



---

## Appeal Decision

Hearing held on 6 February 2024

Site visit made on 7 February 2024

by J Bowyer BSc(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 March 2024

---

Appeal Ref: APP/Y3615/W/23/3330834

Streamside Harpers Road, Ash, Guildford GU12 6DB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Mr Andrew Kamm, Bourne Homes Ltd against the decision of Guildford Borough Council.
  - The application Ref 22/P/00977, dated 30 May 2022, was refused by notice dated 26 June 2023.
  - The development proposed is demolition of existing house and outbuildings and erection of 22 new houses with associated parking and creation of new vehicular access.
- 

### Decision

1. The appeal is allowed and outline planning permission **is granted for 'demolition of existing house and outbuildings and erection of 22 new houses with associated parking and creation of new vehicular access' at Streamside Harpers Road, Ash, Guildford GU12 6DB** in accordance with the terms of the application Ref 22/P/00977 dated 30 May 2022 subject to the conditions in the attached schedule.

### Application for Costs

2. An application for costs was made by Mr Andrew Kamm, Bourne Homes Ltd against Guildford Borough Council. This application is the subject of a separate Decision.

### Preliminary Matters

3. The appeal seeks outline planning permission. Approval is sought for matters of access, layout and scale, and I have considered the appeal on this basis. I have regarded details of the reserved matters of appearance and landscaping as illustrative.
4. Prior to the opening of the Hearing, the appellant provided a planning agreement pursuant to section 106 of the Town and Country Planning Act 1990. A completed agreement dated 13 February 2024 (**'the s106'**) **was** submitted shortly after the Hearing closed.
5. A revised version of the proposed site plan was submitted as part of the appeal (plan no. 6502-SK002 Rev F). This plan shows additional detail of the neighbouring property Oakside Cottage, but does not alter any part of the proposed development. I am satisfied that my consideration of this plan would not cause prejudice to any party, and I have therefore taken it into account.

## Main Issues

6. The main issues are:
- i) the effect of the proposal on pedestrian and highway safety;
  - ii) the effect of the proposal on the living conditions of the occupiers of Oakside Cottage with particular regard to privacy; and
  - iii) the effect of the proposal on the integrity of European Sites.

## Reasons

### *Pedestrian and Highway Safety*

7. The appeal relates to a site on Harpers Road to the east of Ash which is part of **the 'Land to the South and East of Ash and Tongham' strategic location for development allocated at Policy A31 of the Guildford Borough Local Plan: Strategy and Sites 2019 ('the LPSS')**. The allocation provides for approximately 1,750 homes. It also includes a requirement for the provision of a new bridge to enable the closure of a level crossing on the A323 Guildford Road adjacent to Ash Railway Station; known as the Ash Road Bridge (**'the ARB'**) project.
8. At the time of my visit, works on the ARB were underway, and I saw development ongoing on other parcels within the allocation including **'Wildflower Meadow' adjacent to the northern part of the appeal site** and at **'May and Juniper Cottages' on Ash Green Road**. Since the Council determined the application, planning permission has also been granted on appeal<sup>1</sup> for **development on 'Orchard Farm' adjacent to the southern part of the site**.

### *Access Routes and Connections*

9. The 22 dwellings proposed on the appeal site would be arranged in two parcels with a landscaped belt between them. There would be 14 dwellings on the southern part of the site taking vehicular access from Harpers Road in the location of the existing access to Streamside and 8 dwellings on the northern part of the site served by a new vehicular access from Harpers Road.
10. **Policy A31 of the LPSS includes a requirement for 'proposed road layout or layouts to provide connections between both the individual development sites within this site allocation and between Ash Lodge Drive and Foreman Road...in order to help alleviate congestion on the A323 corridor'**.
11. The proposal does not include vehicular connections to other development sites within the allocation. However, the Council accepted at the Hearing that the potential for such a connection to Wildflower Meadow would be hampered by the layout of that development. The approved Orchard Farm scheme would appear to offer some potential for a connection, but any such arrangement would still ultimately result in the development being reliant on Harpers Road for vehicular access. The Council commented that any reduction in the number of accesses on Harpers Road would be beneficial, but I have no firm reason to find that the number of accesses now proposed would in principle cause unacceptable harm to highway safety or other detriment. In this context, I consider the lack of vehicular connections to other development sites does not weigh against the proposal.

---

<sup>1</sup> Appeal ref APP/Y3615/W/22/3312863

12. The location of the appeal site which is set apart from Ash Lodge Drive and Foreman Road by intervening parcels also restricts the opportunity to provide a connection between these routes as part of the proposal. However, the s106 does include a contribution to the ARB which is expected to improve congestion on the A323 corridor.
13. Moreover, the requirement within Policy A31 referring to '**proposed road layout or layouts**' does not specify that it is only concerned with vehicular connections. The proposal includes walking and cycling connections between the two parcels on the site, as well as two links to the Orchard Farm site, and a link to Public Right of Way 356 ('**PROW356**') which runs between Harpers Road and Wildflower Meadow to the north of the site. Accordingly, the overall layout would provide connections to surrounding development sites in the allocation as sought by Policy A31.
14. The walking and cycling links would offer occupiers of the appeal and surrounding sites an increased choice of routes to access destinations, including the station and other facilities in Ash. Specific infrastructure for pedestrians and cyclists along Harpers Road is not part of the proposal. Nevertheless, I consider the greater choice of routes would offer improvement to existing cycle and walking infrastructure and would adequately prioritise and promote active travel by walking and cycling as sought by Policy ID3 of the LPSS and the Strategic Development Framework Supplementary Planning Document 2020 ('**the SDF**').
15. I therefore find **having regard to the site's characteristics and location** that the position of the proposed access routes and connections would be acceptable.

*Access Design*

16. The Council states that access for refuse or similar sized vehicles and fire tenders to the north part of the northern development parcel would need to be from Harpers Road to the south, and has provided swept path diagrams suggesting that manoeuvres to and from Harpers Road in the opposite direction would not work. It also suggests that access to the south part of the northern parcel would need to be from Harpers Road to the north.
17. However, I note that the swept path diagrams presented indicate that access for fire tenders to the south part of the northern parcel from or to the south would be tight, but not impossible. Furthermore, there would be scope for vehicles to turn within the north part of the parcel before then travelling to the south, and similarly for vehicles to turn within the south part of the parcel before then travelling to the north.
18. At the Hearing, the Council raised concerns that the size of parking spaces adjacent to the turning points could lead to overhanging parked vehicles that would interfere with manoeuvres. However, the swept path diagrams for **turning fire tenders in the appellant's transport evidence show fairly significant** clearance such that any overhang would be unlikely to impede these movements. Clearance indicated for refuse and similar sized vehicles is more modest, but would still seem to me to offer some flexibility, particularly noting that landscaping is a reserved matter so suitable treatment could be secured to cope with any potential body overhang around turning points. On that basis, larger vehicles would be able to enter and leave the northern parcel in forward gear travelling in either direction on Harpers Road.

19. I accept that a need for some vehicles to turn within the northern parcel to access certain properties depending on their direction of approach/exit would be far from desirable. However, with only 4 dwellings to each part of the northern parcel, instances when this would be necessary would be likely to be relatively infrequent with refuse collection the most regular occurrence. These vehicles would need to access both parts of the site in any case as part of a planned route, and **I note that the Council's Technical Support and Improvement Officer** reviewed access arrangements for refuse vehicles and raised no objection to the proposal.
20. In addition, the number of trips generated by the 8 total dwellings on the northern parcel would also be very small, even in peak hours, so that the likelihood of a car meeting a larger vehicle at the access to Harpers Road would be slight. The prospect of more than 2 vehicles meeting would be even more limited. As a result and having regard to the visibility of the access from Harpers Road, I consider that risks of conflict or associated with a vehicle needing to wait at the access for another to enter/leave the site would be negligible and would not cause unacceptable harm to highway safety.
21. Vehicles leaving the site from the north part of the northern parcel would be at an angle to the main carriageway. This may require drivers to look over their shoulder and passenger seat to observe southbound vehicles on Harpers Road, but the angles are not so acute that I consider there would be a significant reduction in visibility from the visibility splays indicated so as to present an unacceptable risk to highway users.
22. No Stage 1 Road Safety Audit is before me and I acknowledge that the access design to the northern development parcel of the site would not be ideal. Nevertheless, I find for these reasons that access to the site would be adequate and would not cause unacceptable harm to highway safety. That Surrey County **Council ('SCC') as the Local Highway Authority ('the LHA')** which is the relevant statutory consultee did not object to the proposal, commenting that vehicles can enter and leave the site effectively, further reinforces my view.
- Harpers Road*
23. I have noted above that there would seem no realistic alternative to vehicular traffic from the appeal site ultimately using Harpers Road. Although there are some differences in figures, the various assessments of existing vehicular traffic referred to in the evidence before me indicate higher flows on the northern section of Harpers Road than the southern section, and that flows are highest in the morning peak hour.
24. By reducing delays on the A323 associated with the Ash level crossing and thus vehicles seeking alternative routes to avoid congestion, the ARB is expected to reduce traffic flows on Harpers Road. I heard that the ARB is currently expected to open in February 2025. With the ARB in place, the main parties suggest ranges of 56-81 **vehicles per hour ('vph')** on the northern part of Harpers Road in the morning peak and 45-55vph in the afternoon peak which are consistent with levels noted by the Inspector in the Orchard Farm appeal decision.
25. **The Council's evidence suggests that the** appeal scheme and other committed developments in the area would generate around 57 additional vehicle

- movements on the northern section of Harpers Road during the morning peak hour and 51 in the afternoon peak hour.
26. Of these movements, there is no dispute between the parties about the level of traffic that would be generated by the appeal proposal. Nor has the appellant challenged the traffic flows presented by the Council for committed developments at Orchard Farm and sites known as The Firs and Land East of White Lane.
27. In respect of May and Juniper Cottages, the Council suggests 23 movements on the northern part of Harpers Road in the morning peak hour and 18 in the afternoon peak hour assuming that the **site's** access to Ash Green Road were not stopped up in future as had been suggested historically. However, I heard that these figures reflect the total eastbound traffic flows on Ash Green Road identified in the May and Juniper Cottages **scheme's** transport assessment. This eastbound traffic would reach the junction with Harpers Road where traffic heading for Guildford Road would then have a choice whether to turn left up Harpers Road or right to travel via Wyke Lane. The distance to go east on Guildford Road would be very similar on either route, and while any traffic looking to go west would be likely to prefer Harpers Road, it could also travel from the site entrance via Foreman Road. I also heard that the Transport Assessment for the ARB indicated that existing flows at the Ash Green Road junction are heavily weighted towards travel by Wyke Lane. Given these factors, I consider that assuming a broadly equal apportionment of traffic to Harpers Road and Wyke Road as the appellant has done would be reasonable. This would indicate around 11 movements on the northern part of Harpers Road in the morning peak hour from May and Juniper Cottages and 9 in the afternoon peak hour.
28. On this basis, I consider that the increase in flows on the northern section of Harpers Road stemming from the appeal scheme and committed developments would be lower than suggested by the Council at around 45vph in the morning peak hour and around 42vph in the afternoon peak hour. Combined with the post-ARB flow ranges, this would suggest movements on the northern part of Harpers Road in the region of around 101-126vph in the morning peak and in the region of around 87-97vph in the afternoon peak. I have more limited evidence in respect of the southern section of Harpers Road and so cannot consider the likely flows here in similar detail, but from the information that is available, these would be lower than those on the northern section.
29. Having regard to my findings above, flows on the northern section of Harpers Road in the morning peak could well exceed 100vph which the Council suggests is the maximum threshold for acceptable flows on Harpers Road. At the Hearing, the Council advised that this figure of 100vph was based on guidance in **Manual for Streets ('MfS')** referenced in pre application comments by the LHA that use of Harpers Road as a shared surface would be acceptable where flows were less than 100vph.
30. However, I heard that the context of the relevant part of MfS is guidance on circumstances when shared surface streets are likely to work well. In addition to a volume of traffic below 100vph, these include streets in short lengths or where they form cul-de-sacs and where parking is controlled or takes place in designated places, neither of which are characteristics of Harpers Road. Irrespective of traffic flows, I therefore agree with the Inspector in the Orchard

Farm decision that the circumstances where shared surfaces are likely to work well do not exist on Harpers Road.

31. At paragraph 21, the Orchard Farm decision does refer to vehicle movements of around 100 on the northern and busier section of Harpers Road during the morning peak. However, from my reading of the decision, this is simply the **Inspector's view of what the likely** level of future traffic would be with regard to that scheme, and I do not see any pronouncement in the decision that a figure of 100vph represents an upper acceptable limit on Harpers Road.
32. In addition, I heard that the 100vph figure in MfS is based on research on pedestrian behaviour. Based on my observations, Harpers Road has the characteristics of a rural lane and pedestrians would already treat it as a road to be crossed rather than a space to occupy which would seem to me to limit the pertinence of the 100vph figure in this case. Even at the top end of the range of flows in the morning peak, there would be little more than 2 vehicles per minute on average on the northern section of Harpers Road and I consider that it would remain a relatively lightly-trafficked rural lane. I further note that the 101-126vph range in the morning peak would not be significantly more than the range of 101-118vph indicated by the various assessments cited by the parties as the existing baseline. In this context, I find that while traffic on the northern part of Harpers Road may exceed 100vph in the morning peak hour, the likely increase in flows with the ARB in place would not alter behaviours of existing highway users. Traffic flows at other times, including when nearby routes may be more likely to be used by horse riders, and to the southern section of Harpers Road would be lower and below the 100vph that the Council refers to as acceptable, irrespective of my reservations about the applicability of this figure as a threshold.
33. Occupiers of the site would be likely to generate additional non-vehicle movements. However, Ash Station and other destinations around the village centre which are likely to attract the greatest number of trips are located to the west of the site. The most direct pedestrian route to these would be through Wildflower Meadow so that travel on Harpers Road would not be necessary.
34. There are a pre-school, recreation ground with playground, pub/restaurant, bus stops and a convenience store to the north and east of the site which could generate trips. However, pedestrians from both the appeal site and Orchard Farm would be able to access the pre school, recreation ground with playground and bus stops via the routes through the appeal site up to PROW356 and then through the recreation ground. Journeys would be further than leaving the appeal site at the northern access and then travelling along Harpers Road, but only very slightly so. Similarly, a pedestrian route to the convenience store via PROW356 and the Wildflower Meadow site would not be substantially longer than routes using Harpers Road. In my judgement, the modest increases in distance would not be a significant deterrent leading pedestrians from either the appeal site or Orchard Farm to prefer Harpers Road which lacks footways in order to reach these destinations. Journeys to the pub/restaurant would be more notably direct using Harpers Road which could encourage use of this route over alternatives, but such trips would be unlikely to coincide with the highest flows of traffic in the morning peak.
35. PROW356 is currently a footpath only, but there would be only a short distance from the appeal site boundary to reach roads within Wildflower Meadow which

would then be cyclable to reach destinations in Ash to the west and the convenience store. Alternatively, the **Council's evidence shows a cycle link** from the site up to Wildflower Meadow through the Orchard Farm scheme which would be of similar distance to a route along Harpers Road. I acknowledge that there could be some cycle trips on Harpers Road to reach other facilities to the north east. However, Harpers Road would already offer the most direct cycle route to reach these from Orchard Farm irrespective of the appeal scheme. Indeed, use of routes through the appeal site could actually reduce slightly the distance that cyclists from Orchard Farm would need to travel along Harpers Road between the respective site accesses. Noting also the nature of the facilities to the north east, I consider that the potential increase in cycle movements on Harpers Road that may coincide with the morning peak would be likely to be very small.

36. Given these factors, I find that the proposal would not result in a significant increase in pedestrian or cycle movements on the northern part of Harpers Road, and particularly not during the morning peak when vehicle flows would be highest. Routes through the site could also offer a reasonable potential alternative to Harpers Road for existing pedestrians who may originate from locations to the south of the site to reach facilities to the north and in Ash. Furthermore, my attention has not been drawn to any destinations likely to attract additional pedestrian or cycle movements on the southern section of Harpers Road where vehicle flows are in any event generally lower.
37. I acknowledge the lack of footways to Harpers Road and that the carriageway is not wide enough to allow vehicles to pass in some places, including a particularly narrow point to the south of Pine Cottages and where it is narrowed by on-street parking between Guildford Road and Pine Cottages. Based on my observations however, the variable width of the carriageway helps to moderate speeds at the narrowest points, with speeds also lower on the approach to and exit from the junction with Guildford Road. At the narrowest points, vehicles may not be able to comfortably overtake a cyclist. However, the short time that it would be likely to take a cyclist to travel the distance between the site and Guildford Road would limit the number of vehicles that they would be likely to encounter as well as the likelihood of causing queues which could encourage risky overtaking. Visibility along the highway to the north of the site is also generally reasonable. Having regard to these factors and my assessment of vehicular traffic levels, I find that increased traffic flows would not pose an unacceptable risk to pedestrians, cyclists or other highway users.
38. Furthermore, while accident records show a few accidents at the junction of Harpers Road and Ash Green Road, the appellant highlighted that highway improvements are already planned here in connection with existing committed developments. I have not been provided with details of any accident records on the section of Harpers Road to the north of the site where the greatest proportion of traffic flows will be. The Council and interested parties refer to additional accidents which are not shown in current accident records, but full details are not before me and as the Orchard Farm Inspector found, there is no clear evidence of a record of personal injury accidents on Harpers Road. Records do show a cluster of accidents on Guildford Road near to the Harpers Road junction, but the evidence before me does not demonstrate that traffic using Harpers Road has been a contributory factor.

39. Taking all of the above factors into account, I find that the proposal would not result in additional conflict that would cause harm to pedestrian or highway safety on Harpers Road. I do not disagree with the **Council's position that** additional traffic on Harpers Road may at some point reach a level where there would be an unacceptable impact on highway safety, but from the evidence before me in this case, I consider that the proposal would not result in such a level being exceeded.

*Conclusion on First Main Issue*

40. Drawing matters together, I find that the proposed access routes and connections would be acceptable, and that neither the access design nor additional trips generated by the proposal would lead to a meaningful increase in the risk of conflict between users of Harpers Road.
41. Moreover, and notwithstanding pre application comments that they may have made including in relation to vehicle flows or visibility at the Guildford Road junction, the LHA has not objected to the proposal. The Council suggested that the LHA may not have considered cumulative effects of Streamside and Orchard Farm. However, there is little to substantiate this assertion. Furthermore, I have been provided with comments from the LHA on a revised application for 24 dwellings on the appeal site which were made after the Orchard Farm appeal decision and which also raise no objection on highways grounds. I give significant weight to the position of the LHA as the relevant statutory consultee, and from the evidence before me find no compelling reason to disagree with its views.
42. For these reasons, I conclude that there would not be unacceptable harm to pedestrian or highway safety. I find no conflict with Policy ID3 of the LPSS which includes requirements to maximise, insofar as site size, characteristics and location allow, provision of high quality, safe and direct walking and cycling routes and improvements to routes and for an integrated, accessible and safe transport system. Nor do I find conflict with Policy A31 of the LPSS which seeks suitable connections as part of road layouts or layouts within the allocation, or the SDF insofar as it seeks support for active travel. For the same reasons, the proposal would accord with the **National Planning Policy Framework ('the Framework')** which seeks the promotion of sustainable transport modes and safe and suitable access for all users.

*Living Conditions*

43. Given that appearance is a reserved matter, the positions of windows to the proposed dwellings are not currently fixed. However, I am satisfied that provision of suitable boundary treatment could prevent overlooking to the neighbouring Oakside Cottage from any ground-floor windows. In view of the separation distances and subject to appropriate fenestration detailing which could be secured at reserved matters stage, I also agree with the Council that the dwellings proposed on plots 2, 12 and 14 would not cause harmful overlooking or loss of privacy for occupiers of Oakside Cottage.
44. The dwelling on plot 13 would sit on the southern part of the site to the side of Oakside Cottage, albeit set back relative to this neighbour. Any windows to its side would face onto the side of Oakside Cottage and/or its rear garden. However, it is not certain that any first-floor side windows would necessarily be required, and I see no reason that a need for side windows to serve habitable



rooms would be likely. I would therefore expect any first-floor window that might be proposed to serve a non-habitable room. Such windows could reasonably be subject to a requirement for use of obscure-glazing and conditions on opening which I am satisfied would prevent actual overlooking of Oakside Cottage.

45. Shadows or outlines of people behind obscure glazing may be appreciable to occupiers of Oakside Cottage which could lead to a perception of overlooking. However, such effects would be likely to be relatively short in duration where rooms were non-habitable. Furthermore, some separation would be provided to the boundary, and noting that there would not be actual overlooking, I am satisfied that the potential perception of overlooking would not cause a meaningful loss of privacy for occupiers of Oakside Cottage.
46. Windows to the front and rear of the dwelling on plot 13 could be expected to serve habitable rooms. Those to the rear may have views of the rear part of the garden to Oakside Cottage, but this is not an unusual relationship and the space immediately to the rear of the dwelling would not be visible. I find as a result that any overlooking in this direction would not be harmful.
47. The front of plot 13 would be set back relative to four windows to the side of Oakside Cottage. The northernmost of these windows serve a bathroom and a utility room/toilet and include obscure glazing or opaque film. Potential views towards these windows from the front of plot 13 would also be at a very tight angle such that I am satisfied there would not be unacceptable overlooking or loss of privacy to these rooms.
48. The two other windows to the side of Oakside Cottage are clear-glazed and serve a bedroom and a family room. Views towards these windows could be possible from the front of plot 13, adversely affecting privacy for the rooms served. However, while the dwelling would sit around 9.1m from the side of Oakside Cottage, the distance to the clear-glazed side windows would be slightly greater. Views would also be at an oblique angle so that the windows would not fall within the main field of direct outlook. Noting the separation distance, relationship and view angle, only a small part of the rooms closest to the window would be likely to be visible and I consider that there would not be meaningful views of the whole of the interior of the rooms. Given these factors, I consider that effects on privacy would be modest and would not significantly undermine living conditions for occupiers of the rooms overall.
49. The appellant suggests that additional planting would be provided where appropriate to supplement existing vegetation along the boundary with Oakside Cottage. This could provide additional screening between plot 13 and Oakside Cottage further moderating potential overlooking, although as the Council highlights, vegetation can die or be removed and I do not therefore rely on it.
50. For these reasons, I find that there would be loss of privacy for occupiers of Oakside Cottage causing harm to their living conditions contrary to Policy D5 of the LPDMP insofar as it seeks to avoid unacceptable impacts on living environments in terms of privacy and overlooking. However, the effect would be restricted to two rooms within the dwelling, with privacy to the rest of the property not significantly affected. Moreover, the loss of privacy for the affected rooms would be modest and I conclude that the degree of harm caused to the overall living conditions for occupiers of Oakside Cottage would be very limited.

51. The Council confirmed at the Hearing that reference in the second reason for refusal to an additional provision within Policy D5 in respect of visual dominance and overbearing effects of a development was an error, although I note concerns which have been raised by an interested party.
52. The development would be visible from Oakside Cottage. However, the main outlook onto the appeal site from windows to the side of this dwelling would be towards access and turning areas with only oblique views of the dwellings on plots 12 and 13 and significant separation to dwellings beyond. Individual dwellings would also make up only a small part of views from **Oakside Cottage's** rear windows and garden and would be at some distance. While existing views for occupiers of Oakside Cottage would change, I am satisfied given these factors that the development would not give rise to harmful visual dominance or overbearing effects. Given the position and orientation of the proposed dwellings relative to the garden and windows to habitable rooms to Oakside Cottage and the separation that would be provided, I am further satisfied that the proposal would not cause harmful loss of light or overshadowing.

#### *European Sites*

53. The appeal site is located in the wider vicinity of the Thursley, Ash Pirbright and **Chobham Special Area of Conservation ('SAC') and the Thames Basin Heaths Special Protection Area ('SPA')** which are European Sites designated under the **Conservation of Habitats and Species Regulations 2017 ('the Habitats Regulations')**. In circumstances where a proposal is likely to have a significant effect on a European Site, the Habitats Regulations impose a duty on the competent authority to consider implications for the conservation objectives of **the Site within the framework of an Appropriate Assessment ('AA')**. This duty would now fall to me.

#### *Thursley, Ash, Pirbright and Chobham SAC*

54. The SAC is designated as it hosts qualifying habitats of depressions on peat substrates of the Rhynchosporion; European dry heaths; and Northern Atlantic wet heaths with *Erica tetralix*. The conservation objectives for the SAC seek broadly to ensure that the integrity of the site is maintained or restored and that the site contributes to achieving the favourable conservation status of its qualifying species by maintaining or restoring the extent, distribution, structure and function of qualifying natural habitats and the supporting processes on which these habitats rely.
55. **The Council's report to Committee outlined that the development would not** have a likely significant effect on the SAC, referring to the allocation of the site in the development plan and the supporting Habitat Regulation Assessment. Notwithstanding comment in updated ecological information relating to the revised application for 24 dwellings on the site, the appellant confirmed at the Hearing that it also considered there would be no likely significant effect on the SAC. I have no firm reason to take a different view, and I am satisfied having regard to the evidence before me that likely significant effects on the Thursley, Ash, Pirbright and Chobham SAC can be screened out.

#### *Thames Basin Heaths SPA*

56. The SPA is part of a complex of heathlands that support important breeding bird populations and is designated for the presence of Nightjar, Woodlark and

Dartford Warbler. The conservation objectives for the SPA seek broadly to ensure that the integrity of the site is maintained or restored and that the site contributes to achieving the aims of the Wild Birds Directive by maintaining or restoring the extent, distribution, structure and function of the habitats of qualifying features; the supporting processes on which the habitats rely; and the population and distribution of the qualifying features.

57. The evidence before me outlines that the SPA is vulnerable to the effects of recreation, including damage and disturbance to sensitive species. The appeal site is located within 5km of the SPA which is the distance that surveys indicate most visitors to the SPA originate from within. As a result, occupiers of the dwellings could be additional visitors to the SPA, increasing recreational pressure. This pressure, particularly when taken in combination with other plans and projects, could harm the qualifying features of the SPA to the detriment of its conservation objectives.
58. In order to mitigate potential recreational effects of development, the s106 includes provision to secure an area of Suitable Alternative Natural Greenspace ('SANG') to displace recreational trips away from the SPA. The Council indicates that there are privately owned areas of SANG with adequate capacity to provide the level of mitigation required, and a suggested condition would also require provision of SANG before occupation of any dwelling.
59. The s106 additionally includes a financial contribution towards Strategic Access **Management and Monitoring ('SAMM')**. This would go towards monitoring of effects on the SPA and measures to manage these effects including information and education, guidance on access management, wardening and the promotion of alternative recreation sites.
60. The provision for SANG and SAMM would be in accordance with measures outlined in the Thames Basin Heaths Special Protection Area Avoidance Strategy 2017 (updated 2021). The strategy has been endorsed by Natural England. Provided mitigation measures in accordance with the Strategy are appropriately secured, Natural England has also confirmed that it is content that the proposal would not result in adverse effects on the integrity of the SPA.
61. I consider that the intended mitigation would be properly secured by the s106 and a planning condition. I also consider having regard to the evidence before me that the mitigation identified would be 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. The obligations in the s106 relevant to SANG and SAMM would accordingly meet the tests for obligations set out at Regulation 122(2) of the Community Infrastructure Levy **Regulations 2010 ('the CIL Regulations')** which are also reflected within the Framework, and I have taken them into account.
62. Given that adequate mitigation for effects on the SPA would be appropriately secured, I find within the framework of an AA that the proposal would not adversely affect the integrity of the SPA, either alone or in combination with other plans and projects.

#### *Conclusion on European Sites*

63. For the reasons given above, I conclude that the proposal would not harm the integrity of any European Sites. Accordingly, there would be no conflict with the

Habitats Regulations, and the proposal would comply with Policy P5 of the LPSS and saved Policy NRM6 of the South East Plan 2009 which include requirements for adequate measures to avoid or mitigate any potential adverse effects on the Thames Basin Heaths SPA.

### Planning Obligations

64. I have considered the obligations within the submitted s106 in light of the tests within the CIL Regulations, and having regard to the evidence before me. This evidence includes a CIL Compliance Statement provided by the Council which sets out the justification for seeking the obligations and their accordancy with the tests within the CIL Regulations.
65. In addition to obligations relating to provision of SANG and SAMP which I have already considered, the s106 provides for 8 of the dwellings to be affordable in accordance with a specified tenure mix and stipulations applicable to **the 'First Homes'** component. These obligations would be necessary to address requirements at Policies H2 of the LPSS and H7 of the LDMP. They would also be directly related to the development proposed and fairly and reasonably related in scale and kind to it.
66. Obligations relating to provision of pedestrian and cycle paths and access over routes within the site would be necessary to meet requirements within Policy A31 of the LPSS for developments within the allocation to provide connections between developments and maximise accessibility. The requirements would also be directly related to the development proposed and fairly and reasonably related in scale and kind to it.
67. Further obligations would provide for financial contributions towards education, highways improvements, the ARB and off-site open space, and set out obligations on the Council including in respect of the use of contributions and repayment provisions. The CIL Compliance Statement and representations by SCC and **the Council's Corporate Programmes Team** offer further explanation and justification for the contributions sought, detailing why they are necessary as a result of the development and how they would be spent. I have no firm reason to find that these contributions would not be necessary, nor that the basis for the amounts of any of the contributions sought would be unsound. With regard to the evidence provided, I consider that all of these obligations would be required to address the impacts of the development, and I am satisfied that they would in each case be necessary to make the development acceptable in planning terms, directly related to the development proposed and fairly and reasonably related in scale and kind to it.
68. In light of the supporting information and evidence that is before me, I find that each of the obligations in the s106 would comply with the tests at Regulation 122(2) of the CIL Regulations which are reflected in the Framework and can be given weight. I have therefore taken them into account.
69. The Royal Surrey NHS Foundation Trust made representations on the proposal seeking a financial contribution towards acute health care services which is not part of the s106. The representations outline that the Trust is currently operating at full capacity in the provision of acute and planned healthcare. It advises that payments for the provision of health services are made under **contracts based on the previous year's activity and do not** account for increases in population due to new development. It therefore seeks a contribution to

mitigate the funding gap it asserts would be created by potential patients resulting from the first year of occupation of the development.

70. However, the representations indicate that the Trust is commissioned to provide acute healthcare services to the populations of a number of local authority areas, with the Royal Surrey Hospital forming the hub. Given the wide catchment served, at least some of the occupiers of the development, and probably many, could realistically be expected **to reside within the Trust's area** currently. Accordingly, they would already be reflected in funding arrangements and it is unclear to what extent the proposal would result in new population **within the Trust's area so as to lead to additional demand for services which** would not otherwise occur. From the information before me, I am not therefore satisfied that the requested contribution, which is based on expected population of the development as a whole, would be necessary, nor that it would be fairly and reasonably related in scale and kind to the development.
71. The requested contribution would not therefore meet the statutory tests set out in Regulation 122 of the CIL Regulations and I find no compelling evidence that the proposal would adversely affect the Trust's ability to provide services or the delivery of healthcare in the area in the absence of the contribution sought. That the s106 does not secure a contribution to acute health care services does not therefore weigh against the proposal.

#### Other Matters

##### *Heritage Assets*

72. There are a number of listed buildings in the vicinity of the site. Mindful of the statutory duty set out in s66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, I have had special regard to the desirability of preserving the setting of these buildings.
73. The closest is the grade II listed York House on the opposite side of Harpers Road, a timber framed house which dates from the 16th century. Much of the significance of this building derives from its historic fabric and use of vernacular materials and techniques. However, it also draws some significance from its remaining rural setting which illustrates the building's historic position within surrounding open countryside. As part of this rural setting, the appeal site therefore contributes to the significance of York House.
74. The Ash Manor complex is located beyond the railway line to the south of the site. It includes the grade II\* listed Ash Manor and Old Manor Cottage, a timber-framed moated manor house, together with the **grade II listed 'Barn 75 yards to the south of Ash Manor House' and 'Oast House Stable 20 yards south of Ash Manor House'** which are part of the former farmstead associated with the manor. These buildings derive significance from their architectural interest and historic and evidential value, as well as their relationships to one another as part of a group. The rural quality of the land around the complex has already been affected by the railway line and encroachment of development but still illustrates the historic agricultural surroundings and connection of the buildings to the land, thereby contributing to their significance. As part of the wider rural setting to the complex, I find that the appeal site does make some contribution to the significance of the listed buildings. That said, the separation and the severance that results from the railway means that this contribution is

limited, and it would be likely to be further reduced by development coming forward on intervening parcels at Orchard Farm and May and Juniper Cottages.

75. The additional built form on the appeal site would erode its rural quality which contributes to the significance of York House and the listed buildings at Ash Manor as part of their setting. The change would be clearly appreciable in the case of York House given its close proximity. However, the setting makes only a small contribution to the overall significance of the building, and the site is only part of that setting. As a result, I find that the harm to the significance of York House through development in its setting would be minor, and less than substantial in the terms of the Framework.
76. The effect on the Ash Manor complex listed buildings would be much less pronounced given the greater distance and intervening development including the railway which provide for physical and visual separation. Progress on bringing forward development on the Orchard Farm and May and Juniper Cottages sites would further moderate the effect. However, while I consider the effect to be marginal, there would be some loss of significance causing less than substantial harm to the significance of each of the listed buildings.
77. The Church of St Peter which is a grade II\* listed building would historically have sat apart from Ash, but the connection to the rural landscape has already been significantly weakened by the encroachment of modern development. The ARB and development coming forward at Wildflower Meadow will further limit any relationship with the appeal site as part of its historic setting. In this context, I agree with the main parties that the proposal would not harm the significance of the Church of St Peter.
78. Where a proposal will lead to less than substantial harm to the significance of a designated heritage asset, the Framework advises that this harm should be weighed against the public benefits of the proposal. The main parties agree that the public benefits of the proposal would outweigh the harm to the significance of the listed buildings. I return to consider this matter as part of the planning balance below.

#### *Flood Risk and Drainage*

79. At the time the Council determined the application, SCC as the Lead Local Flood Authority (**'the LLFA'**) had indicated that it was not satisfied that the drainage scheme would meet requirements. The appellant subsequently provided additional drainage information as part of the revised application on the site which the LLFA has indicated it is satisfied with, and the main parties agree that the concern has been resolved. I have no firm reason to find differently and subject to conditions to require further details of the drainage scheme, I am satisfied that there would be suitable provision to manage surface water and flood risk as part of the development.

#### *Additional Matters Raised in Representations*

80. There would be a clear change to the character and appearance of the site which is currently predominantly open and undeveloped. However, this would be an inevitable outcome of development of the land which has been included as part of allocation A31, and indeed development on adjacent parcels. The development to the northern parcel of the site would be very low density with a significant landscaped setting. While the southern parcel would be higher

density with a more regular layout, this would not be dissimilar to the arrangement approved at Orchard Farm and the dwellings would have reasonably generous plots and scope for landscaping. I am satisfied that the proposal would sit comfortably within its surroundings and would provide a suitably sympathetic transition to land beyond the strategic allocation.

81. The majority of trees at the site are indicated to be retained and while landscaping is a reserved matter, the proposal indicates new planting as part of development which would be able to mitigate vegetation losses. Suggested conditions would require protection of retained trees and management of the central woodland belt to ensure their continued contribution to the character and appearance of the area.
82. I have found that traffic from the development would not cause unacceptable harm to highway safety, and the substantive evidence before me indicates sufficient capacity within the highway network to accommodate flows so that there would not be a significant increase in congestion.
83. Interested parties refer to existing pressure on local services and infrastructure. However, the proposal would make contributions through the s106 towards identified local infrastructure provision and there is no substantive evidence before me to demonstrate that it would place undue pressure on services. Nor that it would result in a requirement for additional capacity that could not be met.
84. Surrey Wildlife Trust has reviewed ecological information submitted by the appellant and has not objected to the proposal. Subject to conditions requiring mitigation and enhancement measures, I see no reason to disagree with the main parties that biodiversity including protected species would not be harmed by the proposal. I am also satisfied that the Ash to Brookwood Heaths Site of Special Scientific Interest would not be adversely affected.
85. In view of the residential nature of the proposal and its scale and relationship with nearby properties, I consider that the completed development would be unlikely to result in noise or disturbance that would cause meaningful harm to **nearby occupiers' living conditions**, or unacceptable security concerns. Subject to appropriate fenestration to dwellings as part of reserved matters submissions, I see no reason that there would be unacceptable overlooking or other harm to living conditions for occupiers of Wildflower Meadows. There would be potential for disturbance and disruption during the construction period including if off-site works are undertaken, as well as additional construction traffic. However, any effects would be short-term, and could be mitigated by careful construction management with details secured by a planning condition.
86. I have taken into account the representations made by interested parties, but I am satisfied that none of the other matters raised would result in a level of harm that would justify dismissal of the appeal, either individually or collectively, and they do not alter my findings on the main issues.

#### Benefits of the Proposal

87. The proposal would provide a net gain of 21 dwellings on part of a site allocated in the development plan for residential development. There is no dispute between the parties that the Council is able to demonstrate a 5 year supply of housing and has exceeded targets for delivery, but the Framework

includes an imperative to significantly boost the supply of housing which does not cease in circumstances where the supply position exceeds 5 years. I consider the delivery of housing on part of the allocated site to be an important benefit of the proposal that would attract significant weight.

88. The scheme also includes provision of 8 affordable dwellings on the site with a mix of tenures in accordance with policy requirements. Notwithstanding that such provision is an expectation of the development plan, the contribution towards identified needs for affordable housing is a notable benefit of the proposal which carries significant weight.
89. There would be economic and social benefits associated with the proposal including construction spend and employment as well as expenditure and support for local services by future occupiers. I give these benefits moderate weight noting that they would be fairly limited on account of the scale of the development and that employment opportunities would further be largely temporary during construction.
90. There would be new landscaping on the site as well as a biodiversity net gain of at least 10%. The proposal also includes ecological enhancement measures. Consistent with the main parties' positions in the Statement of Common Ground, I give these benefits moderate weight.
91. Through the s106, there would be financial contributions towards provision of education and other infrastructure including the ARB. However, these contributions would be necessary to mitigate the effects of the development proposed. Insofar as they could support improvements that would be available to the existing and future community locally, there would be some benefit, but I consider this would be minor and carries limited weight.

## Planning Balance

### *Heritage Balance*

92. The Framework outlines that great weight should be given to the conservation of designated heritage assets, and the more important the asset, the greater the weight should be. It further sets out that any harm to, or loss of, the significance of a designated heritage asset should require clear and convincing justification.
93. I have found that the proposal would cause less than substantial harm to the significance of York House, Ash Manor and Old Manor Cottage, the Barn at Ash Manor and the Oast House Stable at Ash Manor listed buildings through development within their setting. The harm in each case attracts considerable importance and weight, with greater weight attached to the harm to Ash Manor and Old Manor Cottage attracts greater weight given it is a grade II\* building.
94. However, the scale of harm to the significance of each of the designated heritage assets would be minor, and very limited in the case of the Ash Manor Complex buildings. Set against this harm, I give significant weight to the delivery of housing and affordable housing, moderate weight to the economic and social benefits of the proposal, moderate weight to the biodiversity net gain and ecological enhancements and limited weight to contributions towards infrastructure provision, all of which are public benefits.



95. Even giving considerable importance and weight to each instance of harm including greater weight to the harm to Ash Manor and Old Manor Cottage, I consider that the harm to the listed buildings would in each case be clearly outweighed by the combined benefits of the scheme.
96. I therefore concur with the main parties that effects of the proposal on heritage assets would be acceptable in light of the Framework.

*Overall Balance*

97. I have found that the proposal would not cause unacceptable harm to pedestrian or highway safety and that while there would be harm to heritage assets, this would be clearly outweighed by the public benefits of the proposal.
98. There would be a loss of privacy for occupiers of Oakside Cottage causing harm to their living conditions resulting in conflict with Policy D5 of the LPDMP. I have no firm reason to consider the relevant provisions of Policy D5 to be inconsistent with the Framework which includes a requirement for a high standard of amenity, or to reduce the weight that I afford to the conflict with this policy. However, the effect on privacy for occupiers of Oakside Cottage would be modest and I have found that the harm to overall living conditions offered by the dwelling would be very limited.
99. In my judgement, the weight to be given to the cumulative benefits of the development identified above would significantly outweigh the adverse effects of the proposal and the conflict with LDMP Policy D5. Accordingly, I conclude that there are material considerations which indicate that planning permission should in this case be granted despite the conflict with the development plan.

Conditions

100. I have considered suggested conditions in light of the discussion and amendments proposed at the Hearing, and against the tests set out in the Framework. Where necessary, I have made minor amendments for clarity, brevity, to save duplication or to ensure compliance with the relevant tests, including to omit unnecessary prescription of details that would be a matter for the Council to consider as part of the assessment of submissions.
101. I have attached standard conditions relating to the submission of reserved matters and the time limits associated with this (1, 2, 3). I have also included conditions specifying the relevant plans (4) for the avoidance of doubt and in the interests of certainty.
102. Condition 5 is necessary to safeguard neighbouring living conditions and the environment. However, some of the requirements in the originally suggested condition would now be covered by Condition 6 which is also necessary in the interests of the living conditions of nearby occupiers as well as the ecology and biodiversity value of the site. Conditions 7, 8, 19 and 22 are necessary in the interests of protected species and biodiversity although I have updated the references in suggested condition 22 to documents submitted with and forming part of the appeal proposal, rather than those relating to the revised application for the 24 dwelling scheme.
103. Condition 9 is necessary in the interests of the living conditions of nearby occupiers and highway safety. However, I am not persuaded that a requirement for before and after surveys of the highway and a commitment to

fund the repair of any damage caused would be necessary or comply with guidance on conditions in the Planning Practice Guidance and I have omitted it. Condition 10 is necessary to safeguard heritage assets of archaeological interest while condition 11 is necessary in the interests of the integrity of the Thames Basin Heaths SPA.

104. Conditions 12, 13, 16 and 17 are necessary in the interests of highway safety. In respect of condition 16, I consider it necessary to restrict occupation of the dwellings until the ARB is actually in place (rather than until a specified date as proposed by the appellant) given that my findings on the first main issue were reached on the basis of levels of traffic with the ARB operational. Condition 14 which was suggested during the Hearing is necessary to ensure adequate linkages and accessibility for occupiers of the site. Conditions 15 and 18 are necessary to ensure suitable provision for drainage and that flood risk would not be increased, while conditions 20 and 21 are necessary in the interests of biodiversity and the character and appearance of the area.

#### Conclusion

105. For the reasons given above, I conclude that the appeal should be allowed.

*J Bowyer*

INSPECTOR

#### SCHEDULE OF CONDITIONS

- 1) Details of the appearance and landscaping of the development (hereinafter called "the reserved matters") 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.
- 2) Application for approval of the reserved matters shall be made to the Local Planning Authority not later than 1 year from the date of this permission.
- 3) The development hereby permitted shall commence not later than two years from the date of approval of the last of the reserved matters to be approved.
- 4) Unless otherwise amended by the conditions above or below, the development hereby permitted shall be carried out in accordance with the following approved drawings: 6502-LOC1 Rev A (Location Plan); 6502-BLOC Rev C (Proposed Block Plan); 6502-SK002 Rev F (Proposed Site Plan Streamside Option 3); 6502-SK003 Rev C (Proposed Walking and Cycling Plan Streamside Option 3); 22055/001 Rev C (Proposed Access Arrangements); 231684/TR/01 (Vehicle Swept Path Assessment Refuse Lorry) and 231684/TR/02 (Vehicle Swept Path Assessment Fire Appliance).
- 5) No development shall commence, including any works of demolition, until a site waste management plan and demolition strategy of the existing building as identified in the Outline Building Survey (dwg. 4924/02) and the removal of foundations and hard standing including details of the disposal of any waste off site and receptor sites has been submitted to and approved in writing by the Local Planning Authority. Demolition materials and debris that are not to be reused in the construction of the development hereby

permitted shall be removed from the site in accordance with the approved strategy.

- 6) No development shall commence, including any works of demolition, nor any clearance of vegetation, until a Construction Environmental Management **Plan ('CEMP') has been submitted to and** approved in writing by the Local Planning Authority. The CEMP shall include details of:
- i) a programme of works (to address habitat requirements and risks to ecological features);
  - ii) a programme for the installation of bat and bird boxes (to enable relocation);
  - iii) measures to control the emission of dust and dirt during construction;
  - iv) the storage of plant, machinery, materials, chemicals and fuel;
  - v) measures to control the emission of noise during construction;
  - vi) a soil management plan, including proposals for stripping and storing soil for re-use on site;
  - vii) external lighting to be used during construction and measures to limit the disturbance from any such lighting;
  - viii) a construction phase drainage strategy to intercept and attenuate surface water run-off; and
  - ix) the use of protective fences, exclusion barriers and warning signs.

The approved CEMP shall be implemented and development shall be undertaken in accordance with the approved details throughout the construction period.

- 7) No development shall commence, including any works of demolition, until a Bat Method Statement and Mitigation Strategy has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in full accordance with the approved details.
- 8) No development shall commence until a Badger Mitigation Strategy has been submitted to and approved in writing by the Local Planning Authority. The Strategy shall include:
- i) an updated badger field sign and sett survey by a suitably qualified and experienced ecologist;
  - ii) a minimum of 21 days camera monitoring at any badger sett, or potential badger sett recorded, to assess the type and activity at the sett by a suitably qualified and experienced ecologist;
  - iii) an updated badger sett and habitat impact assessment and mitigation strategy. The habitat impact assessment should include an assessment on foraging and commuting habitats; and
  - iv) a timetable for the implementation of any works/mitigation proposed.

The development shall be carried out in full accordance with the approved details.

- 9) No development shall commence until a Construction Transport Management **Plan ('CTMP') has been submitted to and** approved in writing by the Local Planning Authority. The CTMP shall include details of:

- i) parking for vehicles of site personnel, operatives and visitors;
- ii) loading, unloading and storage of plant and materials;
- iii) a programme of works (including measures for traffic management);
- iv) provision of boundary hoarding behind any visibility zones;
- v) Heavy Goods Vehicle deliveries and hours of operation;
- vi) vehicle routing;
- vii) measures to prevent the deposit of materials on the highway;
- viii) on-site turning for construction vehicles.

The approved CTMP shall be implemented and development shall be undertaken in accordance with the approved details throughout the construction period.

- 10) No development shall commence until a programme of archaeological work has been carried out in accordance with a Written Scheme of Investigation which has first been submitted to and approved in writing by the Local Planning Authority.
- 11) No development above damp proof course level (excluding any demolition and site clearance works) shall take place until details of Suitable Alternative **Natural Green Space ('SANG')** that has been secured to mitigate the impact of the development have been submitted to and approved in writing by the Local Planning Authority. No dwelling shall be occupied until the SANG has been provided in accordance with a scheme which has first been submitted to and approved in writing by the Local Planning Authority.
- 12) No development above damp proof course level (excluding any demolition and site clearance works) shall take place until detailed drawings, including levels, sections and construction details of the proposed estate roads, surface water drainage, outfall disposal and street lighting to be provided have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in full accordance with the approved details.
- 13) No development above damp proof course level (excluding any demolition and site clearance works) shall take place until a vehicle parking plan has been submitted to and approved in writing by the Local Planning Authority. No dwelling shall be occupied until vehicle parking to serve that dwelling has been provided in accordance with the agreed details and the parking shall thereafter be kept available at all times for the parking of vehicles.
- 14) No development above damp proof course level (excluding any demolition and site clearance works) shall take place until a scheme, including a timetable, for the provision of pedestrian and cycle links has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in full accordance with the approved details.
- 15) No development above damp proof course level (excluding any demolition and site clearance works) shall take place until details of the design of a surface water drainage scheme have been submitted to and approved in writing by the Local Planning Authority. The scheme shall include:
  - i) the results of infiltration testing completed in accordance with BRE Digest: 365 and confirmation of groundwater levels;

- ii) evidence that the proposed final solution will effectively manage the 1 in 30 & 1 in 100 (+40% allowance for climate change) storm events and 10% allowance for urban creep, during all stages of the development. If infiltration is deemed unfeasible, associated discharge rates and storage volumes shall be provided using a maximum discharge rate equivalent to the pre-development Greenfield run-off;
- iii) detailed drainage design drawings and calculations to include: a finalised drainage layout detailing the location of drainage elements, pipe diameters, levels, and long and cross sections of each element including details of any flow restrictions and maintenance/risk reducing features (silt traps, inspection chambers etc.). Confirmation is required of a 1m unsaturated zone from the base of any proposed soakaway to the seasonal high groundwater level, and half-drain times;
- iv) a plan showing exceedance flows (i.e. during rainfall greater than design events or during blockage) and how property on and off site will be protected from increased flood risk;
- v) details of drainage management responsibilities and maintenance regimes for the drainage system; and
- vi) details of how the drainage system will be protected during construction and how runoff (including any pollutants) from the development site will be managed before the drainage system is operational.

The development shall be carried out in accordance with the approved details.

- 16) No dwelling shall be occupied until the Ash Road Bridge (as approved through planning application ref 19/P/01460, or any subsequent amendment) has been completed and is open to public traffic.
- 17) No dwelling shall be occupied until the vehicular accesses to Harpers Road hereby approved have been constructed and provided with visibility zones in accordance with the approved plans, Drawing No. 22055-001 Rev C, and the visibility zones shall thereafter be kept permanently clear of any obstruction over 0.6m high.
- 18) No dwelling shall be occupied until a verification report carried out by a qualified drainage engineer has been submitted to and approved in writing by the Local Planning Authority. This report shall demonstrate that the surface water drainage system has been constructed in accordance with the details agreed pursuant to condition 15 (or detail any minor variations), provide the details of any management company and state the national grid reference of any key drainage elements (surface water attenuation devices/areas, flow restriction devices and outfalls), and confirm any defects have been rectified.
- 19) No dwelling shall be occupied until a lighting scheme has been submitted to and approved in writing by the Local Planning Authority. The scheme shall set out how lighting on the site has been designed to minimise any potential impacts on bat foraging and commuting and if appropriate, shall include a timetable for the phased implementation of the scheme. The approved scheme shall be implemented before the first occupation of the development and thereafter retained.

- 20) The development hereby approved shall be carried out in full accordance with the Arboricultural Method Statement ('AMS') and Tree Protection Plan ('TPP'), (Merewood Arboricultural Consultancy Services, May 2022). No development shall commence until tree protection measures, and any other pre-commencement measures as set out in the AMS and TPP, have been installed/implemented. The protection measures shall be maintained in accordance with the approved details until all equipment, machinery and surplus materials have been moved from the site.
- 21) No dwelling shall be occupied until the measures identified in the Woodland Management Proposals document (Merewood Arboricultural Consultancy Services, December 2017) have been implemented.
- 22) The development hereby approved shall be carried out in full accordance with the mitigation measures set out in the Ecological Impact Assessment (EPR, May 2022), the Biodiversity Management and Enhancement Strategy (EPR, May 2022), the Protected Species Report (EPR, May 2023) and EPR letter dated 9 May 2023.

#### APPEARANCES

##### FOR THE APPELLANT:

Steven Brown	Woolf Bond Planning
Laurence Moore	Woolf Bond Planning
Jon Williams	Steer
Andrew Kamm	Bourne Homes Ltd

##### FOR THE LOCAL PLANNING AUTHORITY:

John Busher	Guildford Borough Council
Chris Blamey	RGP
Louise Blaxall	Guildford Borough Council, Design and Conservation
Angela Watson	Guildford Borough Council, Legal
Paul Kelly	for Guildford Borough Council, ARB Project

##### INTERESTED PARTIES:

Rahim Vellani	Local resident
---------------	----------------

#### DOCUMENTS SUBMITTED AT HEARING

- HD1 Updated Version of Appendix B to Highways Appeal Statement. Submitted by the Council.
- HD2 Note on Harpers Road Traffic Flows. Submitted by the Council.
- HD3 Note on Harpers Road Traffic Flows. Submitted by the appellant.
- HD4 Extract from Ash Road Bridge Transport Assessment. Submitted by the Council.
- HD5 Agreed Updates to Suggested Conditions.



## Costs Decision

Hearing held on 6 February 2024

Site visit made on 7 February 2024

by J Bowyer BSc(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 March 2024

Costs application in relation to Appeal Ref: APP/ Y3615/W/23/3330834  
Streamside Harpers Road, Ash, Guildford GU12 6DB

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
- The application is made by Mr Andrew Kamm, Bourne Homes Ltd for a full award of costs against Guildford Borough Council.
- The appeal was against the refusal of outline planning permission for 'demolition of existing house and outbuildings and erection of 22 new houses with associated parking and creation of new vehicular access'.

### Decision

1. The application for an award of costs is refused.

### Procedural Matter

2. The application for costs was submitted in writing at the Hearing. As I agreed **with the parties, the Council's response to the application and final comments** for the applicant proceeded through written submissions following the close of the Hearing. Because the submissions were made in writing, they are a matter of record and it is not necessary to rehearse them here.

### Reasons

3. Parties in planning appeals normally meet their own expenses. However, the **Planning Practice Guidance ('the PPG')** advises that costs may be awarded where a party has behaved unreasonably and the unreasonable behaviour has directly caused unnecessary or wasted expense in the appeal process.
4. The PPG goes on to explain that unreasonable behaviour in the context of an application for an award of costs may be either procedural or substantive. Examples of behaviour which may give rise to a substantive costs award against a local planning authority are noted as including failure to produce evidence to substantiate each reason for refusal on appeal; vague, generalised or **inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis**; or preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations. Other examples include persisting in objections to a scheme or elements of a scheme which the Secretary of State or an Inspector has previously indicated to be acceptable, and not reviewing a case promptly following the lodging of an appeal as part of sensible on-going case management.
5. **The decision of the Council's Planning Committee to refuse the planning application was contrary to the officer recommendation that permission should**

- be granted. However, the Committee was entitled to exercise planning judgement to reach a different conclusion on the merits of the proposal, albeit that there should be sufficient grounds to properly substantiate its decision.
6. **The Council's first reason for refusal** of the planning application related to effects on pedestrian and highway safety. A previous appeal decision on the site<sup>1</sup> (**the Previous Appeal**) **did not identify harm to** highway safety, but highway safety was not a main issue considered by the Inspector in that appeal. Moreover, it seems to me that there could potentially have been changes to highway conditions since the Previous Appeal decision was made in 2019, including as a result of other development coming forward in the area. Consequently, I find that the Previous Appeal decision is not compelling evidence that the Council's reason for refusal was unreasonable or irrational.
  7. The **Local Highway Authority ('LHA')** **did not object to the** current proposal. As the relevant statutory consultee, the LHA's views should be given great weight and there should be cogent and compelling reasons to depart from them.
  8. **In this case, the Council's appeal statement and submissions at the Hearing** explain why it reached a different view, including detailed technical evidence. The Council did not respond to my invitation to provide a written response to highways rebuttal evidence submitted by the applicant. This would have been helpful, but **I consider having regard to the Council's responses to my** questions at the Hearing that it would have been unlikely to have significantly reduced the discussion at the event. There was no basic requirement on the Council to respond in writing and I consider the failure to do so was not in itself unreasonable. Nor am I aware of any specific requirement on the Council to have engaged with the LHA during the appeal process or to discuss its different views.
  9. The appellant disagrees with the Council's concerns but that is not in itself proof of unreasonable behaviour. I have also found in my decision that there would not be unacceptable harm to highway or pedestrian safety. However, that reflects a series of planning judgements that I have reached on the balance of the evidence before me about the effects of the proposal, including in respect of levels of vehicular traffic, levels of pedestrian and cycle movements and the adequacy of access design. As part of this, I consider the Council to have given undue emphasis to a figure of 100 vehicles per hour **using Harpers Road as a 'threshold'**. However, while the Council accepted at the Hearing that this was not a requirement set out in policy, it explained the source of the figure with reference to guidance. I have disagreed about the application of the figure as a threshold in this case, but I am not persuaded that it was wholly without basis so as to be unreasonable. Furthermore, while the applicant asserts that the Council has failed to provide evidence that the impact on highway safety or residual cumulative impacts on the road network would be severe, I note that the National Planning Policy Framework refers to **'an unacceptable impact'** rather than a severe impact in the context of highway safety.
  10. My overall conclusion is consistent with that of the LHA. However, while I have **ultimately disagreed with the Council's concerns**, I do not consider the evidence to be so clear-cut that it was irrational or otherwise unreasonable for the Council to have reached a different view. In **my assessment, the Council's**

---

<sup>1</sup> Appeal ref APP/Y3615/W/19/3225673



evidence offers a clear and logical basis to adequately substantiate its concerns in respect of highway safety and provides a suitably cogent and compelling **case to justify its departure from the LHA's views on the scheme.**

11. **Subsequent to the Council's determination of the application, an appeal** decision was issued in respect of the neighbouring Orchard Farm site<sup>2</sup> which included a finding of no unacceptable harm to highway safety. I find nothing in my reading of the Orchard Farm decision declaring 100 vehicles per hour to be the threshold deemed acceptable on Harpers Road as the Council suggests. That said, while there is some consideration of cumulative traffic levels, I also find nothing in my reading of the decision declaring that potential cumulative traffic levels with other sites including the appeal site would necessarily be acceptable. Indeed, the decision notes that permission had been refused for housing at Streamside and a lack of certainty that development would come forward on sites to the east of Orchard Farm, commenting that proposals on that land must be considered on their own merits. Given the above, it seems to me that both parties have suggested interpretations of acceptable traffic levels that are not necessarily clearly borne out by the actual decision letter for Orchard Farm. While I consider these suggested interpretations to be overstated, the Orchard Farm decision does not to my mind automatically **invalidate the Council's concerns which included cumulative effects of the proposal with Orchard Farm.**
12. I note that the LHA did not object to a revised application for 24 dwellings on the appeal site in comments made after the appeal had been submitted. However, given my findings above that the Council had legitimately reached a different view to the LHA, I do not consider it was unreasonable for it to have maintained its objection following receipt of these comments.
13. Overall, I am satisfied that the Council did not behave unreasonably in imposing its first reason for refusal, nor in continuing to defend this reason for refusal at appeal. I consider that discussion of highway matters at the Hearing could not have been avoided.
14. The second reason for refusal concerns effects on living conditions for occupiers of Oakside Cottage in respect of privacy and overlooking. The Inspector in the Previous Appeal scheme did not identify harm to neighbouring living conditions. However, the details before me indicate that the dwelling now proposed on plot 13 would be around 1m closer to the site boundary than a dwelling in the Previous Appeal scheme, and that it would also be positioned further to the south bringing it closer to clear-glazed windows to the southern part of the side of Oakside Cottage. In my view, the cumulative effect of these differences is significant and could result in greater potential for overlooking. I cannot therefore agree with the applicant that there would be an almost identical relationship to Oakside Cottage as was the case in the Previous Appeal scheme. In this context, I find that the Previous Appeal decision would not be a determinative factor in respect of this matter.
15. Furthermore, the effect on neighbouring living conditions is a matter of planning judgement. I appreciate that the detail of glazing to the proposed dwellings would be considered as part of a future reserved matters submission. Noting reference in **the Council's statement to plans of Oakside Cottage from 2007 and windows serving 'a variety of habitable rooms as well as a**

---

<sup>2</sup> Appeal ref APP/Y3615/W/22/3312863

bedroom', it is also not entirely clear whether or to what extent the Council's finding of harm may have been influenced by effects on windows to a family room at the north of Oakside Cottage which have been blocked up internally. However, there remain windows to a bedroom and a family room towards the south of Oakside Cottage's side and there would be likely to be some requirement for habitable room windows to the front and rear of the plot 13 dwelling, even if not to its side elevation.

16. **Although I have not agreed with all elements of the Council's case, I** consider that its statement supplemented by its evidence at the Hearing adequately substantiated its concerns. Indeed, I have agreed with the Council that the proposal would result in harm to living conditions for occupiers of Oakside Cottage, albeit that I have found the harm would be limited and I have ultimately concluded that it would be outweighed by the benefits of the proposal. Notwithstanding that the officer recommendation did not identify unacceptable harm to neighbouring living conditions, I find that the Council has not behaved unreasonably in relation to the second reason for refusal.
17. **I have disagreed with the Council's first reason for refusal and found the overall** planning balance to come down in favour of the proposal, but these are matters of planning judgement and the evidence does not lead me to consider that any alternative conclusion would inevitably be unsound. It is not therefore apparent that the development should clearly have been permitted having regard to its accordance with the development plan, national policy and any other material considerations.
18. **I appreciate the applicant's frustration that the application was refused after** extensive pre application engagement and a positive recommendation with no objections from statutory consultees. Nevertheless, the Council has provided adequate justification to substantiate its reasons for refusal and I consider that its defence of the appeal was reasonable. On this basis, I find that the appeal could not have been avoided, and it follows that the applicant has not been put to unnecessary or wasted expense.
19. For these reasons, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. Consequently, the application for a full award of costs is refused.

*J Bowyer*

INSPECTOR