

Tandridge District Council

**Planning Proof of Evidence of Clifford Thurlow, BA (Hons),
DipTP, MRTPI, DMS.**

**Town and Country Planning Act 1990 Appeal by Cala
Homes (Southern Home Counties), Land at Chichele Road,
Oxted, Surrey, RH8 0NZ.**

PINS Appeal Ref No.: APP/M3645/W/24/3345915

LPA Ref No.: TA/2023/1345

September 2024

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PROOF SUMMARY

- i) The appeal relates to application TA/2023/1345 for detailed planning permission for the following description of development:
“Proposed residential development of 116 Dwellings (Class C3) including affordable housing with associated access, car parking, soft landscaping and play provision.”
The application was submitted on the 26th November, 2023, and was refused under officer delegated powers on the 26th February, 2024.

- ii) There were seven grounds of refusal:
 - i) Harm to the Green Belt
 - ii) Harm to Ancient Woodland
 - iii) Failure to contribute to and enhance the natural environment by minimising impacts on, and providing net gains for, biodiversity.
 - iv) Harm to open countryside part of which is a designated Area of Outstanding Natural Beauty (AONB).
 - v) The development is not sustainable
 - vi) Harm to protected trees.
 - vii) The development would be prejudicial to the current Natural England AONB Boundary Variation Project which proposes including the whole site in the AONB.

- iii) During the lead-up to this public inquiry the Appellant has sought to address the reason for refusal in Grounds of Refusal ii) and vi) by making changes to the layout of the proposed development. The Local Planning Authority (LPA) has accepted that these changes have removed the reason for Ground of Refusal vi) and no evidence will be presented with respect to this ground. There is ongoing discussion with respect to Ground of Refusal ii).

- iv) The case of the LPA is that harm to Green Belt and associated loss of open countryside attracts substantial weight against the grant of planning permission in accordance with paragraph 148 of the National Planning

Policy Framework (NPPF). The direct harm to the AONB, which includes an irreplaceable environmental asset of Ancient Woodland, and through development in the setting of the AONB, also attracts separate substantial weight against the grant of planning permission. The NPPF requires that exceptional reasons should be demonstrated for allowing for loss or deterioration of Ancient Woodland.

- v) Further, the case for the LPA is that the Appellant has not demonstrated, as required by the NPPF and development plan policy, the very special circumstances to override harm to the Green Belt and development in the setting of the AONB, or exceptional reasons for loss or deterioration to Ancient Woodland. Neither has the Appellant confirmed yet that measures will be in place to ensure no loss of, or deterioration in, the Ancient Woodland. Very special circumstances for allowing this appeal do not exist unless the collective harm to Green Belt, AONB, open countryside and Ancient Woodland is clearly outweighed by other considerations.
- vi) For the reasons set out above, the appeal proposals do not comply with the development plan or national policy in the NPPF. Material considerations do not indicate that planning permission should nevertheless be granted. The appeal should therefore be dismissed.

1. Witness, qualifications and statement of truth

- 1.1 My name is Clifford Thurlow and I am Planning Advisor to the Tandridge District Council. My qualifications are BA(Hons), Diploma in Town Planning and Chartered Membership of the Royal Town Planning Institute. I have over 40 years of experience in town planning working for local authorities, in private practice and the private sector.
- 1.2 I understand my duty to the Inquiry and have complied, and will continue to comply, with that duty. My evidence is given in accordance with the Royal Town Planning Institute's guidance for members acting as expert witnesses. I confirm that this evidence identifies all facts which I regard as being relevant to the opinions that I have expressed. The Inquiry's attention has been drawn to any matter which would affect the validity of that opinion. The evidence also draws on information that I have gathered on a number of visits to the appeal site, the most recent being on 15 May and 12 June this year. I believe that the facts stated within this proof are true and that the opinions expressed are correct.
- 1.3 A Core Documents (CD) list is in preparation and these are referenced as CD1.1 etc below.

2. The application

- 2.1 The appeal relates to application TA/2023/1345 for detailed planning permission for the following description of development:

“Proposed residential development 116 Dwellings (Class C3) including affordable housing with associated access, car parking, soft landscaping and play provision.”

The application was submitted on the 26th November, 2023.

- 2.2 The application was refused under officer delegated powers on the 26th February, 2024, on the following grounds:

“1) The proposed residential development represents inappropriate development in the Green Belt that would result in significant harm to openness both spatially and visually. The proposed development would also result in significant other planning harm in that it would have an urbanising effect upon and fail to conserve and enhance the setting of the Surrey Hills National Landscape defined in the development plan and would fail to safeguard the open countryside from encroachment and would not be seen to check the sprawl of large built-up areas. Very special circumstances do not exist to override the very substantial weight that must be afforded to the harm to the Green Belt and other harm resulting from the proposal. As such, the proposed development is contrary to policy CSP20 of the Tandridge District Core Strategy 2008 and policies DP10 and DP13 of the Tandridge Local Plan Part 2: Detailed Policies (2014) and paragraphs 152, 153 and 182 of the NPPF (2023).

2) By neglecting to provide a sufficient semi natural buffer, the proposed development would be likely to cause a deterioration of ancient woodland and fails to properly consider its protection contrary to NPPF 2023 paragraph 186 (c) which requires that development resulting in the loss or deterioration of irreplaceable habitats such as ancient woodland should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists. The proposal is also contrary Tandridge Local Plan Part 2: Detailed Policies (2014) policy DP7 which requires that proposals protect and, where opportunities exist, enhance valuable environmental assets. The proposal is also contrary to Tandridge Local Plan Part 2: Detailed Policies (2014) policy DP19 which provides that where a proposal is likely to result in direct or indirect harm to an irreplaceable environmental asset of the highest designation, such as ancient

woodland, the granting of planning permission will be wholly exceptional, and in the case of ancient woodland exceptions will only be made where the need for and benefits of the development in that location clearly outweigh the loss. Impact or loss should not just be mitigated, but overall ecological benefits should be delivered.

3) The proposed development is contrary to the provisions of the NPPF paragraph 180 d) because it has not been demonstrated that it will contribute to and enhance the natural environment by minimising impacts on, and providing net gains for, biodiversity. Likewise, the proposed development is contrary to the provisions of Tandridge District Core Strategy policy CSP17 and Tandridge Local Plan Part 2: Detailed Policies (2014) policy DP19 because it has not been demonstrated that biodiversity will be protected, maintained and enhanced.

4) The application site is sensitive in terms of its proximity to the National Landscape and Ancient Woodland. The proposed development would by reason of its siting and form and appearance adversely impact upon the character and distinctiveness of the landscape and countryside of the site and wider area and significantly detract from the overall character and appearance of the area. As such, the proposed development would be contrary to the provisions of Tandridge Core Strategy 2008, Policy CSP21 and Tandridge Local Plan Part 2: Detailed Policies (2014) policy DP7.

5) The harm that would arise to the National Landscape, Ancient Woodland, open countryside and potentially biodiversity from the development proposals makes the development unsustainable and thereby contrary to Tandridge Local Plan Part 2: Detailed Policies (2014) policy DP1.

6) *Due to the potential impact on important trees by unjustified encroachment into root protection areas, and the potential for post development pressure on retained trees due to proximity to dwellings and parking areas, the application fails to recognise the constraints posed by the most important existing trees, which are important by virtue of their significance within the local landscape. As such, the proposal is contrary to Tandridge Local Plan Part 2: Detailed Policies (2014) policy DP7 and Tandridge Core Strategy 2008 policy CSP18, and Key Consideration 2 and 4 of the Tandridge District Trees and Soft Landscaping Supplementary Planning Document 2017.*

7) *The current proposal in the Natural England Consultation Surrey Hills AONB Boundary Variation Project is that the application site should be included in the AONB and this is now a material planning consideration in the determination of this planning application. A grant of planning permission that would nullify the proposed Boundary Variation Project findings which are based on advice of expert landscape consultants would be unjustified. Based on the precautionary principle, planning permission should not be granted for development such as now proposed that would prejudice the outcome of the Boundary Variation Project.”*

2.3 Prior to the Council as Local Planning Authority (LPA) receiving the planning application, the Appellant had submitted a request for pre-application advice reference PA/2022/282. This was for residential development on a site of 6.2 hectares (ha) with up to 125 dwellings. The LPA issued written advice on 24th July, 2023. A summary of that advice was provided in the closing comments: *“Paragraph 148 of the NPPF provides that in considering any planning application for inappropriate development in the Green Belt, local authorities should ensure that substantial weight is given to any harm to the Green Belt.*

Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.

The substantial weight in terms of Green Belt harm would be the inappropriate development of up to 125 dwellings in the Green Belt and, additionally, consequent failure to safeguard the countryside from encroachment. In the absence of conclusive evidence to the contrary, other harm could arise from the impact of the proposed residential development on the setting of the AONB and to the adjoining Ancient Woodland. In all these respects, the proposed development appears to be contrary to development plan policies as set out above.

There has also been identified that insufficient information has been provided to determine the acceptability or otherwise of the proposed development on a range of other relevant planning considerations, such as the character and appearance of the proposed development, residential amenity, deterioration of Ancient Woodland, and highway safety and other highway impacts.

No very special circumstances have been adduced that override the harm to the Green Belt and other harm arising from the development and if an application for the development were to be submitted planning permission would be refused.

Finally, an overriding consideration with regard to character and appearance has to be that the site is proposed as an extension to the AONB. An independent landscape assessment of the site on behalf of Natural England has concluded that the natural beauty of the site is of comparable quality to the adjacent AONB and should therefore be covered by that national landscape designation. This development proposal would mean the permanent loss of that natural beauty and no case has been advanced to justify such a loss.”

When comparing this pre-application advice with the grounds of refusal of application TA/2023/1345, the LPA has been consistent in its consideration of the development proposals the subject of this appeal. This is particularly with regard to policies for protection of the Green Belt, the open countryside, Ancient Woodland and the Surrey Hills National Landscape (referred to throughout this proof of evidence as the Area of Outstanding Natural Beauty or AONB).

2.4 Prior to the submission of the planning application, the Appellant made a formal request for a Screening Opinion whether the application needed to be accompanied by an environmental impact assessment (EIA) from the LPA. The LPA having undertaken a screening exercise formally determined that an EIA would be required. The development was considered to fall within Schedule 2, paragraph 10(b) of the EIA Regulations 2017 (as amended) because it was an urban development project and the overall area of the development exceeded 5 hectares. The submitted application was accompanied by an EIA but, notwithstanding this and as referred to in the LPA's grounds of refusal, specific environmental impacts and notably AONB, open countryside, Ancient Woodland and biodiversity, were not, at that time, considered to have been adequately assessed in the planning application. These will be matters to be addressed in my evidence.

2.5 Prior to the determination of the application in February 2024, and subsequently, the Appellant made or proposed and number of changes to the development proposals as submitted and these changes were:

- revised layout plan (Reference: CB_36_313_001 Rev C) was submitted just prior to determination of the application and sought to address the protected tree T50 encroachment by reconfiguring car parking spaces to the south of plots 75-84. The revised plan was not considered by the LPA in refusing permission. The LPA is now satisfied that this specific issue is addressed and this revised plan can be accepted.
- very recently, the Appellant has sought to adjust the proposed development layout to better accommodate protected tree T51.2, by moving plots 51-55 to the west a total of 1.8m further from the tree. This is reflected within the revised Planning Layout (drawing reference CB_36_313_001 Rev D) submitted following the Council preparing its Statement of Case. Again, the LPA is now satisfied that this specific issue is addressed and this further revised plan can be accepted.

The LPA is satisfied that the specific issues relating to protected trees T50 and T51.2 can be addressed if the revised drawing reference CB_36_313_001 Rev D is now adduced as part of the development scheme. If the revised plan is

accepted as part of any planning permission if the appeal is allowed this does not, in the opinion of the LPA, raise any Wheatcroft principle issues. The LPA will not offer any evidence with respect to Ground of Refusal 6 relating to these protected trees (a matter addressed in the Statement of Common Ground).

2.6 More recently, the Appellant has sought to address housing development within the Ancient Woodland 15 metre buffer zone. The LPA accepted that the amendment would address one of its concerns relating to the Ancient Woodland, that is ensuring no encroachment of development into the buffer zone. The LPA assumes the Appellant will now be further amending the housing layout drawing for the application to reflect the further amended housing layout.

2.7 The Appellant has also offered to undertake a number of off-site works, specifically:

- i) improvements to provide improved pedestrian and cycle access to the appeal site on the spur road that runs south from the appeal site to join the main part of Bluehouse Lane; and
- ii) proposals for a footpath link through the site to link with PRow (FP75) to the east.

The LPA has not, to date, been given a specification of these works. With respect to the Bluehouse Lane spur, further clarification is needed that the Appellant/landowners' have legal rights to undertake these works. The LPA is also seeking information whether the proposed footpath link to FP75 to the east is being proposed as a designated public right of way or a permissive path. In consequence, the LPA is unclear what, if any, benefit this footpath brings to the general public outside of the residents of the proposed development. As will be explained in evidence there are concerns that such a link could bring increased and detrimental pressure of public access to the nearby Chalk Pit Wood Site of Nature Conservation Interest (SNCI) and Ancient Woodland.

3. Appeal Site and Its Surroundings

3.1 The site of 6.3 hectares is a mixture of agricultural land and ancient and secondary woodland, immediately abutting the northern and western parts of the built-up

area of Limpsfield and Oxted. The agricultural land is fringed by the woodland along its northern and western margins with mature hedgerows along its boundaries to the east and south-east. Beyond the northern and eastern boundaries of the site are open agricultural land and woodland rising up as the scarp slope of the North Downs which is here the Surrey Hills National Landscape (or Area of Outstanding Natural Beauty (AONB)). To the south are the buildings and playing fields of Oxted School and the buildings of Hazelwood School then the rear gardens of houses situated along Chichele Road in Oxted. There is another small woodland area in the south-west corner of the site behind houses in Chichele Road. To the west are the buildings, playground and playing field within the St Mary's C of E School which here immediately borders the site.

- 3.2 The land rises in an east to west direction across the site itself to a high mid-point then falls again to west and north-west. The contours of the site mean that it is overlooked by adjoining development, particularly the Oxted School sports pitches and by some housing development in Chichele Road. A public footpath runs north to south in fields immediately east of the site and users of the path have glimpsed views through or over the hedgerow on the site's eastern boundary.
- 3.3 There are two points of vehicular and pedestrian access to the site. One is on the western boundary and this is a heavily overgrown access from Chichele Road very close to its junction with Silkham Road. The other access is via a private street running south to north off Bluehouse Lane in Oxted and lined by private houses, All Saints' RC Church and the buildings of Hazelwood School. There are no public rights of way within the site itself.
- 3.4 The site has a very rural feel despite abutting the built-up area of Oxted and Limpsfield and is a very attractive setting to this part of the urban area. The fringing woodlands and hedgerows provide for inter-connected natural habitat. The woodland along the northern boundary and lying wholly within the site is both Ancient Woodland and designated AONB so it has recognised importance in both national biodiversity and national landscape terms. This also means that the site forms part of the setting of the AONB.

4. Planning History

4.1 There is no previous planning history for the appeal site but there is for the adjoining school sites and relevant in the context of this application is:

TA/96/68: Oxted County Secondary School: proposed construction of artificial sports pitch and erection of eight 12 metre floodlighting columns, laying out of car park (32 spaces), erection of fencing, ground modelling and landscaping.

Planning permission was granted by Surrey County Council on 14th August, 1996. This permission has been implemented. The proximity of some of the proposed housing on the appeal site to these floodlit sports pitches originally drew objection from Sport England and Oxted School. The Sport England objection was subsequently withdrawn following provision of further information by the Appellant.

4.2 Three Tree Preservation Orders apply to trees and woodland on or adjoining the application site and these will be included as CDs.

5. Development Plan Policy and National Policies and Legislation

Development Plan:

5.1 The adopted development plan consists of Tandridge District Core Strategy (2008) and Tandridge Local Plan Part 2 – Detailed Policies (2014). Within the development plan, the most relevant policies for the determination of this appeal are considered to be:

i) Tandridge District Core Strategy (CS) policies CSP1, CSP4, CSP7, CSP11, CSP12, CSP15, CSP17, CSP18, CSP19, CSP20 and CSP21; and

ii) Tandridge Local Plan Part 2 (LPP2) – Detailed Policies – Policies DP1, DP5, DP7, DP10, DP11, DP13, DP18, DP19, DP21 and DP22.

The relevance of these policies to the determination of this appeal will be set out in more detail in my evidence below.

- 5.2 Tandridge District Core Strategy housing policy CSP 2 is out of date. All other policies of the development plan listed above remain relevant to the determination of the appeal. In accordance with paragraph 225 of the National Planning Policy Framework 2023 (NPPF), due weight should be given to these other policies in the determination of this appeal according to their degree of consistency with the Framework. The closer the policies in the development plan are to the policies in the Framework, the greater the weight that may be given to them in determining this appeal. These policies have been given weight by inspectors in determining recent planning appeals.
- 5.3 The following Supplementary Planning Documents (SPD's) that have been formally adopted by the LPA or the Surrey Hills AONB Management Board are also relevant in the determination of this appeal:
- Tandridge Parking Standards SPD (2012)
 - Tandridge Trees and Soft Landscape SPD (2017)
 - Surrey Hills AONB – Building Design into the Surrey Hills
 - Surrey Hills AONB Management Plan 2020-2025
 - Surrey Design Guide (2002)

Our Local Plan 2033:

- 5.4 Tandridge District Council submitted 'Our Local Plan 2033' for independent examination in January 2019. The Inspector's Report was published on the 20 February 2024, bringing the examination to a close. The Inspector's final recommendation was that the submitted plan should not be adopted due to soundness issues. The Council has now withdrawn the Our Local Plan 2033 and started work towards preparing a new local plan which will be referred to in the LPA's evidence.
- 5.5 The evidence base of the withdrawn local plan remains a material consideration in the determination of planning applications. The appeal site was put forward for consideration for development as part of the emerging local plan call for sites and the conclusion was that:

“However, the development of this site would impact on the ability of this site to serve two of the Green Belt purposes in preventing sprawl and safeguarding from encroachment and would result in the loss of openness. Its impact could be minimised by siting within the most visually contained section of the site, in addition to using sensitive design, buffers and landscaping but given its scale, even with all these measures, its impact would still be significant. Furthermore, as no robust and defensible boundary has been identified it would impact upon the wider Green Belt’s ability to continue to serve these purposes.”

The site was not an emerging local plan housing allocation.

National legislation and policies:

- 5.6 In addition to development plan policies relation to AONB there are duties imposed on any decision maker by legislation and government policy relating to AONBs. As now amended, Section 85, Part IV of the Countryside and Rights of Way Act, 2000 places a general duty on all public bodies, statutory undertakers and relevant authorities in the exercise of their function in relation to or so as to affect land in an AONB that they “must seek to further the purpose of conserving and enhancing the natural beauty of the area of outstanding natural beauty”. Paragraph 182 of the NPPF now provides that great weight should be given to conserving and enhancing landscape and scenic beauty in AONB which have the highest status of protection in relation to these issues.

6. Material Considerations

NPPF

- 6.1 The NPPF 2023 is an important material consideration in the determination of this appeal, particularly to the following chapters of the NPPF:
- Chapter 2: Achieving sustainable development, and particularly paragraph 11 and its footnote 7
 - Chapter 5: Delivering a sufficient supply of homes
 - Chapter 12: Achieving well-designed places
 - Chapter 13: Protecting Green Belt land
 - Chapter 15: Conserving and enhancing the natural environment.

Interim Policy Statement for Housing Delivery

6.2 The LPA's Interim Policy Statement for Housing Delivery – September 2022 (IPSHD) is a material consideration and comprises an update to identify what additional measures the LPA will take to improve housing delivery. This comprises sites that are coming forward on brownfield land and Green Belt sites from the emerging Local Plan which have been through two regulation 18 consultations and a regulation 19 consultation and have been rigorously assessed via the HELAA and Green Belt assessments. The IPSHD sets out criteria where applications will be invited on Appendix A and Appendix B sites.

6.3 Appendix A sites comprise:

“The emerging Local Plan process identified a number of large sites (75+ units) that could potentially be brought forward where the Examiner did not raise concerns. These sites have been rigorously assessed via the HELAA process and Green Belt assessments. They have also been through two Regulation 18 consultations, one Regulation 19 consultation as well as site specific Examination hearings.”

As has already been referred to above, the appeal site was not put forward as a proposed housing allocation in the submitted “Our Local Plan 2033”.

AONB boundary review:

6.4 Natural England commenced a formal public consultation in 2023 called the Surrey Hills AONB Boundary Variation Project. The basis of the variation project was an assessment by expert landscape consultants to determine if the existing AONB should be extended or boundaries amended. The results of the consultation were published in a report July 2024. In reviewing an objection to the proposed inclusion of the appeal site in the AONB, Natural England concluded:

“Natural England agrees that the land currently comprises a pastoral field and has been ploughed in the past. Natural England notes that the topography of the land is gently undulating and has visual connections to the wider AONB landscape forming part of a wider sweep of qualifying land. Historic Landscape

Characterisation classifies the land (and the two fields to the north) as large irregular assarts with wavy or mixed boundaries. The ancient woodland, which flanks the northern and western boundaries, is split by the existing AONB and makes an important contribution to the character and qualities of the area. Natural England acknowledges that the metal fencing delineating the playing fields of Oxted School (to the south) has a more urbanising influence, however, it also notes that the presence of the playing fields means built development is set back and at a lower elevation, such that it recedes and does not significantly undermine the condition or integrity of the area. Natural England Guidance makes it clear that decisions on a boundary need to be made consistently along its length (para 9.3). Given that the AONB boundary extends up to the urban edge to the north and includes similar assarted fields, and that land north of Park Road is also proposed for inclusion, Natural England is of the view that the inclusion of this land, given its similar qualities and characteristics, is justified. Natural England considers this is a consistent approach to the boundary in this context.”

The appeal site has been confirmed in this report for inclusion in the AONB and this is now a material consideration in the determination of this appeal.

- 6.5 A further material consideration in the determination of this application is the Surrey Hills AONB Management Plan Policy P6 which states that "Development that would spoil the setting of the AONB by harming public views into or from the AONB will be resisted."

7. Five-year housing land supply and affordable housing

- 7.1 The LPA acknowledges as set out in the Statement of Common Ground (SoCG) agreed with the Appellant that it cannot demonstrate a 5-year housing land supply. The Annual Monitoring Report 2023/24 sets out that on 1st April, 2024, there was a total supply of permissions for 1,464 dwellings representing a 1.92 year supply. Although permissions continue to be granted, either by the LPA or on appeal, the position is not expected to markedly change prior to the public inquiry into this appeal.

7.2 However, as set out in paragraphs 6.2 and 6.3 above, the Council now has a clear delivery pipeline of new housing. Since the adoption of the IPSHD, permission has been granted, or resolutions to grant made, for 410 new dwellings¹ and 152 new units of specialist housing. These are sites which would have been allocated in the 2019 plan (had it been adopted) which meet the criteria in the IPSHD.

7.3 The Council's five-year housing land supply is calculated using the standard method, on the basis of an on the basis of 2014 household projections. Although he went on to find it unsound, the Inspector who examined the Council's 'Our Local Plan: 2033' accepted that Tandridge would not be able to meet its OAN in full: see paragraph 44 of his report dated 14 February 2024 and paras 41-44 of his preliminary conclusions dated 11 December 2020. This is because there are major policy and infrastructure constraints to development in this district, including the Green Belt (encompassing 94% of the district), two AONBs, areas of flood risk, and significant infrastructure capacity constraints including safety issues (for example around the M25 J6). These constraints can reasonably be expected to significantly reduce any future housing requirements.

7.4 The Council recently completed 100 new council homes. In the last year the Council has delivered 11 new homes for affordable rent in Caterham and Warlingham as well as completing 2 buybacks of former Right to Buy properties and 13 buy backs using the Government's Local Authority Housing Fund. In the next 6 to 12 months, the following 166 additional affordable homes will be completed or started:

- Auckland Road, Caterham - 3 homes
- Bronzeoak, Caterham - 26 homes.
- Windmill Close, Caterham - 3 homes
- Uplands, Warlingham - 13 homes

(1) These are 5 large Green Belt sites, with 4 of them delivering either 45% or 40% affordable at Land West of Limpsfield Road (ref. APP/M3645/W/22/3309334), Young Epilepsy St Piers Lane, Lingfield (ref. 2022/116), Plough Road, Smallfield (ref. 2022/1658), Former Shelton Sports. unconstrained need figure (634 dpa).

Construction will start at:

- Wolfs Wood, Hurst Green - 12 homes
- Featherstone, Blindley Heath - 16 homes
- Hollow Lane, Dormansland - 5 homes

Planning applications have also been submitted for redevelopment for affordable housing of Warren Lane depot, Hurst Green (22 homes) and Pelham House, Caterham (10 Homes) to provide family sized homes for affordable rent. Planning applications are being prepared for the redevelopment with affordable housing of Stanstead Road flats, Caterham (4 homes) and Kentwyns Rise, South Nutfield (23 homes). The Council has also purchased land from the Ministry of Defence in Caterham and is preparing a planning application for 16 homes and has purchased the former Methodist church in Hurst Green and will be submitting an application for up to 13 new homes.

8.The Case for the Dismissal of the Appeal

8.1 Having reviewed matters against the relevant statutory and policy tests, I consider that, notwithstanding the lack of a five-year housing land supply in Tandridge District, that the proposals conflict with the development plan as a whole and that other material considerations do not justify a departure from the development plan. This is because, although the spatial strategy set out in the development plan is clearly out of date, there are substantial overriding planning policy and environmental objections to the proposed development of this site for the Proposed Scheme and as such the very special circumstances test set out in the NPPF for inappropriate development in the Green Belt is not met. These objections arise because the proposed development conflicts with:

- Harm to the Green Belt
- Harm to open countryside
- Protection and enhancement of open countryside that is either within the AONB or proposed to be designated AONB
- Protection and enhancement of an irreplaceable natural habitat, that is Ancient Woodland.

I discuss each objection in turn below, drawing on the expert advice of others as appropriate.

Harm to the Green Belt

- 8.2 The NPPF 2023 supports the protection of Green Belts and the restriction of development within them. Paragraph 142 of the NPPF states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. The essential characteristics of the Green Belt are its openness and permanence. LPP2 policy DP10 is fully consistent with the NPPF in terms of protection of the Green Belt.
- 8.3 Paragraph 152 of the NPPF advises that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances (VSC). Paragraph 153 provides that when considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. VSC will not exist unless the potential harm to the Green Belt, and any other harm, is clearly outweighed by other considerations.
- 8.4 With respect to the LPA's ground of refusal 1, the appeal site is within the Green Belt. Both the NPPF at paragraph 154 and LPP2 policy DP10 regard the construction of the 116 dwellings and associated infrastructure proposed in the appeal application as inappropriate development in the Green Belt. The appeal application is thereby harmful by definition to the primary purpose of the Green Belt of retaining openness.
- 8.5 The loss of the site to development will cause further harm to the Green Belt than loss of openness. The site currently plays a role in supporting the other purposes a), b) c) and e) of the Green Belt set out in paragraph 143 of the NPPF, namely:
a) by retaining the site as open countryside, it checks the unrestricted sprawl of urban areas (that is Limpsfield and Oxted);

b) preventing neighbouring towns merging into one another which is what has happened just to the east of the appeal site with the settlements of Limpsfield and Oxted merging into one another;

c) safeguarding the countryside from encroachment but not just any piece of open countryside but one that is partly within the AONB and with the remainder of the site in the setting of the AONB, is partly designated Ancient Woodland and as set out in Louise Hooper's landscape proof, a valued landscape.

e) provides an added impetus to, and so encourages, the recycling of derelict and other urban land, an imperative in a district that is 94% Green Belt, has two AONB and a major infrastructure constraint in terms of J6 of M2.

The Green Belt assessment of the site as part of "our Local Plan 2033" referred to purposes (a) and (c) of paragraph 143 of the NPPF as reasons for rejecting the site as a proposed housing allocation. Accordingly, the proposed development is fundamentally in conflict with these four purposes of the Green Belt set out in national policy that apply specifically to the appeal site.

8.6 The loss of openness arising from the proposed development should be considered in a number of contexts:

- spatial – open countryside currently consisting of fields, small woodlands and hedgerows, with its own gently rolling topography will be replaced by a modern, urban housing estate and the openness of the Green Belt will be diminished
- visual – the building of 116 houses on the appeal site with associated roads and formally laid out open space will be transformational visually and in appearance the site will be seen as part of the urban area of Oxted not the wider countryside to the north and east
- intensification – the residential development will inevitably bring a noticeably intensified use of the site with movement of people, vehicles, noise and artificial lighting
- duration - the changes arising spatially, visually and by way of intensified use of the appeal site will be permanent

Loss of openness will not just have a spatial dimension therefore but needs to be considered in all these contexts.

8.7 Paragraph 153 of the NPPF provides that when considering any planning application, substantial weight should be given to all these harms to the Green Belt and any other harm and the latter will now be considered.

Harm to the AONB, the setting of the AONB and the AONB candidate site:

8.8 There are two separate planning considerations relating to the AONB raised by this appeal.

8.9 The first consideration is the statutory and planning policy requirement to consider the impact of the proposed development on the AONB itself which here arises primarily through development in its setting, although there is also potential for direct harm through deterioration of the Ancient Woodland which is within the AONB. This is addressed by NPPF 182 which not only provides that “*great weight*” should be given to conserving and enhancing the landscape and scenic beauty of the AONB but also specifies that “*development within their setting should be sensitively located and designed to avoid or minimise adverse impacts on the designated areas.*” This impact engages the provisions of Section 245 (Protected Landscapes) of the Levelling Up and Regeneration Act, 2023, which places a duty on relevant authorities in exercising or performing any functions in relation to, or so as to affect land in an AONB in England, to seek to further the statutory purposes of the area. The Section 245 duty applies to the determination of any planning applications for development that may impact on an AONB. I also consider that the impact on the AONB, which is judged by Louise Hooper to be significant, engages (and contravenes):

- (i) Core Strategy policy CSP 20 which provides that conservation and enhancement of natural beauty of the landscape is of primary importance within AONBs reflecting their national status. The principles to be followed in the area include a) Conserving and enhancing the special landscape character, heritage, distinctiveness and sense of place of the locality; and b) Conserving and enhancing important viewpoints, protect the setting and safeguard views of and into the AONB. I consider that it is important to note

that the policy clearly distinguishes between conserving and enhancing important viewpoints and protecting the setting of the AONB as separate objectives of planning decision making; and

- (ii) the Surrey Hills AONB Management Plan Policy P6 which states that "Development that would spoil the setting of the AONB by harming public views into or from the AONB will be resisted."

8.10 The second consideration is the impact on a site which is a candidate for inclusion within the AONB as part of the Boundary Variation Project.

8.11 I address each consideration in turn, relying on the assessment of Louise Hooper where relevant.

Impact on the AONB

8.12 There is physical proximity between the appeal site and the wider AONB. An extension of the urban area of Oxted, with residential development extending up to the boundary of the AONB, would be bound to have both a visual and a spatial impact on the setting of the designated area, replacing open agricultural land with urban development. In visual terms, the setting of the AONB will be changed given public viewpoints from FP75 to the east and from semi-public viewpoints from the open air sports facilities at Oxted School to the south that are open to use by members of the public. With that urban development would come other impacts on the AONB including movements of traffic, human activity, noise and, at night, artificial lighting, all where none of these impacts occur at present. These impacts would adversely affect the quiet and natural beauty of the AONB.

8.13 I consider that the appeal site makes an important contribution to the current setting of the designated AONB and any adverse impact should be given great weight. All planning policy and statutory provisions relating to consideration of proposed development on the setting of the AONB place a duty on any planning decision maker to seek to further the statutory purposes of the area in

exercising its planning function. All these policy and legislative considerations firmly indicate that the appeal should be dismissed.

- 8.14 There is also some potential for direct harm to the AONB through deterioration of the Ancient Woodland. In this regard, I am also mindful that NPPF paragraph 182 states that *“The conservation and enhancement of wildlife are also important considerations in these areas”*, that is AONB. I am not yet satisfied that the Appellant has identified site specific measures to protect the Ancient Woodland part of the site from direct adverse impacts of the proposed residential development as an irreplaceable natural asset.
- 8.15 In conclusion, for the reasons set out above, I consider that the proposed development would have an adverse impact on the setting of the AONB as designated now. This is contrary to national legislation, national policy, development plan and AONB Management Plan policy. It represents other substantial harm that would arise from the proposed development to be weighed in the balance with the substantial weight to be afforded to harm to the openness of the Green Belt and other harm.

AONB Candidate Site

- 8.16 Ground of refusal 7 is concerned with changes to the Surrey Hills AONB that would incorporate the appeal site into the designated area and the implications this has for the determination of this appeal. In the July 2024 report on Natural England's Consultation on its Surrey Hills AONB Boundary Variation Project, the site has been confirmed for inclusion in the AONB. I have set out Natural England's reasons for this conclusion, having considered the objection to the proposed boundary variation to include the appeal site in the AONB, in paragraph 6.4 above. The recommendations of Natural England's Surrey Hills AONB Boundary Variation Project will now go to the Secretary of State for the Department of Environment, Farming and Rural Affairs for consideration and confirmation.

8.17 In my view the emerging position is relevant in two major ways. First, the clear view provided by Natural England as statutory countryside advisor that extending the AONB to include the site is justified and meets the natural beauty criterion. This is part of its overall judgement that the proposed extensions and variations meet the statutory tests and are desirable. The considered view of Natural England on such matters should be given great weight and confirms the view of Louise Hooper that the site forms part of the AONB landscape. Second, the July 2024 report represents another stage in the proposal to make boundary variations. While there are clearly further steps to take before the Secretary of State makes any final decision, my view is that the emerging designation of the site can also be given moderate weight in of itself. The proposed scheme would clearly conflict with a future proposal to recognise the site as part of the AONB so this is another source of significant harm.

Harm to open countryside

8.18 With respect to grounds of refusal 4, 5 and 7, the NPPF at paragraph 180 provides that planning decisions should contribute to and enhance the natural and local environment by:

a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan); and

b) recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services including the economic and other benefits of trees and woodland. CS policy CSP21 provides that development will be required to conserve and enhance landscape character. LPP2 policy DP7 requires that development should integrate effectively with its surroundings, reinforcing local distinctiveness and landscape character.

8.19 Louise Hooper in her proof, Table LHP1, analyses the characteristics of the appeal site against Landscape Institute criteria for identifying valued landscape. She concludes:

“The site contains a number of features which provide strong evidence for identification as a Valued Landscape.”

I agree with her assessment and conclusion that the site should be considered as a valued landscape and be protected and enhanced in accordance with paragraph 180 of the NPPF.

- 8.20 Development of the appeal site will extend the built-up area of north Oxted into attractive open countryside, a valued landscape, that is within the setting of the AONB. Such development will not respect the intrinsic character and beauty of this particular piece of open countryside and, as such, will not conserve and enhance landscape character. Neither will the development contribute to the distinctive character, appearance and amenity of the area. The intrinsic attributes of the site as open countryside, that is its topography, hedgerows and woodland, already provide local distinctiveness and landscape character.

Harm to Ancient Woodland:

- 8.21 There is a belt of lowland mixed deciduous Ancient Woodland forming the northern boundary of, and within, the application site that also lies within the AONB. Despite the Appellant withdrawing the original proposal to create public access to the Ancient Woodland, I do not consider the Appellant has adequately addressed the need to avoid deterioration of the Ancient Woodland through the direct or indirect effects of the proposed development. I have a number of continuing concerns, namely:
- i) how access to the Ancient Woodland by residents of, and visitors to, the proposed built development will be appropriately controlled, regularly monitored and actively managed in perpetuity;
 - iii) how artificial lighting from housing in proximity to the Ancient Woodland edge will be designed so as to ensure the woodland margin remains in complete darkness so as to avoid adversely impacting nocturnal wildlife (e.g. bats) using that woodland edge. At present the Appellant has also not demonstrated that the functionality of the Ancient Woodland would be safeguarded through the maintenance of the woodland margin within complete darkness, defined as 0.2 lux on the horizontal axis, and 0.4 lux on the vertical access. Similarly, the

accessibility and functionality of the woodland buffer to wildlife should be secured and lighting in the buffer limited to no more than 1 lux.;

iii) what enhancements to the Ancient Woodland (e.g. ash dieback clearance) are to be provided for; and

iv) the conservation management proposals for the Ancient Woodland in perpetuity, including measures to control and eradicate invasive plant species.

8.22 I consider that until the matters in paragraph 8.21 are satisfactorily addressed, biodiversity is not being maintained or enhanced on the appeal site. The development has the potential to significantly harm biodiversity by making insufficient provision to protect and enhance an irreplaceable natural asset, which is the Ancient Woodland. Until these matters are satisfactorily addressed, I consider the appeal is contrary to the provisions of the NPPF and development plan policy. Paragraph 186c of the NPPF states that there should be exceptional reasons and a suitable compensation strategy in place should deterioration of Ancient Woodland occur (because it is an irreplaceable habitat). No such reasons or a suitable compensation strategy are currently available. The proposed development would also be contrary to CS policy CSP17 and LPP2 policy DP7 and DP19.

8.23 The Council's ancient woodland and ecological advisors have set out in a statement what they consider to be the current position with respect to consideration of the Ancient Woodland within the appeal site. This statement is attached as Appendix 1 to this proof. They have also prepared a set of Heads of Terms (HoTs) setting out a framework for the future management of the Ancient Woodland. The LPA would want to use the statement and HoTs in discussions with the Appellant prior to the closing of the forthcoming public inquiry to determine if an acceptable Ancient Woodland Management Plan can be agreed between the parties for the inspector to consider in determining the appeal.

8.24 In relation to Grounds for Refusal 4 and 5, it is my position, consistent with that of Natural England and the Forestry Commission, that changing the landscape character of the appeal site, being a change which demonstrably would occur should the appeal be allowed, could also cause irreparable harm to the Ancient Woodland.

Biodiversity:

8.26 The Appellant has during the course of the spring and summer this year undertaken extensive, additional ecological surveys of the site. The Council's expert advisor on biodiversity having now seen the results of these new surveys (excluding bats) considers that adequate information is becoming available to determine the biodiversity impacts of the proposed development and how these should be mitigated. I consider that the new survey results show that Ground of Refusal 3 was justified. The Appellant had not at that time submitted adequate and up to date evidence that demonstrated that biodiversity will be protected, maintained and enhanced contrary to the provisions of CS policy CSP17 and LPP2 policy DP19. This was a matter also addressed in the Planning Inspectorate's (PINS) letter of 29 July, 2024, to the Appellant. Pursuant to Regulation 25 of the EIA Regulations. To comply with Schedule 4 of those regulations (Information for inclusion in environmental statements) the Appellant was required to supply further information to PINS to confirm that the current ecological surveys of the appeal site, because of the datedness of some of the original surveys, now provide a representative ecological baseline.

8.27 Ground of Refusal 3 was also based upon the Appellant not having demonstrated at the date of refusal of the application that the proposed will contribute to and enhance the natural environment by minimising impacts on, and providing net gains for, biodiversity. I have not yet seen the Appellant's current assessment of the biodiversity baseline condition of the site, nor how any biodiversity impacts of the development are to be minimised or offset, nor how the biodiversity value of the site is to be enhanced. My latest understanding is that biodiversity impacts are to be mitigated on-site, but if that proves not to be possible, by offsetting through off-site provisions. Some of these matters

may be addressed in planning conditions or by the provisions of the Section 106 Agreement that the Appellant is having prepared. The LPA is still considering a draft of the Agreement. My case must, therefore, remain that it has not been demonstrated that the development proposals will contribute to and enhance biodiversity and in this respect, it is contrary to the provisions of the NPPF paragraph 180 d).

- 8.28 The LPA's ecology advisor has identified that Chalk Pit Wood SNCI is located a short distance to the north of the appeal site. It is classified as Ancient Woodland and supports sensitive woodland ground flora species. It is readily accessed from the appeal site via FP75 that runs directly to the SNCI. The Appellant is proposing a footpath link from the appeal site to FP75 but no details have been made available. The LPA is concerned that deterioration of the Chalk Pit Wood SNCI and Ancient Woodland could arise through increased footfall into the site from the appeal development. While this has not been raised as an objection to the appeal development previously, the LPA's view is that the footpath link to FP75 should not be provided.

Sustainable development:

- 8.29 Paragraph 8 of the NPPF refers to the three limbs of sustainable development, which is:
- An economic objective
 - A social objective
 - An environmental objective

The LPA considers that the Appellant's evidence relating to the purported sustainability of the proposed development relies entirely on the first two objectives of sustainable development to the exclusion of the third objective. However, NPPF paragraph 8 makes clear that the three objectives are interdependent. As set out in the LPA's Ground of Refusal 5, the proposed development by reason of its siting, form and appearance would result in very substantial harm to the environment by way of harm to the Green Belt, the AONB, open countryside and potentially Ancient Woodland and biodiversity.

The proposal therefore does not constitute 'sustainable development contrary to LPP2 policy DP1 and paragraph 11 d) of the NPPF.

9. Other Matters

9.1 There are several matters that need to be referred to by the LPA, because the Appellant claims them as public benefits of the proposed development or as very special circumstances for overriding Green Belt policy. Insufficient is known at present about these matters or how the Appellant proposes to deliver and maintain them. The matters are:

- i) Off-site works, specifically:
 - Station Road junction moving the pedestrian crossing
 - Bluehouse Road spur improvements.
- ii) proposals for a footpath link through the site to link with PRoW (FP75) to the east and how its delivery is proposed.
- iii) Biodiversity offsetting or enhancements and how these are to be delivered and managed.

10. Planning balance and conclusion

Planning balance

10.1 In undertaking this balancing exercise, the weight I afford to each planning consideration will be, from highest to lowest:

- Substantial
- Significant
- Moderate
- Limited.

10.2 My assessment is that within an overall planning balance, the harm to Green Belt openness and associated loss of open countryside attracts substantial weight against the grant of planning permission in accordance with paragraph 148 of the NPPF. The direct harm to the AONB, which includes an irreplaceable environmental asset of Ancient Woodland, and through development in the setting of the AONB, also attracts separate substantial weight against the grant

of planning permission. The NPPF requires that exceptional reasons should be demonstrated for allowing for loss or deterioration of Ancient Woodland. I do not consider that the Appellant has demonstrated very special circumstances to override harm to the Green Belt, or exceptional reasons for loss or deterioration to Ancient Woodland. Neither has it been confirmed yet that measures will be in place to ensure no loss of, or deterioration in, the Ancient Woodland. Very special circumstances for allowing this appeal do not exist unless the collective harm to Green Belt, AONB, open countryside and Ancient Woodland is clearly outweighed by other considerations.

10.3 I have not attached weight to those other planning considerations referred to in paragraph 9.1 because they may be capable of being dealt with through planning conditions or legal agreements.

10.4 The absence of a five-year housing land supply, and the contribution to affordable housing needs in Tandridge District that development of the appeal site would provide would be public benefits attracting substantial weight. This is a view I reach bearing in mind the context which is relied upon by the Appellant as their first four “very special circumstances”¹. I also note as part of the context that:

10.4.1 Despite the failure of the 2019 Local Plan (which the Council sought strenuously to avoid), the Council are now proactively seeking to promote a new local plan;

10.4.2 The Council is having success in its efforts to abate the effects of having to withdraw its local plan with the IPSHD providing a pipeline for delivery of housing while a new local plan is prepared. The IPSHD has the potential to deliver a significant amount of new housing in the short term, with some of the sites identified already the subject of planning applications, resolutions to grant permission or grant of planning permission. These sites have been through planning assessments at Regulation 18 and Regulation 19 stages of the now withdrawn “Our Local Plan 2033” and have been found

¹ Namely, the failure of plan-making in Tandridge District; the severe 5-year housing land supply position; the necessity for Green Belt development in Tandridge and the opportunity to deliver 116 much-needed new homes, including 40% affordable provision (46 units).

acceptable for release for housing development. The appeal site was rejected at an early stage of that local plan preparation process because of its contribution to the Green Belt while that part not already within the AONB designation is now proposed to be so designated;

10.4.3 The Council also has its own programme for delivering substantial numbers of affordable houses, as set out in paragraph 7.4 above.

10.5 The Appellant relies on a further seven very special circumstances which I consider can carry no more than limited weight in the context of the appeal. I comment on each below (my comments in italics)

v) The sustainability of the development because the site will deliver housing in a highly accessible and key growth location on the edge of the built-up area of Oxted; *the Appellant focuses on two aspects of sustainability, locational and transport sustainability, to the exclusion of the environmental objective of sustainability; given that environmental sustainability is an interdependent consideration, and the harm that will arise for the AONB, open countryside and potentially Ancient Woodland as a result of the development, this consideration that carries limited weight as an additional public benefit; rather it is simply an indicator that an additional freestanding harm does not arise.; furthermore, as required by paragraph 147 of the NPPF transport sustainability is a minimum requirement for any site.*

vi) The scheme will deliver new and enhanced public open space, including amenity space, an improved pedestrian and cycle network, and a large, equipped area of play; *these public benefits will be delivered because they are a necessary part of the development proposal and to enhance its marketability and carry limited weight in the context of this appeal;*

vii) The new homes are designed to meet high levels of sustainable construction; *it is unclear whether the Appellant is claiming a higher specification than is required under Building Regulations but sustainable construction is a national policy requirement and not a very special circumstance in the context of this appeal;*

viii) Compensatory improvements to the Green Belt will be supported, including opening up formal access and routes through currently private and inaccessible Green Belt land, and improvements to the quality of connections to the existing PRow network; *in so far as opening access through currently private and inaccessible Green Belt land should be afforded no weight as a very special circumstance; the improved connection to the PRow network is likely to benefit mainly the residents of the proposed housing development and carries limited weight as a very special circumstance; such improved connection has the potential to adversely impact the Chalk Pit Wood SNCI and Ancient Woodland;*

ix) The provision of new housing will make an important contribution to the local economy and community, through the creation of new jobs, construction investment, additional economic output, and significant increases in local spending; *some of these benefits (e.g. construction jobs) will be short-term and transitory and while there will be some increase in local spending by occupants of the new houses this will be limited given the scale of the development; as a very special circumstance these considerations carry limited weight in the context of this appeal;*

x) The site will further support the community, health and wellbeing of new and existing residents in the local area by increasing the choice and availability of affordable housing, providing high-quality open space and supporting employment needs; *some of these claimed benefits such as provision of high-quality open space and supporting employment duplicate other very special circumstances put forward by the Appellant; taken overall these considerations attract limited weight as very special circumstances;*

xi) Biodiversity enhancement and net gains will be achieved through the development, supporting the local ecological network; *biodiversity enhancement is a national and development plan policy requirement; with the new ecological surveys it is unclear what BNG is considered achievable and should attract limited weight as a very special circumstance.*

Drawing these together, my view is that there are not sufficient very special circumstances to justify the overall harm that will arise from a grant of permission in this case.

10.6 Applying the decision-making framework set out in s.38(6) of the 2004 Act and paragraph 11 of the NPPF this leads me to the view that the appeal should be dismissed. Within the context of the development plan itself the proposal is clearly contrary to it as a whole. Under the NPPF, paragraph 11(d) is engaged because an important policy for determining the appeal, CS housing policy CSP2, is out of date. However, in my view, footnote 7 of the NPPF disengages paragraph 11(d) because the policies in the NPPF that protect areas or assets of particular importance (in this case Green Belt, AONB and potentially Ancient Woodland) provide clear reasons for dismissing this appeal.

Conclusion

10.7 For the reasons set out above, the appeal proposals do not comply with the development plan or national policy in the NPPF. Material considerations do not indicate that planning permission should nevertheless be granted. Therefore, the appeal should be dismissed.

APPENDIX 1
Statement of LPA's Advisors

Ancient woodland adjacent to proposed development, land off Chichele Road, Oxted

We write, as advisors on biodiversity matters to Tandridge District Council, further to our review of the scheme under your reference TA/2023/1345, as now appealed (PINS ref. 3345915), and to the receipt of various supplements and amendments to that scheme that have been put forward recently by the Appellant.

We note that the original, unacceptable, proposal to enable access into the ancient woodland has now been withdrawn.

Absent this withdrawal, we had recommended contesting this detail at the Inquiry.

We note, further, that the highly congested layout in the northwest of the site has been revisited. The original proposal in this location would have seen construction operations within the ancient woodland buffer zone, with no maintenance space provision between the buffer and one of the dwellings. This, too, would have been a contestable matter.

It is, of course, a pity that the Appellant had not attended to these issues before determination at first instance, but equally we recognise that it is reliant on the advice provided by its professionals.

Be this as it may, we now consider the proposals to be cured of harm to the ancient woodland, except in one respect. We consider that this respect can be resolved by planning obligations, providing that these are framed in a suitable way. The respect of which we write relates to two, linked, matters:

1. The illustrative nature of the ancient woodland mitigation plan (AWMP, DJA dwg no. DR5703-P3); and
2. The lack of detail as to what management operations should be undertaken within the ancient woodland.

It is our recommendation that both of these issues need to be addressed, with the final minutiae to be required by Condition Precedent. With this in mind, please find attached our Heads of Terms document setting out a framework for the management of the ancient woodland, which we recommend is built into the Condition referred to above.

Finally, as regards the AWMP drawing, the Appellant should revisit this to produce something capable of determination on its face, and not something illustrative. This is an application in detail adjacent to the most protected habitat in the English planning system (irreplaceable habitat), and lack of clarity is simply not acceptable. A revised, detailed, and properly worked out drawing should be produced that

a) is capable of being an approved drawing (in the event that the Appeal were to be allowed), and that
b) references our heads of terms (as attached).

With these points addressed, we consider that common ground on ancient woodland can be reached.

Yours sincerely,

Julian Forbes-Laird, Dip.GR.Stud, MICFor, MRSB, MRICS, MEWI, Dip.Arb(RFS)

Alistair Baxter, BA(Hons), BA (Hons), MA (Oxon), MSc, CEcol, CEnv, MCIEEM

APPENDIX 2
Heads of Terms for
Ancient Woodland
Management

Heads of Terms for Ancient Woodland Management General principles

1. These Heads of Terms are intended to inform a detailed Woodland Management Plan, to be prepared and submitted for agreement to the local authority
2. It is assumed that woodland management operations shall be implemented by competent persons with due regard for protected species and legislation controlling tree work
3. If invasive species are identified during the implementation of the detailed management plan, their presence shall be notified to the local authority or forestry commission, and the plan adjusted to provide for their expeditious control
4. There shall be no public access permitted into the woodland, with access restricted to that which is necessary for survey and management operations
5. The woodland and its development-facing buffer zone shall be enclosed by fencing sufficient to prevent casual access by the public, whilst allowing the passage of wildlife. The nature of the fencing shall be set out in the detailed management plan
6. The fencing shall be maintained in good order, and replaced where required to ensure continuity of effective enclosure
7. All management operations shall be undertaken with due regard for the fragile nature of the irreplaceable habitat concerned
8. No mechanised felling or timber extraction are permitted (other than by exterior crane)
9. 'Soft fell' techniques shall be employed for all trees exceeding 300mm stem diameter
10. Arisings from tree work operations shall be removed from the woodland except up to a third of each stem shall be retained in 1m lengths in stable, compact habitat piles
11. In these Heads of Terms, the phrase principal management operations shall be taken to mean felling of a tree exceeding 300mm stem diameter, or felling of more than 10 trees exceeding 150mm stem diameter
12. A woodland management operations method statement shall be prepared and agreed in writing by the local authority prior to each phase of principal management operations
13. Prior to the implementation of other elements of these Heads of Terms, the woodland shall be subject to a Level 2 walkover botanical survey to record ancient woodland vascular plant (AWVP)

ground flora consistent with the list of such plants for Surrey. The survey shall comprise two visits at least four weeks apart during the spring (March to May) inclusive.

14. The locations of the AWVP flora shall be mapped

15. The woodland ground flora map shall be used to inform each woodland management operations method statement

16. Significant aggregations of bramble shall also be mapped to inform their control

17. Prior to the implementation of other elements of these Heads of Terms, except the woodland ground flora and bramble surveys, a veteran tree survey shall be undertaken by a competent person

18. Trees shall be identified as veteran trees where they meet the criteria for this descriptor set out in the Schedule to the Biodiversity Gain Requirements (Irreplaceable Habitat) Regulations 2024

19. The locations of the veteran trees shall be mapped

20. The veteran tree map shall be used to inform woodland management operations method statements, which shall include measures for their physical protection during the operations Initial management operations (years 1-15)

21. Areas of significant bramble aggregation throughout the woodland shall be subject to flail mowing annually in October in years 1, 2 and 3, then triennially thereafter where required to prevent dominance. The mowing plant shall not exceed 1.5T in weight and shall be used by trained operatives. It shall not come into contact with any tree

22. Trees other than veteran trees suffering from ash dieback shall be removed. This work shall be implemented in three phases, in years 1, 5 and 9. The work phase areas are shown illustratively on Figure 1 (below)

23. Veteran trees suffering from ash dieback shall be assessed on an individual basis by a competent person, who shall recommend such works as they consider suitable. These works shall be specified in the detailed management plan

24. During each phase of ash dieback removal, coppiced trees shall be re-coppiced except where the current regrowth exceeds 100mm diameter. In such cases, 1 in 3 of the regrowing leaders shall be retained as sap risers Restocking

25. Three years after each phase of ash dieback removals (i.e. in years 4, 8 and 12) an assessment shall be made of the nature and extent of natural regeneration in the phase area concerned. The findings of the assessment shall be shared with the local authority

26. The assessment shall determine the need for restocking. Where required, restocking shall be implemented in consultation with the Forestry Commission
27. Notwithstanding the assessment, new planting shall be undertaken in any event, in each phase area, the year after the related phase of ash dieback removal. The new planting shall comprise 5no. pedunculate oak and 50no. hazel
28. The oaks shall be planted opportunistically. The hazels shall be planted in groups of 10, with each group associated with one of the pedunculate
29. The size of the new trees at planting, together with the means of their protection from browsing damage, shall be specified in the detailed management plan
30. Planting and aftercare arrangements shall be put in hand in accordance with sound forestry practice. These arrangements shall be specified in the detailed management plan Monitoring
31. The outcome of the detailed woodland management plan shall be subject to monitoring. The findings of the monitoring shall be shared with the local planning authority, and used to inform the management plan both during and beyond the first 15 years of its operation
32. A management plan for beyond year 15 shall be prepared and submitted for agreement to the local planning authority

Figure 1 – Illustrative ash dieback removal phase areas (to follow).