

RE: LAND AT CHICHELE ROAD, OXTED

**CLOSING SUBMISSIONS
ON BEHALF OF
APPELLANT**

1. I address the issues in the same order as I did in the Opening, beginning with the relevant Green Belt Policy considerations

Green Belt Considerations

2. The Appeal Site comprises what is now a single irregularly shaped agricultural field. There is a belt of woodland along the northern boundary of the site, which is designated Ancient Woodland. The site is bounded by the rear of existing residential properties on Chichele Road to the southeast, the grounds of St Mary's C of E Primary School to the northwest, and the grounds of Oxted Secondary School to the southeast (with some artificial playing pitches/sports facilities for both schools forming the immediate uses bordering the site, separated by existing hedgerows and pockets of woodland). To the wider northeast of the site are fields in agricultural use, beyond which lies the M25 motorway. The site boundaries are well-defined by existing vegetation (hedgerows, trees and woodland).
3. Of course, it is agreed that the proposed development is inappropriate. Paragraph 152 of the Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

The Openness of the Green Belt

4. The fundamental aim of Green Belt Policy is to prevent urban sprawl by keeping land permanently open. The Framework advises in Paragraph 142 that the openness of such designated areas and their permanence are essential characteristics of Green Belts. The concept of openness generally has both a spatial and a visual dimension.
5. Spatial Openness is to be considered in terms of the degree of change from an open area free of buildings to one with buildings¹.

¹ XX Thurlow.

6. Mr Gibbs conducted a very careful assessment of the spatial aspects of openness² which took account of the relevant guidance. The area of open space to be provided within the development and the buffer to the ancient woodland would also preserve spatial openness on that part of the site.
7. Mr Gibbs concluded that the site is defined by school boundaries to the eastern and western edges, often associated with dense planting; residential development and education facilities lie to the south and southwest, with varying degrees of built form and enclosure; and dense woodland to the northern boundary. The various elements of built form exert an urbanising influence on the site. This lends the more southerly parts of the site a feel of urban fringe, edge of settlement character. The robust enclosure provided by the woodland to the north, east and west associates the site more strongly with the adjoining settlement edge than the open farmland to the north and east of the site. The introduction of the proposed residential development would inevitably introduce built form and reduce the spatial aspect associated with the site, although this reduction in spatial openness would only be appreciated from locations in the immediate environs of the site, which are highly localised. Where the change is experienced, there would be a moderate degree of harm.
8. By contrast, since Ms Hooper did not present any assessment of the impact of the scheme upon any aspect of openness, the Council's entire spatial openness assessment was set out in a single sentence in Mr Thurlow's proof:

"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."

9. This sentence is not even factually correct – no fields (plural) will be replaced; rather, a single field will be built upon as described above with some features which affect spatial openness and some which preserve it (open space and buffer). No woodlands have any newly built form placed upon them. No hedgerows are removed to provide for built form. The lack of care or any real consideration of the scheme's impact in terms of spatial openness means that the basis for his assessment is flawed and must be rejected.
10. Mr Gibbs's evidence on spatial openness is clearly to be preferred and should be accepted.

² Gibbs proof p39 section 8

11. The impact on visual openness turns on the degree to which a change in openness will be perceived within the area. Again, Mr Gibbs undertook a careful assessment in the LVIA and his proof of evidence. Ms Hooper did not dispute the LVIA methodology and conclusions in terms of the visual impact assessment. Indeed, during her evidence both in chief and in cross-examination, Ms Hooper emphasised several times that the site is very enclosed and difficult to see from the wider landscape.
12. This was precisely Mr Gibbs's evidence to the Inquiry. He concluded that in terms of the visual perception of openness, there is already a strong sense of visual enclosure associated with the site. This is due to the substantial presence of boundary planting and existing development surrounding the site, which would remain with the proposed residential development in place. The proposed development would be well contained within the landscape and screened from view save for a glimpse of rooftops near the site boundary (around viewpoint VP1).
13. The surrounding area has a largely intact landscape structure and areas of woodland which limit visibility, even from the higher ground³. There are no public rights of way within the site, so there is no lost opportunity to gain an appreciation of the openness associated with the site. Local public views from the west are limited to VP 11 and 12. There are no views of the built form of housing from public highways⁴ The view from VP11 would be slightly altered, with the proposed development partially visible beyond the garages. This would be a glimpse only and not block the longer-distance view. There would be little change to the appreciation of the openness of the wider area.
14. Local views from the south are limited to VP 13. The view along the track at Bluehouse Lane would be used as a pedestrian / cycle access. The proposed development would be partially visible at the top of the track, with some effect on the view. The proposed dwellings are on falling land at this point. Local views from the east are limited to VP 1 on FP75. The view from VP1 would be slightly altered with the proposed development partially visible beyond the hedge / treeline on the site's eastern boundary. This would be a glimpse only and not block the longer distance view. There would be little change to the appreciation of the openness of the wider area
15. Mr Gibbs carefully examined the extent to which the site would be visible from wider views. He used industry best practice by using computer modelling to assess the ZTV. This involved taking a LIDAR topographic model and assessing the extent to which a number of points on the site

³ CD1.11-16

⁴ See CD 1.14

at 11m high could be “seen”. The model flags visibility even where only 1mm is “visible”. It is then a tool to identify areas of search for fieldwork. Ms Hooper accepted in XX that it is a tool that identifies only theoretical visibility and that it cannot be assumed that a location identified within the ZTV will be visible in reality. She accepted that this would require fieldwork to identify such locations. She identified no additional locations in her evidence from which there would be a view which had not already been represented in the LVIA⁵.

16. Both Ms Hooper and Mr Thurlow asserted in their evidence that since the trees on the escarpment to the north could be seen, the site must be seen from the escarpment. That is not the case since the escarpment has significant tree and vegetation cover. As you will have seen from your site visit, the trees and vegetation significantly inhibit views out. A view can be obtained only where one is located in one of the few locations with a lack of tree/vegetation cover. The views into the site from the north are thus remarkably limited. As Ms Hooper said, it is difficult to see the site from outside of it.
17. Thus, Mr Gibbs was correct in concluding that the distant views from the north toward the M25 and of the site are limited by the extent of woodland cover, particularly the ancient woodland. VP4-8 either have no view of the site or are over 1km from the site and only a very small part of the site would be visible. VP10 lies on the scarp 2.9km to the west on the scarp. The site is barely visible in this view, and the proposed development would not affect any appreciation of openness to any material extent⁶. Any part of the site that would be visible would be seen in the context of an expansive view of a wide area within which the Oxted/Limpsfield Settlement can be seen. With such limited views of the site, the proposed development would not affect any appreciation of openness by a viewer on the escarpment to any material extent.
18. In summary, any reduction in visual openness would only be appreciated from the boundary of the settlement boundary in the immediate environs of the site. This would be geographically limited but where it is experienced within the site itself and from some limited and localised points in proximity to the site, there would be a moderate degree of harm. Beyond this area, there would be no material effect on visual openness.
19. Against that detailed appraisal, the Council’s evidence again amounts to a single sentence from Mr Thurlow:

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

⁵ Hooper para 5.9 and in XX.

⁶ See CD 1.15

“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.”

20. Mr Thurlow accepted that he had not conducted any assessment by reference to any particular viewpoint. That means that his evidence is entirely worthless. He has not undertaken any assessment of the extent or degree to which the proposed development would give rise to any visible change in openness. To undertake that exercise, one must assess change from vantage points within the locality. Without such an assessment, no reliable view of the extent to which the proposed development would affect visual openness can be reached. Mr Thurlow’s cursory assessment must be rejected.
21. On behalf of the R6 party, Ms Wren provided evidence without having undertaken any assessment of either spatial or visual openness. She lacks any relevant qualifications or expertise. Her evidence was that of a layperson who has campaigned for many years to prevent the site from being developed⁷. Therefore, Her views are without any methodological foundation and should be treated as partial.
22. The result is that the only evidence you have that has applied the correct approach is that of Mr Gibbs. You should accept his conclusions since they are based upon a visual impact assessment that Ms Hooper accepted as appropriate.

Conclusions on Openness

23. Drawing these matters together, the Appellant submits as follows. The only reasonable conclusion is that given the screening provided by the mature landscaping around the site and the topography of the site and immediate surroundings, the proposed development would not be highly visible in the wider landscape.
24. The perceived change to openness would be largely restricted to within the appeal site itself, the neighbouring residential properties and a view of the tops of the houses from Footpath 75 over the thick line of mature boundary vegetation.
25. The field on which the housing is proposed immediately adjoins residential properties and the schools on the edge of the settlement. These residential properties and the schools, with their

⁷ She gave evidence in the footpath inquiry in an attempt to prevent development of the site and “to keep it open”.

varied boundary enclosures, are clearly evident from within the field on which the housing is proposed. The occupants of neighbouring properties have views of it in its undeveloped form.

26. The combination of the site's topography, existing built-up backdrop and abundance of foreground vegetation means that the appreciation of its openness in both spatial and visual terms in the context of the wider Green Belt is currently very limited. Furthermore, the part of the appeal site, on which the residential development is proposed, is currently very well contained from its wider countryside surroundings by existing mature vegetation along the north eastern and north western boundaries of the site.
27. The appeal proposal would introduce a built development footprint and volume in the form of homes and supporting development, including public highways, driveways, gardens and boundary enclosures. These would extend across this currently undeveloped site. This change would be accompanied by increased activity from prospective occupants and visitors reasonably associated with residential use. In combination, the proposed development would reduce the visual and spatial sense of openness.
28. However, due to the highly contained nature of the site, which, as Mr Gibbs explained, would remain during winter months albeit to a somewhat reduced degree, very localised spatial and visual effects to openness would arise. Moreover, the proposed public open space within the residential development would ensure that a degree of openness within the site itself would be retained, albeit it would be framed by new homes. In that context, the residential development would result in a moderate level of harm to the openness of this particular Green Belt.
29. This was the conclusion of the Inspector in the Limpsfield Road case on the basis of a reasoned approach, which is strikingly similar to the reasoning I have just set out above⁸.

Purposes of the Green Belt

30. The Council has previously assessed the contribution that the appeal site makes to the purposes of the Green Belt through various Green Belt Assessments to support its emerging Local Plan. The GBA report identified that the site served two purposes: (a) to check the unrestricted sprawl of large built-up areas and also (c) to assist in safeguarding the countryside from encroachment.
31. The Council's GBA explains that the:

⁸ See CD6.1

*"boundary line between the Green Belt and Oxted in the southern most areas of the parcel is drawn around residential gardens to the rear of dwellings, but also includes the open land that forms part of the grounds of Oxted School and St Mary's Junior School. This forms a "wedge" of Green Belt land in-between the two already developed areas in the north west and north eastern parts of Oxted. This "wedge" is comprised of fields bordered on three sides by development from the town, with a row of trees to the north screening it from the fields beyond in the other parts of the parcel."*⁹

The wedge described above is the Appeal site.

32. Although the proposed development would extend the existing built-up area into undeveloped Green Belt land, it would not project any further north or east than the existing built-up form¹⁰. Moreover, the resulting pattern of infill development would be consistent with the existing irregular settlement form of the settlement¹¹ and the site's outer boundaries would remain physically and visually well-contained by either built development or existing vegetation¹². For these reasons, the appeal proposal would have a limited impact on purpose (a), which seeks to check the unrestricted sprawl of large built-up areas.
33. This reasoning reflects the reasoning in the approach of the Inspector in the Limpsfield Road Appeal in paragraphs 17-18¹³. The inspector concluded that the scheme, in that case, would have a limited impact on purpose (a). The only reasonable conclusion is that the proposed development in the present appeal would similarly have only a limited impact upon purpose (a).
34. Mr Thurlow made no attempt to consider any of this reason or the relevant matters raised by it. He simply asserted that there would be conflict with purposes (a) and that this conflict would be "fundamental". Indeed, in XX, he accepted all three key points in the reasoning that led the Limpsfield Road Inspector to conclude only limited conflict with purpose (a). As with his evidence generally, Mr Thurlow's approach was cursory, unreliable and he failed to grapple with key relevant considerations. To the extent that he identified any degree of impact of the proposed development upon purpose (a), that assessment must be rejected.

⁹ Gibbs proof para 5.7 p19

¹⁰ Accepted by Thurlow in XX.

¹¹ Accepted by Thurlow in XX.

¹² Accepted by Thurlow in XX and by Hooper in XX.

¹³ CD6.1

35. In terms of the site's contribution to purpose (c), again Mr Gibbs made a careful assessment. Of course, he accepted that the proposed development would result in encroachment into the countryside insofar as it involves the development of the field. Nonetheless, that encroachment would be limited to the site itself and parts of its immediate setting within the urban area and to a very limited perceived from footpath 75 because of the site's physical and visual screening and its containment within wider viewpoints¹⁴ the proposed development will have only a limited adverse impact on safeguarding the countryside from encroachment. Again, this reflects the inspector's approach and reasoning in the Limpsfield Road decision letter¹⁵ at paragraphs 19-20.

36. The proposed development will be visually and physically limited to the part of the Site on which housing is proposed. With the scheme in place, there will continue to be a strong disconnection between the urban area and the wider countryside to the north and east. As a consequence of the scheme, any encroachment would be solely limited to the area on which housing is proposed, with the land beyond remaining open countryside. As such, the level of harm in terms of encroachment would be limited and low and have no material impact beyond the limits of the area on which housing is proposed. At most, the level of harm would be at the bottom end of the scale.

37. As explained in relation to purpose (a), Mr Thurlow did not assess the degree of impact upon this purpose in any meaningful way. For similar reasons his perfunctory consideration of this matter and such assessment of the degree of impact as he may have made must be rejected.

38. Turning to purpose (b) - to prevent neighbouring towns merging into one another, this was raised by Mr Thurlow but again without any meaningful analysis. This purpose means what it says it is to "prevent" neighbouring towns from merging. To apply it requires a situation where there are two separate proximate settlements which are currently separate and the land in question must perform a role in defining that separation.

39. The Council's own GBA assessment explained in relation to purpose (b):

"the parcel only adjoins Oxted and Limpsfield, and other settlements are a considerable distance away, it does not act as a buffer between the merging of settlements."

parcel GBA018 *"is not considered to play a role in preventing the merging of settlements."*

¹⁴ Accepted by Thurlow in XX

¹⁵ CD6.1

40. The reasoning here accepts that Oxted and Limpsfield have already merged and that the site does not perform a role between two separate settlements. Indeed, that this is the case is apparent from the adopted Proposals Map¹⁶ which defined Oxted and Limpsfield with a single settlement boundary for the purposes of the adopted development plan¹⁷. It is submitted that Mr Gibbs was correct, as was the Council's GBA, in concluding that the site plays no role whatsoever since it does not perform any role in defining separation between settlements; rather it forms a wedge between two parts of what is functionally and physically a single settlement as defined on the Proposals Map.

41. In terms of purpose (e), here Mr Thurlow was at his most obtuse. He accepted that the Council cannot demonstrate a five year housing land supply (5YHLS) and that even if all of the sites in the IPSHD were to come forward, there would still be a shortfall of around two years. The IPSHD seeks to release green belt green field sites to meet needs because there is insufficient PDL to meet needs. It follows that if the proposed development were granted planning permission, there would remain a significant need for housing which cannot be met on PDL sites and which would require further release of green belt greenfield sites in order to meet that need. In that context, granting planning permission will not discourage the recycling of derelict or other land in any material way.

42. This is precisely reflective of the reasoning of the examination inspector in relation to purpose (e) when he concluded:

The Council has in effect taken into account land within urban areas that could be developed in the Spatial Approaches Topic Paper in considering its approaches to delivery and all land in the Green Belt is effectively achieving this purpose to the same extent. It should therefore be scored in the same way. Consequently, the Council's approach of not specifically considering this purpose in the assessments is reasonable."

43. The only reasonable conclusion then is that the proposed development would not have any impact upon purpose (e).

Overall Conclusion on Impacts on the Green Belt

44. In summary, in terms of the Green Belt considerations, it can be concluded that the appeal scheme is inappropriate development which is harmful by definition. The appeal scheme would give rise to a moderate level of harm to the openness of the Green Belt in locations where it can be perceived (i.e. within the site itself and limited locations within the immediate environs).

¹⁶ CD4.3

¹⁷ Accepted by Thurlow in XX

Such locations are very limited. It would, then, cause only limited harm to the purposes of including this site within it. Of course, in line with the Framework, these harms attract substantial weight.

Landscape and Visual Impact

45. I shall consider the landscape and visual impacts of the proposed development in four sections

- a. Design Considerations;
- b. The Assessment of Visual Impact;
- c. The relevance of the National Landscapes Boundary Review;
- d. Whether the Site is a Valued Landscape;
- e. The Assessment of Landscape Character Impact.

Design Considerations

46. Mr Gibbs explained in his evidence that the appeal scheme has been designed to respond to site constraints and is informed by local distinctiveness, form, setting and scale¹⁸. In summary, the scheme has been designed to mitigate and minimise its impact on the local area by¹⁹:

- a. Retaining and protecting the area of Ancient Woodland;
- b. Providing a 15m buffer to the areas of ancient woodland;
- c. Keeping building heights to no more than 2.5 storeys;
- d. Observing the RPA of trees within the site, except to form the access;
- e. Pulling the development edge away from the eastern boundary to provide space for enhanced boundary planting;
- f. Retaining existing trees around the site boundary, which would frame the proposed residential neighbourhood;
- g. Providing additional tree planting within the scheme to soften the appearance of built-form and link the proposals to the surrounding landscape context;
- h. Providing additional hedge planting along the school boundary will help to improve the enclosure of the Site yet further;

¹⁸ See pages 14-17 of the Design and Access Statement

¹⁹ Gibbs proof p11 para 48 .

- i. Providing lighting which is designed to reduce light spill and therefore reduce impacts on night-time views of the Site; and
 - a. Proposing the use of a sympathetic palette of materials and built-form s consistent with the urban character of Oxted and will minimise impacts upon longer distance views.
47. The design of the scheme has been arrived at through the careful consideration of the constraints and opportunities presented by the site. The Ancient Woodland and boundary vegetation are protected, and the layout and heights of the buildings is informed by visual analysis to avoid any material visual effects on the wider landscape. The scheme designed by Cooper Baillie has been informed by the relevant design guidance, specifically Surrey Design. I consider the scheme to be an appropriate, well-considered and high-quality design.
48. Mr Gibbs was not challenged on any aspect of his consideration of design. Further, no party to this inquiry has sought any further mitigation in order to further reduce the impact of the appeal scheme upon the character or appearance of the area beyond that already proposed. This is not a case where there is any further mitigation could be sought and which is not being provided. By definition, this must mean that the degree of harm to the character and appearance of the area has been minimised. I shall return to this issue below.
49. Further, Mr Gibbs identified a number of relevant local design documents²⁰. Neither the Council nor Rule 6 party allege any breach of these documents nor indeed the National Design Guide or Model Code. Indeed, Mr Thurlow agreed in XX that there was no conflict with any national or local design guidance.
50. It can then be concluded that the proposed development would deliver a high quality, beautiful scheme comprising sustainable buildings in accordance with one of the fundamental aims of the NPPF²¹. Indeed, paragraph 139 provides that
51. The scheme's good design is a factor which weighs significantly in its favour. The creation of high quality, beautiful buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.
52. It is to be noted that the Council does not allege any breach of paragraph 135 of the NPPF whatsoever. This means that it must be accepted that the development

²⁰ Gibbs p9 para 4.7

²¹ NPPF 131

- a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;
- b) is accepted to be visually attractive as a result of good architecture, layout and appropriate and effective landscaping;
- c) is accepted to be sympathetic to local character and history, including the surrounding built environment and landscape setting
- d) is accepted to establish a strong sense of place, which is an attractive, welcoming and distinctive place to live and visit;
- e) is accepted to optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks;
- f) is accepted to create a place that is safe, inclusive and accessible and which promotes health and well-being, with a high standard of amenity for existing and future users where crime and disorder, and the fear of crime, would not undermine the quality of life or community cohesion and resilience.

53. NPPF Paragraph 139 explains that "significant weight" should be given to development which reflects local design policies and government guidance on design, taking into account any local design guidance and supplementary planning documents such as design guides and codes.

54. Mr Thurlow confirmed that this applied to the proposed development and that significant weight should therefore be given to the design aspects of the scheme in favour of a grant of planning permission. It is to be noted, however, that this was not identified in the Officer Report, the Council's Statement of Case or Mr Thurlow's evidence. He thus left out of account a factor of significant weight in favour of the scheme when refusing planning permission and in present his very special circumstances case to this Inquiry. I shall return to this point further below.

55. Overall then it can be concluded that the proposed development accords with Part 12 of the NPPF and that significant weight should be given to design matters in favour of the grant of planning permission.

The Visual Impact Assessment

56. The Visual and Landscape Character impacts of the scheme, thus, need to be considered in the context that the proposed development is a high quality and design compliant scheme.

57. Mr Gibbs produced an LVIA that utilised a methodology that Ms Hooper agreed was appropriate and GLVIA3 compliant. Indeed, she accepted the conclusions of the visual impact assessment²².
58. As I have already emphasised in addressing the openness of the Green Belt, the site is visually contained by the ancient woodland and hedgerows which separates it from the wider more open landscape to the north and east and relates more strongly to the settlement edge. The LVIA concludes that the site would be largely screened from view within the wider landscape, with the exception of VP1 on Footpath 75 Greensand Way immediately to the east of the site. In all other views assessed from within the SHNL the proposed development would not give rise to any material visual impact, with those receptors that can see the proposed development identified as experiencing a negligible significance of effect. The photomontages demonstrate how well contained and screened the proposed development would be when viewed from within the SHNL.
59. Indeed, Ms Hooper explained both in Chief and in XX that the site is highly contained and difficult to see in locations from beyond its boundaries.
60. That view is also supported by the comments made by Clive Smith Surrey Hills AONB Planning Adviser on January 2nd 2024:
- “In my view, the development would have little impact upon distant public landscape views from the AONB. The impact would be more localised. Further, should the development become capable of being publicly viewed from the existing AONB to a greater extent than the LVIA would suggest, it would be against the backdrop of the built up area. In this context it would be seen as being part of Oxted. For these reasons I find it difficult to substantiate that the development would harm public views into or from the AONB so as to spoil the setting of the AONB.”
61. Mr Smith concludes that the proposed development would not harm public views into or from the SHNL so as to spoil the setting of the SHNL.
62. It follows from the above that all three professionals who considered the visual impact of the proposed development agreed that it would be highly localised and limited to within the Site. Ms Hooper agreed the LVIA conclusions²³. Thus, she accepted that²⁴:

²² Hooper in XX.

²³ Hooper in XX.

²⁴ CD1.11Table D5.2 p49

- a. the visual impact of the scheme would be negligible from all viewpoints within the AoNB;
 - b. From viewpoint 1 there would be an adverse impact via glimpsed partial views of the proposed development noticeable above the hedge line but that these would be of elements already present in the view;
 - c. From viewpoint 11 within the urban area, there would be a visual change due to the creation of the access road but that this is a feature of the urban area within with the receptor would be location and again what could be seen will be elements already readily appreciated in this location.
63. The only reasonable conclusion that can be reached is that the site is visually enclosed and difficult to see from within the wider landscape. That means that its visual impacts will be largely confined to the visual change to the field itself and are otherwise highly localised. It is submitted that in visual impact terms, the proposed development will have only a limited visual impact upon the character and appearance of the area and no material visual impact upon the AoNB as Ms Hooper agreed.

The National Landscapes Boundary Review

64. Both the Council and the R6 Party have sought to rely upon the National Landscapes Boundary Review as supporting a view that the part of the site on which housing is proposed has some special status, either as a valued landscape or otherwise.
65. It is a fact that Natural England has identified that area of land for potential inclusion within the National Landscape as part of its boundary review. What is far from clear is why or indeed whether anything can be drawn from that fact which is relevant to the assessment of the Site for the purposes of the present appeal.
66. Section 82(1) of the Countryside and Rights of Way Act 2000 (CROW 2000) provides:
- “Where it appears to Natural England that an area which is in England but not in a National Park is of such outstanding natural beauty that it is desirable that the provisions of this Part relating to areas designated under this section should apply to it, Natural England may, for the purpose of conserving and enhancing the natural beauty of the area, by order designate the area for the purposes of this Part as an area of outstanding natural beauty.
67. It follows that to form part an AoNB land must be of such outstanding natural beauty that it is desirable that the provisions of Part IV of CROW 2000 should apply to it. Thus, to include land its outstanding natural beauty must be established.

68. To inform that process, Natural England has developed "Guidance for assessing landscapes for designation as National Park or Area of Outstanding Natural Beauty in England".²⁵ To inform its assessment of natural beauty and to ensure that judgments are reached in a "transparent and consistent way" NE uses criteria as set out in Table 1 of the Boundary Review consultation document²⁶. These include assessment for landscape quality, scenic quality, relative wildness, relative tranquillity, natural heritage features and cultural heritage. The guidance explains that "by considering all of the factors together a judgment can be made as to whether an area meets the statutory criterion."²⁷

69. It is important to understand that the area on which housing is proposed does not fall within any of the proposed extension areas considered by NE in its consultation report. All of these areas are described and assessed against the Table 1 natural beauty criteria in the consultation report²⁸.

70. The part of the site on which housing is proposed, however, was identified as one of a number of "minor boundary refinements" as can be seen from the consultation report page 48. It was considered as one of a number fields collectively referred to as "land north of Park Road". On that page NE explained:

"minor boundary changes are also proposed where there are known anomalies within the existing ANOB boundary. These anomalies were highlighted in the Areas of Search around Haslemere, through the call for evidence and during the natural beauty assessment. Minor changes have been made where the existing AONB boundary does not follow a clear feature of the ground, where the land in question relates strongly to the wider AoNB forming part of a sweep of qualifying land, and where a suitable alternative boundary can be redrawn."

71. The "Surrey Hills AONB Boundary Review Natural Beauty Assessment" (Feb 2023) CD9.8 contains no assessment of the natural beauty of the Land North of Park Road. Nor does it contain any assessment of the relationship of that land or any part of it to the wider AoNB nor the degree of any such relationship.

72. The rationale for the "minor boundary refinements" does not identify that any consideration of the natural beauty of the land proposed to be included was undertaken either generally or specifically in relation to the land North of Park Road (whether in whole or part). Indeed, the

²⁵ CD9.7 page 7

²⁶ CD9.7 page 8

²⁷ CD9.7 page 8

²⁸ Cd9.7 page 11 and following.

specific consideration of this area identifies that it is formed of three fields in a location where the existing boundary “does not follow a clear feature on the ground”.

73. It can be seen then that prior to consultation there has been no published analysis which establishes that the three fields collectively or the area on which housing is proposed exhibits the “outstand natural beauty” which is required by section 82 of the CROW 2000 in order to be designated.

74. The Appellant objected to the proposed designation of the area on which housing was proposed. It contended that the land does not exhibit the necessary outstand natural beauty required by reference to the Table 1 criteria referred to in the consultation report²⁹. It identifies that the site is pleasant but not unusually attractive, that it does not display a particularly distinctive sense of place or landform, that it is not wild but rather an urban edge location influenced in terms of tranquillity by the M25 and adjoining urban land uses, that it has not distinct geomorphological features and that there is no clearly evidenced cultural heritage associations. That appraisal remains the only assessment by a professionally qualified landscape architect of the “natural beauty” of the site in evidence before.

75. Natural England responded In Appendix 21 of the Consultation Response document July 2024. NE determined to continue to include the Land North of Park Road in a proposed minor boundary refinement. However, its reasons for doing so bear careful scrutiny. It is submitted that:

- a. NE accepts that the ability to see a site in the context of a settlement is not a reason for the site to be excluded from the AONB. There are many examples where the AONB extends up to and abuts the urban edge, e.g. immediately to the north³⁰. Thus, urban forms of development are an accepted feature of the character of the setting of the AONB in this area;
- b. NE asserts that it has undertaken an assessment of the natural beauty of the site. However, it produces no such assessment against its guidelines and no reasoning against those guidelines is produced in Appendix 21 or anywhere else;

²⁹ CD1.18 page 15 para 4.5 and following.

³⁰ CD9.10 page 9

- c. NE has appraised the part of the site upon which housing proposed **in combination with** the other fields which form part of the "Land North of Park Road" and **not** in isolation;
- d. NE does not produce any evidence of any appraisal of the degree of connection of the part of the site upon which housing is proposed to the wider AoNB. Since it has appraised the whole of the three fields together, it may be that the views expressed regarding connection relation to fields other than the field on which housing is proposed as Ms Hooper accepted in XX;
- e. There is then no evidence which establishes that the area on which housing is proposed "relates strongly to the wider AoNB forming part of a sweep of qualifying land". Indeed, given the agreed lack of visual connection the evidence before this inquiry establishes that it cannot;
- f. NE does not explain why the existing field boundary is insufficient as a clear feature on the ground. Ms Hooper in XX accepted that it was.

76. It is then incorrect to conclude that NE has undertaken an assessment of the natural beauty of the site³¹. It has not. To the extent that it may have conducted such an assessment, it is of the three fields collectively. Even that assessment has not been presented and cannot be scrutinised by this Inquiry.

77. The result is that it cannot be concluded that NE has determined that **the area of the Site on which housing is proposed** exhibits the outstanding natural beauty necessary for designation. Indeed, the only professional evidence applying the correct assessment methodology that is before this Inquiry concludes that it is not³².

78. Further, it cannot be concluded that NE has determined that the part of the Site upon which housing is proposed has a strong relationship to the wider AoNB. Given the agreement of Mr Gibbs, Ms Hooper and Mr Smith that the site is visually separate from that wider landscape and the scheme would not have a material visual impact upon it, this cannot be the case. The only conclusion asserted by NE regarding the degree of relationship is expressed in the context of the three fields together and not the site itself.

³¹ Hooper proof para 5.18 and Wren para 4 is incorrect in asserting that NE has confirmed "how special the site is"

³² See Gibbs assessment in CD1.18 above

79. As a result, it is submitted that there nothing that you can reliably draw from the boundary variation project other than to note that the site is proposed for inclusion. The work done to support that project does not prove you with any reliable assessment which assists in determining the degree of visual or landscape impact of the proposed development. Any assertions made by the Council and R6 party to the contrary are thus to be rejected.
80. Indeed, it is to be remembered that NE does not object to the proposed development. Indeed, its position is recorded as being that the boundary variation project does not “confer any additional planning protection”³³. This must mean that it does not regard its assessment as establishing that the land has any particular planning status above that of general countryside. NE does not assert that it is to be protected as a “valued landscape” in direct contrast to its approach to the designated landscape of the Surrey Hills which it says is to be so valued.
81. The Appellant, of course, accepts that the views of NE are usually to be given strong weight. Thus, there is strong weight to be given to the fact that NE does not object to the proposed development on the basis of its impact upon the AoNB. Its conclusions within the boundary variation project, however, do not support any conclusion that the part of the site on which housing is proposed has outstanding natural beauty in its own right, that that part of the site has a strong connection to the wider landscape nor that that part of the site exhibits features which mean it is to be considered a “valued landscape”

Valued Landscape

82. ‘Valued landscapes’ need not be designated. However, the courts have indicated that these have to possess physical attributes to make the land “valued” in the sense that they are landscapes exhibiting qualities beyond simply being countryside: *Forest of Dean DC v Secretary of State for Communities and Local Government* [2016] EWHC 2429 (Admin)
83. The Council refused planning permission on the basis that the site was not a “valued landscape”. The very fact that Mr Thurlow did not even consider that it was “valued landscape” demonstrates the point. A site which is a valued landscape necessarily immediately exhibits the inherent qualities to lift above those of mere countryside. The fact that Mr Thurlow when considering the application and determining it did not see the site as a valued landscape means that it cannot have exhibited those qualities to him or else he would have appraised it and sought to apply NPPF para 180(a)³⁴.

³³ CD3.1 Officer Report p17-18

³⁴ Accepted in XX by Thurlow.

84. It was only when the Council was facing an appeal that it sought to consider the point. Indeed, even in its statement of case it had not determined that it would pursue the point³⁵. The point appeared for the first time in Ms Hooper's proof. It is then to be seen for what it is: an attempt to bolster the Council's position post-appeal and nothing more.
85. Unfortunately, Ms Hooper's appraisal was entirely flawed. The Technical Guidance is very clear. It applies only to non-designated areas of land³⁶. Ms Hooper had applied it to the site as a whole including that part of it which falls within the AoNB but upon which no development is proposed. The result is that her assessment process misapplied the guidance and adopted an approach which cannot be relied upon. It follows that her conclusions must be rejected.
86. As Mr Gibbs confirmed in his evidence to the Inquiry, "the TGN does not seek to provide an evaluative methodology that would replace those provided by other established advisory documents."³⁷; rather it supplements that guidance. Mr Gibbs conducted a careful appraisal of the part of the site on which housing is proposed against the technical guidance.
87. *Natural heritage* – the guidance is looking for a "landscape with clear evidence of ecological, geological, geomorphological or physiographic interest which contribute positively to the landscape".³⁸ Ms Hooper's assessment included features which are outside of the area of the site on which housing is proposed such as the AW and which were in the AoNB. They should have been excluded, as Ms Hooper agreed in XX. On the area of land on which housing is proposed there are no features of the type the guidance is looking for in relation to this criterion.
88. *Cultural heritage* – the guidance is looking for a "landscape with **clear evidence** of archaeological, historical or cultural interest which contributes positively to the landscape." Ms Hooper asserted that there is a historic field pattern. However, Mr Thurlow disagreed explaining that the field on which housing is proposed had previously been subdivided and that division had been removed. Thus, there is no **clear evidence** of an intact and historic field pattern here. Further, as Mr Gibbs explained, there are no designations. The Surry Landscape assessment for the GV4 LCA does not make any specific mention of historic landscape characteristics in this location.

³⁵ CD12.1 pa 8.28

³⁶ Cd9.6 para 1.1.1 page 5

³⁷ CD9.6 para 1.3.1

³⁸ CD9.6 page 11 Table 1

89. *Landscape condition* – the guidance is looking for a “Landscape which is in a good physical state both with regard to individual elements and overall landscape structure”. Mr Gibbs agreed that the boundaries of the area on which housing is proposed are in good condition.
90. *Association* – There is no claim that the site has a connection with any notable people, events or the arts.
91. *Distinctiveness* – the Guidance is looking for a “landscape that has a strong sense of identity,”, i.e. one which exhibits distinctive features which are characteristic of a particular place or rare or unusual features which confer a strong sense of place. Ms Hooper’s appraisal identifies no such features as present on the area of land on which housing is proposed. She has not applied the criterion correctly or appropriately. Mr Gibbs’s view is to be preferred. He explained in his evidence in chief that there is nothing about the site that makes it unusual or possessing a particularly strong sense of identity; rather, it is in a rural edge location and marks the transition between the countryside and the village.
92. *Recreational* – the guidance is looking for a “Landscape offering recreational opportunities where experience of landscape is important”. Ms Hooper referred to the presence of public rights of way and long distance trails. But these are off site. Again, her approach to assessing the area of the site on which housing is proposed is flawed. There are no recreation assets within the site and no public access. The FPs LH refers to are within the SHNL.
93. *Perceptual (Scenic)* – The guidance is looking for “landscape that appeals to the visual senses.” The area of the site on which housing is proposed is pleasant but not particularly attractive. The views of the escarpment are present, but the viewer is also strongly influenced by urbanising influences such as the adjacent schools and houses. Ms Hooper agreed in XX that the site is not rare or unique
94. *Perception (wildness and tranquillity)* – the guidance is looking for a “landscape with a strong perceptual value notably wildness, tranquillity and/or dark skies”. The area of the site on which housing is proposed is an urban edge site with many urban features perceived when within it. Ms Hooper acknowledged that it is a “transition zone from urban area into countryside”. It is not wild, and it is not tranquil – affected as it is by noise from the M25 and the urban area. Its does not have dark skies since the School playing pitches and their floodlights are directly adjacent.
95. *Function* – the guidance is looking for a “landscape which performs a clearly identifiable and valuable function, particularly in the healthy functioning of the landscape”. By way of example,

the guidance indicates that this may include “landscapes and landscape elements that have strong physical or functional links with an adjacent national landscape designation, or are important to the appreciation of the designated landscape and its special qualities.” The area of the site upon which housing is proposed has no clearly identifiable function other than agricultural land. Ms Hooper does not identify any feature is not be ordinarily present on an agricultural field.

96. Lastly, it is important to note that the Guidance states that ³⁹“value is best appreciated at the scale at which a landscape is perceived”. The scale at which this landscape is perceived is highly localised due to its contained nature, since it is difficult to perceive from the wider area. Ms. Hooper’s assessment of the considerations for valued landscape failed to apply this approach. She drew in many offsite factors that cannot be perceived from the area of the site on which housing is proposed, presumably because of her approach of including the whole of the red line area in her appraisal. This is a further factor that renders her approach contrary to the Guidance.
97. In the light of the above, the only reasonable conclusion to draw is that the area of the site on which housing is proposed does not exhibit the sorts of features, qualities and characteristics which make it a valued landscape in policy terms. Certainly, Ms Hooper’s assessment cannot reasonably be relied upon to draw the opposite conclusion and there is no other appraisal in evidence before this Inquiry which supports a conclusion that this is a valued landscape. On this basis, it is submitted that the area of the site on which housing is proposed is not a valued landscape and paragraph 180(a) of the NPPF is not engaged.
98. That means that the appropriate policy approach is to consider whether the proposed development recognises “the intrinsic character and beauty of the countryside”. Plainly it results in a change in the character of the part of the site upon which housing is proposed. That change in character is, however, limited in scope to the area on which development is proposed. Further, the scheme has been carefully designed and minimises its impact upon the wider area beyond its boundaries. As such, even if there is a conflict with para 180(c) of the NPPF, it can only be a matter of limited weight in the balance.

Landscape Character Impact

99. In terms of the assessment of landscape character impact, Ms Hooper’s main focus was upon Mr Gibbs’s appraisal of Susceptibility and Magnitude of Change.

³⁹ CD9.6 – last page last paragraph

100. Like the other aspects of her evidence, the work she had undertaken was riddled with errors and inconsistencies. This resulted in her having to produce an erratum sheet. But even then, having corrected her assessment of magnitude to ensure that the Surrey Hills AONB and Surrey Hills AGLV receptors were assessed in the same way (since they are contiguous) she failed to correct the inconsistency in relation her appraisal of susceptibility. That lack of care undertaken in her assessment is evident from this. But what is also evident is her almost total failure to apply the ES methodology or to adopt an approach which was GLVIA3 compliant.

Susceptibility

101. Landscape Susceptibility is the ability of an identified landscape receptor to accommodate the Proposed Development without undue consequences on the baseline conditions of that individual receptor. The ES adopted the following relevant definitions⁴⁰:

- a. High - Little or no ability to accommodate the Proposed Development without adverse consequences on the retention of the existing landscape baseline.
- b. Some ability to accommodate the Proposed Development without adverse consequences on the retention of the existing landscape baseline.

102. It is to be noted that that the relationship between susceptibility to change and value can be complex and is not linear. For example, a highly valued landscape (such as an AONB) may have a low susceptibility to change due to both the characteristics of the landscape and/or the nature of the proposed change⁴¹.

103. Ms Hooper identified all receptors, every single one no matter its scale, as having high susceptibility i.e. as having little or no ability to accommodate the Proposed Development without adverse consequences on the retention of the existing landscape baseline.

104. That approach plainly misunderstands this context where Natural England accepts that an immediate boundary between the urban edge and the AoNB is characteristic (see above). It is an approach which fails to recognise that views of urban areas are an existing characteristic and that urban characteristics already form a part of the character of the landscape of all of the relevant landscape receptors considered. Indeed, Mr Gibbs's appraisal in Table D4.1 in the rationale makes this very point⁴². So that is the difference between them, Ms Hooper assessment that none of the large areas of the character areas, the wide sweep of the AONB

⁴⁰ CD1.11 page 12 table D3.2

⁴¹ CD1.11 para D3.22

⁴² CD1.11 page 31

the AGLV, that none of them have "some ability" to accommodate the development. Her approach is plainly flawed and overstates the susceptibility of the receptors as a result.

Magnitude

105. In terms of the assessment of magnitude of impact, here Ms Hooper totally failed to apply the ES methodology at all.

106. The ES explains⁴³ that the magnitude of effect on landscape receptors is assessed by considering a number of factors. These include: Size or scale of the Proposed Development, Geographical extent of the effect, Contrast or integration with the existing landscape character, Duration of effects and Reversibility.

107. The ES also explained⁴⁴ that the size or scale of the magnitude of landscape effects relates to the loss or addition of features to the particular landscape receptor likely to be caused by the Proposed Development. The assessment takes into account the **extent/proportion of the landscape element that is lost or added, the contribution of that element to the character of the landscape**, the revised setting of the landscape or landscape element resulting from the Proposed Development, **the degree to which aesthetic or perceptual aspects of the landscape receptor are altered** and **whether the effect changes the key characteristics of the landscape**, which are critical to its distinctive character. It records that "the geographical extent over which the landscape effects occur is distinct from the size or scale."

108. The above factors are considered together to derive an overall magnitude of change for each receptor, which is determined by the use of professional judgement. The magnitude of effect is presented on a three-point scale of High, Medium and Low.

- a. High - The development would result in a substantial alteration to the key landscape character or characteristics of the receptors.
- b. Medium - The development would result in a partial loss of or alteration to key landscape character or characteristics of the receptor
- c. Low - The development would result in a minor alteration to landscape character or characteristics of the receptor.

109. Thus, a key aspect of the assessment of magnitude is to identify the degree of impact upon key landscape character or characteristics of the receptor under consideration, taking into

⁴³ CD1.11 p14 para D3.27

⁴⁴ CD1.11 D3.28

account, amongst other things, the extent of the effect within the context of the receptor. This is assessed at the study area level but necessarily takes into account the nature of the receptor as a whole.

110. In her assessment Tables LHP2a and b, Ms Hooper set out conclusions on magnitude without identifying any rationale for those conclusions, which address the requirements of the ES methodology. As she accepted in XX, at no point in the rationale for her view does she identify any impact upon any key landscape feature or characteristic of any of the receptors. When asked which key landscape characteristics would be affected to justify her views she was unable to identify any.

111. The only reasonable conclusion is that Ms Hooper did not present an assessment of magnitude of impact which applied the ES methodology. Her failure to provide a transparent assessment which enables a reader to understand how she reached her judgments also means, as she candidly accepted, that her assessment is not GLVIA3 compliant.

112. As a result of these important errors of approach, the only reasonable conclusion is that Ms Hooper's assessment of the landscape character impact of the proposed development is unjustified, overstated and must be rejected as unreliable and misconceived.

113. By contrast, Mr Gibbs appraisal was careful, meticulous and applied a transparent methodology. He examined the key characteristics of the receptors and the extent to which they are shared and/or affected by the site and the proposed development⁴⁵. He presented his conclusions in section 10 of his Proof, and he was not seriously challenged in the conclusions he reached.

114. His conclusions were:

- a. To assert that the development of the site would extend the built-up area of Oxted into the setting of the SHNL is simply inaccurate; Oxted is already within the setting of the SNHL. Oxted is clearly visible in views from within the SHNL at both the lower levels and from the elevated escarpment. These views of the built form of the settlement benefit from a good degree of woodland and tree cover. This situation would be unchanged if the Appeal site were to be developed. The change would be barely noticeable and would not result in any material change in the appreciation of character.

⁴⁵ See Gibbs proof section 6.

- b. With regard to the distinctive character of the area the defining characteristics of the LCA would not be materially affected. Boundary vegetation remains largely unchanged and would be supplemented in the longer term as part of the mitigation strategy. The field pattern and ancient woodland would be unaffected.
 - c. As identified by the SHNL Planning Officer, Mr Smith, any effects are geographically limited and do not substantially affect the wider landscape, and that the "proposed development would not harm public views into or from the SHNL so as to spoil the setting of the SHNL". The Appellant submits that Mr Smith is correct and that the appearance of the area would not be changed to any material degree.
115. The RfR wrongly alleges a harmful impact to the setting of an AoNB as a factor which is contrary to policy. Mr Slatford was entirely correct to identify that the NPPF does not contain any policy that requires the landscape character of the setting to an AoNB to be protected in the sense of experiencing no change or harm. To the extent that Policy CSP 20 provides otherwise, it is inconsistent with the NPPF and to be given reduced weight.
116. Mr Thurlow accepted in cross-examination that, since the development did not have any direct impact upon the AoNB and was proposed within its setting, the relevant policy test was contained in the last sentence of NPPF paragraph 182. i.e. whether the development is sensitively located and designed to avoid or minimise adverse impacts upon the designated areas.
117. In terms of being sensitively located, Ms Hooper has accepted that the proposed development would not have any material impact upon views from the AoNB (see above). The high degree of visual containment does not lead to any material visual impact outside of the site boundary. Further, Ms Hooper did not identify any aspect of the particular siting of built form within the site as have any particular impact upon any key landscape characteristic of any landscape receptor. NE accepts that a relationship between the built form edge of the settlement and the AoNB is characteristic of the area. So the fact that roofs from the development would be seen from VP1 on FP75 cannot give rise to landscape character harm. In any event, there was no suggestion that the scheme should be redefined to draw further away from the boundary closest to FP75. It follows, that in the absence of any material impact outside of the site, the proposed development must be sensitively located.
118. In terms of being designed to minimise adverse impacts, I have already explained above that this is the case. The fact that there is no further mitigation to reduce landscape or

visual impacts is sought which is not already being provided, demonstrates compliance with this policy test.

119. As a result, the only reasonable conclusion is that Mr Slatford was right to conclude that the Appeal proposals are not contrary to the development plan Policies CSP18, 20 or 21 nor policy DP7 Part A or the NPPF with regard to impact on the National Landscape.

120. Section 85(A1) of the Countryside and Rights of Way Act 2000 (as amended) provides that:

“In exercising or performing any functions in relation to, or so as to affect, land in an area of outstanding natural beauty in England, a relevant authority other than a devolved Welsh authority must seek to further the purpose of conserving and enhancing the natural beauty of the area of outstanding natural beauty.”

121. As I explained in Opening, this duty is only engaged in a planning decision relating to land outside an AONB, where the grant of planning permission would affect land within an AONB. Since there is no material adverse impact upon the AONB and potential effects upon setting have been minimised, the section 85(A1) duty is not engaged.

Ecology and Trees

122. No outstanding issues remain relating to biodiversity and tree protection. All have been addressed as a result of further discussion between the Appellant’s consultants and the Council’s external consultant. The evidence presented by the R6 party does not begin to establish any conflict with any relevant national or development plan policy. Accordingly, there is no basis for identifying any adverse impact or conflict with policy arising from these issues.

123. Indeed, Biodiversity Net Gain is secured at a 10% in a context where, as Mr Slatford explained relevant policy merely requires a “no harm” threshold to be met. The 10% Net Gain is then a benefit of the scheme which is to be given weight in favour of the grant of planning permission.

Ancient Woodland

124. The proposed development will have no direct impact upon any Ancient Woodland. The agreed conditions will result in the establishment of a buffer zone and planting thereof which will deter trespassing within the ancient woodland. In addition, the welfare of the woodland will be managed proactively going forward in a manner which will not be the case if

planning permissions is refused. The heads of terms have now been agreed with the Council in a manner which ensures that there is no duplication of the Felling license system. As a result, the Council and the Appellant agree that there remains no policy conflict in respect of the potential impact of the scheme upon the ancient woodland.

125. Indeed, the Appellant submits that the grant of planning permission should result in an enhanced position compared to the position if planning permission were refused, given the exclusion of access and the management benefits including addressing ash die-back. This is a factor which should be given weight in favour of a grant of planning permission.

126. The R6 party takes a different view. Mrs Wren, having accessed the land unlawfully for years, naturally has a different view particularly since she is giving evidence on behalf of a residents group which is really a majority "shareholder" in the most dominant political group within the Council. This can be seen from the enthusiastic participation in the R6 party's presentation of its case by Councillor Sayer, who is the Council Leader, providing her thoughts to the R6 party **and to Council Officers** throughout this appeal. Make no mistake, the R6 party engages in this appeal for local political reasons as a part of the dominant Residents Alliance political group within the Council. How else could a Council Leader afford to spend five whole working days at an Inquiry, unless it was locally politically important to do so?

127. Ms Wren, of course, participated in the R6 party's attempt to prevent development of the site by seeking footpath orders across it many years ago. She has thus been an active objector to the development of this site for many years including when she was chairman of the Council and vice-chair of the planning committee. Her political affiliation and past stance in relation to the principle of development on this site means that she cannot be seen as expressing an independent view.

128. Indeed, she said that even the 15m buffer between the AW and the development was insufficient. However, she produced no evidence that any greater distance was required than the 15m advised in the NPPG in this particular case. Indeed, her true stance became apparent when asked what size of buffer would be acceptable to her? Her position was that there should be no housing. Thus, her objection was not motivated by a desire to protect the AW but to prevent any housing coming forward at all as a matter of principle.

129. In respect of the management plan, Mrs Wren provided some very generalised comments. The Appellant has responded:

- a. Fencing can and will be effective at keeping the public out of the AW;

- b. That fencing will be maintained by the management company, and there is no evidence that this will be ineffective in managing the various aspects of the scheme. Assertions have been made about management companies failing, but no evidence has been provided to explain why they failed (if indeed they did) nor why the proposed management company would fail or otherwise be ineffective in the present case. The R6 party has failed to provide any substantive evidence to prove that the use of a management company, a mechanism widely used within the English planning system, will not be effective in the present case.
- c. The passage of wildlife through the fence will be achieved by leaving a requisite gap between the bottom of the mesh and the ground. Mrs Wren accordingly raised concerns regarding predation by domestic animals. The fence is not intended to prevent the passage of cats as it would be pointless to make it so. Domestic cats can roam up to three kilometres from their home, therefore the ancient woodland is already within cat roaming range of a large number of domestic dwellings and the proposed development will not create a new cat predation pressure on the ancient woodland.
- d. In terms of the potential impact of pesticides, the existing site has been subjected to the application of fertilisers and herbicides in the past right up to the edge of the existing woodland. The proposed creation of a 15 metre wide buffer zone around the ancient woodland will ensure that any future pesticide applications on the site after development will take place further away from the ancient woodland than is currently the case. The historic application of fertilisers and herbicides to the site has already had a detrimental impact on the field layer in the ancient woodland⁴⁶. The proposed creation of a 15 metre wide buffer zone around the ancient woodland will significantly reduce and likely eliminate this detrimental impact. Therefore, the proposed development represents a material enhancement of the position.
- e. Mrs Wren also suggested that residents will engage in fly-tipping into the buffer. As is stated in Mr Carter's Proof of Evidence at section 5.2.1.3.4.3, the proposed development layout has set the domestic dwellings and their gardens even further back from the ancient woodland than 15 metres buffer zone, and a clear area of amenity grass is maintained between the buffer zone and the domestic dwellings and their gardens. Therefore, there is no direct opportunity for future residents to fly tip over the fences surrounding their gardens and into the buffer zone. Further, any fly-tipping that does occur will be detected and removed by the site management company.

⁴⁶ Carter proof para 4.2.2 page 9

- f. In terms of the provision of dark corridors, these were explained to be provided in close proximity to the boundaries to provide for foraging for bats. The relevant police liaison officer responded to the application and provided comment on the proposed development. No concerns regarding dark corridors and crime were raised.

130. In summary, none of the matters raised by Ms Wren provide a reasonable basis for concluding that the proposed development would give rise to a national or development plan policy conflict in relation to the AW.

Footpath Connection

131. The Appellant has set out its proposals to secure a footpath link through to FP75. This would provide access to the FP network and the AoNB to the public on a route that was greatly enjoyed previously by the public at large as Ms Wren explained. The R6 party stance that if this link were now provided is wholly inconsistent with Ms Wren's own use of the route across the site to access the FP network – but this is no doubt a result of her in principle objection to any housing on the site.

132. The reality is that if it were to come forward it will be a benefit of the scheme and it is a factor to which positive weight should be ascribed, particularly since it accords with the NPPF objective of supporting healthy communities⁴⁷ and providing access to a network of high quality open spaces⁴⁸. In particular, paragraph 104 NPPF provides that:

“Planning policies and decisions should protect and enhance public rights of way and access, including taking opportunities to provide better facilities for users, for example by adding links to existing rights of way networks including National Trails.”

133. FP75 is a national trail and so the link to it would meet this element of National Planning Policy.

134. The Council has, however, decided that it does not wish to have that link. Its case is founded upon a wholly unsubstantiated and unevidenced fear that the link will increase the use of the national trail FP75 and that this will cause people to access Chalkpit Wood AW. There is no evidence that the issues with that AW are caused by people accessing **from the FP75** – rather, they are evidently caused by people accessing from the urban area as Mr Phillips explained. Further, any such access would be unlawful and a trespass. Any damage caused to the wood would amount to criminal damage. It is not appropriate to assess the impact of development on the basis of an assumption that people will behave unlawfully. It is not how

⁴⁷ NPPF para 8(b) 96(a) and (c), 97 (a)

⁴⁸ NPPF 102

the planning system works. When assessing the impact of a scheme. decision makers do not have to assume that planning conditions will be breached; rather the reverse is the case, they are to assume that people will behave lawfully. Further, there is no evidence that even if people did illegally gain access to the AW any deterioration or loss over and above that which would occur without the appeal scheme in place would result. In the absence of such evidence, it cannot be concluded that any policy conflict would arise.

135. On this basis, the Appellant submits that the footpath link is justified, there is no evidence that any policy harm would arise through its provision, rather a policy benefit would materialise. As a consequence, this is a factor to weigh in favour of a grant of planning permission.

Highways

136. In terms of national policy, development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe⁴⁹.

137. The qualified professional highways engineers have reviewed the proposed development and agree that, with the mitigation, which is secured via condition/planning obligation, there is no basis for concluding that there would be any conflict with these provisions.

138. Indeed, Surrey CC concluded:

*"The Highway Authority considers that the proposal is unlikely to have a material impact on highway safety or capacity given the sustainable location of the development, in transportation terms, and in the context of the proposed offsite highways improvements works which focus on improvements to road safety and pedestrian amenity."*⁵⁰

139. The R6 party has chosen to pursue an objection nonetheless, but has not produced any professional evidence to support its case.

140. By contrast, Mr Wittingham explained the detailed nature of the assessment undertaken on behalf of the Appellant, which included traffic surveys examining speed, traffic flow, on-street parking, pedestrian and cycling usage, the usage of footpath 75 and a road safety review⁵¹.

⁴⁹ NPPF para 115

⁵⁰ Whittingham para 6.5

⁵¹ Whittingham proof para 3.5

141. Indeed, he noted that the period of congestion associated with the operation of the school is a short 15-minute peak of activity⁵² and that drivers associated with the proposed development would alter their travel patterns to avoid these busy periods. The conditions allow for further discussion regarding the precise design of the junction, but it should be noted that the Stage 1 Road Safety Audit identified no in principle safety issues. He explained that, accordingly, the proposed access is safe and suitable⁵³.
142. In terms of congestion, between 08:30 and 08:45 hours there is congestion at the junction between Chichele Road and Silkham Road when parents are picking up and dropping off their children. However, this is for a short duration of time and commonly occurs within the vicinity of schools. The proposals will result in the relocation of some pickup/drop off from the double yellow lined location in the vicinity of the site access location away to other safer locations where there is sufficient capacity⁵⁴. Mr Whittingham explained that the removal of parked cars associated with pick-up/drop-off activity will enhance the operation of the Chichele Road/Silkham Road junction allowing free-flow of traffic.
143. The vehicular trip generation associated with the proposed development is included within the Transport Assessment (CD1.3). This indicates that the proposed development could generate 52 two-way vehicular movements within the morning peak period and 54 two-way vehicular movements in the evening peak period. Junction capacity assessments were undertaken for the following junctions as requested by SCC⁵⁵.
144. The results set out within the Transport Assessment (CD1.3) concluded that the traffic flows identified above can be accommodated onto Chichele Road and the surrounding network without material impact on the operational capacity of the road. Modelling of the proposed site access junction, Chichele Road/Silkham Road junction, Chichele Road/Barrow Green Road and Chichele Road/Bluehouse Lane/Station Road East mini roundabout indicates that the proposed development will not result in a severe impact to the operation of the local highway network.
145. In terms of pedestrian movements at the site access, Mr Whittingham explained⁵⁶ that the proposed access is suitable to facilitate passing pedestrian movements including parents and children travelling to St Mary's Primary School. The introduction of the access at this location will prevent parents from dropping off and picking up their children in the vicinity of

⁵² Whittingham proof Figure 3.3

⁵³ Whittingham para 6.4 and following.

⁵⁴ Whittingham para 6.11 and 6.20-22

⁵⁵ These figures are based on robust vehicular trip rates given the proximity of schools and other facilities to the site.

⁵⁶ Whittingham para 6.15

the Silkham Road/Chichele Road junction. This will reduce the number of vehicles stopping at this location which will enhance the environment for pedestrians.

146. The Transport Assessment (CD1.3) sets out the vehicular trip generation associated with the proposed development and concludes that the site will attract circa 50 two-way vehicles within the morning peak hours (08:00-09:00). This equates to one vehicle every 1-2 minutes which will allow sufficient opportunities for pedestrians to cross the site access safely without conflicting with vehicle movements using the site access, although these are likely to re-time to avoid the particular short peaks of activity associated with school comings and goings.
147. Extensive surveys of pedestrians and vehicles associated with St Mary's School have been undertaken to ensure that the site access proposals do not affect the safety or operation of the school drop-off and pick-ups. Traffic surveys were undertaken on Tuesday 21st February 2023 surrounding St Mary's C of E Primary School in order to establish the current traffic condition associated with the school. Video footage has been analysed at the beginning and the end of a school day to assess the peak periods. It is clear that between 08:30 and 08:45 hours there is congestion at the junction between Chichele Road and Silkham Road when parents are picking up and dropping off their children. As such, this is a short duration of time and commonly occurs within the vicinity of schools.
148. The surveys were taken at entirely appropriate times of the year and capture the everyday experience on local streets. These were undertaken outside of the school holidays and have been accepted by SCC as the highway authority and accord with the Transport Analysis Guidance (TAG) Unit M1.2 'Data Sources and Surveys' (CD10.9)⁵⁷.
149. These surveys have concluded that there is sufficient space on the local highway network to accommodate any displaced pick-up/drop-off activity associated with providing the site access onto Chichele Road. The assertions of local people opposed to the development, unsupported by any kind of robust or objective capacity study cannot reasonably be preferred to the careful assessment undertaken by Mr Whittingham and his team of professional highways engineers, nor the views of the professionally qualified Highways Officers.
150. A bus stop is currently located where the sites access will form a junction with Chichele Road, this will be removed as part of the development. The bus stop located approximately 60 metres north of the site access, adjacent to St Mary's of E Primary School, serves the same bus routes as the bus stop proposed to be removed. As such, the removal of the bus stop situated

⁵⁷ Whittingham para 6.24

where the access to the site is proposed will not result in a detrimental impact for passengers using the bus services in the local area. Additionally, the bus stop adjacent to St Mary's of E Primary School will be improved as part of the development, the details of which are set out within the previous section.

151. The proposed development is to be located where local town facilities are easily accessible by active travel modes. The scheme will result in improved pedestrian and cycle links thereby enhancing the connectivity of active travel routes. Oxted railway station is accessible by active travel modes. The scheme will deliver local bus stop improvements, a speed management scheme within the vicinity of the site, the introduction of a car club bay to Oxted, a Travel Plan (CD1.4). Further, it will result in improved drop off/pick-up facilities.

152. In terms of the use of the access for construction activity, this will be controlled pursuant to the proposed conditions to restrict the timing of deliveries and parking up of vehicles so as to avoid school times. There is no evidence that construction activity will result in any disturbance to the primary school and none was identified in the noise assessment.

153. As a result, there are no transport or highway reasons why the appeal should be dismissed. The proposed development accords with the NPPF and with Policy CSP11,12, Policy DP5 and DP7.

Vehicular Emissions and Air Quality

154. NPPF 174 provides that planning decisions should prevent "new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of soil, air, water or noise pollution or land instability [...]".

155. NPPF 186 provides that:

"Planning policies and decisions should sustain and contribute towards compliance with relevant limit values or national objectives for pollutants, taking into account the presence of Air Quality Management Areas and Clean Air Zones, and the cumulative impacts from individual sites in local areas. Opportunities to improve air quality or to mitigate impacts should be identified, such as through traffic and travel management, and green infrastructure provision and enhancement. So far as possible these opportunities should be considered at the plan-making stage, to ensure a strategic approach and limit the need for issues to be reconsidered when determining individual applications. Planning decisions should ensure that any new development in Air Quality Management Areas and Clean Air Zones is consistent with the local air quality action plan."

156. The Appellants commissioned expert air quality consultants to produce the Air Quality Assessment October 2023. This shows that the background air quality in this area is very good⁵⁸ and are significantly below the required AQ standard threshold levels. The Council's own NO² monitoring shows NO² concentrations at least 42% below the 40 µg/m³ AQS in 2019. The level of traffic generation is so low that it is below the latest EPUK & IAQM planning guidance indicative thresholds for assessment. Thus, the scheme's impact on AQ will be insignificant⁵⁹. The Officers Report notes at page 17 the comments of Environmental Health; "providing that the applicant adheres to the consultant's recommendations in the noise, air quality and lighting reports, I have no objections."

157. There is no basis for concluding that vehicular emissions associated with the scheme will give rise to any breach of national or local development plan policy.

Drainage

158. Mr Allen explained the position in relation to surface water run off. The proposed development will result in betterment compared to the greenfield position when the site is examined as two catchments. He explained how the surface water drainage proposals had been carefully considered by reference to the use of the industry standard modelling software and also in the robust assumptions adopted. He explained that he had made assumptions that incorporated individual events of greater "peakiness" than even the R6 party was suggesting. Even on the basis of these highly robust assumptions, the proposed development results in an improved situation compared to the existing position.

159. In terms of flows from the access road, he explained that the detail of the creation of the access road paving allowed for storage attenuation to be provided within/beneath the paving and that this would be developed as part of the approval processes associated with the proposed conditions. There is then no basis to conclude that the access road will result in any additional surface water flood risk.

160. The issues relating to foul drainage need to be seen in the context that the planning system exists alongside the system contained within the Water Industry Act 1991. Under section 106 of the 1991 Act, all Water and Sewerage Companies (WaSC's) have a legal obligation to provide developers with the right to connect to a public sewer. The duty imposed by section 94 of the 1991 Act requires WaSC's to deal with any discharge that is made into their sewers pursuant to section 106. The scheme of the legislation is that, where connection

⁵⁸ CD1.17 page 12 Table 4.1

⁵⁹ CD1.17 page 12 Table 4.1

of a development to a public sewer requires consequential works to accommodate the increased load on the public sewer, the cost of these works falls exclusively upon the undertaker (see *Barratt Homes v Welsh Water* [2010] Env. L.R. 14). It follows that if there is a lack of foul drainage capacity, there is a duty on the WaSC to address that issue. A planning decision-maker is entitled to assume that a parallel statutory regime will function as it should. As a result, issues relating to foul drainage cannot form a basis for objection, particularly since a condition is proposed which will ensure that sufficient capacity is available to accommodate the proposed development before it is occupied.

161. In summary, the site is at low risk of flooding and can sustainably attenuate and discharge surface water with no flooding in the design storm. Rainfall generated in the 1 in 100-year + 45% rainfall event can be attenuated on site, with an addition to allow for urban creep, and is to be discharged at less than the QBAR greenfield runoff rate. This reduces flood risk on site and in the local area, this provides a betterment over the existing situation. As such, the principles of the site's management of flood risk and drainage have been fully established and there is no basis for concluding that the proposed development will give rise to any conflict with policy in this respect.

Prejudice to the National Landscape Boundary Variation Project

162. It is self-evident that a grant of planning permission would not give rise to any material prejudice to NE's boundary variation project. The Council has identified no conflict with policy in this respect.

163. Mr Slatford was correct to remind the Inquiry that if the point were being pursued against a development plan there would be no basis for upholding a claim of prejudice. Paragraph 50 of the NPPF states that

"refusal of planning permission on grounds of prematurity will seldom be justified where a draft plan **has yet to be submitted for examination**; or – in the case of a neighbourhood plan – before the end of the local planning authority publicity period on the draft plan. Where planning permission is refused on grounds of prematurity, **the local planning authority will need to indicate clearly how granting permission for the development concerned would prejudice the outcome of the plan-making process.**"

The boundary variation project has reached the equivalent of Reg 19 stage. It has not been submitted for approval. Even if it were, there remains a process of objection and consideration of objections primarily by way of public inquiry. It is not at a stage where prematurity could be raised if this were a local plan process.

164. Further, no prejudice has in fact been identified. NE has explained that it will simply reconsider the position⁶⁰. It has not claimed that a grant of planning permission would cause any prejudice. If it is the case that NE is simply seeking to bring the boundary to the settlement edge the existing hedge will provide that boundary and a new boundary can be proposed to reflect this. There is no question of the whole project collapsing⁶¹.

165. As a result, there is nothing in this RfR to weigh against the grant of a planning permission.

Housing Need

166. It has been a central part of Government policy since the publication of the NPPF in 2012 that sustainable development requires that housing and specialist needs should be met where they arise. In the current NPPF paragraph 60 explains:

“To support the Government’s objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay.”

167. Tandridge has never had a plan in place that reflects this policy approach which is over 12 years old. What has become clear at this Inquiry is that planning at a local level in Tandridge has failed. Failed to deliver a modern and up-to-date Local Plan. Failed to significantly boost the supply of homes. Failed to deliver land to meet the housing and affordable housing needs of the area. Tandridge Council is totally failing to meet the needs of its citizens. It is failing to deliver what is needed, where it is needed and when it is needed. Tandridge Council is a poster child for dysfunctional planning in England. With every day that passes, there are families in desperate need of housing, being forced to live in temporary accommodation for years on end, having to cope in environments which are not adapted to and which do not suit their needs, or which are located outside of the Borough they grew up in or currently work in. All because, this Council is so inept or so wilfully opposed to housing delivery, it is unable to deliver development to meet their needs.

168. Enough is enough – if the Council is unwilling or unable to deliver development to meet the compelling need for housing and affordable housing that exists in this area, then the appeal system must do so.

⁶⁰ CD9.10 page 11

⁶¹ Accepted in XX by Hooper and Thurlow.

169. It is common ground between the Appellant and the Council that the 116 homes proposed, including 70 market homes – including two custom build plots – and 58 (50%) affordable homes, would deliver an appropriate mix of new homes in terms of both the size of the new homes as well as the proposed tenures. The proposed scheme will provide much needed new homes within a range of larger detached and semi-detached family properties, as well as smaller homes for first-time buyers, movers, and young families.
170. The Council is unable to demonstrate a 5YHLS, and the position – between 1.8 years (Appellant’s position) and 1.92 years (the Council’s) – demonstrates an acute deficiency. Indeed, even the 1.92 figure can be questioned due to errors in the approach and a lack of evidence to support some of the sites. It is agreed, however, that this difference is not determinative, but on both figures the broad scale of deficit is significant, representing a substantial shortfall of around 2,400 homes.
171. Tandridge has and continues to deliver too few homes. The Housing Delivery Test results identify it has delivered just 38% of its required housing over the past three years. Tandridge is persistently failing Government’s Housing Delivery Test (HDT) by a very large margin indeed. The latest (2022) results confirm the exceptionally poor position, with the Council having delivered just 38% of its required housing over the past three years. As a result, it is currently the 8th worst performing local authority across the country, out of a total 317 areas measured for the HDT. In previous years, the Council’s delivery record has not fared much better, with the Council delivering well below its required housing (38% in 2021, 50% in 2020, and 50% in 2019).
172. Similarly, against an objectively assessed housing need previously assessed as 450-495dpa and a standard method need of 634dpa, average housing delivery in Tandridge since April 2012 has been 242 homes per annum. During that 12 year period since the original NPPF, Tandridge District Council has failed to adopt a new Local Plan to begin to address the issue. This serves to highlight the simply dire and worsening situation that the Council finds itself in.
173. This under-delivery of homes is causing significant affordability issues within the District⁶². The systemic under delivery of homes within the District – which has persisted over many years since the NPPF was first introduced in 2012 seeking a significant boost in housing supply – has contributed to Tandridge being one of the least affordable places to access housing within the Country. Its lower quartile house price of £370,000 is almost double the national position (£190,000) with it the 15th most expensive authority area to access lower quartile

⁶² Accepted by Thurlow in XX

priced housing within the 298 authority areas outside of London. It is the 10th most expensive district for rents outside London. The median affordability ratio of 12.38 is significantly higher than the England and South East averages (8.29 and 10.39 respectively).

174. There are acute local affordable housing needs with a “continuing extremely bleak outlook for local affordable housing provision” (para 72 of Inspectors decision on Land West of Limpsfield Road appeal). As of July 2024, there are 1,841 households registered on the Council’s housing waiting list, with 1,130 within bands A to C (urgent, high and moderate needs). Each of these households needs and wants affordable housing and has a connection to the District. The Council’s own assessment of affordable housing needs identifies a need for 310-391 affordable homes per year, but against this just 68 affordable homes have been completed annually since 2006. Looking to the future, the supply pipeline of affordable housing (estimated as 234 homes) falls well short of meeting ongoing annual need and well short of addressing the scale of the housing waiting list.

175. This District-wide position is also reflected in Oxted (RH8), where 208 households in total are on the waiting list with 75 in urgent or high housing need (Band A or B). In comparison to this, just 13 new affordable homes have been built over the last five years within the settlement (all in Hurst Green), and few affordable homes appear to be within the supply pipeline. This indicates the position is particularly acute for Oxted as one of the District’s main settlements.

176. Looking forward, there are no mechanisms in place which are likely to improve substantially the housing supply picture in Tandridge. Whilst the Council identifies the IPSHD as providing some relief to the situation, in reality, much of the delivery from those sites remains uncertain. Even if all of the IPSHD sites come forward in short order, there will still be a shortfall of around 1,600 homes over the next 5 years. Mr Thurlow suggested that further sites might come forward within a new IPSHD but these will not have been considered as sound by an Examination Inspector. The IPSHD is not SPD and has not been the subject of public consultation. Further, this policy approach outside the plan-led system cannot allocate land for housing since that requires a plan process. These factors necessarily limit its likely effectiveness and ability to deliver further sites in the future, even if there were a highly unlikely sea change in the local political will to release Green Belt sites.

177. Both Inspectors at the Limpsfield Road and the Lingfield appeals concluded that the IPSHD can be given no more than limited. If anything, with the collapse of the local plan process, the conclusion is even more justified now. There is certainly no basis for departing from their conclusion in that regard. Mr Thurlow was totally unable to identify any change of

circumstances to come to a different conclusion now. It is submitted that consistent with those decision, the IPSHD can only be given limited weight.

178. Even where sites are within the IPSHD, there is no guarantee that they will be permitted at a local level- the Limpsfield Road site is an example of that. There is no evidence that the IPSHD will bring forward sites in sufficient scale and with sufficient speed to solve the scale of the problem. Similarly, the Council has pointed to other sites it has permitted, and other ways it is bring forward affordable homes, but the scale of those interventions are such that they barely scratch the surface.

179. Further, the unsound and withdrawn Local Plan had been at examination for over five years, and in preparation for several years prior to that and the continued failure of TDC to put in place a plan is leading to sustained and worsening housing delivery outcomes in the District. There are no mechanisms identified to remedy the scale of the issue, albeit the consultation on the NPPF provides the Government's emerging direction of travel on how such circumstances might be addressed.

180. In that context, the contribution that the appeal Scheme will make to meeting housing needs must be given substantial weight. Further, the contribution that the appeal scheme will make to meeting the acute affordable housing need crisis in Tandridge should also be given substantial weight as a separate consideration. Mr Thurlow's attempt to elide the two into a single factor must be resisted. It was not supported by either of the Inspectors in the Limpsfield Road or Lingfield appeals.

The Draft NPPF

181. Government has reaffirmed via its draft NPPF the importance of delivering new homes, including in areas constrained by Green Belt. Changes would increase Tandridge's housing need and introduce 'grey belt' land provisions to see housing built on poorer performing Green Belt land. Firstly, Government's proposed changes would see Tandridge's housing needs under the standard method increase from 634 homes per annum to 777 homes per annum. The simple consequence of this would be that Tandridge District's 5YHLS position would fall from 1.92 to 1.58 years, with the shortfall increasing to 3,174 in the five-year period. This highlights the fundamental necessity for Tandridge to deliver more homes given the intensity of need it faces, compared to recent delivery (230-240 homes per annum). Secondly, to help achieve this in areas constrained by Green Belt, the draft NPPF makes several changes, including introducing a definition for 'Grey Belt' land where housing delivery would not constitute 'inappropriate development' where (among other things) the local planning authority cannot demonstrate a five-year supply of deliverable housing sites or where the Housing Delivery Test score is below

75%, both of which would apply in Tandridge. Given the shortage of brownfield land in Tandridge suitable for housing, it is inevitable that the Council will need to allow housing development in the future on lower performing Green Belt ('Grey Belt') land in order to address the acute scale of housing land shortfall that exists within the District.

182. The Appellant contends that given the limited contribution the Site makes to the purposes, it qualifies as grey belt land and, as Mr Thurlow agreed it otherwise complies with paragraphs 152 and 155 of the draft NPPF revisions. It is accepted, however, that this a factor that can only be given limited weight in the planning balance.

Very Special Circumstances

183. As stated above, substantial weight should be 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.

184. The Appellant contends that once the site, planning context, the proposed development and the conclusions on impacts are considered, the harm to the Green Belt and any other harm is limited in this case. In the context of that limited harm, I turn to explain the considerations that outweigh that level of harm.

185. It is submitted that a combination of factors exist that, taken together, outweigh any harm to the Green Belt and constitute the VSC necessary to justify a grant of planning permission. In this context it is also important to note that this is a very accessible location and development on Green Belt sites in the right location can be regarded as sustainable.

186. By way of wider context, the NPPF states that when reviewing Green Belt boundaries, the need to promote sustainable patterns of development should be taken into account. Where it has been concluded that it is necessary to release Green Belt land for development – as was concluded appropriate and necessary via the examination of the emerging Tandridge Local Plan – "plans should give first consideration to land which has been previously-developed and/or is well-served by public transport" (NPPF Paragraph 142).

187. The site forms a logical extension to the settlement of Oxted and is highly accessible for sustainable modes of transport, including walking, cycling, bus and rail. As set out above, the site is 600m (c.6-7 minute walk) from Oxted train station, it is very close to bus stops and services on Chichele Road/Silkham Road and Bluehouse Lane, is adjacent to the schools, and

it is within c.10 minute walking distance of the full range of shops, services and community facilities Oxted has to offer.

188. Oxted is identified in the Core Strategy as a Category 1 Settlement, providing key services and day-to-day needs for the District's population (it retains a 'Tier 1' status in the emerging Local Plan). It is further identified in the Council's Settlement Hierarchy study (Addendum June 2018) (CD5.10) as the highest scoring settlement in the District, drawing together a range of sustainability metrics. Oxted is therefore recognised as the most sustainable settlement within the District, and accordingly is identified by the Council as a preferred location for growth within the emerging Local Plan (draft Policy TLP01: Spatial Strategy).

189. Given the scale of the District's housing need, the site would have a significant role to play in achieving sustainable development within the District, minimising the need to travel by private car, and maximising opportunities for walking and cycling for day-to-day needs. This is, therefore, a good and sustainable site for development, if Green Belt release is required to meet housing needs.

190. Relevant to the considerations of the VSC case is whether there is a need to release land from the Green Belt to deliver the homes needed. As explained by Mr Martin Taylor (CD11.4), the emerging Local Plan evidence base and process highlights that there is a very limited amount of developable urban land to meet the local needs for market and affordable housing. The failure to do so is generating substantial adverse housing, social and economic outcomes for families and households in the District and Oxted who are not able to access housing, continue to see worsening affordability, and/or many are needing to travel further distances from outside the Green Belt.

191. The need to release Green Belt land was therefore recognised both by TDC and the Inspector in the emerging Local Plan, with the Inspector concluding that Exceptional Circumstances exist to alter the Green Belt boundaries, and that the release of Green Belt land is necessary to go any way towards meeting the District's housing needs (CD5.2).

192. Further, Mr Taylor notes that there are very limited alternative sites to Chichele Road on which to do so, as set out in the Council's own evidence base in the IPSHD (CD8.9). It is significant that the draft Local Plan process failed to identify or bring forward sufficient proposed allocations to address housing needs as explained by the Local Plan Inspector. Indeed, Mr Thurlow accepted there is no evidence that there are other more suitable alternative sites for housing development either in the Green Belt or elsewhere which would provide at least some prospect of an improving picture in the period between now and when the Council

can finally get a plan in place (at the earliest 2027-2028). This was a point that the Limpsfield Road gave weight to⁶³.

193. With these wider matters in mind, I set out the other VSC at this particular site that, when taken together, significantly outweigh any harm arising from development within the Green Belt. I also refer to the conclusions which other Inspectors came to on similar issues in the Limpsfield Road and Lingfield Appeals. Mr Thurlow gave all of these matters limited weight, although he did not adopt the position put to Mr Slatford in XX that that was because they “would not make a difference”; rather he self-evidently sought to downplay the benefits of the scheme without identifying any good reason to depart from the conclusions in these two appeals. Mr Thurlow’s position on “weight” is entirely out of step with these appeal decisions and wholly unjustified. It is to be roundly rejected like so much of his evidence.

1. The failure of plan-making in Tandridge

194. As set out above, the emerging Tandridge District Local Plan was withdrawn from examination in April 2024 having been found unsound (over five years after its submission to the Secretary of State for Examination in January 2019). This failure of the plan-making process has led to sustained and worsening housing delivery outcomes. The non-adoption of the Plan, for an area that is largely covered by Green Belt designation and with few brownfield sites, will mean those sustained and worsening housing delivery outcomes will extend indefinitely. The only way to rectify that failure of plan-making in the short term is to address sites and housing delivery under the VSC test within national policy.

2. A very substantial housing land supply shortfall

195. The greater the degree of shortfall, the greater the weight the shortfall must be given in the balancing exercise. As set out in the evidence of Martin Taylor, the shortfall in housing in Tandridge is severe. The extent of the 5YHLS shortfall is further compounded by the fact that there appears to be little prospect that housing needs (as identified by the standard method) will be met soon, without Green Belt sites being approved under VSC.

196. The Limpsfield Road Inspector concluded (CD6.1 para 65) at paragraphs 93-96 indicates particularly that the “acute and persistent housing supply shortfall” in Tandridge was a substantial contributory factor to there being very special circumstances in that case. The Lingfield Inspector concluded that this factor should be given “very significant weight”⁶⁴ The same position continues to apply and there has been no material change in circumstances since

⁶³ see CD6.1 para 65.

⁶⁴ CD14.1 para 88.

these decisions were taken other than the decision to pull the plug on the local plan process. Mr Slatford was right to give the housing need substantial weight

3. Affordable housing delivery

197. As well as the shortfall in overall housing delivery within Tandridge, the area faces acute affordability pressures and a high need for affordable housing as explained above. There are over 1,800 households on the housing waiting list, there is a need in Tandridge for between 310 and 391 affordable homes per year against average delivery of just 68 affordable homes per year, and in just Oxted alone there is a need for 40 affordable homes per year.

198. The scheme, with 58 proposed affordable homes – 50% of the total and significantly in excess of the Policy CS4 requirement of 34% – would make a significant and very important contribution to the affordable housing needs of the District, and bring with it important benefits that affordable housing brings to creating mixed, balanced and healthy communities.

199. The Limpsfield Road Inspector concluded that this was a factor that should be given significant weight in favour of a grant⁶⁵. The Lingfield Inspector gave this factor very significant weight in favour of grant⁶⁶. Mr Slatford again was right to give the affordable housing need substantial weight i.e. the top level on his scale).

4. Sustainable Location

200. These benefits are delivered on a site with very good sustainability credentials as I have already explained with a range of services, facilities and schools within walking and cycling distance. The appeal site is a short walk from the train station, which benefits from regular and direct services to nearby towns and London. There are also nearby bus stops to access local bus services. There is a very good prospect that future occupiers of the appeal scheme will not be reliant on the private car, and modal shift will be further enhanced through the provision of cycle storage in the scheme and a travel plan, both of which are secured by condition. The appeal proposal would be highly sustainably located in accordance with NPPF paragraph 105. The Lingfield Inspector considered these matters to be a significant benefit weighing in favour of the proposal in that appeal⁶⁷. There is no good reason to adopt a different approach in the present appeal.

5. Environmental Enhancement

⁶⁵ CD6.1 para 72

⁶⁶ CD14.1 para 91

⁶⁷ CD14.1 para 98

201. The proposals result in an improvement position for the AW compared to the position if planning permission were refused. There is no evidence that there is any likelihood of the AW being so protected or managed in the event that planning permission is refused, whereas if planning permission is granted, the AW will be protected from human intrusion and positively managed, particularly so as to address the issues it is suffering from in terms of Ash Die Back. Given the importance that AW places on protecting AW at a national level, this is a material benefit of the appeal scheme and to be given moderate weight.
202. Further, the Scheme also results in a 10% biodiversity net gain over and above policy requirements. This is a matter which the Lingfield Inspector gave moderate weight to⁶⁸ and there is no good reason to adopt a different approach in the present appeal.

6. Open space, play and enhanced accessibility

203. The proposals include a large and centralised open space providing a Local Equipped Area of Play and a smaller local area of play to the east of the site. This area is sized and specified to be above the requirement to address the needs of the development; the policy requirement is for 0.05ha/1,000 population for play provision, necessitating 140 sqm of play provision, with the scheme providing 390 sqm of play and associated walking trails, set within a central green space. This is agreed with the Council (CD11.13).
204. This directly responds to identified needs within Oxted and Limpsfield, where the Tandridge Open Space Strategy 2021-2025 (CD5.12) and earlier Open Space Study (CD5.11) identify access deficits to children's play space within Oxted and access deficits and quantity shortfalls of children's play space in Limpsfield (with the site being walkable and serving a catchment across both).
205. The high-quality new opportunities for play that the scheme would bring would help address those needs, providing wider benefit to the community and not just to the residents of the development.
206. The proposed development would formalise public routes through the site; potentially offering an opportunity to link through to PRoW Footpath 75 to the east. This enhanced accessibility through the site, and potentially beyond (which is proposed to be secured via S106), would give enhanced accessibility to the Green Belt and AONB from the centre and north Oxted.

⁶⁸ CD14.1 para 96

207. These factors are similar to the factors which the Limpsfield Road Inspector gave moderate weight to⁶⁹. Mr Slatford was correct to identify this level of weight to these matters.

7. High quality and sustainable design

208. As explained by Mr Gibbs, the design of the scheme has been sensitively developed to provide a development which reflects guidance on design and the local context. The design of the scheme and how it has evolved to respond to the opportunities of the site are set out in the accompanying DAS (CD1.2) and reflect the requirements at NPPF Paragraph 134 on design as well as within the National Design Guide. I have already explained that paragraph 139 provides significant weight in favour of the scheme.

209. Further, as agreed in the SoCUG (CD11.13), the new homes have been designed to be far in excess of both TDC's policy requirements on energy efficiency and sustainable design standards, as well as current building regulations. The proposed houses would be constructed using timber frame systems, reducing embedded carbon and providing exceptional insulation properties. Each of the proposed homes would also be gas-free, with houses to be heated via air source heat pump and apartments through hot water heat pumps. Larger homes (all south-facing four and five-bedroom properties) would also have solar photovoltaic panels on their roofs, meaning the development will contribute directly to renewable energy generation. Electric vehicle charging points will be provided to all homes and a car club can also be provided by CALA, giving opportunities for people to live car-free and use shared rented cars.

210. Overall, this means that the proposed specification of the scheme would be delivering a total carbon efficiency saving of 69.8% from the implementation of fabric efficiency measures and on-site renewable energy sources, which significantly exceeds the requirements set out both in current local planning policy (20%) and existing building regulations (31%). This is evidenced within the Energy and Sustainability Assessment submitted with the application (CD1.6). It would set a new benchmark for how sustainable construction could be achieved within Tandridge, and combined with the sustainable location being a large incentive to reduce car usage, it could be an exemplar for the area. I give this moderate weight, as energy and climate change are key issues, and it is important that the Appeal Scheme exceeds minimum requirements.

211. The Limpsfield Road and Lingfield Inspectors gave moderate weight to this factor⁷⁰, too, and there is no reason to adopt a different approach in the present appeal.

⁶⁹ CD6.1 para 79.

⁷⁰ CD6.1 para 81 and CD14.1 para 100

8. Economic and Social Benefits

212. The Benefits Statement submitted with the application (CD1.1, Appendix 2) provides a full, detailed assessment of the economic, social and wellbeing benefits that would arise from the proposed development. Essentially, the Proof of Evidence of Simon Slatford: Land at Chichele Road, Oxted proposed residential-led scheme represents an important opportunity for investment within the settlement of Oxted and the provision of new housing will generate a range of economic impacts that will make a contribution to the local economy and community.

213. The quantifiable impacts of the proposed development relate to the direct and indirect creation of new jobs, construction investment, additional economic output and increased local spending. This includes supporting around 119 direct construction jobs during each year of construction, as well as a further 144 jobs in services and other businesses from the increased wage spending of construction workers and supplier outsourcing per year. The construction activity is estimated to generate £11.2 million direct GVA and £13.6 million indirect and induced GVA per annum, which is a significant contribution to the local economy.

214. Beyond the construction period, the occupation of the residential development would also deliver a significant boost to the local economy by generating 'first occupation expenditure' of £385,000 on home goods, as well as £3.7 million of expenditure per year in shops and services, of which £1.6 million each year is estimated to be retained within Oxted, supporting local jobs and the local economy.

215. These too are matters to which the Limpsfield Road and Lingfield Inspectors attributed moderate weight in respect of schemes of a similar size⁷¹. There is no good reason to adopt a different view in the present appeal.

Conclusions on Very Special Circumstances

216. Taken together, the factors I have just outlined and the weight to ascribe to them amount to Very Special Circumstances, which clearly outweigh the limited harm to the Green Belt at this location and any other harm.

217. The proposed development represents sustainable development. Each dimension of sustainable development is present as Mr Slatford explained.

⁷¹ CD6.1 para 80 and CD14.1 para 92

Final Conclusions

218. The proposed development is justified by reference to very special circumstances and thus accords with the Development Plan.
219. In the light of the above, applying the approach in paragraph 11(d) of the NPPF:
- a. It is submitted that the application of the policies in the NPPF that protect areas or assets of particular importance do not provide a clear reason for refusing the development proposed; and
 - b. any adverse impacts of granting planning permission for the Appeal Scheme would not significantly and demonstrably outweigh the benefits that the Scheme will deliver, when assessed against the policies in the NPPF as a whole.
220. Thus, the presumption in favour of sustainable development supports the grant of planning permission for the proposed development.
221. Applying section 38(6) of the 2004 Act, the proposed development accords with the development and has the significant support of the NPPF. There are no material considerations which outweigh the very substantial factors which weigh in favour of the grant of planning permission.
222. It is submitted that the Appeal Scheme represents a significant opportunity to meet housing needs and affordable housing needs on a highly sustainable site. As such it is one of few locations that can assist in meeting those needs in the short to medium term. We ask you to take the action necessary to rectify the local failure of the planning system in Tandridge – if the Council will not take action to deliver the development that is needed then Inspectors like you have to step in or the abject failure to deliver schemes to meet the needs of this area will continue unabated for many, many years to come. We ask you not to waste this opportunity. We ask you to help the Appellant provide that which is needed so desperately - a high quality scheme which meets critical needs and which delivers a plethora of benefits for future residents. We ask you to allow this appeal and to grant planning permission for the Appeal Scheme.

8th October 2024

REUBEN TAYLOR K.C.

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