

CD6.19

Appeal Decision – Dorking

Preface:

This appeal decision is important because it deals with the weight given to biodiversity net gain in the planning balance which is relevant to the consideration of the appeal scheme. The Inspector gave significant weight to a 20% net gain.

The relevant paragraphs referenced in the Appellant's proof are highlighted yellow.



Appeal Decision

Inquiry held on 31 October, 1-2 November and 6-7 and 9 November 2023

Site visit made on 2 November

by Andrew McGlone BSc MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 November 2023

Appeal Ref: APP/C3620/W/23/3324631

Land at Sondes Place Farm, Westcott Road, Dorking RH4 3EF

- 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 Gleeson Land against the decision of Mole Valley District Council.
 - The application Ref MO/2023/0188, dated 8 February 2023, was refused by notice dated 5 June 2023.
 - The development proposed is an outline application with all matters reserved except principal means of access to the highway for residential development of up to 144 dwellings including the creation of new vehicular access, school parking and drop-off/pick-up, gypsy and traveller pitches (0.2ha), public open space, landscape planting, surface water attenuation and associated infrastructure.
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Decision

1. The appeal is allowed and outline planning permission is granted with all matters reserved except principal means of access to the highway for residential development of up to 144 dwellings including the creation of new vehicular access, school parking and drop-off/pick-up, gypsy and traveller pitches (0.2ha), public open space, landscape planting, surface water attenuation and associated infrastructure at land at Sondes Place Farm, Dorking RH4 3EF in accordance with the terms of the application, Ref MO/2023/0188, dated 8 February 2023, subject to the attached schedule of conditions.

Preliminary Matters

2. The application submitted was in outline form with all matters reserved for future consideration, except for the principal means of access from Westcott Road. While an illustrative masterplan and landscape strategy have been submitted, I have considered them as potential ways that the appeal site could be developed for the development proposed. My consideration of the appeal is based on the site location plan, parameters plan, and the proposed site access arrangement – A25 Westcott Road plan (plan Ref: ITB12131-GA-019 Rev D).
3. Due to unforeseen events after the submission of his Proof of Evidence, Mr Stacey was unable to attend and give evidence to the Inquiry. Instead, Miss Gingell adopted his evidence on affordable housing as her own and spoke to it.
4. Shortly after the Inquiry closed, the appellant submitted a signed and dated s106 agreement (s106 agreement). The main parties agree that the s106 agreement addresses the second reason for refusal concerning the provision of affordable housing, and part of the third reason for refusal relating to the monitoring of the Travel Plan. The s106 agreement includes further measures: a Traffic Regulation Order (TRO), and mechanisms to secure the delivery of a

travel plan, highway works, on-site public open space with children's play area and Gypsy and Traveller pitches along with subsequent management and maintenance arrangements for the public open space and Gypsy and Traveller pitches. These matters did not form part of the Council's reasons for refusing planning permission, but I will consider the planning obligations and the s106 agreement later in my decision.

5. On 22 November 2023, all designated Areas of Outstanding Natural Beauty (AONB) in England and Wales became "National Landscapes". The legal designation and policy status of AONBs are unchanged, but I have replaced reference to the Surrey Hills AONB with the Surrey Hills National Landscape (SHNL) in my decision to reflect this change.

Background

6. The emerging Mole Valley Local Plan 2020-2037 (ELP) was submitted for Examination in Public (EiP) in February 2022. The hearing sessions for the ELP were completed in October 2022 and the Examining Inspector subsequently published actions and main modifications (MM's) in December 2022 and February 2023. The ELP submitted, EiP and subject of the MM's is based on the release of several sites in the Metropolitan Green Belt (Green Belt) for housing. However, the ELP has been paused since the consultation draft of the National Planning Policy Framework¹. This pause started 13 December 2022 and has continued to date pending the anticipated publication of updated national policy and to account for the May 2023 local elections. The Council seek clarity on the national approach to whether Green Belt is required to meet housing need, so the ELP is consistent with national policy. The parties hold contrasting views about the consistency of the consultation draft document and the ELP, but no one knows until such a time when the updated Framework is published, and it can be taken into account².
7. In the meantime, the Council says that it has been working in the background. Much of this work is not in the public domain, but in short, if the Council does not need to release Green Belt sites to deliver housing, it would seek to remove all the Green Belt site allocations from the ELP by additional MM's³. Even so, the Examining Inspector has made it clear that further hearing sessions will likely be required, and some of the ELP's strategic issues will need to be interrogated if this approach is pursued. This is likely to require a revised evidence base to justify the Council's chosen approach. Also, other aspects of the ELP's evidence base will need updating due to significant delays incurred⁴.
8. If the Council proceeds with the ELP as examined (Green Belt sites in) then it envisages being able to adopt the ELP in June or July 2024. The appellant does not raise issue with that timeframe. Nor do I. If the Council takes the ELP forward with Green Belt sites removed, the Council estimates adopting the plan in July 2024. The appellant disagrees, and I share their doubts about the Council's timeline. There are several issues to clarify. The first is whether the additional MM's could be carried out under the guise of the ELP or whether it is effectively a new plan. That is a matter for the Examining Inspector.
9. The extent of the other work indicated by the Examining Inspector is unclear

¹ CD1.5

² CD3.4

³ CD3.22

⁴ CD3.23

and while the Council may have been working in the background on this, consultation and hearing sessions need to take place, and the Examining Inspector will need to consider the evidence, whether there are any objections, and determine whether the plan is sound. In short, there are too many variables to be certain that the Council's timeframe on the ELP without Green Belt sites will occur.

Main Issues

10. The appeal site comprises two arable fields within the Green Belt outside of the settlement boundary for Dorking. Due to the appeal site's location and the development proposed, it is common ground that the appeal scheme would be inappropriate development in the Green Belt, having regard to the National Planning Policy Framework (the Framework)⁵.
11. Consequently, the main issues in this case are:
 - (a) whether the proposal would accord with the spatial strategy of the development plan;
 - (b) the effect of the proposal on the openness of the Green Belt, and the purposes of including the land within it;
 - (c) the effect of the proposed development on the character and appearance of the area, including the countryside and the Surrey Hills National Landscape (SHNL);
 - (d) whether the Council can demonstrate a five-year supply of deliverable housing sites;
 - (e) whether the proposal would make adequate provision for affordable housing, public open space, highway improvement schemes, a TRO, a demand responsive bus service, car club vehicles and spaces; and Gypsy and Traveller pitches; and
 - (f) whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the development.

Reasons

Spatial strategy

12. Mole Valley's spatial strategy is set out in Policies CS1 and CS2 of The Mole Valley Local Development Framework Core Strategy (Core Strategy). Core Strategy Policy CS 1(3) confirms that in the countryside, development will be considered in the light of other policies within the Core Strategy and other policy documents, which have now either been replaced by the Framework or revoked. Hence, I will take into account the Framework when considering the proposal's compliance with Core Strategy Policy CS 1(3), noting that no other criterion in Policy CS 1 are relevant to the proposal.
13. Core Strategy Policy CS 2 outlines the number of homes that will be provided for in the District during the plan period of 2006 to 2026. It then sets out how this will be achieved by directing residential development to defined built-up areas, infilling and limited residential development at specific locations and through rural exception sites. As the policy seeks to direct the distribution of

⁵ CD1.1

- development, the policy is relevant for decision making. The appeal proposal would not accord with the four criteria to meet the District's housing provision, and as such, the proposal would not accord with Core Strategy Policy CS2.
14. Although Core Strategy Policy CS 2 sets out the Council were to prepare a Land Allocations Development Plan Document (DPD) to include a review of the Green Belt boundary to ensure sufficient land is allocated to meet the District's housing requirements and manage its delivery, the DPD did not materialise. Even so, that does not translate into a development management tool to judge the appeal scheme's acceptability against as the words set out in the policy simply do not support that.
 15. Due to my finding in respect of Core Strategy Policy CS 2, the proposal conflicts, in part, with CS 1(3) as it requires development to be considered in light of other policies within the Core Strategy and the Framework. Both need to be satisfied not just one. It is not unusual for development proposal's to both comply and conflict with policy. The proposal would, setting aside whether very special circumstances exist, conflict with the Council's spatial strategy.
 16. Saying that, Core Strategy Policies CS1 and CS2 were adopted in 2009, before the first publication of the Framework in 2012. The Core Strategy was drafted to deliver a quantum of housing from the now partially revoked South East Plan, which was, in any event, a limited response to the area's true needs. The Core Strategy's approach to housing was also based on household projections from 2004. This led to a housing target of 188 dpa (dwellings per annum) which was a constraint led response rather than a response to an identified level of need. The South East Plan was not reviewed as intended. The Core Strategy did not review the Green Belt boundaries in the District, and the DPD did not happen. In all, the housing delivery target found in the Core Strategy is considerably out of date. The Council's witness in cross examination recognised that the 188dpa is only around a third of the current objectively assessed need (OAN) using the standard method, and that the boundary between Dorking and the surrounding Green Belt are substantively out of date.
 17. In short, the development plan is based on a quantity of housing and need that is nearly twenty years old. Reviews to ascertain whether that need is or is not being met, and whether the spatial strategy responds to that, have not taken place. Whatever the final housing target is in the ELP, whether that be with Green Belt sites in or out, the evidence points to it being higher than the Core Strategy's, and that it will need to account for the District's constraints⁶. The ELP examined and subject of MM's also includes provision for a short-term review after three years. Therefore, although I have found conflict with Core Strategy Policies CS1(3) and CS2, limited harm would arise from that conflict, given that these policies are out-of-date and carry limited weight.

Openness

18. Openness has a visual and spatial aspect. The Framework confirms that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.
19. The appeal site is an 'L-shaped' parcel of land 8 hectares in size located next to the western edge of Dorking. The land is split into two by an established

⁶ CD3.8, Page 3 and CD2.1, Page 106 and ID8, Paragraph 46

hedgerow. Ground levels are uniform on the parcel of land closest to Westcott Road, but they rise considerably on the parcel of land to the rear of Sondes Farm/Sondes Place Farm, residential properties on Nower Road and West Bank and The Priory C of E School from west to east. Powell Corderoy Primary School is to the southeast of the appeal site. The school playing fields lie beyond the site's eastern boundary.

20. The school sites contain buildings up to four storeys in height and a large, indoor sports facility is at The Priory C of E School. Residential dwellings in the area are predominately two storeys high, through there is a range between single storey and three storeys high.
21. Within the appeal site the land is generally open, save for the hedgerow extending across the centre. Locally, a combination of landscaping, boundary treatments and development on three sides of the site affect that open character. However, the site provides a space between different urban characters, and it is viewed and perceived as an open rural parcel of land free from development. This is also evident from vantage points at The Nower or Ranmore Common, though the later in particular is a long-range view not just of the appeal site and its immediate surroundings, but of the wider landscape that includes the SHNL. From here, the site is nestled amongst existing trees and hedgerows and viewed next to the western fringe of Dorking, areas of woodland and below existing ridgelines with open fields in the foreground.
22. The existing avenue of Lime trees set within wide green verges on Westcott Road provides an attractive entrance/exit to Dorking. They would remain as a key visual characteristic of the area, though there would be visual and spatial loss of the rural context that lies beyond the trees and the hedgerow along Westcott Road. This would be from the introduction of large amounts of built form, albeit the extent of the development would not protrude beyond the existing limits to Dorking.
23. By keeping around 45% of the site open after development the proposal's visual effect would be lessened as not every part of the site would be consumed by dwellings and ancillary infrastructure such as roads, driveways, parking provision, boundary treatments, the drop off/pick up facility, the Gypsy and Traveller pitches and domestic paraphernalia. However, development would still inevitably be spread across the site, be grouped in blocks, rise above existing or planned landscaping or be visible through it when not in leaf. The open space, pathways and surface water attenuation would also have a different visual appearance and spatial function that would be read as being part of a housing development on the land, not an arable field. The visual and spatial effect would be felt nearby and from The Nower and Ranmore Common to different degrees. The land would be perceived to be part of the settlement of Dorking and not countryside on the edge of the settlement as it currently is.
24. I conclude that the proposal would result in a moderate loss of openness in the Green Belt and conflict would arise with Framework paragraph 137.

Purposes

25. The village of Westcott is to the west while the appeal site is contained by existing development to the north and south. Although the proposal would extend the western edge of Dorking towards Westcott, the extension would not go beyond the existing western point of Dorking, and thus, would not reduce the gap to Westcott, which is a village in any event. The coalescence of the

- existing settlement of Dorking would not conflict with the second Green Belt purpose. The Council, as part of the ELP evidence base⁷, has considered the site to perform moderately in respect of merging, but my assessment is against the ordinary reading of the purpose set out in Framework paragraph 138. Hence, no conflict with the second purpose of the Green Belt would occur.
26. Nevertheless, the proposal would extend Dorking into the countryside beyond the current settlement boundary. The effect would be lessened by the development on three sides. But by infilling the arable land, which provides a countryside edge to Dorking, with a development of this scale and type, the organic edge of the settlement would become a straight and utilitarian boundary. Further, the land would be occupied by a considerable amount of housing and associated infrastructure, despite the retention of landscape features and new green infrastructure. In the round, the proposal would conflict with the first and third Green Belt purposes.
27. As outlined in the Built-Up Areas Character Appraisal⁸, Dorking *"sits in a valley below the Greensand Hills to the south and the chalk hills of the North Downs to the north. The viewpoints at Box Hill and Ranmore provide panoramic views over the town, with the spire of St Martin's Church being a prominent landmark in the heart of the town centre."*
28. Despite the site's geographic proximity to the settlement, the historic core and the character of Dorking cannot be understood from it. There are no views of the appeal site from the historic core of Dorking either, though glimpsed views of the appeal site can be obtained from parts of West Bank and Longfield Road. Hence, the special character of Dorking would be preserved.
29. The site provides a landscape setting to the edge of Dorking owing to its rural character which runs up to the existing extent of the settlement. Understanding of that is, however, affected by local topography, built form and landscaping. Other parcels of undeveloped land help break up the town's-built form, though there are some substantial and prominent buildings such as at The Priory C of E School. Although this is evident near to the site, it is the longer-range landscape views from The Nower and particularly Ranmore Common and how Dorking sits in those, that forms the underling characteristic of its setting. Both vantage points lie within the SHNL and thus the appeal site forms part of its setting, and in turn the landscape setting of the historic town of Dorking. I will consider the proposal's effect on the SHNL in a subsequent main issue. My findings here relate specifically to the setting of Dorking not the SHNL.
30. From Ranmore Common and The Nower, the site's arable use sits within scenic and panoramic views to and from the SHNL. Particularly, from several vantage points the development would be seen. But the development would sit below existing ridgelines, next to existing development and amongst a patchwork of woodland and established landscaping. Yes, the proposal would result in the loss of an open field, but other fields between Ranmore Common and the site would remain as would the school playing fields to the west of the site.
31. Although the non-designated heritage asset of Sondes Place Farm forms part of the fabric of views from Ranmore Common, it is understood along with the more recent built form on the edge of this part of Dorking, and the wider landscape setting to Dorking.

⁷ CD3.8, Page 153

⁸ CD2.3

32. The precise details of how the site could be developed are not before me, but I am satisfied that, the appeal site could be designed, laid out, developed, and landscaped in a manner that would not see the setting of Dorking materially change. As such, I consider that the proposal would preserve its setting and, on that basis, there would be no conflict with the fourth purpose.
33. For completeness, I agree with the main parties' view that the proposal would not conflict with the fifth purpose of the Green Belt.
34. In conclusion, the proposed development would conflict with the first and third purposes of including the land in the Green Belt for the reasons set out. Limited harm would arise in respect of both purposes, though the proposal would conflict with Framework paragraph 138, nonetheless.

Character and appearance

35. The appeal site is not within the SHNL, and it is not a valued landscape for the purposes of Framework paragraph 174 a), but it is within the setting of the SHNL. There is a visual connection between the site and the SHNL and vice versa which leads to an urban settlement within a rural context⁹. The SHNL extends across Surrey. It includes 13 local landscape character areas, and it has a varied character. Dorking has formed part of the setting of the SHNL since it was first designated, but the purpose of the SHNL designation is to conserve and enhance the natural beauty of the area¹⁰. I have a duty to have regard to this purpose in exercising or performing any functions in relation to, or so as to affect land in the SHNL.
36. Natural England has identified factors that assist with determining of presence/absence of natural beauty¹¹. The special qualities of the SHNL are not identified specifically in the Surrey Hills AONB Management Plan. Yet the SHNL is recognised as a strong wooded landscape which transmits a sense of remoteness and tranquillity within limited settlement and population.
37. Even if the term 'landscape qualities' used in the Council's Landscape and Visual Appraisal (LVA) is interchangeable with the term 'special qualities' used by the appellant, the Council's analysis of the factors that help with the identification of valued landscapes is based on their Local Landscape Character Area (LLCA) that draws upon land within the SHNL but also land that is not¹². As such, despite the interplay between the SHNL and land outside of it, this analysis is not wholly specific to the SHNL, and its special qualities. That said, there is some overlap with the appellant's analysis of issues that could affect the SHNL's special qualities. There are some common themes that feed into what could be the special qualities of the SHNL. These are: tranquillity, recreation function, the scenic quality of the elevated valley slopes, woodland or chalk grassland, and the remoteness (or perception of) from development.
38. The appeal site lies within the Wealden Greensand National Character Area (NCA) and the Tillingbourne and Pipp Brook Greensand Landscape Character Area (LCA). The LCA extends across the lower valley slopes between the ridgelines to the north and south. Here, as evident on the appeal site, there is open farmland with large and medium irregular fields bound by hedgerows and some hedgerow trees. The site's rural character is epitomised by its agricultural

⁹ CD2.3, Page 20

¹⁰ Section 82(1) of the Countryside and Rights of Way Act 2000 (as amended)

¹¹ Mrs Brockhurst Proof of Evidence, Paragraph 7.24

¹² Mr Harper Proof of Evidence, LVA, Figure 8

use and the hedgerows that line its boundaries and divide the two parcels of land. The site is the only open land that provides a rural country setting to the built form of Dorking on approach along the A25, but the nearby wooded hills, blocks of ancient woodlands and coppice, and the attractive tree lined road corridor of Westcott Road¹³ also influence. As such, the appeal site displays elements of the NCA and it is visible through vegetation from several nearby locations, whether that be along the site's boundaries, other land boundaries or from woodland. The vegetation screens views but the degree of screening varies during the year, and the site is viewed with the established settlement.

39. Higher slopes to the north and south within the SHNL broadly extend in an easterly and westerly direction. The site sits between these ridgelines on the valley floor, nestling amongst existing built form and landscaping that screens views to varying degrees depending on the location and time of year. The chalk scarp slopes and complex ridges to the north and south¹⁴ provide scenic and panoramic views of not just Dorking, but the wider landscape which comprises the SHNL and land outside of the SHNL. The site forms part of those views. The slopes within the SHNL, which include Ranmore Common, Box Hill and The Nower are characterised by a rural landscape, with woodland contributing to a sense of remoteness, tranquillity, and recreational opportunity. These areas are generally free from development. The appeal site's landscape character compliments the SHNL, and it sits between the existing urban area of Dorking that wraps around the site, and the site effectively functions as a rural transition between the settlement and the SHNL.
40. The appellant's LVA¹⁵ considers the LCA's have a high sensitivity, but the site itself and its context to have a medium sensitivity. However, the high sensitivity is directly influenced by the SHNL. On the other hand, the Council's LVA considers that the LLCA, which is based on land inside and outside of the SHNL, is of a medium-high landscape value and of high sensitivity. Clearly the appeal site holds landscape value, it is to what extent. Based on the evidence before me and my own observations of the site and the surrounding landscape, I prefer the appellant's judgement on landscape value.

The proposal's effect

41. Developing the site as proposed would change its character and appearance due to the large amounts of built form and associated infrastructure despite the landscaping and open space. It would expand the settlement and cause the coalescence of existing built form of different characters. The rural edge which characterises the transition in and out of Dorking would be lost. However, the tree lined Westcott Road would not be lost. Inevitably development would be seen through the avenue of Lime trees, but they and the alignment of the road mean that the focus would remain primarily of that attractive characteristic. Landscaping on the site only has the potential to help with upholding that corridor whether travelling in or out of Dorking.
42. The effect of the development would, notwithstanding the precise siting and layout of any buildings and landscaping, be felt locally from public footpaths or roads to the south and west¹⁶, albeit landscaping would still inhibit views to glimpses or in tandem with existing development to the south of the site.

¹³ CD2.4, Page 47

¹⁴ Albury to Ranmore Chalk Ridge LCA (north) and Leith Hill to Bury Hill Wooded Greensand Hills LCA (south)

¹⁵ CD4.9

¹⁶ Viewpoints 1i, ii, iii, iv, 2 and 11

43. Change arising from development is not synonymous with that equating to harm. However, the loss of the rural character to the edge of Dorking would cause harm to the character and appearance of the area despite the proposed open space and landscaping. That harm would be limited as reserved matters would provide opportunity for precise design and landscaping details to come forward having regard to the site's topography, Westcott Road, existing development and the school playing fields.
44. From The Nower and Ranmore Common, there would be a change from open, agricultural land to built form, but the site is next to the existing settlement in a low-lying position. The overall dominance of a green and scenic view would remain whether that is experienced from The Nower or along several points on Ranmore Common. The town of Dorking would continue to be part of those views, and the proposal would sit below established ridgelines with new tree cover. Detailed designs of the scheme could help assimilate the proposal into the landscape, and given this, the depth of views from The Nower or Ranmore Common would not be affected as a result. There would also likely be increased opportunity to appreciate the SHNL from within the appeal site.
45. The proposal could add to light pollution in the area, but sensitive design and details could be secured by planning condition. Considering the intended green infrastructure and with light pollution already part of the SHNL's setting, no material harm or adverse effects would be created on the setting of the SHNL.
46. For the reasons set out and bearing in mind the purpose set out in Section 85(1) of the Countryside and Rights of Way Act 2000 (as amended) (CROW Act) does not contain an absolute against development, the proposal would not adversely affect the SHNL or its setting. However, even if I were to find that there was some harm to the setting of the SHNL, the proposal could mitigate its negative effects as far as possible on the appeal site to minimise its adverse impacts and conserve the SHNL in line with Framework paragraph 176.
47. I recognise that the site is part of the draft site allocations in the ELP and that there is an evidence base supporting that plan, but I have considered the effects of the proposal, which would be for a greater quantum of development than envisaged by the Council, on its own merits. While the Council's landscape witness accepted in cross examination that the site could accommodate 144 homes without unacceptable impacts either on landscape character or the SHNL subject to questions of detailed design, I have reached my own view.

Conclusion of the main issue

48. The proposed development would conflict with Core Strategy Policies CS 13 (1) and CS 14 and saved Policies ENV4, ENV22 and ENV23 of the Local Plan 2000 (Local Plan) as it would not respect or enhance the character and distinctiveness of the landscape character area in which it is proposed. Careful siting, design and landscaping would lessen the proposal's impact but not entirely avoid it even though making best use of the land available. Conflict would also occur with Framework paragraphs 130 c) and 174 b) in this respect.
49. However, the proposal would accord with Core Strategy Policy CS 13 (2) as the natural beauty of the SHNL landscape would be conserved, having regard to ridgelines, significant views, peace, tranquillity and levels of artificial light. The proposal would also accord with Framework paragraphs 130 c) and 176 as development could come forward whilst being sensitively located within the setting of the SHNL and designed to avoid or minimise adverse impacts on the

designated area. Thus, the proposal would accord with Section 85(1) of the CROW Act.

Housing supply

Housing requirement

50. The Core Strategy is more than five years old, and its policies have not been reviewed. Hence, Framework paragraph 74 confirms that the Council should identify a minimum of five years' worth of housing against their housing requirement against their local housing need (LHN). Against the agreed base period, and using the LHN figure, the main parties agree that there is a shortfall below the minimum five years. The appellant says a supply of 2.75 years or 1,517 dwellings can be demonstrated, whereas the Council says a supply of 3.74 years or 2,062 dwellings can be shown.
51. Despite the clear direction provided by the Framework, the Council advocate five other scenarios to base the Council's housing requirement on. The Council say that all five have greater merit than using the LHN (scenario 2) in this case as they are more up to date. The Council also contends that the LHN is not fit for purpose as the 2014 household projections have inflated housing growth compared to subsequent projections and the 2021 census.
52. Scenario 1 is based on the 2021 census. Scenario 1a is an amended target based on the same census but includes concealed households which have arisen from past under delivery. Scenario 3 uses the 2018 based household projections to inform the LHN. Scenario 4 is the proposed housing target from the ELP (Green Belt sites in). Scenario 5 is a housing target based on the ELP but with Green Belt sites out. In order of preference, the Council consider scenarios 4 and 5 are of equal standing, before scenarios 3, 1a, 1 and 2 (LHN).
53. Fundamentally, determining what the appropriate housing target is, is a matter for the plan-making process not the decision-making process. Setting that principle to one side, only scenario 2 draws support from the Framework. Yet, the Council rely on the VIP Trading¹⁷ and Clacton on Sea¹⁸ decisions as reasons why a decision maker could depart from the approach in Framework paragraph 74, and use a housing requirement figure from an emerging, but not adopted strategic policy instead of the LHN calculated using in the standard method.
54. In the VIP trading decision, the revised housing target set by Policy H1 of the then draft London Plan was given significant weight as it was not to be modified following EiP, and used for the basis of assessing whether a five-year supply could be demonstrated. The Inspector, in the Clacton on Sea decision, considered the recently found sound emerging plan and its imminent progress to adoption to be a very important material consideration and applied weight to its housing target in accordance with Framework paragraph 48.
55. However, the circumstances in which those decisions were taken are not directly comparable to the situation here and scenarios 1, 1a and 3. They are all not housing targets which form part of the ELP or any other plan, they do not set the strategic direction for a plan, nor have they been subject of EiP. The Planning Practice Guidance (the Guidance) is also clear that the 2014 household projections are to be used¹⁹. In any event, the number of houses in

¹⁷ CD15.2

¹⁸ CD14.11

¹⁹ Paragraph ID: 2a-005-20190220

scenarios 1, 1a and 3 is considerably below the housing target in the ELP (Green Belt sites in), which is, notwithstanding the merits of this plan's soundness, not a full response to the Council's OAN for reasons relating to the District's constraints²⁰, and based on the Council's own evidence. Furthermore, scenarios 1 and 3 are below the Council's housing target for an ELP with Green Belt sites out. Therefore, even if I were to depart from the clear binary approach of Framework paragraph 74, scenarios 1, 1a and 3 would not appear to respond to the Council's own evidence around the need for housing.

56. The housing target in scenario 4 (ELP Green Belt sites in) was reduced down from 353 dpa (submission version) to 340 dpa as a result of the EiP. That target also accounts for past under delivery in the first three years of the plan period and looks to address this in the first five years. In scenario 5 (ELP Green Belt sites out), the annual housing target is 270 dpa.
57. For either scenario 4 or 5 the Council assert that the strategy set by emerging Policies S1 and H1 would not change, save for the housing target. This may be correct, but the pause and subsequent direction of the ELP is unclear. Due to the extent of unknowns surrounding the ELP's strategic issues and its evidence base, I am not satisfied that scenario 5 provides a firm footing at present to assesses the District's deliverable housing supply against.
58. That leaves scenario 4. If Green Belt sites are to remain in, the ELP could swiftly progress to adoption given MM's have been published. In normal plan making circumstances the Council may be right to say that significant weight should be given to ELP Policy H1. But doing so would ignore the pause to the ELP and its uncertain direction of travel potentially until a new version of the Framework is published, with a range of potential unknowns relating to the ELP with additional MM's (Green Belt sites out) flowing from that. This means that the circumstances here are not directly comparable to those in the VIP Trading or Clacton on Sea decisions.
59. It is my considered view that the housing requirement figure in ELP Policy H1(1) carries limited weight; a judgement also expressed by the Council's planning witness in cross examination. Using this figure would result in a 4.79 year supply on the Council's case or a 3.52 year supply on the appellant's case.
60. Nonetheless, given the current circumstances and uncertainty, the clarity offered by the LHN calculated by the standard method as advised by Framework paragraph 74 is to be preferred even if I were to disregard the clear binary approach that this paragraph sets²¹.

Housing Delivery Test

61. The Housing Delivery Test (HDT) is a backward-looking tool and the last version of the HDT was in 2021. However, it is the current decision-making framework despite the Council's opinion that it should carry no weight. The HDT cannot simply be disregarded based on the Council's views about its merit. Notably the consultation draft Framework did not propose to remove it nor could either party point to any appeal decision whether made by an Inspector or Secretary of State whereby the HDT has been given no weight.
62. In the last HDT result the Council was delivering 70% of its requirement. The

²⁰ ID8, Paragraph 46

²¹ East Riding of Yorkshire Council v Secretary of State for Levelling Up, Housing and Communities [2021] EWHC 3271 (Admin)

Council's witness accepted that the Council had never passed the HDT and that the delivery of housing in the District had deteriorated since the last HDT. Furthermore, a comparison²² of neighbouring Surrey local planning authorities which have a similar or higher percentage of land in the Green Belt, shows that this is not necessarily a barrier to a satisfactory HDT result and therefore avoiding an associated consequence.

Deliverable supply

63. Against the agreed five-year period of 1 April 2023 to 31 March 2028, the supply dispute relates to ELP draft allocation sites which do not require Green Belt boundary changes. These sites would potentially deliver a mix of market and affordable homes.
64. Of the 276 dwellings that the Council say are deliverable at Pixham End, the appellant agrees that there is evidence to include 175 of these. Recent applications have resulted in more than 175 dwellings being granted permission, but the Council's delivery rate of 69 dwellings per year is not evidenced. Adopting the appellant's more realistic delivery rate of 50 dwellings per annum, I consider that 175 dwellings could be delivered with 25 in 2024/25, and 50 per year in 2025/26, 2026/27 and 2027/28.
65. The site at Ermyn House becomes available in October 2026, though it is being marketed for offices with a medium to long term lease. This could be to demonstrate that the office space is no longer required, but the existing building would need to be demolished and a developer lined up before works could start. As such, there is not clear evidence to support any completions in 26/27, nor the 70 dwellings potentially completed in 27/28. That said, there is a fair chance that 25 dwellings could be completed by the end of March 2028 applying the appellant's broad brush industry standard for half a year.
66. Given the scale of development at Friday Street and the Council's resolution to grant planning permission for 23 dwellings, I consider that there is, despite the prolonged s106 negotiations, a good chance that up to 26 dwellings could be delivered here. I do not consider that there is enough clear evidence to support the 6 dwellings at Cricketers Close due to the concerns raised about odour and ecology in relation to a scheme for 4 dwellings that is current awaiting a decision. However, given the scale of development, there is sufficient time for the concerns raised about the 4 dwellings to be overcome and the dwellings delivered by the end of March 2028.
67. Following the dismissed appeal at South House²³, pre-application discussions have taken place with a revised application likely. There may be differences between the Council and landowner on capacity, but a view was expressed in the appeal decision that the harms could be overcome. Given this, and as the s106 was agreed for a scheme with a higher number of dwellings, there is enough evidence that the completions suggested by the Council will happen.
68. The South House appeal decision held that the land at Murreys Court did not meet the definition of deliverable. A planning application has since been submitted for a combination of 60 assisted living units and a 66 bed care home. The outcome of that application is unclear, and the quantum of development is considerably above the Council's suggestion, nor is it clear

²² ID5

²³ CD14.7

what, if any, bearing they may have on the delivery of 29 dwellings suggested. As such, there is not enough clear evidence to include this site.

69. Of the other sites, some or all of them may come forward and yield housing completions before the end of March 2028 as the Council suggest. I do not discount the Council's local knowledge and experience. But, based on current evidence, despite the ongoing discussions and likely planning applications, there is not enough clear evidence²⁴ in terms of the developer's delivery intentions, anticipated start and build-out rates to support their inclusion in the housing land supply total. There are also issues to resolve around the height of the scheme at Regent House in relation to the SHNL and the Area of Great Landscape Value; and whether the hospital will remain operational or not and the site's capacity. I accept that there is a realistic prospect of works starting at Bull Hill, but there is not enough clear evidence that dwellings will be delivered before the end of March 2028 despite the land being owned by the Council and there being a joint venture partnership. The delivery rates are speculative and if flats are to be built, then the whole scheme would need to be delivered before dwellings could be occupied. Therefore, the site's inclusion at the current time is not supported by clear evidence.

Conclusion on the extent of the supply

70. Whilst a snapshot in time, it seems to me that Mole Valley's current supply of deliverable housing sites based on LHN (scenario 2) lies somewhere between the two figures presented to me but far closer to the appellant's figure than the Council's. Based on my findings on the disputed sites, there would be a supply of around 2.9 years or 1,602 dwellings. This would be a shortfall of roughly 1,152 dwellings against the LHN figure.
71. While scenario 4 is not to be preferred, it carries limited weight. So, applying my findings on the disputed sites to this scenario, there would be a supply of approximately 3.7 years which would be a shortfall of about 551 dwellings. I am mindful that scenario 4 measures a housing target with Green Belt sites in against a supply with Green Belt sites out, but that is the agreed approach to assessing the supply, and there is no analysis before me about whether sites within the Green Belt are deliverable or not. Although logic suggests there may be a boost to the Council's supply if the ELP were to be adopted with Green Belt sites in, there is no substantive evidence to support that or to what extent. Therefore, my findings are based on the parties agreed approach to assessing the supply.
72. The outcome of my findings on the disputed sites also affects the number of affordable homes that form part of the five-year supply. Using my findings and the Council's affordable housing delivery figures²⁵, 50 further affordable homes could, at best, form part of that supply. This figure should be added to the agreed figure of 65 affordable homes that already forms part of that supply, taking the total affordable housing supply to around 115 dwellings or 23 dpa.

Planning obligations

73. Framework paragraph 57 and Regulation 122 of the CIL Regulations confirm that planning obligations must only be sought where they meet each of the following three tests: necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably

²⁴ Regent House, Leatherhead Hospital and Elmers Field

²⁵ ID6, Table 1

related in scale and kind to the development.

74. The s106 agreement would secure financial contributions towards the highway improvement schemes, a demand responsive bus service, car club vehicles and spaces, a travel plan monitoring fee, and a TRO. The s106 agreement also includes mechanisms to secure the delivery of affordable housing, a travel plan, highway works, on-site public open space with children's play area and Gypsy and Traveller pitches along with subsequent management and maintenance arrangements for the public open space and Gypsy and Traveller pitches.
75. The proposal would increase vehicular and other transport movements to and from the appeal site. Core Strategy Policy CS 18 explains that all new housing and commercial development will be subject to the development tariff, a component of which will be directed towards enhanced public transport, promotion of more sustainable transport choices and to support improvements in the range of transport options and accessibility to services and facilities by means other than the private car. The policy seeks to encourage a modal shift away from the private car, but the evidence to support the highway improvement scheme, demand responsive bus service and car club vehicles and spaces still needs to satisfy the three tests.
76. A contribution of £172,800 is sought for Copenhagen style crossings at the junctions where Westcott Road with Nutcombe Lane and Drill Hall Road, and to modify the existing signalised junction at Westcott Road/Drill Hall Road. This is to encourage modal shift and promote sustainable modes of travel to/from the appeal site to the town centre and its train stations by providing level, priority access to users in these locations. The improvements seek to add to and extend the accessibility and safety improvements proposed by the appellant along Westcott Road near to the site. The existing shared foot and cycleway would be used but priority access at the junctions would be extended much closer to the town centre. Westcott Road is a busy road that can be congested along with Vincent Lane. There is little resilience left at this junction. While the obligation would not remove every possible car journey, it would encourage modes of transport other than the car and for those movements to be safe and given priority, I consider that the obligation satisfies the three tests.
77. Surrey County Council, in partnership with the Council have recently launched the Mole Valley Connect DDRT bus service. This flexible service provides passengers with a range of destinations within an agreed travel zone, offering links to the railway stations, local shops and GP's. People book journeys using an app, online or via on the telephone. The DDRT runs alongside the timetabled range of bus services available from two sets of bus stops a short walk from the site. These offer connections to various destinations, including train stations for onward journeys across the week. Improvements to the existing bus stop are already proposed along with pedestrian and cycle connections along Westcott Road. As such, given the site's location next to Dorking, I do not consider a contribution to the DDRT, which is primarily aimed at semi-rural and rural locations, to be necessary or directly related to the proposed development on the evidence before me.
78. The Council assert that the provision of electric vehicle car club spaces and vehicles will increase the use of sustainable modes of travel, reduce the reliance on the private motor vehicle, reduce congestion and improve air quality. That evidence is not, however, specific to the effects of the proposed development. There is already a car club with one vehicle a 10-to-15-minute

walk from the appeal site. A further car club vehicle is stationed near to the Council offices around 30 minutes away, and anecdotally well used. However, there is no substantive evidence about the availability of either existing car club vehicle or whether there are barriers such as their location that affect its use to know whether further provision is necessary on the appeal site. Accordingly, I am not satisfied that the contribution would be directly related to the development and be of scale and kind to it.

79. The s106 agreement requires an indemnity to be provided with the initial funding arrangements for the management company that is to be set up to repair, maintain and renew the public open space and the children's play area. The indemnity would cover the first five years of maintenance should the management company default, so that the open space is managed, maintained and establishes. It is a failsafe, but the Council would be able to satisfy itself of the management company's funding arrangements for the initial period. While matters can change, there are enforcement powers under s106 of the Act should the management company default. Thus, the indemnity provision is not necessary to make the development acceptable in planning terms. Therefore, I have not taken it into account in reaching my decision.
80. For the reasons set out above, the obligations in respect of the demand responsive bus service, car club vehicles/spaces and the indemnity do not satisfy the tests set out in Framework paragraph 57 and in CIL Regulation 122. I am therefore unable to take them into account in determining this appeal. I conclude, however, that the remaining obligations that would be secured through the s106 agreement would meet the statutory tests and as such, they are material considerations in this appeal. Hence, the proposal would not conflict with Core Strategy Policies CS 4, 18 and saved Local Plan Policy MOV2.

Other considerations

Sustainable location

81. The site is a sustainable location due to its proximity to Dorking and the facilities and services it offers which could be reached by a range of travel modes. Siting development in sustainable locations is the fundamental thrust of national and local policy, but in Mole Valley there is a tension between protecting the environment, delivering against its needs and doing so in sustainable locations. While it is unclear which version of the ELP the Council will progress, I give limited positive weight to the site's sustainable location despite the scheme's conflict with the spatial strategy and the site's Green Belt location. My finding here is reinforced by the highway improvement works that the s106 agreement would secure that would benefit the wider population also.

Market housing

82. The proposed market dwellings would help boost the Council's supply of market homes through a mix of units next to Dorking, which offers accessible facilities and services. The shortfall against the minimum level of supply to be very substantial (LHN) or considerable (scenario 4).
83. Despite the Council's view about the HDT, the delivery of housing has not improved since the last HDT result in which the Council was delivering 70% of its requirement. The Housing Delivery Test Action Plan may yield change but the shortfalls in housing land supply against either the LHN or scenario 4 are serious even if the ELP has increased supply already despite it not being adopted. In any event, the ELP has been paused and its future direction is

unclear. The timeline for the ELP is far more uncertain if all the Green Belt site allocations are removed from the ELP and I doubt the Council's timeline.

84. Not delivering enough houses affects people whether that be in their availability, cost, affordability or the bearing that all three have on people being pressed into staying in unsuitable accommodation for their current or even future needs. The Framework seeks to significantly boost the supply of homes. I consider that the provision of market housing should carry very substantial weight in this case. That level of weight applies to the position using the LHN, but also scenario 4 should I be wrong about using the LHN as that shortfall is still well below the minimum five-year supply and the housing would deliver social benefits/significantly boost housing supply.

Affordable housing

85. Compared to the Core Strategy Policy CS4 target a shortfall of 234 affordable homes has arisen across the current development plan period. The most recent evidence of need²⁶ points to an increased need for affordable homes (143 dpa). However, in the last three years alone, there has been a shortfall of 396 affordable homes due to the delivery of only 33 dpa in those years.
86. To clear the backlog 222 affordable homes would need to be delivered each year for the next five years. The number of affordable homes coming forward looks to be substantially below that level of delivery. This will mean the existing shortfall will only become worse.
87. The ELP is said by the Council to be grounds for optimism in turning the tide, but even if every single site in the ELP, whether that be with Green Belt sites in or out, delivered 40% affordable homes, the identified need would not be met. So, while there may be an uptick in delivery after the ELP is adopted, it will not be enough to satisfy people who need such housing now. In practice, not every site may deliver affordable homes at 40%, so the picture may not be as positive as the Council suggests.
88. The consequences of not providing enough affordable homes affect people. Being able to access good housing has a bearing upon everyday life and there are socio-economic effects such as financial security and stability, physical and mental health, decreased social mobility and adverse effects on children's education and development. In Mole Valley the number of people on the housing register has risen, there are increasing affordability ratios and people are paying significantly over 30% of their income on rent.
89. The proposal would deliver up to 72 affordable homes with a suitable tenure split, which exceeds the 40% on site provision that Core Strategy Policy CS 4 requires. The s106 agreement secures the provision and tenure split. The affordable homes would make a sizeable contribution to addressing the acute and long-established shortfall which will not be fully addressed in the short term. I give the affordable housing provision very substantial positive weight.

Gypsy and Traveller pitches

90. The provision of 0.2 hectares on land could accommodate at least three Gypsy and Traveller pitches would help towards meeting the identified need demonstrated in the Council's evidence base for the ELP. This is consistent with ELP Policy DS24. I recognise the pause to the ELP and the uncertain future of

²⁶ Strategic Housing Market Assessment Update (SHMA), December 2020

including the appeal site as an allocation, but the evidenced need means that I give this provision significant positive weight.

School drop off/pick facility

91. A parking and pickup/drop off facility for the Priory C of E School forms part of the proposal. Due to the location of the school, neighbouring residential development and the existing road network, the appeal site offers the only location where this could be delivered. Although the Highway Authority is looking to encourage a shift away from private cars for school related journeys, there will probably always be some element of private car use. The locations from which pupils attend the school also means that coaches are likely to continue to operate. The proposed provision, subject to details, offers the potential for a safe facility to be created along with a pedestrian connection to the school. There may be knock on effects for the movement of vehicles on the local highway network with vehicular access solely from Westcott Road, but there is no Highway Authority objection in this case. I consider that the parking and pickup/drop off facility carries moderate positive weight.

Biodiversity net gain

92. The appeal scheme would deliver an on-site biodiversity net gain (BNG) of over 20%. This would be a measurable gain in the context of Framework paragraph 179a), but it is also a figure that goes beyond requirements of 10% and 20% as sought by The Environment Act 2021 and ELP Policy EN9 which provide a forward direction of travel to measure BNG against. The BNG proposed could be secured through planning conditions and the s106 agreement. Given that the BNG goes beyond both forward looking figures, it is a measurable gain that attracts significant positive weight.

Green infrastructure

93. It is common ground that the appeal scheme would provide in excess of 3.5 hectares of newly accessible green infrastructure, including open space and a play area. ELP Policy DS24 seeks the provision of all these matters, though that policy attracts limited weight due to the unknown direction that the ELP will go. The green infrastructure would mitigate the development's effects and likely include elements of good design, but it would also plausibly be used by the wider population also and connect Westcott Road to West Bank, the Priory C of E school and The Nower for example. The existing route to the west of the appeal site from Westcott Road to Milton Heath and The Nower would remain, but the proposed green infrastructure would be a closer alternative to many. I therefore attach moderate positive weight to the green infrastructure proposed, which would be secured through planning conditions and the s106 agreement.

Economy

94. Economically, the proposal would lead to the creation of between 336 and 436 direct, indirect and induced jobs. It is also envisaged that future occupants would add around £4 million per year to the local economy. I do not consider, in the context of Framework paragraph 81, that these benefits are of limited weight. They stem from the proposal and carry significant weight in my view as there would be short-and long-term contributions to the economy.

ELP Policy DS24

95. For the reasons outlined above, the current pause to the ELP and its future direction of travel lead me to attach limited weight to ELP Policy DS24. Even

so, the proposal would not, subject to details at reserved matters along with the imposition of planning conditions and the s106 agreement, conflict with it. This is, however, a matter of neutral weight in the planning balance.

Other Matters

Sondes Place Farm – a non-designated heritage asset

96. Sondes Place Farm, to the east of the site, is a good example of a model farm complex with associated farmhouse dating from the 19th century that were architect designed rather than built in the local vernacular style. The aim was to support the development of agricultural technology and improve welfare standards of farm workers. The buildings have been converted to residential use, but they are complete and hold architectural and historical significance.
97. The proposal would alter the rural setting afforded by the two fields to the model farm. However, the appeal scheme could be designed to lessen that change through landscaping, the placement and design of the open space and the siting of the dwellings. This leads me to consider that the scale of harm to the significance of Sondes Place Farm would be low. Balanced against this are numerous benefits associated with the scheme which I have outlined above. In my judgement when I consider the scale of harm identified against these, the balance is firmly in favour of the appeal scheme.

Points raised by interested parties

98. It is likely that residents would experience dust, noise, vibration and disruption in connection with the proposal, but these would be relatively short-term effects and a planning condition could be imposed to secure a construction management plan to limit these effects. There would be a change to existing neighbouring residents' privacy and outlook, but I am content that these effects could be made satisfactory at the detailed design stage. Despite the localised congestion experienced in Dorking, the Council's Environmental Health Officer did not raise any objections about the effect of air quality or light pollution arising from the proposal. Subject to planning conditions relating to the construction phase and lighting, I agree.
99. Surveys set out the site's ecological baseline and include recommendations. Existing trees and hedgerows are to be retained and a suitably designed landscape strategy for the site including sustainable urban drainage could come forward at reserved matters stage. Given this, and the imposition of planning conditions to secure a sensitive lighting management plan, a landscape and ecological management plan, a construction and ecology management plan and an updated bat surveys and mitigation strategy, I agree with the Surrey Wildlife Trust that the proposal would be acceptable in biodiversity terms.
100. I consider that the proposed means of access would be acceptable subject to the imposition of planning conditions. I also agree with the Highway Authority that the proposed development would not lead to a significant increase in vehicular trips on the surrounding highway network. I understand that a solution to remedy the existing localised congestion at the junction of Westcott Road and Vincent Lane has not been found. The extra number of vehicles on the highway and at that junction may mean journeys take a little longer, but the site's location and accessibility to a range of facilities and services, including multiple public transport options, means that future occupants would not be reliant on the private car. The evidence before me indicates that the proposal would not have an unacceptable effect on the operation of the local

highway network or the safety of its users, and subject to the imposition of planning conditions and the s106 agreement, the residual cumulative impacts on the road network would not be severe having regard to Framework paragraph 111. There would not consequently be conflict with ELP Policy S4.

101. Although it is suggested that local infrastructure such as doctors and schools are already full, this is not supported by substantive evidence and no planning obligations are sought to mitigate the proposal's effects on these facilities.
102. The appeal site lies in Flood Zone 1. No objections have been raised by the Lead Local Flood Authority and the Environment Agency subject to planning conditions being imposed so that surface water drainage details are considered at reserved matters stage. These details will include consideration of the proposed sustainable urban drainage system and its interaction with the existing environment so that there is no increased risk of flooding in the area.
103. The proposal would mean that the appeal site could no longer be used for arable farming, and in the wider context of seeking to minimise food imports, reducing associated carbon emissions, and being self-sustaining as a country, the proposal would not assist. There may also be an indirect effect as the site is partially used by local primary school pupils to plant vegetables before the main crop is planted. However, stepping back, the appeal site is relatively modest in size, it is not best and most versatile agricultural land, and the education benefit could be delivered in another manner by the school. The loss of the appeal site for farming, whilst regrettable needs to be balanced against the scheme's benefits. There is no evidence, despite the assertion, to support a view that the proposal will increase local temperatures on its own.
104. The site may currently offer a rural edge to Dorking that residents resonate with their wellbeing. The proposal would change that relationship, but residents would still have a range of good quality outdoor spaces and routes that they can enjoy for their wellbeing.
105. Brownfield land may or may not be available in the local area, but I have considered this appeal on its own planning merits and the only way that the site would not be in the Green Belt would be through the ELP or another plan in the future. The Council also raise points about the appeal scheme 'pre-empting' the outcome of the consultation draft of the Framework²⁷ and thus the ELP. However, the Council has not advanced a case on prematurity with regards to Framework paragraphs 49 and 50.

Planning Balance

106. The proposal is inappropriate development which is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. There would also be moderate harm to the openness of the Green Belt and with limited harm to two of the purposes of including the land within it. Nevertheless, the totality of Green Belt harm attracts substantial weight. Very special circumstances will not exist unless the harm to the Green Belt and any other harm is clearly outweighed by other considerations.
107. I have identified limited harm with the Council's spatial strategy and the character and appearance of the area, though that harm is localised and does not extend to the setting of the SHNL or the SHNL itself. Hence, the proposal

²⁷ CD1.5

would conflict with Core Strategy Policies CS 2, CS 13 (1) and CS 14 and saved Policies ENV4, ENV22 and ENV23. But no conflict would arise with Core Strategy Policy CS 13 (2). The s106 agreement secures contributions required by Core Strategy Policies CS 4, 18 and saved Local Plan Policy MOV2. Some of obligations would provide the local community with affordable homes and Gypsy and Traveller pitches together with access, recreation, leisure and wellbeing benefits that weigh in favour of the appeal scheme. The remaining contributions would mitigate the effect of the development, so they do not weigh in favour or against the proposal.

108. I consider that all the other considerations clearly outweigh the harm that I have identified. Hence, the very special circumstances necessary to justify the development do exist and I conclude the proposal would accord with Core Strategy Policy CS 1 (3) in respect of the Green Belt. That would also mean, as the appellant suggests, that the proposal would accord with the development plan as a whole despite the scheme's conflict with the spatial strategy.
109. However, on the Council's interpretation of Core Strategy Policy CS 1(3), even if the provisions of national policy relating to Green Belt are satisfied, there would still be conflict with this policy due to the scheme's conflict with the District's spatial strategy, and by extension the character and appearance of the area. On the Council's case, this would lead to a conclusion that the proposal would conflict with the development plan as a whole. Yet the development plan policies that I have found conflict with are the most important policies in this case²⁸. The application of footnote 8 concerning housing land supply and the HDT mean that the decision-making process set out in Framework paragraph 11 d) is to be applied.
110. There are no policies in the Framework that protect areas or assets of particular importance which provide a clear reason for refusing the development proposed. Applying the tilted balance, the proposed development would result in benefits, but also cause harm. However, I conclude that the adverse impacts of granting permission would not significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. As a result, even applying Core Strategy Policy CS 1 (3) as the Council interprets, there are material considerations in this case that indicate that this decision should be made otherwise than in accordance with the development plan.
111. Therefore, I conclude, on either approach, that the appeal should be allowed subject to the conditions set out below.

Conditions

112. In imposing planning conditions, I am mindful of the six tests in Framework paragraph 55. Beyond the standard condition [1], I have imposed a plans condition and a condition concerning existing and proposed ground levels, proposed ground floor slab level of each building, and the finished levels of any access road and driveway, in the interests of certainty and the character and appearance of the area [3 and 5].
113. In the interests of archaeology, a condition is needed for archaeological investigation and recording [6]. To ensure that the construction of the development does not bring about adverse impacts in terms of ecology,

²⁸ CS 1, CS 2, CS 13, CS 14, ENV22 and ENV23 – agreed by Ms Munnis and Mr Ross, plus ENV4

highway safety and the amenities of the area, conditions to secure a construction transport management plan and a construction and ecology management plan are necessary [9 and 12].

114. To encourage means of transportation other than the private car, a travel plan condition is necessary [4]. So that the appeal site can be accessed safely from Westcott Road, and the continued operation of the surrounding highway network, a condition is necessary to ensure the approved access details are constructed and visibility zones kept permanently clear of obstruction over 0.6m high [8]. To help address the effects of climate change, a condition is necessary [13] to secure details of measures to reduce carbon emissions of the predicted energy use for each dwelling by at least 10%.
115. In the interests of flood prevention, pollution control and environmental protection, conditions are necessary to secure surface water drainage details and a subsequent verification report [7 and 14]. To protect bats and ensure suitable habitats, a condition is necessary to secure an updated bat roost survey report and final bat mitigation strategy [2]. In the interests of biodiversity, including its future management and maintenance, conditions are necessary for a sensitive lighting management plan and a landscape and ecological management plan [10 and 11]. The former condition is also necessary in the interests of the character and appearance of the area.

Conclusion

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

Andrew McGlone

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Zack Simons and Kimberley Ziya	Counsel, instructed by Adam Ross of Nexus Planning
They called:	
Clare Brockhurst FLI BSc (Hons), Dip LA	Director, Leyton Place Limited
Dominick Veasey BA (Hons), DipTP, MRTPI	Head of Research and Analytics, Gleeson Land
Annie Gingell BSc (Hons), MSc, MRTPI	Associate, Tetlow King Planning
Adam Ross BA (Hons), DipTP, MRTPI	Director, Nexus Planning
David Earl *	Associate, iTransport
James Smith *	Principal at James Smith Planning Law Services

FOR THE LOCAL PLANNING AUTHORITY:

Jack Parker	Counsel, instructed by Melissa Clarke, Deputy Development Manager and Solicitor, Mole Valley District Council
He called:	
Sherelle Munnis BA (Hons) MRTPI	Deputy Development Manager, Mole Valley District Council
Duncan Clarke BSc (Hons), MA, MA, MRTPI	Planning Policy Manager, Mole Valley District Council
Nick Harper BA(Hons), DipLA (Hons) CMLI	Partner, Harper Landscape Architecture LLP
James Lehane *	Principal Transport Development Planning Officer, Surrey County Council
Tom Penlington *	Legal Services Manager and Solicitor, Mole Valley District Council

* Participated in the Planning Obligation session only.

INTERESTED PARTIES:

Ken Hollis
Steve McDonald
Jackie Macey
Chris Cook
Lisa Scott
Councillor Watson, Surrey County Council

INQUIRY DOCUMENTS

- ID1 Appellant Opening Statement and Appearances
- ID2 Council Opening Statement and Appearances
- ID3 Errata, Miss Gingell Proof of Evidence
- ID4 Mr Clarke Updated Affordable Housing Table
- ID5 Surrey Local Planning Authorities' Housing Delivery Test Results 2018 - 2021
- ID6 Housing Land Supply Roundtable Note
- ID7 Council Closing Submissions
- ID8 Appellant Closing Submissions

CORE DOCUMENTS

Found in the List of Core Documents, dated 30 October 2023.

SCHEDULE OF CONDITIONS

- 1) Approval of details of access (other than shown on plan reference ITB12131-GA-019 Rev D), the layout, scale, external appearance of the buildings, and the landscaping of the site (hereinafter called the 'reserved matters') shall be obtained from the Local Planning Authority in writing before any development is commenced and carried out as approved. Plans and particulars of the reserved matters referred to above, shall be submitted in writing to the Local Planning Authority before the expiration of three years from the date of this permission. The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the reserved matters to be approved.
- 2) Reserved Matters applications that are influenced by trees 1, 3 and 17 as shown on Figure A11.1 Bat Tree Roost Plan of the Ecological Impact Assessment (EAD Ecology, May 2023) shall be accompanied by an updated bat roost survey report and final bat mitigation strategy to be approved in writing by the Local Planning Authority. The survey report and mitigation strategy shall be in line with the Response to Surrey Wildlife Trust Ecology Planning Advice Service (EAD Ecology, May 2023) and Ecological Impact Assessment (EAD Ecology, January 2023). The update bat roost surveys, to include preliminary ground level tree roost assessments and bat presence/likely absence surveys, must be carried out in line with good practice guidelines.

Compliance

- 3) The development hereby permitted shall be carried out in accordance with the following approved plan numbers 1158.01 'Site Location Plan', 1158.03 'Parameters Plan' and ITB12131-GA-019 Rev D.
- 4) The details within the approved Travel Plan, dated 22 May 2023, Revision C, shall be implemented upon first occupation of the development and thereafter shall be maintained and developed to the satisfaction of the Local Planning Authority.

Pre-commencement

- 5) No development shall take place until details of the existing ground levels of the site, the proposed finished levels of the ground, the ground floor slab level of each building, and the finished levels of any access road and driveway showing their relationship with the existing levels of the immediately adjoining land and buildings, have been submitted to and approved, in writing, by the Local Planning Authority. The development shall be carried out in accordance with the approved levels.
- 6) No development shall take place until a programme of archaeological work, to be conducted in accordance with a written scheme of investigation (WSI) has been carried out. The WSI shall comprise a programme of geophysical survey followed by a trial trench evaluation and shall be submitted to and approved, in writing, by the Local Planning Authority.
- 7) The development hereby permitted shall not commence 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 design must satisfy the SuDS Hierarchy and be compliant with the national Non Statutory Technical Standards for SuDS, NPPF and Ministerial Statement on SuDS. The required drainage details shall include:

- a) the results of infiltration testing completed in accordance with BRE Digest: 365 and confirmation of groundwater levels.
- b) evidence that the proposed final solution will effectively manage the 1 in 30 (+35% allowance for climate change) & 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
- c) 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 confirmation of half-drain times.
- d) 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.
- e) details of drainage management responsibilities and maintenance regimes for the drainage system.
- f) 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.

Thereafter the drainage scheme shall be implemented in accordance with the approved details.

- 8) No works shall commence on-site unless and until the access to Westcott Road hereby approved has been constructed to base course level and provided with visibility zones in accordance with the approved plans, Drawing No. ITB12131-GA-019 Rev D, and thereafter the visibility zones shall be kept permanently clear of any obstruction over 0.6m high. The access shall then be constructed in accordance with the approved plans prior to the first dwelling being occupied.
- 9) No development shall commence until a Construction Transport Management Plan, to include details of:
 - a) parking for vehicles of site personnel, operatives and visitors
 - b) loading and unloading of plant and materials
 - c) storage of plant and materials
 - d) programme of works (including measures for traffic management)
 - e) provision of boundary hoarding behind any visibility zones
 - f) HGV deliveries and hours of operation
 - g) vehicle routing
 - h) measures to prevent the deposit of materials on the highway

- i) before and after construction condition surveys of the highway and a commitment to fund the repair of any damage caused
- j) on-site turning for construction vehicles

has been submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented during the construction of the development.

- 10) Prior to commencement of development, a Sensitive Lighting Management Plan (SLMP) approved by a suitably qualified ecologist and designed in accordance with the findings of the Ecological Impact Assessment (EAD Ecology, January 2023) and the updated bat surveys (required by Condition 2) shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the SLMP shall be implemented in accordance with the approved details. The SLMP must be designed in line with Guidance Note 8 Bats and Artificial Lighting (GN08/23) and include, but not be limited to providing the following information:
- bat mitigation strategy
 - dark habitat corridors
 - demonstration of avoiding illuminance of key habitats
 - horizontal illuminance contour plan (lux) modelling and detail of luminaire specifications
- 11) Prior to the commencement of development, a Landscape and Ecological Management Plan (LEMP) shall be submitted to and approved in writing by the Local Planning Authority. The LEMP must be written by a suitably qualified ecologist and be in line with the Response to Surrey Wildlife Trust Ecology Planning Advice Service (EAD Ecology, May 2023) and Ecological Impact Assessment (EAD Ecology, January 2023). Thereafter the LEMP shall be implemented in accordance with the approved details. The LEMP should be based on the proposed impact avoidance, mitigation and enhancement measures specified in the above referenced report and should include, but not be limited to the following:
- a) description and evaluation of features to be managed.
 - b) ecological trends and constraints on site that might influence management.
 - c) aims and objectives of management.
 - d) appropriate management options for achieving aims and objectives.
 - e) prescriptions for management actions, together with a plan of management compartments
 - f) reparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period
 - g) details of the body or organisation responsible for implementation of the plan
 - h) ongoing monitoring and remedial measures
 - i) legal and funding mechanisms by which the long-term implementation of the plan will be secured by the applicant with the management body(ies) responsible for its delivery.
 - j) monitoring strategy, including details of how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme.

- k) final Biodiversity Gain Plan
- l) final Mitigation Strategy for Protected Species

12) Prior to the commencement of development, a Construction and Ecology Management Plan (CECoMP) shall be submitted to and approved in writing by the Local Planning Authority. The CECoMP must be written by a suitably qualified ecologist and be in line with the Response to Surrey Wildlife Trust Ecology Planning Advice Service (EAD Ecology, May 2023) and Ecological Impact Assessment (EAD Ecology, May 2023). Thereafter the CECoMP shall be implemented in accordance with the approved details.

The CECoMP should include, but not be limited to:

- a) map showing the location of all of the ecological features.
- b) risk assessment of the potentially damaging construction activities
- c) practical measures to avoid and reduce impacts during construction.
- d) location and timing of works to avoid harm to biodiversity features.
- e) responsible persons and lines of communication
- f) use of protected fences, exclusion barriers and warning signs.
- g) final Mitigation Strategy for Protected Species

Before above ground works

13) Before any above ground works take place, details to reduce the carbon emissions of the predicted energy use of the development hereby permitted by at least 10% against the Target Emission Rate for each dwelling, as determined by Part L of the Building Regulations 2022 shall be submitted and approved by the Local Planning Authority. All approved carbon reduction measures to serve a dwelling shall be implemented prior to the first occupation of that dwelling hereby permitted, and in accordance with the approved strategy.

Pre-occupation

14) Prior to the first occupation of any phase of the development, a verification report carried out by a qualified drainage engineer must be submitted to and approved by the Local Planning Authority. This must demonstrate that the surface water drainage system for that phase has been constructed as per the agreed scheme (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.

END OF SCHEDULE