management of the SuDS would be dealt with via provisions in the S106 UU.
59. Policy IN1 of the CBLP requires developments to make provision for their on and off-site infrastructure needs. The S106 UU would secure open space, play areas, an outdoor recreation facility (kick about area) and SuDS on-site, together with off-site highway works, allotments and improvements to bus stops. These would serve to absorb the demands of the development and mitigate its impact on local infrastructure. The development would also be liable for a Community Infrastructure Levy (CIL) payment, which would, amongst other things, fund the improvement of education and healthcare facilities to support the needs of occupiers of the development. On this basis, the proposal would comply with the requirements of Policy IN1 and not result in unacceptable harm to local community infrastructure.

### **Planning Balance and Conclusion**

60. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The appeal proposal would provide up to 185 dwellings on a site identified in the CBLP for a minimum of 75 units. Whilst this would be well in excess of the

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<sup>35</sup> Paragraph 6.25 of the Planning Matters SoCG

<sup>36</sup> Paragraph 6.29 of the Planning Matters SoCG

<sup>37</sup> Paragraph 6.35 of the Planning Matters SoCG

allocation for the site, I have concluded above that, based on the illustrative plans and material submitted and subject to appropriately worded conditions and the provisions of the S106 UU, the appeal site is capable of accommodating up to 185 dwellings in a form and layout that would respect the character and appearance of the surrounding area, and achieve a high quality design, a policy compliant scheme of affordable housing, and a high standard of amenity and acceptable living conditions for its future occupiers.

61. Some details of the illustrative layout would require amendment to ensure consistency with relevant policies of the CBLP at the reserved matters stage. As discussed above, this includes adjusting plot boundaries or dwelling types in a few places to achieve a greater proportion of plots with adequate garden sizes; addressing the few instances of below standard separation distances; the design and position of the flats on the apex of the Steers Lane/Balcombe Road frontages; the internal layout of some units to ensure single aspect design for noise mitigation; and reviewing the affordable housing scheme in respect of the mix of flats and houses across the tenures and clustering of units. However, I am satisfied that cumulatively these matters would involve relatively small scale changes to the layout and dwelling designs, would not necessitate a reduction in the number of units and could be controlled by the Council at the reserved matters stage through conditions and the UU. On this basis the proposal would accord with Policies CH1, CH2, CH3, CH5, CH7, H3, ENV11 and IN4 of the CBLP.
62. Any potential harm through the loss of trees and habitat, the generation of additional traffic, effects on archaeology, surface water run-off and pressure on open space and other local infrastructure would be mitigated or compensated for through measures which could be secured by conditions and the provisions of the S106 UU. The replacement tree planting, on and off site open space provision, transport and highway measures, programme of archaeological investigation and SuDS would all ensure the development had a neutral effect on those factors. The proposed ecological management scheme would deliver an ecological net gain and thereby a benefit to the area. Together, these measures would ensure compliance with Policies CH6, CH12, ENV1, ENV2, ENV8, ENV5 and IN3 of the CBLP.
63. The proposal would accord with Policies H1 and H2 of the CBLP, which seek to provide a minimum of 5,100 dwellings in the borough by 2030, whilst ensuring against unacceptable impacts on the planned character of existing neighbourhoods or on residential amenity. The additional 110 dwellings above the minimum allocation would give timely support to reducing the predicted tailing off in housing delivery from 2023/24 onwards. It would also provide an additional 44 affordable homes and up to an additional 11 low cost homes over and above the allocation, helping to address the pressing need for affordable housing in Crawley in support of Policy H4 of the CBLP. I accord significant weight to both the market and affordable housing contributions of the proposal, which the Council also recognises<sup>38</sup>. The provision of housing would also bring economic benefits through additional expenditure within the local economy during the construction phase and in the longer term from future residents.
64. The housing, economic and ecological benefits of the proposal, its accessible location, mitigation of environmental impacts and the overall consistency of the illustrative plans with the character of the surrounding area and the design

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<sup>38</sup> Paragraph 28 of Closing Statement on behalf of CBC

standards of the emerging Forge Wood neighbourhood, supports the presumption in favour of sustainable development in Policy SD1 of the CBLP. The proposed development is consistent with the Framework, in particular paragraphs 59, 62, 64, 108, 109, 122 and 127, and accords with development plan when taken as a whole. Paragraph 11c) of the Framework indicates that in such circumstances the presumption in favour of sustainable development means approving the development without delay. There are no material considerations which indicate otherwise.

65. Accordingly, for the reasons given above, and taking account of all other matters raised, I conclude that the appeal should be allowed and outline planning permission granted, subject to the conditions in the attached schedule and the obligations in the S106 unilateral undertaking dated 23 January 2020.

### **Conditions and Planning Obligation**

66. The Council and the appellant submitted a set of suggested planning conditions which were discussed at the inquiry. I have considered which conditions are required having regard to the tests contained in the Framework and the Planning Practice Guidance. In doing so I have sought to ensure the local planning authority retains effective control, as local planning authority, over the detailed design and implementation of the proposed development at the reserved matters stage. I have revised the wording of some of the conditions, either as discussed at the inquiry or in the interests of clarity and enforceability.
67. I have attached conditions limiting the number of dwellings to 185 and to ensure the scheme complies with the site concept plan, as key parameters for the reserved matters applications. I have also tied the implementation of the scheme to the approved access plans in the interests of highway safety. It is necessary to set time limits for the submission of reserved matters and implementation of the permission in accordance with the requirements of the Act. A condition to clarify the remaining details relating to highway design and visibility within the site to be submitted as reserved matters is also necessary in the interests of highway safety.
68. A phasing condition is necessary to ensure the phased delivery of on-site infrastructure specified in the associated S106 undertaking in conjunction with the construction and occupation of dwellings. Conditions requiring the submission and implementation of wildlife and ecological mitigation measures and a scheme of archaeological investigation are necessary to avoid adverse impacts on protected species and heritage assets.
69. Conditions preventing occupation of the development until the approved details of highway works, parking areas, turning spaces, cycle parking and works to the public right of way have been implemented and a travel plan submitted and approved are necessary and reasonable in the interests of highway safety, to safeguard public rights and encourage sustainable travel. A Construction Management Plan, including controls over the hours of working, is necessary to ensure highway safety and safeguard local amenity.
70. Conditions requiring the submission and implementation of a landscaping scheme and measures to protect the trees, hedges and bushes to be retained on site during construction are necessary to maintain and enhance the sylvan character of the area. Conditions to control the remediation of contamination, surface water infiltration into the ground and piling are necessary to avoid risks

to groundwater and controlled waters. A condition requiring prior approval of the surface water drainage strategy is necessary to ensure the development does not increase the risk of flooding.

71. The submission and approval of external materials is necessary and reasonable to enable the Council to control the detailed appearance and design of the scheme. Conditions to control land levels, finished floor levels and building heights are necessary to ensure the development would not penetrate the Obstacle Limitation Surface surrounding Gatwick Airport. Likewise conditions to require the implementation and retention of the Bird Hazard Management Plan specified in the S106 undertaking and control the design of any external lighting scheme are necessary in the interests of the safe movement of aircraft operating in and around the airport.
72. Conditions to control the energy and water consumption of the proposed development are necessary to preserve water resources and mitigate climate change. A condition to require compliance with the minimum NDSS and satisfactory private outdoor amenity space as part of the reserved matters is necessary to ensure acceptable standards of amenity for future occupiers. A condition restricting permitted development rights for residential extensions and outbuildings is reasonable and necessary to safeguard the outlook and privacy of future occupiers of the site. Likewise a condition requiring a scheme for combined television reception and broadband facilities is reasonable in the interests of visual amenities and to ensure sustainable access to services.
73. Conditions requiring the development to be designed to avoid exposure to Unacceptable Adverse Effects from noise and mitigation measures to achieve acceptable external and internal noise levels are necessary to safeguard the living conditions and amenity of future occupiers of the scheme. Finally conditions to ensure the provision of open space and refuse and recycling storage facilities are necessary to secure a good quality of environment for the proposed development.
74. The permission is also subject to the signed S106 undertaking, dated 23 January 2020. This secures the provision of affordable and low cost housing and open space on site; financial contributions to allotments, tree mitigation and the upgrade of bus stops; the implementation of highway works, a landscape and ecological management plan and a sustainable drainage system; compliance with a bird hazard management plan; and the establishment of a residential management company for the landscape, open space and ecological management area. The obligations are required to mitigate the impacts of the proposed development and ensure it complies with the relevant policies of the development plan. As such they are necessary to make the development acceptable in planning terms. They are also directly related to the development and fairly and reasonably related in scale and kind to it. Accordingly, the deed meets the tests set out in paragraph 56 of the Framework and in regulation 122 of the CIL Regulations 2010.

*M Hayden*

INSPECTOR

## **SCHEDULE OF CONDITIONS**

1. The development hereby permitted shall not be carried out other than in accordance with the approved plans as listed below, save as varied by the conditions hereafter:

Site Location Plan S101A

Site Access Arrangement ITB14028-SK-018 Rev D

Balcombe Road Public Right of Way Levels ITB14028-SK-024 Rev A

And in compliance with the Proposed Site Concept Plan drawing number C02L.

2. No more than 185 dwellings shall be constructed on this site pursuant to this planning permission.
3. Details of the appearance, landscaping, layout, and scale (hereinafter called 'the reserved matters') for the whole of the development hereby permitted shall be submitted to and approved in writing by the Local Planning Authority before any development takes place and the development shall be carried out as approved.
4. Application for approval of the reserved matters shall be made to the Local Planning Authority not later than 3 years from the date of this permission.
5. The development hereby permitted shall begin not later than 2 years from the date of approval of the last reserved matters to be approved.
6. Plans and particulars submitted pursuant to conditions 3 and 4 above shall include the following details:
  - (i) any proposed access road(s) including details of horizontal and vertical alignment;
  - (ii) the layout and specification for (1) any internal roads not covered by Condition 9, (2) footpaths, (3) parking and turning areas (including visibility splays), (4) cycle parking areas, and (5) cycle storage facilities;
  - (iii) the positions, design, materials and type of boundary treatment (including all fences, walls and other means of enclosure) to be provided;
  - (iv) finished ground levels for all hard landscaped areas, footpaths and similar areas;
  - (v) details of all surfacing materials, street furniture, signs, lighting, refuse storage units and other minor structures;
  - (vi) contours for all landscaping areas, together with planting plans and schedules of plants, noting species, sizes and numbers/ densities, details of all trees, bushes and hedges which are to be retained and a written specification for the landscape works (including a programme for implementation, cultivation and other operations associated with plant and grass establishment); and
  - (vii) lighting to roads, footpaths and other public areas.
7. As part of the submission of the first reserved matters application a plan detailing any proposed phasing for the implementation of the development

shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved phasing plan unless otherwise agreed in writing by the Local Planning Authority.

8. No development shall take place, until the following have been submitted as part of the reserved matters to, and approved in writing by, the Local Planning Authority:
  - a wildlife-sensitive lighting plan with modelled lux levels demonstrating how light pollution of habitat areas will be avoided and overall glare and illumination considered;
  - details of habitat enhancements and long-term management, which may be integrated with landscape proposals into a landscape and ecological management plan (LEMP) and should include details of long-term management responsibility, funding mechanisms, monitoring and review.

If there is a delay greater than 18 months between the submission of these details and the dates of the original ecological surveys, updated ecological surveys shall be submitted or a statement of justification provided if there are unlikely to be any significant changes to baseline ecological conditions.

The approved details shall be implemented in full unless otherwise approved in writing by the Local Planning Authority.

9. No development shall take place until the applicant has secured the implementation of a programme of archaeological work in accordance with a Written Scheme of Investigation which shall have been submitted to and approved in writing by the Local Planning Authority.
10. No part of the development shall be occupied until the proposed vehicular access and associated highways works serving the development have been constructed in accordance with the approved plans, including revisions to any Traffic Regulation Orders, road markings, extensions to the footway on the north side of Steers Lane towards the proposed relocated bus stop location, and associated infrastructure as may be necessary and in accordance with the recommendations of any Road Safety Audits and S38/278 requirements.
11. No part of the development shall be first occupied until the roads, footways, and casual parking areas serving the development have been constructed in accordance with plans and details to be submitted to and approved by the Local Planning Authority prior to construction.
12. No individual dwelling shall be occupied until the vehicle parking and turning spaces (including garages and electric vehicle charging facilities) associated with that dwelling have been constructed in accordance with plans and details to be provided to and agreed with the Local Planning Authority. These spaces shall thereafter be retained for their designated use.
13. No individual dwelling shall be occupied until covered and secure cycle parking spaces for that dwelling have been provided in accordance with plans and details to be provided to and agreed with the Local Planning Authority. These spaces shall thereafter be retained for their designated use.

14. No part of the development shall be first occupied until such time as a final Travel Plan has been submitted to and approved in writing by the Local Planning Authority. The Travel Plan shall be completed in accordance with the latest guidance and good practice documentation as published by the Department for Transport or as advised by the County Highway Authority.
15. No part of the development shall be first occupied until such time as plans, details and construction specifications showing the proposed changes and surfacing works for Right of Way (Public Footpath No. 3377) have been submitted to and approved in writing by the Local Planning Authority.
16. The existing public right of way (Public Footpath No.3377) across the site shall remain unless legally stopped up or diverted prior to the commencement of any of the development hereby permitted. The alignment of any public right of way shall be protected by being clearly demarcated, signed and fenced, as may be approved by the Local Planning Authority after consultation with the County Highway Authority, throughout the course of the development.
17. No development shall take place, including any works of demolition, until a Construction Management Plan (CMP) has been submitted to and approved in writing by the Local Planning Authority. Thereafter the approved CMP shall be implemented and adhered to throughout the entire construction period. The CMP shall provide details as appropriate but not necessarily be restricted to the following matters:-
  - the anticipated number, frequency and types of vehicles used during construction;
  - the method of access and routing of vehicles during construction;
  - details of the area(s) subject to construction activity;
  - details of cranes and other tall construction equipment (including details of obstacle lighting);
  - the parking of vehicles by site operatives and visitors;
  - the loading and unloading of plant, materials and waste;
  - the height and areas for the storage of plant, equipment and materials used in construction of the development;
  - details of temporary lighting;
  - the erection and maintenance of security hoarding;
  - the provision of wheel washing facilities and other works required to mitigate the impact of construction upon the public highway (including the provision of temporary Traffic Regulation Orders);
  - details of public engagement both prior to and during construction works;
  - details of a dust and smoke management plan;
  - control and disposal of putrescible waste to prevent attraction of birds;
  - site restoration;
  - protection and mitigation measures for wildlife and habitat;
  - hours of construction works to be limited to 0800 to 1800 Mondays to Fridays and 0800 to 1300 on Saturdays, with no noisy construction works to take place on Sundays, Bank Holidays and Public Holidays.

18. No development, including site works of any description, shall take place on the site unless and until there has been submitted to and approved in writing by the Local Planning Authority, an Arboricultural Impact Assessment report, an Arboricultural Method Statement and a Tree Protection Plan. The approved details shall include the method by which all the existing trees/bushes/hedges to be retained on the site are to be protected. The development shall be implemented in accordance with the approved details and within the protected areas the existing ground level shall be neither raised nor lowered and no materials, temporary buildings, plant machinery or surplus soil shall be placed or stored thereon without the prior written approval of the Local Planning Authority. If any trenches for services are required in the fenced off areas they shall be excavated and backfilled by hand and any tree roots encountered with a diameter of 25 mm or more shall be left unsevered.
19. If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted, and obtained written approval from the Local Planning Authority for, a remediation strategy detailing how this unsuspected contamination shall be dealt with. The remediation strategy shall be implemented as approved, verified and reported to the satisfaction of the Local Planning Authority.
20. No drainage systems for the infiltration of surface water drainage into the ground are permitted other than with the express written consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to Controlled Waters. The development shall be carried out in accordance with the approval details.
21. Development shall not commence until a detailed drainage strategy in respect of all the land within the red line as shown on the Site Location Plan has been submitted to and approved in writing by the Local Planning Authority. For the purposes of this condition the drainage strategy shall be based upon the principle of sustainable drainage systems ("SuDS") and be in accordance with the submitted Flood Risk Assessment and Drainage Statement (June 2019). The submitted Plan shall include details of:
  - hydraulic calculations;
  - attenuation times;
  - profiles, levels & dimensions of water bodies;
  - details of marginal planting;
  - the approved maintenance regime and management details; and
  - a programme for implementation.The agreed measures shall be implemented and brought into use in strict accordance with the agreed drainage strategy prior to first occupation of the residential units hereby permitted.
22. Piling or any other foundation designs using penetrative methods shall not be permitted other than with the express written consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to groundwater. The development shall be carried out in accordance with the approved details.

23. No development above slab level shall be carried out unless and until a schedule of materials and finishes and, where so required by the Local Planning Authority, samples of such materials and finishes to be used for external walls, glazing and roofs of the proposed buildings and for external hard surfaced areas have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
24. Buildings and structures on this site must not exceed the maximum building heights shown on the Existing Site Constraints Plan 18028/C01F. This is also subject to a navigational aids impact assessment.
25. Before any work for the implementation of this permission commences, detailed plans and particulars of the land levels and the finished floor levels of the dwellings shall be submitted to and approved in writing by the Local Planning Authority, and the dwellings shall be constructed in accordance with the approved levels.
26. The Bird Hazard Management Plan dated 5 August 2019 shall be implemented as approved upon commencement of the development, and shall remain in force in perpetuity. No subsequent alterations to the plan are to take place unless first submitted to and approved in writing by the Local Planning Authority.
27. Prior to the commencement of development, an Energy & Sustainability Statement shall be submitted and approved in writing by the Local Planning Authority detailing measures by which the dwellings will address sustainability objectives concerning climate change mitigation and adaptation. The scheme shall be carried out in accordance with the approved details.
28. The residential units shall not be occupied until details have been submitted to and approved by the Local Planning Authority to demonstrate that they will achieve a water efficiency standard consistent with the submitted Energy & Sustainability Statement by consuming not more than 90 litres per person per day maximum water consumption. The scheme shall be implemented in accordance with the approved details.
29. The Reserved Matters applications shall include details of how the internal space standards comply with the minimum sizes set out in the Nationally Described Space Standards together with details of how the private outdoor amenity space standards set out in the Council's Urban Design Supplementary Planning Document have been satisfied. The development shall be implemented in accordance with these standards.
30. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), or Orders amending or revoking the same, no development within Class A, Class B, Class C and Class E of Part 1 of Schedule 2 to that Order shall be carried out without the prior permission of the Local Planning Authority on an application in that behalf.
31. No development above slab level shall take place unless and until a scheme to provide combined television reception facilities and superfast broadband for the dwellings hereby approved has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the agreed details and the approved facilities shall be made available to each individual unit prior to that unit being occupied.

32. Prior to development above slab level details of the permanent external lighting scheme for the development shall be submitted to the Local Planning Authority for their written approval. The approved lighting scheme is to be implemented as approved, no subsequent alterations shall take place unless first submitted to and approved in writing by the Local Planning Authority.
33. No development shall take place until there has been submitted to, and approved by, the Local Planning Authority a soft and hard landscaping scheme, including details of retained trees, boundary treatments, any earthworks, grassed areas and the species, number and spacing of trees and shrubs to be planted. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the occupation of the buildings or the completion of the development, whichever is the sooner, and any trees or plants which, within a period of five years from the completion of development die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation. All hard landscaping comprised in the approved details of landscaping shall be carried out before the completion of the development or first occupation, whichever is the sooner.
34. The noise level outside any opening window to a noise-sensitive habitable room shall not be exposed to an Unacceptable Adverse Effect Level as stated in Policy ENV11 of the Crawley Borough Local Plan 2015-2030 (CBLP) unless otherwise agreed in writing by the Local Planning Authority. The Unacceptable Adverse Effect Level in Policy ENV 11 is considered to occur where noise exposure from transport sources is above 66dB  $L_{Aeq,16hr}$  and 57dB  $L_{Aeq,8hr}$  at night and taking into account noise from a possible second wide-spaced mixed mode runway at London Gatwick Airport as set out in Figure 1 of the Noise Annex to the CBLP, which draws upon the noise contours published by the Civil Aviation Authority (CAA) in their report: ERCD report 0308.
35. Before the development hereby permitted is commenced, a scheme shall have been submitted to and been approved in writing by the Local Planning Authority to protect the site and dwellings against the noise from the Balcombe Road, Steers Lane and a wide-spaced second runway at Gatwick Airport.
  - (1) For the purposes of this condition the scheme shall demonstrate that all reasonable mitigation measures have been employed to mitigate noise impacts to an acceptable level that is as low as is reasonably achievable. The mitigation shall include, but not exclusively, the following steps:
    - (a) Provide appropriate distances between noise sensitive developments and noise sources;
    - (b) Land zoning to separate noisy uses from noise sensitive uses, for example, avoiding the siting of children's playing areas next to accommodation for the elderly;
    - (c) Careful orientation of building layout, such as at right angles to the noise source;

- (d) Internal layout of dwellings, through the location of non-habitable rooms such as bathrooms, kitchens and circulation areas located on the noisier façades and noise sensitive habitable rooms located on the less noisy façades;
  - (e) Screening by non-noise sensitive structures or barrier blocks such as garages and walls;
  - (f) The introduction of acoustic screening such as bunding/embankments, fencing and walling;
  - (g) Protection of external residential amenity areas by positioning them towards the centre of the development sites.
- (2) The scheme shall also demonstrate that the above mitigation steps in paragraph (1) are able to achieve:
- (a) a noise level within any (unoccupied) domestic living room (including kitchen/diners and open plan studio flats) or bedroom, with windows open, of no more than 35 dB  $L_{Aeq,16hr}$  (between 0700 and 2300 - day) and no more than 30dB  $L_{Aeq,8hr}$  (between 2300 and 0700 - night);
  - (b) a maximum noise level within any (unoccupied) domestic bedroom (or studio flats), with windows open, shall not normally exceed 45 dB(A)  $L_{AF,Max}$  between 2300 and 0700; and
  - (c) a road traffic noise level in any external amenity areas of no more than 50dB  $L_{Aeq,16hr}$ . Where this standard cannot be achieved despite all potential mitigation being carried out, a level of no more than 55dB  $L_{Aeq,16hr}$  will be acceptable for the whole or a proportion of the private amenity area, the details of which are to be agreed with the LPA.
- (3) Where the standards in (a) and/or (b) in paragraph (2) above cannot be achieved with windows open, the scheme must show how those standards will be met with windows shut and the means by which natural ventilation, and, if proved necessary, mechanical ventilation will be provided to adequately deal with summer overheating.
- (4) After completion and prior to occupation, a survey involving the measurement of the effectiveness of the scheme shall be undertaken. The survey shall select representative examples of dwelling types in agreement with the Local Planning Authority and identify the level of compliance to the scheme. A written report of the findings, identifying the level of compliance shall be submitted to the Local Planning Authority within 1 month of the survey completion. No part of the development can be occupied where compliance has not been achieved in full.
- (5) Where a dwelling does not comply with the standards in paragraph (2) sections (a) and (b) the applicant shall submit a scheme of remedial works within 1 month for approval by the LPA and which shall include a programme for the implementation of the remedial works. The approved scheme for that dwelling must be implemented in full prior to occupation of that dwelling. No dwelling hereby permitted shall be occupied until the approved scheme has been implemented in respect of that dwelling.

- (6) The approved noise protection scheme must be implemented in full and maintained for the lifetime of the building. Any amendments to the scheme or alterations to the windows or ventilation must be agreed with the Local Planning Authority in advance of an application on that behalf.
36. Prior to commencement of the development hereby approved a scheme for the provision of on-site open space, including its implementation and delivery in relation to the occupation of the residential units shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved scheme.
37. No dwelling shall be occupied until full details of refuse and recycling storage facilities for that dwelling have been submitted to and approved in writing by the Local Planning Authority. The agreed refuse and recycling storage facilities shall be fully implemented prior to occupation of that dwelling and subsequently maintained for the use of its residents.

Richborough Estates

## **APPEARANCES**

### **FOR THE LOCAL PLANNING AUTHORITY:**

|                                         |                                                         |
|-----------------------------------------|---------------------------------------------------------|
| Heather Sargent                         | of Counsel, instructed by Crawley Borough Council (CBC) |
| Valerie Cheesman BSc (Hons), BTP, MRTPI | Principal Planning Officer, CBC                         |
| Kevin Dillon BA (Hons) ARCH, Dip ARCH   | Urban Design Officer, CBC                               |
| Elizabeth Brigden MTCP, MRTPI           | Planning Policy Manager, CBC                            |
| Brian Cox MCIEH, MSc Acoustics          | Principal Environmental Health Practitioner, CBC        |

### **FOR THE APPELLANT:**

|                                                |                                                     |
|------------------------------------------------|-----------------------------------------------------|
| Peter Village                                  | of Queen's Counsel, instructed by Neame Sutton Ltd. |
| James Bevis ME, MILT, MCIHT                    | Partner, i-Transport LLP                            |
| David Trew CEng BEng MIOA                      | Partner, Bickerdike Allen Partners LLP              |
| Clare Brockhurst FLI, BSc (Hons), Dip LA       | Director, Leyton Place Ltd.                         |
| Michael Lowndes BA (Hons), Dip TP, MSc, AA Dip | Independent Planning & Urban Design Consultant      |
| David Neame BSc (Hons), MSc, MRTPI             | Director, Neame Sutton Ltd.                         |
| Paul Dallain BA (Hons) Dip Arch RIBA           | Partner, OSP Architecture                           |

### **INTERESTED PARTIES:**

|              |                                       |
|--------------|---------------------------------------|
| Tim Townsend | West Sussex County Council - Highways |
|--------------|---------------------------------------|

## **DOCUMENTS SUBMITTED AT THE INQUIRY**

1. Proposed Typical Floor Layouts – 18028/SK19 – at A3 size.
2. Proposed Typical Floor Layouts – 18028/SK20 – at A3 size.
3. Proposed Typical Floor Layouts – 18028/SK29B – at A3 size.
4. Notice of application for costs on behalf of the Appellant, dated 10 January 2020.
5. Opening submissions on behalf of the Appellant, dated 14 January 2020.
6. Opening statement on behalf of Crawley Borough Council, dated 14 January 2020.
7. Notice of application for costs on behalf of Crawley Borough Council, dated 14 January 2020.
8. Paragraph 47 of the National Planning Policy Framework 2012.
9. CIL Compliance Statement, Crawley Borough Council.
10. Suggested conditions, dated 17 January 2020.
11. Amended proposed Site Concept Plan for Steers Lane, Crawley – 18028/C02L, dated January 2020.
12. Statement of experience for Paul Dallain RIBA, on behalf of the Appellant.
13. Annotated Schedule of Accommodation and Site Plan P101 H, with Crawley Borough Council calculations for garden sizes.
14. Statement of common Ground on Nationally Described Space Standards, dated 17 January 2020.
15. Closing Statement on behalf of Crawley Borough Council, dated 17 January 2020.
16. Closing Submissions on behalf of the Appellant, dated 17 January 2020.

## **DOCUMENTS SUBMITTED FOLLOWING THE CLOSE OF THE INQUIRY**

17. S106 Unilateral Undertaking from Danescroft, signed and dated 23 January 2020.