

Proof of Evidence of Simon Slatford

BA (Hons) BPI MRTPI

Land at Chichele Road, Oxted

Appellant: CALA Group Ltd

Planning Inspectorate Appeal No.:

APP/M3645/W/24/3345915

Tandridge District Council Application No. TA/2023/1345

3 September 2024

LICHFIELDS

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Appendix A – Response to Rule 6 Party Flooding Concerns

1.0 **Introduction**

Qualifications and Experience

1.1 My name is Simon John Slatford. I am a Town Planner and hold a BA (Hons) Degree in Town and Country Planning. I am a Member of the Royal Town Planning Institute (RTPI).

1.2 I am a Senior Director at Lichfields (formerly Nathaniel Lichfield & Partners). I have been engaged in town and country planning for over 30 years and have extensive experience of advising on planning for housing in London and the South East. I have provided expert evidence on planning and housing matters to many S78 Appeals and have participated in many development plan examinations.

Declaration

1.3 The evidence which I have prepared and provide for this Appeal (reference APP/M3645/W/24/3345915) in this Proof of Evidence is true and has been prepared and is given in accordance with the guidance of my professional institutions and I confirm that the opinions expressed are my true and professional opinions.

Scope of Evidence

1.4 I am instructed by CALA Homes (South Home Counties) Ltd, (the “Appellant”) to provide evidence to this Inquiry in respect of the refusal of a full planning application by Tandridge District Council (“TDC” or “the Council”) for residential development at Land at Chichele Road, Oxted, Tandridge (“the Appeal Site”).

- 1.5 I have been involved in the development proposals since March 2023 when Lichfields was instructed by the Appellant to advise on this project and prepare the Planning Statement and several other documents forming part of the original application. Lichfields prepared and submitted the Appeal. I have visited the Appeal Site and surrounding area. I am therefore familiar with the Appeal Site, the proposal that is the subject of the Appeal, and the relevant planning policy documents.
- 1.6 My evidence addresses all planning policy matters, including the framework of planning policy against which the Appeal proposals should be judged at both a local and national level. I consider the weight to be given to the policies of the development plan, as set out in the reasons for refusal and the Rule 6 Party and whether the planning application accords with the development plan.
- 1.7 I also deal with the ‘very special circumstances’ (“VSC”) case for development in the Green Belt, relevant material considerations, the weight to be given to the benefits associated with and any harm arising from the scheme and the planning balance. In this case, I also consider the potential implications of the draft NPPF (July 2024) which, while in draft now, may be in final form before the determination of the application.
- 1.8 My evidence should be read alongside the evidence of Martin Taylor who provides evidence on housing need, Paul Gibbs who provides evidence on Landscape and Green Belt, Mark Carter who provides evidence on trees, Jim Phillips who provides evidence on ecology and Andrew Whittingham who provides evidence on Transport.

2.0 Background

2.1 An application for full planning permission was submitted to TDC on 26 October 2023 and subsequently validated on 6 November 2023 (reference TA/2023/1345). The application proposed the following:

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

2.2 An Environmental Statement (ES) was submitted with the planning application in October 2023, following receipt of TDC’s EIA Screening Opinion in July 2023 which stated that the proposals were considered to be EIA development.

2.3 Throughout consideration of the application, the Appellant responded positively to comments from the case officer(s) and consultees and submitted further supporting information as well as revised plans to address several matters of concern.

2.4 On 26 February 2024 the Council refused the application under delegated authority. Seven reasons for refusal (‘RfR’) were given, summarised as follows:

- 1 The Appeal Scheme represents inappropriate development in the Green Belt that would result in significant harm to openness both spatially and visually. The proposed development would also result in significant other harm to the setting of the Surrey Hills National Landscape and the open countryside. There are no very special circumstances (VSC) to override these harms.
- 2 The proposed development, by failing to provide a sufficient semi-natural buffer, does not properly consider protection of the adjacent Ancient Woodland. The scheme also fails to protect and enhance valuable

environmental assets. The scheme has not demonstrated that harm to environmental assets including the Ancient Woodland will be outweighed by the need for and benefits of the development, and overall ecological benefits should be delivered.

- 3 The proposed development has not demonstrated that it will protect, maintain and enhance the natural environment by minimising impacts on, and providing net gains for, biodiversity.
- 4 The proposed development, due to its siting, form and appearance, would adversely impact upon the character and distinctiveness of the National Landscape, Ancient Woodland and wider landscape and countryside.
- 5 The proposed development, due to its siting, form and appearance, would result in harm to the Green Belt, the National Landscape, Ancient Woodland, open countryside and potentially biodiversity.
- 6 The proposed development would result in potential impacts on important existing trees, due to unjustified encroachment into root protection areas (RPAs) and the potential for pressure on trees due to proximity to dwellings and parking areas.
- 7 The site is proposed for inclusion in the National Landscape Boundary Variation Project, and granting planning permission for the proposed development would prejudice the outcome of this project.

2.5 Since that time, the Council has confirmed that they are now satisfied on the position regarding the impact on trees and have therefore withdrawn RfR 6.

2.6 The Council have advised that on BNG (RfR 3), they would like more detail and assurance on delivery from the Appellant, but considered that this could be discussed and agreed in the lead up to opening the Inquiry. The submitted

revised ecological surveys, that were referenced in this reason for refusal, have satisfied the Council on the baseline ecological value of the site. The Council has expressed a concern that the recently proposed footpath link from the site to FP75 will lead to increased recreational pressure on the Chalkpit Wood SNCI.

2.7 Through further clarification and discussions between the parties, it has also been agreed that the proposals would not result in harm to the Ancient Woodland, except in one respect'. However, the Council consider that this respect can be resolved by planning obligations, providing that these are framed in a suitable way. The Appellant will continue positive discussions with the Council and it is hoped that, with appropriate obligations/conditions, this could remove RfR 2.

2.8 With regard to the Council's reasons for refusal, therefore, the main issues now comprise the impact on the Green Belt, the setting of the National Landscape and the landscape, and whether the proposals would be sustainable development.

2.9 My proof sets out the planning case for why planning permission should be granted for the development, focusing on the reasons for refusal and main issues raised by the Inspector, who had regard to the case presented by the Rule 6 Party. In my evidence, I draw from the evidence of the Appellant's team of experts. Other matters raised by residents are set out in a separate section to my proof.

2.10 A Statement of Common and Uncommon Ground ("SoCUG") has also been prepared by the Appellant and TDC (CD11.13).

2.11 My proof of evidence refers throughout to documents contained within the Core Documents bundle. It is further supported by a Technical Note on the

Rule 6 Party to Flooding issues by Motion, attached to this proof as Appendix

1.

3.0 Appeal Site

3.1 A detailed description of the site is provided in the Design and Access Statement (DAS) (CD1.2) submitted with the application, as well as within the Planning Statement (CD1.1), the Appellant's Statement of Case (CD11.1) and in the officers Delegated Report (CD3.1). I summarise, briefly, the key points below, as far as they are relevant to the main issues.

Site and Surroundings

3.2 The Appeal Site comprises an irregularly shaped agricultural field, located approximately 450m to the north of the centre of Oxted and 600m to the north of Oxted train station.

3.3 The site is bound by existing residential properties on Chichele Road to the southwest, the grounds of St Mary's C of E Primary School to the northwest, and the grounds of Oxted Secondary School to the southeast and east (with playing pitches/sports facilities for both 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.

3.4 Access to the site is via a strip of land adjacent to St Mary's School which leads to Chichele Road, and pedestrian access is possible via Bluehouse Lane. There are no Public Rights of Way ('PRoW') within the site and no formal public access. PRoW Footpath 75 (Greensland Way) lies to the east of the site, providing links from Oxted to the wider area.

Designations

3.5 The Appeal Site is not located within a Conservation Area and there are no designated heritage assets within the site. The nearest listed building is the

Grade II listed Church of All Saints (ref. 1245423) located on Ward Lane, less than 100m from the southern corner of the site. The nearest Conservation Areas are located approximately 500m southwest of the site.

3.6 Part of the woodland at the northern border of the site is designated as Ancient Woodland. This woodland is covered by a Tree Preservation Order (TPO) and a further TPO is located around a singular oak tree to the southeast boundary of the site adjacent to Oxted School.

3.7 The woodland to the north of the site lies within the Surrey Hills Area of Outstanding Natural Beauty (AONB, now National Landscape – ‘NL’)) and an Area of Great Landscape Value (AGLV). The main field forming the vast majority of the site (‘the development area’) is therefore adjacent to, but outside of the AONB/NL and AGLV.

3.8 The site lies within the Green Belt.

Planning History

3.9 An Order by Surrey County Council (SCC) to establish informal footpaths within the site was not confirmed in May 2021, following an Inquiry held by the Planning Inspectorate (ref. ROW/3225371). There is no further relevant planning history for the site of relevance to this Appeal, beyond the recent Environmental Impact Assessment (EIA) Screening Directions issued by TDC in July 2023 and subsequently the Secretary of State in February 2024.

3.10 On adjacent land, Oxted County Secondary School were granted planning permission (TA/96/68) on 14 August 1996 for the proposed construction of an artificial sports pitch and erection of eight 12 metre floodlighting columns, the laying out of a car park (32 spaces), erection of fencing, ground modelling and landscaping.

4.0 The Appeal Scheme

- 4.1 Details of the proposed scheme are included in the DAS submitted with the application (CD1.2), the Planning Statement (CD1.1) and the Appellant's Statement of Case (CD11.1). A brief summary is set out below, as far as it is relevant to the main policy issues.
- 4.2 The application seeks full planning permission for 116 new homes, including 70 market homes and 46 affordable homes (40% affordable housing provision), alongside associated landscaping, open space, parking, and infrastructure.
- 4.3 The proposed mix of homes range from smaller (one and two-bedroom) apartments to larger (four and five-bedroom) detached houses, as well as the potential to deliver two custom build plots. The majority of the proposed homes are two storeys, with the exception of some two and a half storey detached houses and apartment buildings.
- 4.4 The Appeal Scheme includes approximately 1.2 hectares of new public open space and 0.36 hectares of landscaped buffers around the boundary edges of the site. The new public open space also includes a large, equipped play area in the west of the site and a smaller play area to the eastern boundary, amounting to a total of 390 sqm play provision.
- 4.5 Primary vehicular access to the residential development is proposed via a widened junction onto Chichele Road to the west of the site. Pedestrian and cycle access points are proposed around the site, including from Bluehouse Lane to the south and from a new pedestrian link to the northeast boundary of the site to an existing PRow.

5.0 **Planning Policy Position**

Statutory Development Plan

5.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that determination of a planning application must be made in accordance with the development plan, “*unless material considerations indicate otherwise*”.

5.2 The current development plan relevant for the purpose of determining this Appeal comprises:

- 1 The Core Strategy Policies (‘CSP’) adopted in October 2008 (CD4.1); and
- 2 The Local Plan Part 2 Detailed Policies (‘DP’) adopted in July 2014 (CD4.2).

5.3 The SoCUG (CD11.13) sets out the Development Plan policies most relevant for determining this Appeal and these are agreed between the Appellant and TDC.

Material Considerations

5.4 In addition to the above the following are material considerations of relevance in the determination of this Appeal:

- National Planning Policy Framework ‘NPPF 2023’ (CD8.1)
- Draft National Planning Policy Framework ‘NPPF 2024’ (CD8.3)
- Written Ministerial Statement – Secretary of State HCLG – 30 July 2024 (CD8.5)
- National Planning Practice Guidance (‘PPG’) (CD8.4)

- Emerging Local Plan Evidence Base, including the Green Belt Assessment (2018) (CD5.5, CD5.6, CD5.7 and CD5.9) and Housing Needs Assessments (CD5.3 and CD5.4)
- Annual Monitoring Reports (including Housing Land Supply Statement) (CD8.7)
- Surrey Hills AONB Environmental Design Guidance (2019) (CD9.1)
- Surrey Design Guide (CD9.3)

Weight to be Given to the Development Plan

5.5 The NPPF (2023) contains a number of policies that are material to the determination of this Appeal, most significantly Green Belt policies and the effect on the setting of the National Landscape (AONB/NL), but the overarching thrust of the Framework is that sustainable development is to be pursued in a positive way, with the presumption in favour of sustainable development (paragraph 11) setting out how that should be achieved for plans and decision-taking. Planning policies in up-to-date Local Plans that are fully consistent with the NPPF (2023) can be given significant weight.

5.6 However, as it is agreed that the District cannot currently demonstrate a 5-year housing land supply, paragraph 11(d) of the Framework indicates that planning permission should be granted unless: (i) the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or (ii) any adverse impacts of doing so significantly and demonstrably outweigh the benefits, when assessed against policies in the Framework taken as a whole.

5.7 Paragraph 11(d) of the NPPF also sets out that the policies which are most important for determining housing applications are out of date in situations

where the housing delivery test (HDT) indicates the delivery of housing was lower than 75% of the housing requirement over the previous three years. The HDT results show that the Council has delivered well below its required housing (50% in 2020, 38% in 2021, and 38% in 2022) and this is currently on a downward trend.

5.8 The Tandridge Core Strategy was adopted in October 2008 and pre-dates the introduction of the NPPF. In a number of important respects, particularly regarding the delivery of new homes, the statutory development plan is out of date and inconsistent with the policies and objectives of the NPPF, not least because its strategic policies pre-date the introduction of the Framework and it does not make provision for an up-to-date assessment of development needs. Specifically, the housing requirement contained at Core Strategy Policy CSP2 (125 homes per annum) was drawn from the former South East Plan Regional Spatial Strategy, and the spatial strategy which flows from that. The Tandridge Local Plan Part 2: Detailed Policies adopted in July 2014 post-dates the NPPF but is pursuant to the growth strategy of the earlier Core Strategy.

5.9 As such, with the exception of the Green Belt policy and where relevant policy on the AONB/NL, policies in the adopted Plan should be given moderate or limited weight, depending on the degree of consistency with the NPPF. I address this in more detail when considering the policies applicable to the reasons for refusal.

The Withdrawn Local Plan

5.10 In accordance with Paragraph 48 of the NPPF (2023) (CD8.1), weight may also be given to relevant policies in emerging plans according to the stage of preparation, number of outstanding objections and consistency with the NPPF.

5.11 On 18 April 2024, the Council resolved to withdraw the Regulation 22 Submission version of its Local Plan (CD5.1), over five years after its submission to the Secretary of State for Examination on 18 January 2019. This followed the Inspector's Final Report dated 14 February 2024 (CD5.2) which concluded that the Local Plan is unsound and should be withdrawn.

5.12 While no weight can now be given to the withdrawn emerging plan policies, the evidence base for that Plan is a material consideration which can be given some weight. In this regard, the housing requirement and housing supply evidence is of value as the Inspector's Final Report (CD5.2) confirms that:

- a *In the submitted Plan, the Council calculated the OAN to be 470 dwellings per annum (dpa) based upon the 2014 based household projections. Subsequently, it has updated its SHMA using the 2016 based figures which produced an OAN of 398 dpa. I set out... in my preliminary conclusions and advice following the hearings... that the OAN... should be in the region of 450 to 495 [dpa]. (paras 86, 87)*
- b *I cannot establish the OAN and the housing requirement is not justified either because this is based on supply which is uncertain/out of date. Therefore, Policy TLPO1: Spatial Strategy which sets out housing delivery target of 6,056 dwellings (303 dpa) is not justified, effective, consistent with national planning policy or positively prepared. (para 80). However, even if the Council is right about the 2018 household projections, the OAN is considerably higher than the housing requirement set out in the Tandridge Core Strategy of 125 dwellings per annum. (para 90)*
- c *It would be very difficult to achieve sustainable development as defined by the NPPF, to include amongst other things, providing the supply of housing required or widening the choice of high-quality homes, without impinging on the Green Belt. In this context, the*

decision of the Council to review the Green Belt boundaries through the preparation of the Plan was justified and demonstrates that they positively sought opportunities to meet the development needs of the area and boost significantly the supply of housing. (para 94)

- d *I am satisfied that the GBA [Green Belt Assessment] was undertaken on the basis of a clear methodology consistent with national planning policy for protecting Green Belts and that in principle, the proposed alterations to the Green Belt boundaries had taken into account the need to promote sustainable patterns of development and are consistent with the proposed Local Plan strategy. (para 101)*

6.0 **Assessment of the Appeal Scheme – Main Issues**

6.1 In the letter from the Inspector before and following the Case Management Conference (CMC), the Inspector identified that the main issues for the Inquiry are as follows:

- 1 The principle of development in view of the site's current designation as Green Belt land, and whether any 'very special circumstances' ('VSC') exist.
- 2 The impact of the proposed development on the setting of the Surrey Hills National Landscape (AONB) and open countryside, including impact on landscape character.
- 3 The impact of the proposed development on the adjacent Ancient Woodland.
- 4 The impact on and enhancement on the natural environment.
- 5 The impact on trees.
- 6 The inclusion of the site as a 'minor boundary refinement' in Natural England's 'Surrey Hills AONB Boundary Variation Project', and whether granting planning permission for the proposed development would prejudice the outcome of this.
- 7 Highway safety and capacity.
- 8 Drainage and flooding.

6.2 I address each of these in the remainder of my evidence, as far as they relate to planning policy. These matters are also addressed in detail in the evidence prepared by the Appellant’s witness team.

6.3 Before addressing the main issues however, it is important to consider some of the wider issues as context for the areas of concern set out in the reasons for refusal.

Matters Agreed and Benefits of the Scheme

6.4 There are many benefits of the Appeal Scheme which can be given degrees of weight in the consideration of this case. I have ‘graded’ weight as follows: substantial, significant, moderate, limited or no weight. I have used the same scale when considering degrees of harm. I set out my views on this matter below and later in this proof. I also set out below matters on the Appeal proposals that are agreed with the Council. I return to Very Special Circumstances later in this proof.

6.5 On the Appeal Scheme itself, the Council has agreed that:

- a The affordable housing provision exceeds the adopted policy requirement. The Council consider this should be given “significant” weight, but it is not clear what grading they are working to.
- b The housing mix is appropriate.
- c There is a good level of amenity/open space and play space that meets policy requirements.
- d The site is accessible, with respect to public transport and local services.
- e There is no impact on highways grounds.
- f The proposed quantum of parking is acceptable.

- g There are no objections from statutory consultees on flood risk, heritage, surface water drainage or contamination.

Delivery of new homes

- 6.6 I consider that the delivery of new homes in this area is a significant issue in this Appeal. The Council does not have an up-to-date development plan in place to ensure the delivery on new homes and Mr Taylor notes in his evidence (CD11.4) that there is a very real and urgent need for housing in the District due to the significant shortfall in the 5YHLS and the HDT. The assessment of housing need is covered fully in the proof of evidence of Mr Taylor.
- 6.7 In paragraph 6.3 of the Council's Statement of Case (CD12.1) it is stated that the LPA's Interim Policy Statement for Housing Delivery – September 2022 (IPSHD) (CD8.9) is a material consideration and comprises an update to identify what additional measures the LPA will take to improve housing delivery. However, I note that the Inspector for a recent Appeal on a Green Belt site in Warlingham, Tandridge (CD6.1), stated in paragraph 62 that: *“However, the IPSHD does not form part of the development plan nor is a supplementary planning document, that has been subject to public consultation. Therefore, whilst it is matter to which I can only give limited weight, given its non-statutory status...”*.
- 6.8 The Inspector went on to determine that *“In short, the evidence before me conveys at this particular moment in time [March 2023] the continuation of what is already an acute deficiency and shortfall in the local housing supply and delivery. The capability of the Appeal proposal to contribute significantly to addressing the identified extremely serious housing land supply and delivery deficits weighs significantly in favour of this Appeal”* (paragraph 72).
- 6.9 In paragraph 119 of the Council's Officers Delegated report (CD3.1) it is confirmed that significant weight can be given to the delivery of affordable housing. The significant shortfall in affordable housing completions is very

relevant to the overall planning balance. If this Appeal was allowed, it is the Appellant's intention to commence the development as soon as practicable, once pre-commencement conditions have been discharged.

6.10 In this regard, I note that the Inspector for the aforementioned Warlingham Appeal (CD6.1) stated in paragraph 72 that *"In summary, the evidence before me demonstrates an ongoing acute and continuing extremely bleak outlook for local affordable housing provision. The capability of the Appeal proposal to contribute significantly to addressing the existing and predicted very serious affordable housing shortfall within the next 5 years attracts significant weight in favour of this Appeal"*.

6.11 The Inspector concluded that *"...the Appeal Scheme would assist in addressing the acute and persistent housing supply shortfall and would deliver affordable housing in an area of high need. I attach substantial weight to the critically needed housing benefits of the scheme"*. This is compelling. As a consequence, I consider that the provision of market and affordable housing should carry substantial weight in the planning balance.

Sustainable Development

6.12 In my view, the proposed development represents sustainable development.

6.13 Each dimension of sustainable development is set out below in the context of this Appeal, noting that at paragraph 8, the NPPF acknowledges that achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways. Further, the Framework states that planning policies and decisions should play an active role in guiding development towards sustainable solutions, but in doing so should take local circumstances into account, to reflect the character, needs and opportunities of each area.

Economic

- 6.14 The proposed development would create 116 new households which would, in turn, generate demand for local shops and services, utilising public transport. Construction of the proposed development would generate additional expenditure in the local economy.
- 6.15 The site is in close proximity to the town centre. Therefore, the new development would result in additional household visiting and spending in the town centre which is a key priority of the Government as set out in chapter 7 of the NPPF (2023).
- 6.16 This is explained in the attached Economic and Social Benefits Statement that was submitted with the application (CD1.1, Appendix 2 to the Planning Statement). In summary, the proposed development would have significant economic and social benefits for the local residents and the surrounding community. These include:
- 1 The generation of economic benefits during construction and, in particular: 119 direct FTE construction jobs per annum; 144 FTE indirect and induced jobs per annum; £11.2 million of direct GVA; and £13.6 million of indirect and induced GVA.
 - 2 Around £385,000 of 'first occupation' expenditure and £3.7 million gross expenditure per annum (of which £1.6 million per annum is estimated to be retained within the Oxted local area) which could support a further 14 FTE jobs locally.
 - 3 Contribution to the Council's revenues, including £314,000 per annum in additional Council Tax payments.
 - 4 Apprenticeships and training for local people would also be provided during construction, offering opportunities for the upskilling of young people.

Social

- 6.17 The proposal would deliver 116 new homes, 40% of which would be affordable. As I set out above, the site is accessible by a range of transport modes, including walking, cycling, public transport and private vehicles. There are several local services provided in the town centre, and the site is well served by existing amenities, including schools, doctors/hospital, shops and community centres.
- 6.18 The design proposals adhere to established principles of place making and urban design which are fundamental in creating good places to live with high sustainability credentials.
- 6.19 The Appeal development would also provide new high-quality amenity spaces for the enjoyment of future residents and a larger public open space.
- 6.20 The social benefits arising would therefore include (set out in further detail within CD1.1, Appendix 2 to the Planning Statement): enhancing the quality of living for its new occupiers; increasing housing choice and alleviating housing affordability issues; encouraging active lifestyles for all ages; supporting local jobs; and supporting social interaction and enhancing community participation.
- 6.21 Subject to planning permission being granted, the site is available, and housing could be delivered within the short term.

Environmental

- 6.22 The landscape proposals would allow for the creation of new and enhanced habitats and the proposed development would achieve a net biodiversity gain, which is proposed to be secured by a planning condition.
- 6.23 The proposed development would also incorporate a variety of measures to improve sustainability credentials and reduce energy and climate change impacts, including reduced energy / power demands for heating, hot water and lighting.

6.24 The Appeal Site is situated in a highly accessible location with good transport options for future residents. Active travel (walking, cycling, taking public transport) options are available within a short distance of the site and the proposed development includes generous cycle parking provision.

6.25 Electric Vehicle (EV) charging points would be provided on the development to promote and encourage uptake and help reduce emissions.

6.26 Water efficiency measures would be specified to reduce demand for potable water by residents.

6.27 I consider that the sustainability benefits, as a whole, and in particular the economic benefits should be given moderate weight.

Sustainable Development – Summary

6.28 Overall, to put this Appeal and the reasons for refusal in context, this is a proposal to deliver new homes, of which a significant percentage would be affordable, to *‘assist in addressing the acute and persistent housing supply shortfall’* and to *‘deliver affordable housing in an area of high need’* (CD6.1) within a sustainable development in a highly accessible location.

7.0 **Main Issue 1: Green Belt**

RfR1 & RfR5

7.1 Impact on Green Belt is mentioned under two reasons for refusal.

7.2 RfR 1 states that the proposed development is inappropriate development in the Green Belt and would result in significant harm to openness both spatially and visually. The Council allege that Very Special Circumstances (VSC) do not exist to override the very substantial weight that must be afforded to the harm to the Green Belt.

7.3 RfR 5 states that due to siting, form and appearance there would be harm to the Green Belt making the development unsustainable development.

Relevant Policy

7.4 In the reasons for refusal the Council mentions Policy CSP20 of the Core Strategy (but that refers to development in the AONB, which I return to later), DP1 on sustainable development, DP10 and DP13 of the Local Plan Part 2 and the NPPF.

7.5 I give full weight to Policies DP1 and DP10, as these are broadly in line with the NPPF. I explain later in this proof where there is inconsistency in which case the Development Plan policy is to have reduced weight compared to the NPPF. In my view, Policy DP13 is not of relevance to this case, as it deals with specific forms of development in the Green Belt, rather than the principle of development in the Green Belt, which is covered in DP10.

Assessment

7.6 Paragraph 152 of the current NPPF states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in VSC. When considering any planning application, local planning authorities

should ensure that substantial weight is given to any harm to the Green Belt. VSC will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.

- 7.7 The Appellant accepts that, as defined in the current NPPF, the proposed development is inappropriate development in the Green Belt and that substantial weight should be given to any harm to the Green Belt. Therefore, it is necessary to demonstrate that the harm to the Green Belt by reason of inappropriateness, and any other harm identified as arising from the Appeal proposal, would be clearly outweighed by other considerations, i.e. those which weigh in favour of the grant of planning permission.

RfR 5 – Sustainable development

- 7.8 Accordingly, and having regard to Policy DP1, if VSC are demonstrated to exist, the development would be compliant with national Green Belt policy as set out in the current NPPF. In these circumstances, a conflict with Policy DP1 and DP10 of the LP would not occur and, as such, I would maintain that the development would be sustainable.

- 7.9 Indeed, this would appear to be the point being made in paragraph 6.2 of the Core Strategy (CD4.1): *“However the policy on Housing Provision CSP2 does recognise that if it is not possible to allocate sufficient land without encroaching into the Green Belt, growth will be directed to land immediately adjoining built up areas, i.e. which are within the Green Belt. The precise location of such land would depend on its accessibility to services, public transport and other infrastructure, in other words the most ‘sustainable locations.’”*

- 7.10 This is also clearly explained by the Council in the Green Belt Assessment Part 3 prepared for the withdrawn Local Plan (CD5.7), where it is stated for this site

that (site ref. OXT 006): *“The site is undeveloped land located on the edge of the built-up area of Oxted, a sustainable settlement designated as Tier 1 in the Council’s Settlement Hierarchy and identified as a preferred location for development as part of the spatial strategy. Accordingly, the Council consider that the site is strategy compliant and would have a significant role to play in achieving sustainable patterns of development across the district”.*

7.11 Further, I note that in the Green Belt Assessment: Areas for Further Investigation (CD5.9, page 165) it is stated that *“The Government has announced that areas around train stations are considered sustainable and should be considered. As such areas near Oxted Station should be considered for further investigation. Further, sustainability extends to sites which best meet the needs of the elderly population in that they are flat and walking distance to shops. Areas in the GB that meet this should be an Area for Further Investigation”.*

7.12 These statements would indicate that, contrary to the reason for refusal, it is possible to have sustainable development in the Green Belt. I return to potential harm to the National Landscape, Ancient Woodland and biodiversity later.

Harm to The Green Belt

7.13 The NPPG (CD8.4) notes that assessing the impact of a proposal on the openness of the Green Belt requires a judgement based on the circumstances of the case. By way of example, the courts have identified a number of matters which may need to be taken into account in making this assessment. These include but are not limited to considerations that openness is capable of having both spatial and visual aspects – in other words, the visual impact of the proposal may be relevant, as could its volume; and the degree of activity likely to be generated, such as traffic generation.

- 7.14 Mr Gibbs provides extensive evidence looking at the role that the site plays in the functions of the Green Belt and the spatial and visual harm to it (CD11.12). He acknowledges that the introduction of the proposed residential development would inevitably introduce built form and reduce the spatial aspect associated with the site. However, he also notes that this reduction in spatial openness would only be appreciated from locations in the immediate environs of the site which are highly localised. Where the localised change is experienced, there would be a moderate degree of harm. Any reduction in visual openness would only be appreciated from the edge of the settlement boundary in the immediate environs of the site. This would be geographically limited but, where it is experienced, there would be a moderate degree of harm. Beyond this area, there would be no material effect on visual openness.
- 7.15 On the impact on the functions of the Green Belt, Mr Gibbs' evidence notes that the independent Green Belt Assessment (GBA3) identifies in the assessment of OXToo6 (the Appeal Site) that the parcel makes a contribution to both Purpose (a), to check the unrestricted sprawl of large built-up areas, and to Purpose (c) to assist in safeguarding the countryside from encroachment. It does not mention the other functions. Mr Gibbs considers this in detail and concludes that development on the Appeal Site would cause only limited harm in respect of purpose (a) and in respect of purpose (c).
- 7.16 Overall, Mr Gibbs considers that there would be limited harm to the Green Belt (CD11.12).
- 7.17 As I set out above, Paragraph 153 of the NPPF (2023) (CD8.1) states that VSC 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. Therefore, before I explain the VSC that outweigh that harm, it is necessary to assess 'any other harm resulting from

the proposal'. These 'other harms' are set out in the main issues and other reasons for refusal that I address below.

8.0 **Main Issue 2: Impact on National Landscape and Landscape as a whole**

RfR1, RfR4, RfR5 and RfR7

- 8.1 RfR1 states that the development would have an urbanising effect upon and fail to conserve and enhance the setting of the Surrey Hills National Landscape (AONB/NL).
- 8.2 RfR 4 states that the development by reason of siting, form and appearance would adversely impact the character and distinctiveness of the landscape and countryside of the site and wider area and significantly detract from the overall character and appearance of the area.
- 8.3 Further, RfR 5 states that, as a consequence, the Appeal proposals does not constitute sustainable development.
- 8.4 RfR 7 refers to the Natural England Consultation Surrey Hills National Landscape Boundary Variation Project.

Relevant Policies

- 8.5 The Council maintain that the Appeal Scheme is contrary to Policies CSP20 and CSP21 of the Core Strategy and Policies DP1, DP7, DP10 and 13 of the Local Plan Part 2. The Rule 6 Party also refers to CSP18.
- 8.6 Paragraph 182 of the NPPF (CD8.1) confirms that great weight should be given to conserving and enhancing landscape and scenic beauty in AONBs/National Landscapes, but also states that development ‘within their setting’ should be sensitively located and designed to avoid or minimise adverse impacts on the designated areas.

- 8.7 Paragraph 180 (a) of the NPPF states that planning policies and decisions should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan)
- 8.8 On densities, paragraph 128 of the NPPF states that planning policies and decisions should support development that makes efficient use of land, taking into account:
- a the identified need for different types of housing and other forms of development, and the availability of land suitable for accommodating it;
 - b local market conditions and viability;
 - c the availability and capacity of infrastructure and services – both existing and proposed – as well as their potential for further improvement and the scope to promote sustainable travel modes that limit future car use;
 - d the desirability of maintaining an area’s prevailing character and setting (including residential gardens), or of promoting regeneration and change; and
 - e the importance of securing well-designed and beautiful, attractive and healthy places.
- 8.9 Paragraph 129 (a) of the NPPF confirms that plans should contain policies to optimise the use of land in their area and meet as much of the identified need for housing as possible. This will be tested robustly at examination and should include the use of minimum density standards for city and town centres and other locations that are well served by public transport. These standards should seek a significant uplift in the average density of residential

development within these areas, unless it can be shown that there are strong reasons why this would be inappropriate.

- 8.10 Policy CSP18 relates to character and design and states that the Council will require new development, within town centres, built up areas, the villages and the countryside to be of a high standard of design that must reflect and respect the character, setting and local context, including those features that contribute to local distinctiveness. Development must also have regard to the topography of the site, important trees or groups of trees and other important features that need to be retained.
- 8.11 Policy CSP20 of the Core Strategy (CD4.1) states that the ‘principles to be followed’ are “*b) conserve and enhance important viewpoints, protect the setting and safeguard views out of and into the AONB*”. In my view, this criterion is not consistent with national policy guidance and is therefore out of date and can only be given limited weight.
- 8.12 Policy CSP21 states that the character and distinctiveness of the District’s landscapes and countryside will be protected for their own sake, and that new development will be required to conserve and enhance landscape character. This is out of date, as it is not consistent with the NPPF which refers only to ‘valued landscapes’. I note that the reason for refusal does not mention the NPPF in this context.
- 8.13 Policy DP7 of the Local Plan Part 2 states that all new development will be expected to be of a high-quality design. Development should integrate effectively with its surroundings, reinforcing local distinctiveness and landscape character. Design quality is a consideration in the NPPF.
- 8.14 As I have stated above, Policy DP10 can be given full weight. Policy DP13 is not relevant to this issue.

Assessment

- 8.15 NPPF policy is *not* that there can be no development in the setting of the AONB/National Landscape, but that it must be sensitively located and the scheme designed to ‘avoid or minimise’ adverse impacts. There is no national policy which requires the character or appearance of the setting of a National Landscape to be conserved or preserved.
- 8.16 In the context of the concerns of the planning officer at the Council and the reasons for refusal, I note that the Surrey Hills National Landscape Planning Adviser, in their response to the application, came to a different view from the planning officer on the specific harm to the setting of the National Landscape. As set out in the officer’s Delegated Report (CD3.1) it is evident that the views of the Planning Adviser were more in line with the application submission LVIA (CD1.11). The National Landscape Planning Adviser covered the matter in some detail noting that (CD9.4):

“The submitted Landscape and Visual Impact Assessment (LVIA) concludes that mainly due to the ancient woodland at the northern end of the site the proposed development would be little seen from public viewpoints in the AONB. The exception would be from public footpath 75 at Viewpoint 1 to the east. A judgement needs to be made as to whether the impact on this viewpoint in itself would be a sufficiently important public viewpoint to warrant refusal on AONB setting grounds or just a contributory factor to a refusal on landscape grounds. In this regard the proposed layout could amended to provide deeper and more substantial native shrubbery and tree planting to block a landscape view of the current field which I consider contributes to the scenic quality of the locality. Some small loss of proposed dwellings would be involved.

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." (underlining is my emphasis).

8.17 In paragraph 180(a), the NPPF does state that '*Planning policies and decisions should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan)*'. I recognise that 'valued landscapes' need not be designated. However, the courts have indicated that these are not the same as popular landscapes and while landscapes are of value to somebody, to merit protection under national policy there needs to be something more.

8.18 In this regard, I would note that the Appeal Site is currently specifically excluded from the AONB/National Landscape and the AGLV, which would indicate that it has no particular value, certainly to the wider area. I also note that in paragraph 8.28 of the Council's Statement of Case (CD12.1) it is stated that "*The LPA's landscape consultant in preparing her own landscape evidence for this Appeal will make and then present in evidence her own assessment of the impact of the proposed development on the AONB and its setting and will assess the Appeal Site for evidence of valued landscape*" (underlining is my emphasis). It would, therefore, appear that whether the Appeal Site is a 'valued landscape' has not yet been determined by the Council.

8.19 Mr Gibbs, who prepared the LVIA for the application and advised on the development proposals, has undertaken extensive assessment of the impact of

the Appeal development on the AONB/National Landscape and whether the Appeal Site is a 'valued landscape' in his evidence (CD11.12). He concludes that, as demonstrated by both the LVIA and the comments of the SHNL Planning Officer, any effects are geographically limited and do not materially affect the wider landscape.

8.20 Mr Gibbs also notes that with regard to visual effects, the conclusions of the LVIA are reflected by Mr Smith's (SHNL planning adviser) comments that "*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.*"

8.21 Mr Gibbs is also of the view that whilst pleasant, the developed part of the site does not contain any features of specific value that raise the developed part of the site above that of mere countryside. As such he does not find that the developed area of the site to be a 'valued landscape' as protected by paragraph 180(a) of the Framework.

8.22 Mr Gibbs also considers design matters as they are relevant to the setting of the AONB/National Landscape and concludes that 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 are informed by visual analysis to avoid any material visual effects on the wider landscape. He notes that the scheme designed by Cooper Baillie has been informed by the relevant design guidance, specifically Surrey Design. Overall, Mr Gibbs considers that the scheme to be an appropriate, well considered and high-quality design.

- 8.23 Mr Gibbs further concludes that no material harm would be caused to the setting of the SHNL [Surrey Hills National Landscape]. In his view, the proposed development would result in a degree of enhancement to that setting. I therefore conclude on this issue that there are no unacceptable impacts on the setting on the National Landscape when considered in the context of the NPPF, which requires that development ‘must be sensitively located and the scheme designed to ‘avoid or minimise’ adverse impacts’.
- 8.24 Policy CSP20 refers to development ‘within’ the AONB/National Landscape, whereas the NPPF sets out a different approach for development ‘within’ the National Landscape and to development ‘within the setting’. Policy CSP20 states that the principles to be followed ‘in’ the area are to:
- a conserve and enhance the special landscape character, heritage, distinctiveness and sense of place of the locality;
 - b conserve and enhance important viewpoints, protect the setting and safeguard views out of and into the AONB;
 - c protect prominent locations on skylines and slopes and for development to take advantage of existing landscape features and tree screening;
 - d support suitable located sustainable development necessary to facilitate the environmental, economic and social well being of the AONBs and their communities;
 - e promote access to, particularly by means other than the car, recreation within and enjoyment of the area; and
 - f apply the highest environmental design standards to development.
- 8.25 In my view, these far exceed the requirements of the NPPF and so, for the reasons set out above should be given very limited weight. Notwithstanding, based on Mr Gibbs’ evidence, the Appeal Scheme does conserve important

viewpoints and protects the setting of the National Landscape and offers some enhancement. It also applies the highest environmental design standards, supports the economic and social wellbeing of the area by providing homes that are very much needed in a sustainable location, and looks to enhance public access.

8.26 With regard to Policy CSP21, as outlined above, this is not consistent with the policy guidance in the NPPF.

8.27 For the reasons set out above, those adverse effects would be limited. On this basis, I would conclude that the Appeal proposals are not contrary to the development plan or the NPPF with regard to impact on the National Landscape.

8.28 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.”

8.29 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.

8.30 Mr Gibbs concludes that the proposed development would have no material impact upon the AONB/National Landscape. As a result, the section 85(A1) duty is not engaged.

- 8.31 Even, however, if a different view is reached and it is concluded that there would be some impact upon the AONB/National Landscape, the duty simply requires the planning decision-maker to “*seek to further the purpose of conserving and enhancing the natural beauty of*” the AONB.
- 8.32 My understanding of this is that the duty does not require the purpose to be achieved in every case, but it does require the decision maker to seek to achieve that purpose. In my view, this means that a decision maker will have to consider whether more could be done to reduce any impact upon the AONB. This is wholly consistent with the policy approach in the NPPF paragraph 182 of minimising the impact of development in the setting of an AONB upon the character of the AONB. As such, if it is concluded that the proposed development meets the test in paragraph 182 of the NPPF, a grant of planning permission would be consistent with the duty in section 85(A1) of the CROW Act 2000.
- 8.33 Since all appropriate mitigation measures have been adopted, it must be concluded that even if some harm to the AONB/National Landscape is identified, the impact upon the AONB/National Landscape has been minimised and there is nothing further that can be done to reduce the impact of the proposed development. As a result, the proposed development accords with paragraph 182 of the NPPF and the duty within the CROW Act 2000.
- 8.34 Policy CSP18 and Policy DP7 concerns design. Policy DP7 states that all new development will be expected to be of a high-quality design. Development should integrate effectively with its surroundings, reinforcing local distinctiveness and landscape character. As set out in the DAS (CD1.2) and the evidence of Mr Gibbs (CD11.12), I consider that the Appeal Scheme accords with CSP18 and Part A of Policy DP7.

8.35 Further, Part B of Policy DP7 states that where the principle of the proposed new development – whether on a site that is previously developed or greenfield – is in accordance with other policies in the Development Plan, permission will be granted where the following matters are effectively addressed. These are summarised below:

- Design of Development - Character & layout, Built form; Parking; Design Guidance; Safety.
- Safeguarding Amenity - Amenity; Privacy; Environment; Facilities.
- Safeguarding Assets, Resources & the Environment - Assets; Resource efficiency; Landscaping; and Trees.

8.36 With regard to the design policies, the DAS and Mr Gibbs explain how the proposal respects and contributes to the distinctive character, appearance and amenity of the area in which it is located; how the proposal is in keeping with the prevailing landscape/streetscape, reflecting the variety of local building types by using complementary building materials and designs; and how the Appeal Scheme has had regard to Design Guidance. There has been no concern raised by the Council on the provision of suitable new planting, trees and boundary treatments to enhance the appearance, character and amenity of the site and that the proposal does retain existing important features such as trees and hedgerows wherever possible.

8.37 The Council has not raised any specific detailed design concerns regarding layout, built form, materials, parking, privacy, facilities and I therefore assume that these are acceptable, should the Inspector decide that development at the site is acceptable in principle.

8.38 Impact on trees has now been addressed and Mr Carter provides evidence to demonstrate that there would be no harm to the Ancient Woodland (CD11.6). It is agreed as common ground that the Appeal development is sustainably designed, performing well regarding energy efficiency and use (CD11.13).

8.39 On this basis, I consider that the proposed design is appropriate and accords with the development plan policies and that the density is appropriate and in line with NPPF guidance.

8.40 Policy DP1 covers sustainable development and the principles set out in paragraph 11 of the NPPF. I do not consider that, in this case, the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed. I further consider that this is sustainable development, the policies on the AONB and Countryside are out of date and that any adverse impacts of granting permission would not significantly and demonstrably outweigh the benefits, when assessed against the policies in the National Planning Policy Framework taken as a whole. I shall consider this further in the planning balance as set out later in my proof.

Prejudice to the National Landscape Boundary Variation Project

8.41 I acknowledge that the proposed extension of the AONB boundary to include the site is a material consideration in any planning determination relating to the site and that the weight to be given to this matter is for the decision-maker. As part of that process, it is necessary to consider the stage reached in the process towards extension and the extent of, and nature of, any outstanding objections received to the extension.

8.42 It would appear to me that the process is a very long way from completing. The published timetable suggests that the process would be complete by late 2024 but it is already well behind that schedule. As I understand it, there are still further consultation steps to be taken, as well as formal notification and the need for approvals from Natural England's Board and ultimately the Secretary of State. There could also still be a public inquiry.

8.43 The Appellant submitted a response to the consultation which provided a detailed set of arguments for why the site should not be included in the AONB. As such, where the outcome of the review is unknown and the process is likely to take some time, the weight to be attached to this should be reduced as the final outcome cannot be known.

9.0 **Main Issue 3: Impact on Ancient Woodland**

RfR 2 and 5

9.1 RfR 2 states that by neglecting to provide a sufficient semi-natural buffer, the development would be likely to cause a deterioration of ancient woodland and fails to properly consider its protection.

9.2 RfR 5 states that by reason of siting, form and appearance the proposed development would harm the ancient woodland.

9.3 It is understood that the Council will no longer be pursuing this as a reason for refusal as they now have sufficient assurances. Nevertheless, I address the issue below.

Relevant policies

9.4 Paragraph 186 of the NPPF states that development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists.

9.5 The reasons for refusal refer to Policies DP1, DP7 and DP19 of the Part 2 Local Plan. Policy DP1 relates back to sustainable development, which I have addressed above.

9.6 Policy DP7 part 10 states that, inter alia, permission will be granted where *'the proposal seeks to protect and, where opportunities exist, to enhance valuable environmental (including public open space) and heritage assets'*. This can be given full weight.

- 9.7 Policy DP19 Part C states that where a proposal is likely to result in direct or indirect harm to an irreplaceable environmental asset of the highest designation, such as Ancient Woodland or veteran trees, the granting of planning permission will be wholly exceptional. It adds under part 2 that *‘in the case of ancient woodland and veteran trees exceptions will only be made where the need for and benefits of the development in that location clearly outweigh the loss’*. Part C can be given full weight, as it is in line with paragraph 186 of the NPPF.

Assessment

- 9.8 It is clear from the NPPF that the proposed development must result in the ‘loss or deterioration’ of Ancient Woodland to be refused and that, if this is not the case, development would be acceptable. Policy DP7 also confirms that permission will be granted where it ‘seeks to protect’ valuable environmental assets. Part C point 2 of Policy DP19 refers to the ‘loss’ of Ancient Woodland. This Appeal case is not about a direct loss of Ancient Woodland in any way, but whether there ‘may be’ a loss, as a consequence of indirect impacts, i.e. more people living in the area, lack of management or an inadequate buffer zone.
- 9.9 The scheme proposes a standoff between development and the Ancient Woodland of 15 metres and submission of a Management Plan for the woodland by way of a planning condition. The land will be protected from public access.
- 9.10 The Council’s ecologist raised a range of concerns about the impact on the Ancient Woodland. We understand that some of these concerns may, now have been addressed and as explained by Mr Carter (CD11.6) and Mr Phillips (CD11.8) in their evidence, these issues can appropriately be controlled by pre-commencement planning conditions and none demonstrate that there will be

specific harm or a loss of Ancient Woodland as a direct result of the Appeal proposals.

9.11 In his evidence for the Appellant, Mr Carter explains in great detail how the Ancient Woodland will be adequately protected and that there will be no loss of deterioration of Ancient Woodland. He also responds to those matters raised by the ecologist. Indeed, he considers that there would be enhancement to the ecology of the Ancient Woodland as a result of the Appeal proposals. I note that in his view, the buffer zone treatment measures outlined in the Illustrative Ancient Woodland Mitigation Plan (CD7.5) and explained in his proof, combined with the proposed new footpath linking the site and the existing footpath network to the east will ensure the buffer zone provides effective protection to the Ancient Woodland and will improve and enhance the ecological value of the woodland. These measures can all be achieved through the use of appropriately worded planning conditions.

9.12 If these measures are implemented as part of the proposed development by way of planning condition, I conclude that there would be no loss or deterioration to Ancient Woodland and that the proposed development would comply with National Planning Policy Framework 2023, Tandridge Local Plan Part 2: Detailed Policies (2014) policy DP7, Tandridge Local Plan Part 2: Detailed Policies (2014) policy DP19.

10.0 **Main Issue 4: Contribution to and enhancement of the natural environment**

RfR3

10.1 RfR 3 states that it has not been demonstrated that the proposed development will contribute to and enhance the natural environment by minimising impacts on and providing net gains for biodiversity.

Relevant Policy

10.2 The NPPF states that when determining planning applications, local planning authorities should apply the principle that development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to improve biodiversity in and around developments should be integrated as part of their design, especially where this can secure measurable net gains for biodiversity or enhance public access to nature where this is appropriate.

10.3 The Council maintain that the Appeal proposal is contrary to Policy CSP17 of the Core Strategy and DP19 of the Local Plan Part 2 Policy.

10.4 Policy CSP17 of the Core Strategy states that development proposals should protect biodiversity and provide for the maintenance, enhancement, restoration and, if possible, expansion of biodiversity, by aiming to restore or create suitable semi-natural habitats and ecological networks to sustain wildlife in accordance with the aims of the Surrey Biodiversity Action Plan. This can be given full weight.

10.5 Policy DP19 of the Local Plan Part 2 states that there will be a presumption in favour of development proposals which seek to: 1. Protect, enhance or increase the provision of, and access to the network of multi-functional Green

Infrastructure (GI); and 2. Promote nature conservation and management.

This can be given full weight.

Assessment

- 10.6 Surrey Wildlife Trust considered the application to contain insufficient information to determine what impacts there may be from the development on the nearby Chalkpit Wood Site of Nature Conservation Importance (SNCI) and the on-site Ancient Woodland (operational impacts). They advised that there was also insufficient information on the biodiversity interest of the modified grassland habitat and woodland habitat on-site, and on species such as bats, reptiles and the harvest mouse. Furthermore, there was insufficient information to be able to advise the LPA that the proposed development has the feasibility to provide a net gain in biodiversity units for area and linear habitats.
- 10.7 The required further survey work has been provided to the Council and it is understood that this has addressed a number of the concerns raised at the application stage. The remaining points raised by Surrey Wildlife Trust and the Council's ecologist are covered fully in the proof of evidence of Mr Phillips (CD1.8) who concludes that material adverse impacts on the relevant features for nature conservation will be avoided and mitigated during both the construction phase and the operational phase of the development.
- 10.8 On the ecology of the Ancient Woodland, Mr Phillips notes that a buffer of 15 metres is being provided to the Ancient Woodland, which is in line with guidance provided on the gov.uk website. An Ancient Woodland Mitigation Plan will be provided which shows the buffer between the edge of the residential development and the woodland, which is enshrined within the overall scheme layout and landscape masterplan. The edge of the development will be fenced, and additional buffer planting and trees will be provided along this edge.

- 10.9 Mr Carter explains that the provision of a 15m buffer is entirely in accordance with the relevant guidance from Natural England/Forestry Commission. My understanding is that the view of such consultees are to be given great weight and that a planning decision maker should only adopt a different view where this is supported by compelling evidence. Neither Mr Carter nor Mr Phillips have identified any compelling evidence to justify a different approach to that adopted by the NE/FC guidance.
- 10.10 On this basis, Mr Phillips and Mr Carter conclude that the scheme avoids impacts on the Ancient Woodland through the 15 metre buffer and further mitigates potential impacts through the exclusion of residents from the woodland and buffer area. On this basis, the scheme does ‘minimise impacts’ on the Ancient Woodland. The provision of the 15 metre buffer will enable the habitats in this area to be managed for biodiversity (as opposed to managed as agricultural grassland) which will enhance the immediate habitats adjacent to the Ancient Woodland which will be an ecological enhancement and gain.
- 10.11 Mr Phillips is also of the view that the scheme is capable of avoiding or mitigating all impacts on protected species, and no means of compensation are required. As such, he considers that his evidence demonstrates the scheme and the proposed mitigation and enhancement measures are in line with the NPPF and local policies CSP17 and DP19.
- 10.12 On this basis, I would conclude that the proposed development accords with NE/FC guidance, is not contrary to the NPPF and accords with the relevant local policies with regard to biodiversity as set out above.
- 10.13 On BNG, Mr Phillips notes that Ecosupport Ltd. were commissioned the Appellant to undertake a Biodiversity Net Gain Assessment at the Appeal Site and that a condition assessment, in line with the Statutory Biodiversity Metric Technical Annex 1, was carried out on site (including the baseline of the

proposed off-site scheme). The site was assessed as supporting a habitat baseline of 10.20 Habitat Units and 4.86 Hedgerow Units. Following the incorporation of the above measures into the DEFRA Statutory Biodiversity Metric and based on the proposed post-development layout, on site there was a calculated net loss of – 14.70% in habitats (or -1.50 habitat units) and the trading rules were not satisfied. There was a net gain of 11.72% (or 0.57 hedgerow units) for linear habitats on site.

- 10.14 As a consequence, the delivery of a total of at least 2.52 habitat units must be secured as part of a suitable offsite scheme. In order to address the trading rules within the DEFRA Statutory Biodiversity Metric, these units should comprise of 1.04 units of mixed scrub habitat and 1.48 units of a ‘low’ distinctness habitat type. This will be achieved through a planning condition.

11.0 **Main Issue 5: Impact on Trees**

RfR 6

11.1 RfR 6 sets out that due to the potential impact on trees by unjustified encroachment into the root protection areas and the potential for post development pressure on trees, the application fails to recognise the constraints posed by the most important trees.

11.2 This reason for refusal has been withdrawn by the Council, as is confirmed within the SoCUG (CD11.13). Nevertheless, I address the matter below.

Relevant Policies

11.3 The NPPF states that existing trees should be retained ‘wherever possible’.

11.4 The Council maintains that the Appeal proposal is contrary to Policy CSP18 of the Core Strategy and Policy DP7 of the Local Plan Part 2.

11.5 Policy CSP18 states that development must also have regard to the topography of the site, important trees or groups of trees and other important features that need to be retained. This can be given weight.

11.6 Part 12 of Policy DP7 states that the proposal is also expected to retain existing important features such as trees, hedgerows and walls ‘wherever possible’. Part 13 requires a landscaping scheme should be submitted alongside the planning application which makes provision for the retention of existing trees that are important by virtue of their significance within the local landscape. On trees, this is consistent with the NPPF.

Assessment

11.7 The officers Delegated Report (CD3.1) notes that there is significant retention of trees and hedgerows around the boundaries of the site. However, the

Council's Principal Tree Officer had specific concerns with respect to the proposed development layout, which should be adjusted to better accommodate trees T50 and T51.2 in the applicant's arboricultural report by bringing a parking area outside the root protection area (RPA) and crown spread of T50 and giving additional room for the future growth of T51.2.

11.8 Further, turning to the site access, the Tree Officer maintained that this passes very close to and within the RPAs of three TPO trees (T65, T66 and T70 – which is offsite). The tree officer recognises that the proposal is to lay hard standing upon a cellular confinement system with a permeable wearing course, and it is acknowledged that the options for site access are very limited and as such, unlike with T50, it may not be possible to avoid RPA encroachment. As such, they advised that the construction would need very close arboricultural monitoring and the exact construction methodology detailed within a specific method statement with levels and sections included. This can be covered by condition.

11.9 Similarly, the tree officer acknowledges that there will be a requirement for services to be installed within the access, and this could require excavation, albeit it may be possible for a trenchless technique dependent on specific site circumstances to be determined. The officer states that very close monitoring and a specific method statement would be required. This can be covered by condition.

11.10 Nevertheless, the Principal Tree Officer recommended that permission be refused due to the potential impact on important trees by unjustified encroachment into root protection areas, and the potential for post development pressure on retained trees due to proximity to dwellings and parking areas.

- 11.11 The impact on the trees is fully explained in the proof of evidence of Mark Carter (CD11.6). In response to the concern regarding the unjustified encroachment of hard surfaces over the RPAs of high amenity value trees, he concludes that with the revised drawings, this unjustified encroachment has been eliminated. Further, the clearance between the crown edge of tree no. T51.2 and the dwellings on plot nos. 51 and 52 has now been more than doubled, thereby negating the likelihood of future pressures to prune or fell tree no. T51.2 for reasons of tree juxtaposition to development.
- 11.12 On the basis of Mr Carter's evidence, I conclude that the proposed development complies with Policy DP7 and Policy CSP18
- 11.13 As such, I am of the view that the Appeal proposal is not contrary to the policies of the development Plan or the NPPF.

12.0 **Other Objections from Rule 6 and third parties**

12.1 Many objections raised by third parties have been covered in the reasons for refusal and in my proof. However, some third parties have also raised concerns about highway safety, air quality, noise, drainage, additional pressure on community infrastructure.

Highways

12.2 The NPPF (paragraph 115) states that “*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 severe.*” Paragraph 114 states that for applications, it should be ensured that a safe and suitable access to the site can be achieved for all users and that any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.

12.3 Core Strategy Policy CSP11 states that appropriate levels of infrastructure and services will be sought through both public and private funds. Policy CSP12 states that the Council will require new development to make improvements, where appropriate, to the existing infrastructure network, whilst also having regard to adopted highway design standards and vehicle and other parking standards. The policy requires that new development proposals should have regard to adopted highway design standards and vehicle/other parking standards. Criterion 3 of Local Plan Policy DP7 of the Local Plan requires new development to have regard to adopted parking standards and Policy DP5 seeks to ensure that development does not impact highway safety. These are broadly consistent with the NPPF but this refers to the degree of harm as being

‘unacceptable’ and ‘severe’. The policies of the development plan can, therefore, be given moderate weight.

12.4 Highway capacity and the safety of the access were fully assessed at the application stage. The County Highway Authority has undertaken an assessment in terms of the likely net additional traffic generation, access arrangements and parking provision and is satisfied that the proposed development would not have a material impact on the safety and operation of the adjoining public highway. If planning permission is to be granted this should be subject to conditions and separate legal agreement relating to off-site highway works and monitoring a travel plan. Any infrastructure requirements are covered in the S106 or the CIL payment.

12.5 Further, evidence is provided on highway safety matters by Mr Whittingham (CD11.10) who notes the concerns raised by Oxted Parish Council, as a Rule 6 Party, and local residents (Unsafe/unsuitable site access; Increased traffic congestion; Road safety concerns; Drop-off and pick-up concerns; Removal of existing bus stop; and Traffic surveys) and addresses each one in Section 6 of his proof. He considers that he has appropriately demonstrated why these are not valid concerns and why he is satisfied that the Appeal proposals are fully compliant with policies CSP 11 and 12 of the Core Strategy, DP5 and DP7 of the Local Plan, Healthy Streets for Surrey and sections 8 & 9 of the NPPF.

12.6 I am satisfied, based on Mr Wittingham’s evidence, that the Appeal Scheme accords with the NPPF and development plan policies. In this regard, it should be noted that this was not a reason for refusal.

Air Quality and Noise

12.7 Air Quality and Noise were fully assessed at the application stage. The Noise Report concludes at paragraph 7.5 that Noise from the proposed site access road has been quantified and assessed against the baseline noise climate. No

significant noise impacts are predicted to occur in relation to this new noise source. Further, at paragraph 7.6 it states that it has been demonstrated that it will be entirely possible to ensure a suitable noise climate internally and externally for future residents of the proposed development and to existing receptors potentially affected by the development. This meets the NPPF defined need to mitigate and reduce to minimum potential adverse impacts resulting from noise from new development and to avoid noise giving rise to significant adverse impacts on health and the quality of life.

12.8 At paragraph 7.2 of the Air Quality Assessment submitted with the application, it is concluded that following the implementation of the mitigation measures provided in Appendix A and listed in Section 5.27, emissions from the construction programme will be reduced and the residual significance of impact for the construction phase is expected to be *Negligible*, thus complying with the requirements of the National Planning Policy Framework.

12.9 Further at paragraph 7.4 it is concluded that as the proposed development is not expected to generate traffic flows exceeding the Environmental Protection UK and the Institute of Air Quality Management thresholds on any specific road link, the need to undertake a detailed dispersion modelling assessment of the proposed development's impact on local air quality at existing sensitive receptor locations has been screened out. Therefore, it can be reasonably assumed that the operation of the proposed development would have an insignificant impact on local air quality.

12.10 The Council's Environmental Health officer reviewed both of these reports and concluded that in their professional opinion '*Providing that the applicant adheres to the consultant's recommendations in the noise, air quality and lighting reports, I have no objections*'.

12.11 As a consequence, this was not a reason for refusal. Without any evidence to the contrary, the Appeal Scheme must be found to accord with the development plan policies in this regard.

Drainage

12.12 Drainage was fully assessed at the application stage and the Lead Local Flood Authority raised no objection, suggesting that should planning permission be granted, with suitably worded conditions applied to ensure that the SuDS Scheme is properly implemented and maintained throughout the lifetime of the development.

12.13 The Rule 6 Party considers that the Appeal proposals to conflict with development plan policies CSP11 and DP21 and paragraphs 173 and 175 of the NPPF 2023.

12.14 With regard to paragraph 173 of the NPPF the site is not in an area at risk of flooding. A flood risk assessment and drainage strategy was submitted with the application because the site was over 1ha (CD1.5). The drainage strategy incorporates sustainable drainage systems to ensure that any residual risk can be safely managed. Paragraph 175 of the NPPF states that major developments should incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate. The systems used should:

- a take account of advice from the lead local flood authority;
- b have appropriate proposed minimum operational standards;
- c have maintenance arrangements in place to ensure an acceptable standard of operation for the lifetime of the development; and
- d where possible, provide multifunctional benefits

- 12.15 The proposed development incorporates sustainable drainage systems and the lead local flood authority is satisfied with the proposals.
- 12.16 Policy CSP11 relates to infrastructure and services, and this is addressed through CIL and the S106 Obligations.
- 12.17 Policy DP21 states that: “*D. Proposals should seek to secure opportunities to reduce both the cause and impact of flooding; for example through the use of Green Infrastructure for flood storage and, where necessary, the incorporation of Sustainable Drainage Systems (SuDS) suitable to the scale and type of the development, ensuring the discharge of surface run off is restricted to that of the pre-development site.*” Consideration should be given as to the future maintenance of any proposed SuDS schemes. The proposed development does incorporate Sustainable Drainage Systems that are agreed with the Lead Local flood authority.
- 12.18 A technical note is appended as Appendix 1 to my proof which specifically responds to the concerns raised by local residents.
- 12.19 Drainage is not a reason for refusal, and I am satisfied that the Appeal Scheme accords with the development plan policies in this regard.

Community Infrastructure

- 12.20 This can be addressed by way of a CIL payment and S106 Agreement.

13.0 **Very Special Circumstances**

13.1 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.

13.2 Having considered the site, planning context, the proposed development and the conclusions of the Appellant’s team, I am of the view that the harm to the Green Belt and any other harm identified by the Council and Rule 6 Party is limited in this case. In the context of limited harm, I set out below the other considerations that would outweigh that level of harm.

13.3 Overall, I am of the view that a combination of factors exist that, taken together, would 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, as stated above, development on Green Belt sites in the right location can be regarded as sustainable.

Sustainable Development

13.4 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).

13.5 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.

13.6 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 TLPO1: Spatial Strategy).

13.7 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.

13.8 This is, therefore, a good and sustainable site for development, if Green Belt release is required to meet housing needs.

The need to release Green Belt

13.9 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.

13.10 As explained by Mr 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 would generate substantial adverse housing, social and economic outcomes for families and households in the District and Oxted who would be less able to access housing, would continue to see worsening affordability, and/or may need to travel further distances from outside the Green Belt.

13.11 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).

13.12 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.

13.13 With these wider matters in mind, I set out the other VSC at this particular site that, when taken together, significantly outweigh any harms arising from development within the Green Belt.

1. The failure of plan-making in Tandridge

13.14 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).

13.15 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

- 13.16 It is a Government priority to boost the supply of new homes (NPPF Paragraph 60), and Local Planning Authorities must demonstrate a 5YHLS (NPPF Paragraph 74). The Council has agreed in the SoCUG that it does not have a 5YHLS (CD11.13), assessing this at 1.92 years in the May 2024 AMR. In addition, Tandridge’s most recent HDT (2022) results show that the Council had only delivered 38% of its required housing over the past three years; the 8th worst performing local authority across the country.
- 13.17 In my view, the greater the degree of shortfall, the greater 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.
- 13.18 The April 2023 Appeal decision for ‘Land West of Limpsfield Road, Warlingham’ (Ref: APP/M3645/W/22/3309334) (CD6.1) 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 same position continues to apply.
- 13.19 I therefore give the housing need substantial weight.

3. Affordable housing delivery

13.20 As well as, or perhaps because of, a shortfall in overall housing delivery within Tandridge, the area faces acute affordability pressures and a high need for affordable housing. As set out in the evidence of Mr Taylor, 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.

13.21 The scheme, with 46 proposed affordable homes – 40% 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.

13.22 I therefore give the affordable housing need very substantial weight.

4. Limiting harm to the Green Belt and preserving the AONB

13.23 The proposal comprises inappropriate development and, therefore, it is recognised that the effect of the proposal on the openness of the Green Belt and the purposes of including land within it must also be considered.

Paragraph 137 of the NPPF states that:

‘the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence’.

13.24 While the proposed housing development would result in the introduction of new homes on an open field where there are currently no homes, and this will inevitably cause some harm to Green Belt ‘openness’, this harm needs to be considered within the context of the site and the degree of that harm.

13.25 The impact on the openness of the Green Belt has been fully addressed by Paul Gibbs in his evidence and he concludes that overall, there would be limited harm.

13.26 Essentially, because the site's character is more significantly influenced by the urban edge with development on three sides and separate from the wider countryside, the harm to the Green Belt purposes of sprawl and encroachment is considered to be limited. The site's location adjacent to existing built form and its self-contained nature mean that the development could be accommodated within this part of the Green Belt whilst maintaining the integrity and function of the wider Green Belt.

13.27 Further, Mr Gibbs concludes that no material harm would be caused to the setting of the AONB/National Landscape.

13.28 In that context, impacts on the openness of Green Belt and any other visual harms would be very limited. There is no harm to trees and no harm to the Ancient Woodland.

5. Open space, play and enhanced accessibility

13.29 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).

13.30 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 Limsfield (with the site being walkable and serving a catchment across both). 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.

13.31 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.

6. High quality and sustainable design

13.32 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. Paragraph 139 of the NPPF states that:

“Significant weight should be given to: a) 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...”

13.33 The Council has not refused planning permission on the basis that the scheme does not reflect local or national design policies or guidance. As a result, since the design of development does reflect these policies and guidance, this is a matter which is to be given significant weight in the planning balance as paragraph 139 of the NPPF requires.

13.34 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.

13.35 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.

7. Economic and Social Benefits

13.36 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

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.

13.37 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.

13.38 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.

Conclusions on Very Special Circumstances

13.39 Consideration of Very Special Circumstances and whether these are sufficient to outweigh the harms is a judgement call by the decision maker, having regard to the degree of harm, the reasons for the proposal and the extent of the benefits.

13.40 For this site, as the Appellant’s evidence shows, the degree of harm is limited. The reasons for the application are very clear: there is a shortfall in housing land supply, a very low housing delivery, a severe shortage of affordable

housing, no development plan in place to ensure the delivery of new homes. This is a very sustainable location for housing development that could go some way to meeting the very real need for new homes in the District. In addition, there are benefits of bringing this site forward – the provision of new publicly accessible open space, enhancements to an Ancient Woodland, energy efficient new homes and scope for the connection of the site to the wider footpath network and Green Belt.

13.41 Taken all together, these are clear Very Special Circumstances to outweigh the limited harm to the Green Belt at this location.

14.0 **S106 Obligations and Planning Conditions**

14.1 The relevant policy from the statutory development plan is CPS11. This states that appropriate levels of infrastructure and services will be sought through both public and private funds. In assessing infrastructure and service requirements, the Council will have regard to the cumulative impact of development. Developers will be required to contribute to improved infrastructure and services (including community needs) necessary to support the proposed development; the Council will generally require such provision to be made before the development is occupied.

14.2 Since that time, the Council have introduced CIL charging, which replaces a number of existing Section 106 contributions – the system previously used to secure funds. Planning obligations will continue to be used for the provision of affordable housing and site-specific requirements.

14.3 As such, in accordance with Policy CPS11, the Appellant will enter into a S106 Obligation to provide relevant financial contributions and other obligations to mitigate impacts. The Appellant will endeavour to agree the S106 Obligation with the Council's solicitors prior to the Inquiry.

14.4 At this stage, it is envisaged that the proposed development would make provision for, or a contribution towards, the following as part of a s106 agreement:

- 40% affordable housing provision;
- Travel Plan monitoring contribution;
- Open space and play area provision;

- Two dedicated car club spaces;
- Two custom build plots/units;
- Transport contribution towards the provision of a zebra crossing and improvements to the bus stop adjacent St Mary's CofE Primary School; and
- Footpath link from the site to public right of way FP75.

14.5 The Planning obligations are considered to meet all of the tests set out in the NPPF, as they are considered to be:

- a necessary to make the development acceptable in planning terms;
- b directly related to the development; and
- c fairly and reasonably related in scale and kind to the development.

14.6 I understand that the Council will provide a Community Infrastructure Levy Compliance Statement. The Statement will set out a fully detailed justification for each obligation sought, detailing how it complies with the regulations, in particular the test of necessity, and should include reference to any policy support.

14.7 The parties will submit a draft list of agreed conditions, in advance of and to be discussed at the Inquiry.

15.0 Implications of New NPPF (2024)

15.1 On 30 July 2024, Government published a consultation on a revised NPPF (CD8.2). The closing date for comments is 24 September 2024 and Government has indicated that a final version of a new NPPF will be published by the end of this year. While limited weight can be given to the current draft of the NPPF or the Secretary of State's WMS (CD8.5), they are material considerations at the Inquiry and it is possible that a decision on this Appeal will not be made before the new NPPF is published. As such, I consider that it is appropriate to consider the Appeal proposal in the light of the emerging NPPF.

15.2 The proposed changes to the current NPPF are significant with particular regard to the delivery of new homes and the approach to Green Belt, and would have a material bearing on the consideration of this Appeal in a number of respects. In the WMS by the SoS (CD8.5) announcing the proposed revisions to the NPPF it is stated that:

“The Government has today set out the first major steps in its plan to build the homes this country needs... That is why today I have set out reforms to fix the foundations of our housing and planning system – taking the tough choices needed to improve affordability, turbocharge growth and build the 1.5 million homes we have committed to deliver over the next five years.

If we have targets that tell us how many homes we need to build, we next need to make sure we are building in the right places. The first port of call for development should be brownfield land... It is however also clear that brownfield land can only be part of the answer, and will not be enough to meet our housing needs – which is why a Green Belt designed for England in the middle of the twentieth century now must be updated for an England in the middle of the twenty first.

Yet as many assessments show, large areas of the Green Belt have little ecological value and are inaccessible to the public. Much of this area is better described as 'grey belt': land on the edge of existing settlements or roads, and with little aesthetic or environmental value.

We will start by requiring local authorities to review their Green Belt boundaries where they cannot meet their identified housing, commercial or other development needs. There will be a sequential approach, with authorities asked to give consideration first to brownfield land, before moving onto grey belt sites and then to higher performing Green Belt land."

- 15.3 I therefore set out below what I see as the material changes of relevance to the determination of this Appeal, if a decision is made after the new NPPF is published.

Presumption in favour of development

- 15.4 Paragraph 11 (d) has been amended to clarify that where policies 'for the supply of land' are out of date, permission should be granted subject to the criteria which are, essentially, the same, but 'in particular those for the location and design of development and for securing affordable homes' has been added'. It is further clarified that 'Policies for the supply of land are those which set an overall requirement and/or make allocations and allowances for windfall sites for the area and type of development concerned'. Reference to four-year land supply has been deleted in the footnote and an appropriate buffer added.

Delivering Homes

- 15.5 New paragraph 61 makes clear that the overall aim should be to meet an area's identified housing need, with 'as much of the need being deleted. Reference to the standard method being 'an advisory starting point' has been deleted.

15.6 New paragraph 76 makes reference to buffers in relation to the supply of specific deliverable sites and adds that a 20% buffer will apply, where there has been significant under delivery of housing over the previous three years, to improve the prospect of achieving the planned supply.

15.7 Given the lack of a recent Local Plan or even an emerging Local Plan to address the housing shortfall and future requirements, these changes would suggest that even greater weight should be given to the fact that the Appeal Scheme seeks to deliver new homes, including affordable homes, in the District.

Green Belt

15.8 In the wider context, proposed new paragraph 142 of the NPPF states that the exceptional circumstances for altering Green Belt boundaries will include *‘instances where an authority cannot meet its identified need for housing, commercial or other development through other means. In these circumstances authorities should review Green Belt boundaries and propose alterations to meet these needs in full, unless the review provides clear evidence that such alterations would fundamentally undermine the function of the Green Belt across the area of the Plan as a whole’*.

15.9 The emerging Local Plan, where it was recognised that there were exceptional circumstances to release Green Belt land, failed because it did not identify enough land to meet the housing requirement at that time. This had included a detailed assessment of the capacity of urban land for new homes. This is a contained site, with the settlement boundary on three sides (see CD4.3) and, therefore, it is my view that development on the Appeal Site would not fundamentally undermine the function of the Green Belt across the area of the Plan as a whole. Indeed, that is a view shared by Mr Gibbs in his evidence. Further, Mr Gibbs has addressed in detail how the site performs in terms of

the functions of the Green Belt and has concluded that it makes only a limited contribution to purposes 1 and 3.

15.10 Proposed revised paragraph 144 identifies the sequential approach to allocating housing sites - where it has been concluded that it is necessary to release Green Belt land for development, plans should give first consideration to previously developed land in sustainable locations, then consider grey belt land in sustainable locations which is not already previously-developed, and only then consider other sustainable Green Belt locations. This exercise was broadly carried out in the draft Local Plan, but sufficient land was not allocated to meet the needs at that time. The needs, using the proposed new standard method, are now greater.

15.11 ‘Grey Belt’ is defined in the glossary as *“For the purposes of plan-making and decision-making, ‘grey belt’ is defined as land in the green belt comprising Previously Developed Land and any other parcels and/or areas of Green Belt land that make a limited contribution to the five Green Belt purposes (as defined in para 140 of this Framework), but excluding those areas or assets of particular importance listed in footnote 7 of this Framework (other than land designated as Green Belt)”*. Mr Gibbs explains in his evidence that only purposes 1 and 3 are relevant to the Site. Further, he concludes that the site makes a limited contribution to these two purposes since it is a visually contained site with development on three sides.

15.12 Proposed paragraph 152 is significant in this case as it states that housing development in the Green Belt should not be regarded as inappropriate where:

- a The development would utilise grey belt land in sustainable locations, the contributions set out in paragraph 155 below are provided, and the development would not fundamentally undermine the function of the Green Belt across the area of the plan as a whole; and

- b The local planning authority cannot demonstrate a five-year supply of deliverable housing sites (with a buffer, if applicable, as set out in paragraph 76) or where the Housing Delivery Test indicates that the delivery of housing was below 75% of the housing requirement over the previous three years; or there is a demonstrable need for land to be released for development of local, regional or national importance.
- c Development is able to meet the planning policy requirements set out in paragraph 155.

15.13 As Mr Taylor explains in his evidence (CD11.4), and as agreed in the SoCUG (CD11.13), the Council is a long way off meeting the five-year housing land supply and the Housing Delivery test is well below 75%. I have stated above that this is a well contained site, with the settlement boundary on three sides, that is highly accessible to public transport, shops and services. It is a sustainable location for new housing. Mr Gibbs advises in evidence that development of the Appeal Site would not undermine the function of the Green Belt across the area of the plan as a whole.

15.14 Proposed new paragraph 155 states that where major development takes place on land which has been released from the Green Belt through plan preparation or review, or on sites in the Green Belt permitted through development management, the following contributions should be made:

- a In the case of schemes involving the provision of housing, at least 50% affordable housing [with an appropriate proportion being Social Rent], subject to viability;
- b Necessary improvements to local or national infrastructure; and
- c The provision of new, or improvements to existing, green spaces that are accessible to the public. Where residential development is involved, the objective should be for new residents to be able to access

good quality green spaces within a short walk of their home, whether through onsite provision or through access to offsite spaces.

15.15 If 50% affordable housing provision were to come forward as part of the proposed development – and which could be secured through the S106 agreement – then I would consider the scheme to meet the draft NPPF Grey Belt tests; it would not therefore be inappropriate development. The Appeal Scheme also presently includes new green spaces that would be accessible to the public, as agreed in the SoCUG (CD11.13).

Summary of the implications of the proposed new NPPF

15.16 If this Appeal was determined after the proposed new NPPF is formally published and adopted, it should be considered in the context that:

- 1 For the new Local Plan, the Council should be meeting a higher housing requirement in full and that this will involve the release of Green Belt land;
- 2 The Appeal Site should be considered as Grey Belt land;
- 3 Housing development in the Green Belt should not be regarded as inappropriate if it meets the three tests in proposed paragraph 155.

15.17 If the relevant tests are met and the new NPPF is in place before a decision is made on this Appeal, planning permission should be granted.

16.0 **Planning Balance and Conclusions**

- 16.1 Framework paragraph 11 indicates that where the policies which are most important for determining the application are out-of-date, permission should be granted unless the application of policies in the Framework that protect areas or assets of particular importance, including Green Belts and National Landscapes, provides a clear reason for refusing the development proposed or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
- 16.2 As outlined above, there would be limited harm to the wider Green Belt and no material harm to the setting of the AONB/National Landscape. While harm to the openness of the Green Belt and the scenic beauty of the National Landscape attracts great weight, very special circumstances exist to justify this development in the Green Belt. I have found no other significant potential conflict with policies in the Framework that protect areas or assets of particular importance. Consequently, no such policies of the Framework provide a clear reason for refusing the proposed development.
- 16.3 If the Inspector does not agree, and considers that the Appeal proposal is contrary to the policies of the development plan, I consider that there are material considerations to outweigh any such harm as set out below.
- 16.4 There would be limited harm resulting from the development, most notably in relation to the openness of the Green Belt but no material harm on the setting of the National Landscape. For the reasons outlined in my proof, the combined adverse impacts would not significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole bearing in mind the substantial combined weight of those benefits, particularly those associated with housing delivery. Accordingly, the Appeal proposal

would be sustainable development in the terms of the Framework for which there is a presumption in its favour.

16.5 There are key considerations that make this not only an acceptable development but a good development. This is a site located adjacent to a first-tier settlement, delivering much needed housing, including affordable housing above the rate required by the development plan, in a highly constrained area, and which delivers landscape enhancement with limited associated harm, as well as biodiversity enhancement.

16.6 In my proof, I have demonstrated that the proposed development will deliver a wide range of planning, housing, economic, social and environmental benefits. These are summarised below:

- a The delivery of 116 new homes to meet a range of housing needs including the delivery of 40% of the scheme as affordable housing. In the context of Tandridge's acute affordable housing needs, substantial shortfall in housing land supply and significant environmental constraints, this represents a substantial benefit.
- b The site would deliver housing in a highly accessible and key growth location on the edge of the built-up area of Oxted, which promotes sustainable patterns of development and accords with the Council's spatial strategy for the District.
- c The scheme would deliver new and enhanced public open space, including amenity space, an improved pedestrian and cycle network, a large, equipped area of play and other natural landscaping areas, all of which provide increased opportunities for formal and informal recreation.
- d The site would set a new benchmark for how sustainable construction can be achieved within Tandridge, with the proposed development

achieving c.70% carbon reductions over building regulations, utilising renewable energy sources and adopting a range of sustainable design standards. All houses would be timber frame, reducing embodied carbon.

- e Improvements to the Green Belt could be supported, including the potential of opening up formal access and routes through currently private and inaccessible Green Belt land and potential improvements to the quality of connections to the PRow network and surrounding environment.
- f The provision of new housing would make an important contribution to the local economy and community, through the creation of new jobs, construction investment, additional economic output, and significant increases in local spending.
- g The site would further support the community, health, and wellbeing of new and existing residents in the local area by increasing the choice and availability of affordable housing, providing significant private amenity space and high-quality, useable open space and supporting employment needs in the District.
- h Biodiversity enhancement (and net gains) would be achieved through the development, supporting the local ecological network.

16.7 There is a clear need to release Green Belt land to meet needs in Tandridge. As such, the site accords with NPPF paragraph 148 and the Statutory Development Plan at Policy DP10. I consider there are no other considerations which would support a refusal of permission and conclude that full planning permission should therefore be granted.

Appendix 1

Response to Rule 6 Party Flooding Concerns

Response to Rule 6 Party Flooding Concerns

Site: Land North of Chichele Road, Oxted, Surrey
Prepared by: Phil Allen MCIWEM C.WEM
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Date: 28 August 2024

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1.0 Introduction

1.1 This technical note has been produced by Motion to address concerns raised by residents local to the proposed development on the land north of Chichele Road, Oxted. They have formed a Rule 6 Party so that they may input to the appeal process.

1.2 The Rule 6 Party have raised concerns in their statement of case that relate to flooding, particularly surface water flood risk and capacity issues in the foul drainage system. The concerns as presented in the Rule 6 Party's statement of case are as follows:

"The R6 parties believe the appeal proposals will significantly impact both surface water flooding and foul water drainage.

There have been flood events in this area, which have caused flooding at St Mary's School with the road runoff filling the Silkhams Road and Chichele Road junction and running like a brown river down Chichele Road to Barrow Green Road, flooding the properties across the road. These events will be made worse by the run off down the access road from the proposed development.

The foul water drain closest to the appeal site is on Chichele Road. It is a 150mm gravity fed pipe which services the existing surrounding, low density properties. The junction of this pipe is in the centre of the proposed site access junction. In the recent past, this junction has been blocked and leaked out onto the road surface.

The addition of 116 new residential dwellings feeding into a pipe will be beyond the flow rate capacity and, in the event of a blockage, could result in a lake of sewage within the proposed road ramps.

The overflows in the existing foul drainage network in Oxted are well known, with many properties near to Chichele Road requiring the installation of non return valves by Southern Water in May 2022 in order to prevent foul water overflows into their gardens and dwellings. The installation followed repeated incidents of flooding from sewage owing to lack of network capacity with compensation payments to residents of £5,000 made by Southern Water. Although the non return valves have prevented the overflow of sewage in the properties where they were installed, unfortunately it has simply moved the capacity issue to other nearby addresses because no extra capacity has been added to the system.

The R6 will provide visual evidence of the flooding."

1.3 This Technical Note will discuss the issues raised by the Rule 6 Party in the context of the proposed development and note what measures have been taken to not worsen the existing problems. Moreover, this technical note will demonstrate that the proposed development and its drainage strategy can provide betterment to the drainage issues in the area.

1.4 Prior to that discussion, however, it should be noted that Surrey County Council (SCC) as the Lead Local Flood Authority (LLFA) removed their objection to the drainage strategy upon the submission of further information. Therefore, at this juncture, the principles of the drainage strategy have been confirmed as meeting national policy requirements and local standards on sustainable drainage and flood risk.

2.0 Discussion

2.1 This section of the report will explain the key design factors of the surface water and foul water drainage strategies for the development, and how they have been designed to improve the drainage situation in the Chichele Road area.

Surface Water

- 2.2 The surface water drainage strategy for the development observed the site's existing catchments and drainage regime. As stated by paragraph 2.33 of the Drainage Strategy:
- "...surface water falling on the existing ground cover will either run off with the prevailing gradient or be intercepted by the vegetation on site. The drainage ditches on the eastern, northern and north-western site boundaries commutes surface water runoff from the site and the surrounding land uses to the wider hydraulic network."*
- 2.3 The existing drainage network was found to consist of an ordinary watercourse on the site's north-western boundary, which becomes culverted in its western extent (adjacent to St Mary's School) and is thereafter marked as a public surface water sewer. There is a ditch on the site's eastern boundary that joins another ordinary watercourse flowing from the east before they are culverted to the south under the grounds of Oxted School.
- 2.4 While there are two ordinary watercourses on the east and western boundaries of the site, there are three discernible hydraulic catchments; one that flows to the ordinary watercourse/public sewer to the west of the site, a central one that flows northwards and to the northern boundary of the site (and would drain to the eastern and western watercourses), and a final catchment that flows to the east and the watercourse that is culverted under Oxted School.
- 2.5 The upper superficial geology on the site was observed to be clay and this meant that surface water falling on the undeveloped site would emanate as surface water runoff due to the impermeability of clay soils. The greenfield runoff rates for the three catchments were calculated using HR Wallingford's UKSuDS online tool. The total QBAR greenfield runoff rate for the whole site (the rate at which surface water runoff would occur in the annual average storm) was calculated to be 12.38 l/s.
- 2.6 This total QBAR greenfield runoff rate for the development of 12.38 l/s was split over the three hydraulic catchments (based on their respective areas) and were found to be:
- Western Catchment: 1.88 l/s
 - Central Catchment: 4.54 l/s
 - Eastern Catchment: 5.96 l/s
- 2.7 These runoff rates were used to determine the maximum post-development runoff rate for each catchment (for all storms, up to and including the 1 in 100-year + 45% rainfall event). This purpose of this approach is that no matter what rainfall event is occurring (such as a 1 in 100-year plus climate rainfall event), the development will restrict runoff to that of the present-day annual average storm. This protects the development and local areas from flooding, because runoff that would usually issue from the land in extreme rainfall events will not longer do so. The greenfield runoff rate in the 1 in 100-year rainfall event is 38.91 l/s, so by restricting the developed site's runoff rate to a maximum of 12.38 l/s it means that the runoff rate from the site in the 1 in 100-year event will be reduced by 68%. The protection, or betterment, on offer should be noted.
- 2.8 However, the proposed drainage strategy went further than proposing an overall maximum discharge rate of 12.38 l/s. It was noted that the central catchment of the site could discharge its surface water via a soakaway into the deeper soils owing to their positive infiltration rates. This showed that this was a viable means of surface water discharge in this part of the site. Therefore, surface water runoff that would usually emanate from the central catchment due to the clay soils would no longer do so in the built site, eliminating 4.54 l/s of surface water runoff from the development's overall runoff rate.
- 2.9 The drainage strategy for the western and eastern catchments determined that they would discharge at a maximum rate of 1.7 l/s and 6.5 l/s, respectively, thus the total runoff rate for the development would be 8.2 l/s, which is only 66% of the developed site's QBAR greenfield runoff rate. Moreover, it is only 21% of the site's runoff rate in the 1 in 100-year rainfall event, improving the overall betterment that the development

over the undeveloped situation. This improvement is achieved through the attenuation offered on the site and the flow control devices that will sit online to the drainage infrastructure.

- 2.10 Referring back to the specific issues raised by the Rule 6 Party, there is concern that the development will exacerbate the existing surface water drainage issues due to increased runoff from the development, plus that surface water will runoff from the access road into Chichele Road, causing flooding.
- 2.11 With regards to the first point, the proposed drainage strategy would ensure that the development will not increase surface water runoff from the site. Moreover, it will actually decrease surface water runoff from the development over the existing situation. This is especially true in the western catchment where the QBAR greenfield runoff rate is 1.88 l/s and the post-development runoff rate will be no more than 1.7 l/s.
- 2.12 With regards to runoff from the access road, we acknowledge that due to levels and the presence of root protection zones (RPZ's) that is has not been possible to route surface water back into the site and to the attenuation features. Instead, rainwater will be captured by road gulleys and below-ground drainage so that it will not issue into Chichele Road and will be commuted to a below-ground drainage system. This will be designed to work within the RPZ's and require minimal excavation.
- 2.13 Surface water from the access road was considered when reducing the site's overall runoff rate to below the pre-developed site's greenfield runoff rate. The QBAR runoff rate for the impermeable area of the access road (circa 500 metres) is 1.4 l/s and the 1 in 100-year runoff rate is 2.8 l/s. Adding these to the proposed maximum runoff rate for the proposed development of 8.2 l/s results in a total runoff rate of 9.6 l/s to 12.0 l/s. for all storms, up to and including the 1 in 100-year + 45% event. Therefore, the total runoff rate for the proposed development, including the access road, is still between 0.38 l/s and 2.78 l/s less than the QBAR greenfield runoff rate of 12.38 l/s for the undeveloped site.
- 2.14 Although the central catchment is to discharge via infiltration, a proportion of its 4.54 l/s greenfield runoff rate would have drained to the west and into the ordinary watercourse that also receives surface water discharge from the western catchment. Therefore, additional surface water discharge from the access road of up to 2.8 l/s would still not be additional to what it is currently receiving from the undeveloped site. As such, there would be no increase in surface water runoff over the existing.
- 2.15 Moreover, surface water generated by rainfall events with a greater intensity and quantity of rainfall than the annual average storm (such as the 1 in 10-year, 1 in 30-year or 1 in 100-year events) will be fully attenuated on site and the rate of offsite surface water discharge will never increase beyond the QBAR greenfield rates discussed above. This means that surface water discharge will remain consistently low and will not increase to the volumes that have previously caused flooding in the local area. Therefore, the local drainage network will experience an overall lower volume of surface water and will not see the peak flows that may have previously caused flooding. Therefore, the development stands to improve the drainage issues in the area rather than the obverse, as it is suggested in the Rule 6 Party's statement of case.

Foul Water

- 2.16 The capacity issues in the existing foul drainage system in Chichele Road are acknowledged. As stated by the Rule 6 Party, the existing foul drainage that is proposed to be connected to is a 150mm dia. pipe in Chichele Road, which has issues with backing up and surcharging.
- 2.17 However, the drainage strategy for the development proposes to pump foul waste from the topographically lowest parts of the site (in the east) to the foul sewer in Chichele Road (to the west). Due to the minimum lifting/pumping rate of foul pumping stations, this will periodically be at a peak rate of 2.5 l/s – 3.5 l/s (while the pump is on duty) but will be at an average peak rate of 0.85 l/s as that is the calculated peak discharge from the development.
- 2.18 The drainage strategy made note that a capacity check had not been carried out with Southern Water, but this would be completed in due course. There would be two outcomes of this; either Southern water will confirm that there is capacity in the existing system, but, if this were not the case, they would confirm that

network reinforcement of the existing foul drainage system would be needed. For non-strategic sites, this must be within 24 months of the planning permission.

- 2.19 All Water and Sewerage Companies (WaSC's) have a legal obligation under Section 94 of the Water Industry Act 1991 (the Act) to provide developers with the right to connect to a public sewer regardless of capacity issues. This, in conjunction with Section 91(1) of the Act effectively means that Southern Water cannot object and the LPA cannot refuse to grant planning permission on the grounds of insufficient capacity or that no improvement works are planned for an area. The case precedent for this is a Supreme Court decision in Barratt Homes vs Welsh Water, in which the court held that the developer has an absolute right to connect to the existing sewer, whether or not it overloads the system. It ruled that the specific wording of the legislation allows for this right to be exercised, at no cost to the developer, apart from the normal connection charges.
- 2.20 Where local sewerage infrastructure constraints are identified, network reinforcements are delivered by the WaSC through New Infrastructure Charges on developers. For non-strategic sites, the WaSC company have a maximum of 24 months to deliver sewerage improvements from the date of the outline or full planning consent.
- 2.21 New Infrastructure Charge on developers mean that the delivery of improvements to drainage is generally linked to funding made available from approved planning permissions. Because no new developments have taken place in this area of Oxted over recent years, there has been limited revenue to fund the needed improvements to the public foul sewerage.
- 2.22 Therefore, any existing capacity issues in the local public foul sewerage would be addressed by the network reinforcement process, and the proposed development would bring about an increase in the capacity and condition of the local foul sewerage so that it not only has capacity for the new development's foul drainage but will also remediate the existing issues that are mentioned in the Rule 6 Party's statement of case. Therefore, the proposed development could once again be beneficial to the existing area.

3.0 Summary

- 3.1 The above information has shown how the development will not exacerbate the existing flooding issues experienced in the area. Additionally, the attenuation that is being provided on site and the proposed below-greenfield runoff rates mean that the development will actually reduce the site's surface water runoff rate to less than the existing. The improvement over the existing runoff rates will increase as the return period of the rainfall increases, so that in the 1 in 100-year + 45% rainfall event the site will still only discharge at a rate less than that produced by the annual average storm.
- 3.2 Foul sewage issues are well documented in the area. It is proposed that the development and network reinforcement brought forward by New Infrastructure Charges will be pivotal in the funding and implementation of much-needed improvement works, which will create capacity for the proposed development as well as remediate the existing issues experienced in and around Chichele Road.