

Tandridge District Council

Statement of Case

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

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

LPA Ref No.: TA/2023/1345

August 2024

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1. The application

- 1.1 This appeal relates to planning application TA/2023/1345 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.”

- 1.2 The application was for full planning permission and was accompanied by an Environmental Impact Assessment (EIA). On 25 May, 2023, the LPA had received a formal request for a Screening Opinion from the appellant. On 03 July, 2023, the LPA having undertaken a screening exercise the LPA 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 development project was also considered to have significant ecology/biodiversity and landscape/visual effects.
- 1.3 The application was refused by Tandridge District Council acting as local planning authority (LPA) on the 26 February, 2024, and the grounds of refusal were:

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 proposed development by reason of its siting, form and appearance would result in harm to the Green Belt, the National Landscape, Ancient Woodland, open countryside and potentially biodiversity. The proposal therefore does not constitute 'sustainable development 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.*

The LPA will set out in its evidence at the public inquiry into this appeal a detailed justification of each of these grounds of refusal.

1.4 Prior to the appellant submitting application TA/2023/1345, the LPA had responded to a request from them for written pre-application advice which will be referred to as appropriate in evidence by the LPA.

1.5 The documents referred to in the statement below can be made available on request by contacting the Tandridge District Council Planning Department by e-mail at 'planningapplications@tandridge.gov.uk' or by telephone 01883 722000 quoting 'Cala Homes appeal Chichele Road, Oxted' and application reference number TA/2023/1345.

2 Appeal site and Its surroundings

2.1 The site of 6.3 hectares is a mixture of agricultural land and woodland, immediately abutting the northern and western parts of the built-up area of Limpsfield and Oxted where built development in the two settlements merges. 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 (SHNL) previously known as the Surrey Hills 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.

2.2 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. There is also

a stream on or close to the eastern boundary of the site which is understood to feed into the River Eden to the south.

- 2.3 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 road running south to north off Bluehouse Lane in Oxted and lined by private houses, All Saints' RC Church and the buildings of Hazelwood School. This road is also known as Bluehouse Lane. There are no public rights of way within the appeal site itself.
- 2.4 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 designation terms. This also means that the site forms part of the setting of the AONB and the proposed development needs to be considered in that context not just as an area of open countryside abutting the built-up area of Oxted.
- 2.5 The LPA will describe the character and house typologies in the residential areas of north Oxted adjoining the site and assess how the proposed residential development on the appeal site will affect the character and appearance of the existing built-up area. Expert witnesses acting for the LPA will provide their own descriptions and assessments of aspects of the site and its surroundings, including:
- An assessment of site character, landscape sensitivity, landscape impact and visual impact
 - The existing AONB and the proposed extension to the AONB if, as is currently proposed by Natural England, the appeal site will come within the SHNL
 - The Ancient Woodland and veteran trees on the appeal site and their contribution to the landscape and biodiversity

- Other, existing woodlands, trees and hedgerows on, or adjoining the appeal site and their importance to the existing character of the area, and whether and how they can be incorporated into the proposed development if the appeal is allowed

3 Planning history

- 3.1 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. Granted planning permission 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 Development plan policy & legislation

- 4.1 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 policies CSP1, CSP4, CSP7, CSP11, CSP12, CSP15, CSP17, CSP18, CSP19, CSP20 and CSP21; and
- ii) Tandridge Local Plan Part 2 – 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 the Council's evidence. The Council reserves the right to

comment on any additional development plan policies cited by the appellant as part of its case.

4.2 The LPA's evidence will be that 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. The LPA will set out in evidence what weight should be given to each of the policies listed in paragraph 4.1 above.

4.3 There are also the following Supplementary Planning Documents (SPD's) that have been formally adopted by the LPA or the Surrey Hills AONB Management Board:

- 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)

4.4 The LPA will refer in its evidence to the provisions of these development plan policies, and where relevant, the provisions of the SPDs, and how these justify the dismissal of this appeal.

4.5 The LPA will also refer in evidence to the duties imposed on any decision maker by legislation and government policy relating to AONBs as set out below.

4.6 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.

4.7 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*”.

5 Our Local Plan 2033

5.1 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.

5.2 The evidence base of the withdrawn local plan remains a material consideration in the determination of planning applications.

5.3 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

6. Material considerations

6.1 The NPPF 2023 is an important material consideration in the determination of this appeal. The LPA will in presenting its evidence at this appeal refer 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

6.2 The LPA will refer to relevant parts of Planning Practice Guidance and the National Design Guide (particularly paragraphs 40, 49, 51 and 52) in its evidence.

6.3 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.

6.4 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.”

The appeal site was not a proposed housing allocation in Our Local Plan 2033.

- 6.5 The LPA will refer to the recently published report on Natural England's Consultation on its Surrey Hills AONB Boundary Variation Project. The appeal site has been confirmed in this report for inclusion in the AONB and is now a material consideration in the determination of this appeal. The LPA will submit in evidence that the proposed inclusion of the appeal site in the AONB followed detailed assessment by expert consultants appointed by Natural England and a round of public consultation on this proposed variation to the AONB boundary all of which must be accorded due weight. 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 that, as set out in the Annual Monitoring Report 2023/24, it cannot demonstrate a 5-year housing land supply. 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, 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 dwellings and 152 new units of specialist housing.¹ These are 5 large Green Belt sites, with 4 of them delivering either 45% or 40% affordable

¹ 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 Club, Warlingham (ref. 2022/267), and Land at Former Godstone Quarry, Godstone (ref. 2022/1523).

housing. There 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 unconstrained need figure (634 dpa) 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 requirement.
- 7.4 The LPA will also provide information pertaining to the provision of affordable housing as part of its evidence to the public inquiry. This information will not be limited to how many affordable homes will be provided by the grant of new planning permissions. Tandridge Council is pro-actively seeking to build affordable homes on its land and land the Council can acquire on the right terms, and in other ways.
- 7.5 The LPA's case will be that absence of a 5-year housing land supply as a very special circumstance to override Green Belt policy (paragraphs 152 and 153 of the NPPF) is insufficient to override the substantial weight that must be afforded to the harm caused by inappropriate development in the Green Belt and other harm that this planning proposal gives rise to. Details of this other harm that the LPA considers will arise is set out in this Statement of Case.

8. Key planning issues for consideration at this appeal

- 8.1 The LPA will set out in detail in its evidence why each of the seven grounds of refusal of the appeal application are justified and warrant dismissal of this appeal.

Green Belt Harm

- 8.2 With respect to ground of refusal 1, the appeals site is within the Green Belt. Both the NPPF at paragraph 154 and development plan policy DP10 regard the construction of the 116 dwellings and associated infrastructure proposed in the appeal application as inappropriate development in the Green Belt and thereby harmful to its primary purpose of retaining openness. Inappropriate development should not be approved except in very special circumstances.
- 8.3 The LPA will also show that the loss of the site to development will cause further harm to the Green Belt because the site currently plays a role in supporting purposes (a), (b), (c) and (e) of the Green Belt as set out in paragraph 143 of the NPPF. By retaining the site as open countryside, it checks the unrestricted sprawl of urban areas, prevents neighbouring towns merging into one another, safeguards the countryside from encroachment and encourages the recycling of derelict and other urban land. In relation to the role which the site plays in safeguarding the countryside from encroachment, the LPA will rely on the further evidence (addressed below) as to the quality of the countryside of which the site forms part. The LPA will also explain the loss of openness resulting from the proposal.
- 8.4 Paragraph 153 of the NPPF provides that when considering any planning application substantial weight should be given to any harm to the Green Belt.

Harm to the character and appearance of the local area, open countryside, the setting of the AONB and the AONB candidate site

- 8.5 With respect to grounds of refusal 4, 5 and 7, the NPPF at paragraph 180 requires that planning decisions should recognise and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside. Paragraph 182 of the NPPF provides that development within the setting of

AONBs should be sensitively located and designed to avoid or minimise adverse impacts on the designated areas. Tandridge Core Strategy policy CSP21 provides that development will be required to conserve and enhance landscape character. Policy DP7 of the development plan requires that development should integrate effectively with its surroundings, reinforcing local distinctiveness and landscape character. The Council's case will be that the proposed development is contrary to national planning policy and development plan policies because it would replace open countryside of special character with built development.

- 8.6 The NPPF states that good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people. Planning decisions should aim to ensure that developments add to the overall quality of the area; respond to local character; reflect the identity of local surroundings and materials; are visually attractive as a result of good architecture and appropriate landscaping. Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.
- 8.7 Policy CSP18 of the Core Strategy requires that new development should be of a high standard of design that must reflect and respect the character, setting and local context, including those features that contribute to local distinctiveness. Development must also have regard to the topography of the site, important trees or groups of trees and other important features that need to be retained.
- 8.8 Policy DP7 of the Local Plan Part 2: Detailed Policies requires development to, inter alia, respect and contribute to the distinctive character, appearance and amenity of the area in which it is located, have a complementary building design and not result in overdevelopment or unacceptable intensification by reason of scale, form, bulk, height, spacing, density and design.
- 8.9 Policy CSP21 of the Tandridge District Core Strategy 2008 advises that the character and distinctiveness of the district's landscapes and countryside will be protected for their own sake and that new development will be required to conserve and enhance landscape character.

8.10 Paragraph 40 of the National Design Guide stipulates that “well designed new development responds positively to the features of the site itself and the surrounding context beyond the site boundary.” Paragraph 49 also states that the “identity or character of a place comes from the way buildings, streets, spaces, landscape and infrastructure combine together and how people experience them. Furthermore, paragraph 51 advises that local identity is made up of typical characteristics such as the pattern of housing, and special feature that are distinct from their surroundings. Paragraph 52 articulates that this includes considering the composition of street scenes, individual buildings and their elements and the height, scale, massing and relationships between buildings.

8.11 The LPA’s evidence on character and appearance will be that this is a very sensitive site given that it abuts the AONB and includes Ancient Woodland. The development of the site will be transformative. The existing natural character of the site of open pastureland fringed by woodlands, trees and hedgerows will be replaced by the built form and formal landscaping. Development will extend the built-up area of north Oxted into the setting of the AONB. Such development will not respect and contribute to the distinctive character, appearance and amenity of the area. The Natural England’s Consultation Surrey Hills AONB Boundary Variation Project has now confirmed that the application site should be included in the AONB. The reason for this in the words of the Surrey Hills AONB Management Board planning advisor is that:

“The site (is) worthy of inclusion for its own intrinsic landscape merit and forming part of a sweep of qualifying land rising from Oxted to the North Downs. The site has the landscape benefit of being attractive rolling farmland bounded on several sides by trees, as do neighbouring fields in the AONB. To conclude that the field does not relate to the wider protected landscape would be a misjudgement based upon a lack of sensitivity as to what merits AONB designation.”

Ancient Woodland

- 8.12 There is a belt of mixed deciduous Ancient Woodland forming the northern boundary of the application site.
- 8.13 The application has not adequately addressed the need to avoid loss or deterioration of the Ancient Woodland through the direct or indirect effects of the proposed development. As such, biodiversity is not being maintained or enhanced. The development is likely to harm biodiversity and is contrary to the provisions of the NPPF and development plan policy.
- 8.14 In amplifying Grounds of Refusal 2 and 5, the LPA does not consider that the appellant has identified the sensitivity of the irreplaceable Ancient Woodland habitat within the site to visitor pressure arising from the development of 116 homes on adjoining land.
- 8.15 There is no formal public access to the woodland at present but this has previously been proposed in the appeal application. As such, there is a significant risk that introducing new access into a poorly understood ancient woodland could lead to its deterioration contrary to paragraph 186c of the NPPF, Tandridge Core Strategy policy CSP17 and Tandridge Local Plan Part 2: Detailed Policies (2014) policy DP7 and DP19.
- 8.16 In relation to Grounds for Refusal 4 and 5, it is the Council's 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 harm to the adjoining ancient woodland

Biodiversity

- 8.17 With respect to grounds of refusal 3 and 5, the appellant submitted an ecological and biodiversity assessment (Dated October 2022) with the original planning application which has been supplemented with responses to comments made by Surrey Wildlife Trust and the Council's ecologist. The conclusions of the

assessment by the appellant's ecological consultant were that there would be no significant adverse effects on sensitive receptors being the habitats and certain species (bats, hedgehogs and birds) found on the site. The overall conclusion of the assessment was that the proposed development would meet Local Plan Policy DP19 by promoting nature conservation management and providing a multi-functional green infrastructure and bringing the ancient woodland parcel into active management for nature conservation and local pedestrian use.

8.18 The Council's ecologist recommended that the application was refused for the following reasons:

- The site is within a AONB and a development of this density would impact on the important and irreplaceable habitats present within the AONB.
- Due to the density of development, and the lack of protective measures, there is a high risk of deterioration and loss of on-site and offsite ancient woodland habitats due to recreational pressure and other urbanizing effects.
- Due to lack of offsite survey, there is a risk that a chalk headwater stream will be culverted and polluted by the proposed development. Chalk Streams are a Priority Habitat under the Natural Environment and Rural Communities Act 2006.
- Due to the incomplete species surveys, there is a high risk that protected species could be disturbed, harmed, or killed; a similar point has been raised in the Planning Inspectorate's letter to the appellant of 29th July seeking confirmation when surveys that are referred to in the Ecology chapter of the Environmental Statement were undertaken, and further confirmation these surveys are representative of the current state of the environment.
- Despite Biodiversity Net Gain being proposed within the application, there is no metric, or consideration of appropriate on- or off-site mitigation or Biodiversity Net Gain.

These comments mirrored those of the Surrey Wildlife Trust (SWT) with respect to biodiversity considerations.

8.19 As set out in ground of refusal 3, the LPA's case will be that the proposed development is contrary to the provisions of the NPPF 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 Core Strategy policy CSP17 and Local Plan policy DP19 because it has not been demonstrated that biodiversity will be protected, maintained and enhanced.

8.20 Following the recent departure of the Ecology Officer, the Council has instructed a consultant to review and advise on biodiversity matters in relation to this Appeal. The Council has sought, without success, an extension to the deadline for submission of its Statement of Case to enable this consultant to provide initial advice. With this advice pending, the Council must reserve its position on biodiversity matters, whilst making clear that issues to be raised in evidence will sit within the bounds of the concerns raised by the Ecology Officer and Surrey Wildlife Trust, as articulated in the grounds for refusal. However, the LPA is also aware that the appellant has commissioned further ecological survey work and wants to discuss the results with the LPA's expert witness on biodiversity. The LPA will participate in such discussions to try to reach agreement on as many issues relating to the potential biodiversity impacts of the proposed development as possible prior to the public inquiry opening.

Trees

8.21 With respect to ground of refusal 6, in terms of amenity, the application site benefits from the presence of nearby ancient woodland, groups of trees and individual trees, some of which are protected by a Tree Preservation Order. Most of these trees are located on the peripheries of the site, allowing ample scope for avoiding root protection areas, and allowing sufficient space for existing trees to mature both above and below ground. Where buildings are positioned too near to trees, problems can occur as the tree grows, thereby increasing the likelihood that

hard pruning will be required in the future, or that the tree will need to be removed. Both outcomes can result in a detrimental impact on amenity, landscape character and the local environment.

- 8.22 Refusal reason 6 refers to encroachment into root protection areas among other negative effects. This specifically relates to tree T50, which is an oak tree protected by a Tree Preservation Order.
- 8.23 Immediately prior to the decision being issued a revised layout plan (Reference: CB_36_313_001 Rev C) was submitted which sought to address the tree T50 encroachment by reconfiguring car parking spaces to the south of plots 75-84. The LPA is now satisfied that this specific issue can be addressed if this revised plan is accepted as part of any planning permission if the appeal is allowed.
- 8.24 The revised layout referenced above does not address concerns regarding the proximity of the frontage of dwellings to tree T51.2, where there would be pressure to heavily reduce the tree or remove it entirely as it gets larger and larger over time.
- 8.25 The NPPF 2023 at paragraph 136 provides that planning policies and decisions should ensure that new streets are tree-lined, that opportunities are taken to incorporate trees elsewhere in developments (such as parks and community orchards), that appropriate measures are in place to secure the long-term maintenance of newly planted trees, and that existing trees are retained wherever possible. Development plan policy DP7 (13) requires that where trees are present on a proposed development site, a landscaping scheme should be submitted alongside the planning application which makes provision for the retention of existing trees that are important by virtue of their significance within the local landscape, and that their retention should be reflected in the proposed development layout, allowing sufficient space for new and young trees to grow to maturity, both above and below ground.
- 8.26 The LPA is mindful that this appeal seeks detailed planning permission for the proposed development. If there are matters of detail, such as addressing concerns regarding the proximity of the frontage of dwellings to tree T51.2, these need to be considered at the public inquiry. Any necessary changes to the siting and layout of individual dwellings or blocks of dwellings and car parking areas can then be

addressed by submission of revised drawings, if appropriate. This is preferable to such matters being dealt with as a material amendment to the development proposal if the appeal is allowed.

Surrey Hills Natural Landscape

8.27 With respect to grounds of refusal 1, 4 and 5, the LPA will submit that there are two separate planning considerations relating to the AONB raised by this appeal. The first is the statutory and planning policy requirement to consider the impact of the proposed development on the setting of the designated area of the AONB abutting the application site immediately to the north and east which Natural England considers a valued landscape. The second is the provisions of Section 245 (Protected Landscapes) of the Levelling Up and Regeneration Act, 2023, that 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. Section 245 applies to LPA's determining planning applications for development that may impact on an AONB.

8.28 The LPA's case will be that the application site is currently within the setting of the AONB due to physical proximity in abutting the designated area to the north and east and intervisibility between the site and the designated area. The appellant's Landscape and Visual Impact Assessment (LVIA) submitted as part of the planning application concludes that mainly due to the ancient woodland at the northern end of the site the proposed development would be little seen from public viewpoints in the AONB. The exception would be from public footpath 75 to the east. The LPA's landscape consultant in preparing her own landscape evidence for this appeal will make and then present in evidence her own assessment of the impact of the proposed development on the AONB and its setting and will assess the appeal site for evidence of valued landscape.

8.29 While it is acknowledged that there are limited public viewpoints within the appeal site where there is intervisibility between the site and the AONB, this is only

one aspect in assessing impact on the setting of the designated area. 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. 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.

8.30 The LPA's landscape consultant will consider landscape impact by reviewing a baseline of landscape quality, condition, sensitivity, natural systems (such as geology, soils, water and climate), settlement pattern, historic routeways, woodland and field patterns, dark skies, recreational value, aesthetic and perceptual qualities. Visual impacts will be considered as changes to existing views of the site and its setting as well as views from the site and its setting.

8.31 The NPPF at paragraph 180 states that planning decisions should contribute to and enhance the local and natural environment by protecting and enhancing valued landscapes and recognising the intrinsic character and beauty of the open countryside.

8.32 The NPPF at paragraph 182 provides that great weight should be given to conserving and enhancing landscape and scenic beauty in AONBs which have the highest status of protection in relation to these issues. The scale and extent of development within all the designated area should be limited, while development within their setting should be sensitively located and designed to avoid or minimise adverse impacts on the designated area.

8.33 Core Strategy policy CSP 20 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.

The LPA considers 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.

8.34 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.*"

8.35 The LPA's evidence will be that the assessment of the contribution of the application site to the current setting of the designated AONB, considered in the context of the NPPF, development plan policy and the provisions of Section 245 (Protected Landscapes) of the Levelling Up and Regeneration Act 2023 which places a duty on any planning decision maker to seek to further the statutory purposes of the area in exercising its planning function, would firmly indicate that the application should be refused.

8.36 In conclusion, for the reasons set out above, the LPA's case will be 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 significant harm that would arise from the proposed development to be weighed in the balance with harm to the openness of the Green Belt.

8.37 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 Natural England's Consultation on its Surrey Hills AONB Boundary Variation Project, the site has been confirmed for inclusion in the AONB. This is now a material consideration in the determination of this planning application. The LPA will submit that a grant of planning permission that would nullify the Boundary Variation Project which has concluded as it has based on advice of expert landscape consultants and following public consultation would be unjustified. The LPA will further submit that

planning permission should not be granted for development that would then prejudice the outcome of the Boundary Variation Project.

Sustainability

8.38 The LPA will set out in its evidence the basis for ground of refusal 5, and specifically in the context of paragraph 8 of the NPPF, why it considers the proposed development is unsustainable. The NPPF identifies in paragraph 8 the three over-arching objectives of sustainable development, that is:

- An economic objective
- A social objective
- An environmental objective.

The LPA considers that, while there may be economic and social benefits arising from the proposed development, the environmental harm to the setting of the AONB and harm to Ancient Woodland, both irreplaceable assets, combined with to harm to the open countryside which is Green Belt, and potential harm to biodiversity, all outweigh any benefits of the scheme.

9. Other matters:

9.1 There are other matters that may need to be addressed in evidence at the public inquiry on which the LPA has insufficient information to set out its case at present but reserves the right to do so if further information is forthcoming before or at the public inquiry:

- The Highway Authority in its consultation response stated If planning permission is to be granted this should be subject to a separate legal agreement relating to off-site highway works and monitoring a travel plan; the LPA will be seeking clarification whether these works should also be the subject of a Grampian condition attached to any permission.
- The appellant has previously indicated an intention for a footpath link to be created from the eastern side of the appeal site to link to the local public

rights of way (PRoW) network; the LPA is unaware whether this is part of the development proposals to be put forward at the public inquiry and will be seeking clarification.

Improvements to that separate part of Bluehouse Road running south from the southern boundary of the appeal site; again, the LPA is unaware whether this is part of the development proposals to be put forward at the public inquiry.

10. Conclusions and the planning balance:

10.1 The Appeal Site is within Green Belt, the setting of the AONB and is a candidate site for inclusion within the AONB itself. Very special circumstances are needed to justify a grant of permission. This is a very high bar. 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.

10.2 Having regard to the above matters, the Council's case will be that very special circumstances for overriding Green Belt policy do not exist in this case.

10.3 Green Belt harm must be given substantial weigh. This includes definitional harm by reason of inappropriate development in the Green Belt, harm to the purposes of the Green Belt and impact on openness.

10.4 Other harms include:

- Harm to the character and appearance of the area
- Harm to the designated AONB
- Harm to a candidate site for inclusion in the AONB
- Harm to open countryside in the setting of the AONB
- Potential harm to Ancient Woodland unless there are wholly exceptional reasons and a suitable compensation strategy exists

- Potential harm to biodiversity
- Potential harm to trees that make a valuable contribution to the local landscape and some of which are protected by a Tree Preservation Order.

Taken collectively, these other harms attract significant to substantial weight.

10.5 Set against these harms in the planning balance are those benefits of the proposed development that the appellant argues contribute to the very special circumstances for allowing this appeal, namely:

- The failure of plan-making in Tandridge District
- A severe 5-year housing land supply position
- The necessity for Green Belt development in Tandridge
- The opportunity to deliver 116 much-needed new homes, including 40% affordable provision (46 units).
- 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 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.
- The new homes are designed to meet high levels of sustainable construction.
- 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.
- 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.
- 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.

- Biodiversity enhancement and net gains will be achieved through the development, supporting the local ecological network.

The Council will in its evidence comment on the first three purported very special circumstances above evaluating if they can be considered as such and whether they duplicate some of the subsequent very special circumstances. The Council's case will be that while the provision of new housing can be afforded substantial weight, the other very special circumstances set out above only attract between limited and moderate weight based on the evidence the appellant has submitted to date.

10.6 The LPA's case will be that the proposed development is, consequently, an inappropriate form of development within the Green Belt and no very special circumstances exist that would justify the appeal being allowed.