



## Appeal Decision

Inquiry held on 26-28 September 2023; 10-13, 17-20, 31 October 2023; 1-3, 7-10, 21-24, 27-30 November 2023; 1, 11, 18-20 December 2023

Accompanied site visit made on 16 January 2024

Unaccompanied site visits made on 22 September 2023, 31 March and 3 April 2024

by Christina Downes DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 24<sup>th</sup> May 2024

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Appeal Ref: APP/Y3615/W/23/3320175

Land at the former Wisley Airfield, Hatch Lane, Ockham, Surrey

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on a hybrid application for part full and part outline planning permission.
- The appeal is made by Taylor Wimpey UK Limited against Guildford Borough Council.
- The application Ref 22/P/01175, is dated 4 July 2022.
- The development proposed includes a full planning application comprising:
  - i) a realigned section of the proposed Wisley Lane Diversion, to include a roundabout with a stub road as the primary access to serve the new settlement from Ockham Interchange;
  - ii) a road junction access into the proposed employment area from the proposed Wisley Lane Diversion;
  - iii) a new road junction as a secondary access to serve the new settlement from Old Lane;
  - iv) SANG and associated infrastructure, including SANG car parks;
  - v) Restricted access from Ockham Lane.
- The development proposed includes an outline planning application (with all matters reserved) for the phased development of part of a residential-led new settlement comprising:
  - up to 1,730 dwellings (Class C3 use), 8 gypsy and travellers pitches, up to 100 units of housing for older people (Class C2 use), a mixed-use commercial local centre with public square, community hub and employment area alongside other commercial mixed-use neighbourhood centres located throughout and an employment area, (Classes E, F2(b), B2/B8, and sui-generis uses subject to specific planning permissions), a secondary school, a primary school, (Class F1(a)), up to 2 nurseries, (Class E (f)), also incorporating green infrastructure (including parks, neighbourhood greens and sports pitches (Class F2(c) and associated pavilion (Classes E(b) and (d), F2(b)), SANG other infrastructure, (Class E(b)), part of Wisley Lane Diversion between Ockham Interchange roundabout and realigned section of Wisley Lane Diversion, a vehicular / cycle / pedestrian sustainable transport corridor (linking the proposed Wisley Lane Diversion roundabout to Old Lane) and associated infrastructure and earthworks at land at the former Wisley Airfield (with construction access from Ockham Interchange and Elm Corner).

## CONTENTS

	Page
Abbreviations list	3
Decision	5
Application for Costs	5
Procedural matters	5
Preliminary Matters	7
Issue One: Effect on the local and strategic highway network	7
Issue Two: Effect on air quality	18
Issue Three: Effect on ecology	27
Issue Four: Sustainable transport choices	51
Other Matters:	
Heritage	64
Character and appearance	68
Design	70
Residential amenity	71
Agricultural land	72
Green Belt	72
Foul drainage	73
The WACT	74
Supporting infrastructure	75
Climate change	75
Consultation	77
Planning Conditions	77
The Section 106 Agreement	87
Overall Conclusions and Planning Balance	106
Annex One: Appearances	115
Annex Two: Documents	119
Annex Three: Schedule of conditions	125

## ABBREVIATIONS LIST

	Acronym
Air Pollution Information System	APIS
Ammonia	NH <sub>3</sub>
Annual Average Daily Traffic	AADT
Biodiversity Net Gain	BNG
Conservation of Habitats and Species Regulations (as amended) 2017	The Habitats Regulations
Construction Transport and Environment Management Plan	CTEMP
East Horsley Parish Council and West Horsley Parish Council Rule 6 Party	The Horsleys
Environmental Statement	ES
Good Practice Guidelines: Bat Surveys for Professional Ecologists	Bat Survey Guidelines
Guidelines for the Assessment of Road Traffic	IEMA Guidelines
Guildford Borough Council	The Borough Council
Guildford Borough Local Plan Development Management Policies	LPDMP
Guildford Borough Local Plan Strategy and Sites	LPSS
Habitats Regulations Assessment	HRA
Hallam Land Management Ltd Rule 6 Party	Hallam
Information for Habitats Regulations Assessment	IfHRA
Jacobs-Systra Joint Venture	JSJV
Local Nature Reserve	LNR
Lovelace Neighbourhood Plan	LNP
M25 Junction 10/ A3 Wisley Interchange Development Consent Order	The DCO
Natural England: Approach to advising Competent Authorities on the assessment of road traffic emissions under the Habitats Regulations	The 2018 Guidance
NHS Surrey Heartlands Integrated Care Board	The ICB
Nitrogen Oxides	NO <sub>x</sub>
Planning Obligation by Agreement	The Section 106 Agreement
Practical Reserve Capacity	PRC
Site of Nature Conservation Interest	SNCI
Strategic Access Management and Monitoring	SAMM
Strategic Housing Market Assessment	SHMA
Suitable Alternative Natural Greenspace	SANG

Surrey County Council	The County Council
Sustainable drainage system	SuDS
The Conservation of Habitats and Species Regulations 2017	The Habitats Regulations
The National Planning Policy Framework	The Framework
The Thames Basin Heaths Special Protection Area	SPA
The Trustees of the J R Harris Discretionary Settlement Rule 6 Party	Harris
Villages against Wisley New Town Rule 6 Party	VAWNT
Wisley Action Group, Ockham Parish Council and RHS Wisley Rule 6 Party	WAG
Wisley Airfield Community Trust	WACT

## DECISION

1. The appeal is allowed, and planning permission is granted for the development set out in bullets 4 and 5 above on land at the former Wisley Airfield, Hatch Lane. Ockham in accordance with the terms of the application, Ref 22/P/01175, dated 4 July 2022, subject to the conditions set out in Annex Three of this decision.

## APPLICATION FOR COSTS

2. At the Inquiry an application for costs was made by Wisley Action Group, Ockham Parish Council and RHS Wisley against Taylor Wimpey UK Limited. An application for costs was also made by Taylor Wimpey UK Limited against Wisley Action Group, Ockham Parish Council and RHS Wisley. These applications are the subject of separate Decisions.

## PROCEDURAL MATTERS

3. There were four objecting parties that were granted Rule 6(6) status at the inquiry: Wisley Action Group, Ockham Parish Council and RHS Wisley (WAG); East Horsley Parish Council and West Horsley Parish Council (The Horsleys); Ripley Parish Council and Send Parish Council; and Villages Against Wisley New Town (VAWNT). There were two supporting parties that were granted Rule 6(6) status at the inquiry. These were the Trustees of the J R Harris Discretionary Settlement (Harris) and Hallam Land Management Ltd (Hallam).
4. The application is submitted hybrid form. The areas associated with the Suitable Alternative Natural Greenspace (SANG) are in full, with all associated details and drawings included. The purpose is to allow this element of the scheme to proceed first, thus ensuring that the SANG would be in place prior to the built development. The remainder of the scheme is in outline, with all matters reserved, although there are various plans included for determination at this stage, including a Component Plan, a Land Use Parameter Plan, a Building Heights Parameter Plan, an Access and Movement Parameter Plan, a Green and Blue Infrastructure Parameter Plan and a Design Framework Parameter Plan. There is also a Masterplan and, although this is only illustrative, it seems to me likely that the layout would be broadly as shown, taking account of the various parameter constraints and the restricted nature of the developable area on account to the position of the SANG on the northern and southern parts of the site.
5. A pre-inquiry meeting was held at Guildford Borough Council (the Borough Council) offices on 31 July 2023 at which representatives of all main parties were in attendance. At this meeting the administrative and procedural arrangements for the inquiry were discussed. In addition, it was agreed how the evidence should be heard and in what order the main parties would appear.
6. Minor amendments were made to the Building Heights Parameter Plan and the Access and Movement Parameter Plan during the course of the inquiry. These provided clarification to the percentage of 4 storey development and the vehicular connection zones on the key to each parameter plan

respectively. These small changes would make no material difference to the nature of the proposed development and no party objected to them. Accordingly, I have taken them into account.

7. The Borough Council determined that it would have refused planning permission had it been in a position to do so. At the time that the appeal was lodged there were outstanding objections from Natural England, National Highways, Surrey County Council (the County Council) as Local Highway Authority and the Environment Agency. A considerable amount of additional information was subsequently submitted by the Appellant on 18 July 2023 to address points raised by the consultees and in the statements of case. It is appreciated that the quantum and complexity of the information provided has been challenging to follow, especially for local people and the unrepresented Rule 6(6) parties. Nevertheless, the information was all made publicly accessible electronically and I sought to ensure that interested persons were given ample opportunity to not only give their views at the inquiry but also, where appropriate, to ask relevant questions of the **Appellant's witnesses**. In addition, I agreed that further written representations would be accepted.
8. The putative reasons for refusal were set out in the Planning Committee Minutes of 10 July 2023. These related to the effects on the Thames Basin Heaths Special Protection Area (the SPA) and the adequacy of the proposed SANG; the effect on protected species; the adequacy of proposals for Biodiversity Net Gain (BNG); flood risk in the south-western part of the site; highway safety; and the lack of a Planning Obligation. By the end of the inquiry the Borough Council indicated that its putative reasons for refusal had been addressed, subject to appropriate planning conditions and planning obligations.
9. A Planning Obligation by Agreement (the Section 106 Agreement) has been submitted and I allowed time following the close of the inquiry for it to be completed. This is considered later in the decision. Notwithstanding agreement at the pre-inquiry meeting, a draft of the Section 106 Agreement was not submitted in advance of the inquiry. This was far from satisfactory, and I can understand the consternation expressed by the Rule 6 Parties who opposed the scheme. Various drafts were submitted subsequently and there was a full discussion of the contents of the draft Deed at a round table session over 2 days towards the end of the inquiry. I am satisfied that all parties were able to give their views and that I have been fully informed about the provisions of this legal document.
10. The proposal is Environmental Impact Assessment development. An Environmental Statement (ES) has been submitted. From the oral and written representations that I was given, I am satisfied that this meets the relevant statutory provisions, including publicity. I return to this in my conclusions.
11. An update to the National Planning Policy Framework was published on 20 December 2023, which was the final day of the inquiry. I allowed the main parties additional time to submit any relevant comments that they wished to make, and I have taken these into account in my decision.

## PRELIMINARY MATTERS

12. The principle of a mixed-use residential-led development on this site including approximately 2,000 dwellings is established through the allocation under Policy A35 in the Guildford Borough Local Plan Strategy and Sites 2015-2034 (LPSS). Despite this, it became clear that some Rule 6 Parties and individual objectors continued to oppose the development on this basis. Furthermore, a number raised concerns about the housing requirement in the development plan and the implication was that the site was not needed to meet the housing needs of the Borough. These are not matters on which it is necessary or appropriate for this decision to address. The latest Housing Land Supply Report (1 April 2023) records a 6 year supply of deliverable sites against the housing requirement in the LPSS. However, there was no evidence to satisfy me that the appeal site, which is the largest strategic allocation in the Borough, was no longer needed.
13. The relevant matters in my consideration are therefore whether the particular proposal being put forward in this appeal would meet the requirements of the development plan and, if it would not, then whether material considerations indicate that a decision should be made otherwise than in accordance with the development plan.
14. The appeal site proposes 1,730 dwellings and comprises the majority of the policy A35 allocation. The remainder, which is to the north of Ockham Lane and adjacent to Bridge End Farm, is proposed to be developed by Hallam and Harris respectively. Hallam has submitted a planning application for 70 dwellings, and it is understood that Harris is to submit a planning application for the remainder of around 200 dwellings.

## REASONS

### ISSUE ONE: EFFECT OF THE PROPOSED DEVELOPMENT ON THE LOCAL AND STRATEGIC HIGHWAY NETWORK

#### INTRODUCTION

15. The appeal site is close to the A3 and Junction 10 of the M25. At present major roadworks are underway within this part of the strategic road network in order to improve existing capacity as well as to provide capacity for strategic development within the LPSS, including 2,000 homes and other mixed uses on the site of the former Wisley Airfield.
16. There was a great deal of local objection to the appeal scheme on the grounds of highway safety and congestion. In addition, there was technical highway evidence given on behalf of one of the Rule 6 Parties<sup>1</sup>. This related to both the effect on the strategic road network and the local road network. However, in this respect there are a number of general points to be made before the specifics are considered. The first is obvious but worth stating and that is that a development of this scale is bound to result in a great deal of additional traffic. There is no dispute that at present the site is not in a

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<sup>1</sup> Mr Russell gave expert highway evidence on behalf of WAG, Ockham Parish Council and RHS Wisley (the WAG transport expert) and Mr C McKay gave expert highway evidence on behalf of the Appellant (the Appellant's highway expert).

sustainable location. However, the highway impact would depend on the extent to which sustainable travel options could be introduced to encourage people to make some journeys by modes other than the car. Of course, people cannot be forced to take up these opportunities, but their success would depend in large part on the nature of the journey and the attractiveness and convenience of the modal alternative.

17. The Framework makes clear that development should only be refused on highway grounds if there would be an unacceptable impact on highway safety or the residual cumulative impacts on the road network would be severe. National Highways is responsible for the strategic road network and the County Council is responsible for the local road network. There was a great deal of criticism of the highway authorities by objectors and the implication was that the transport issues had not been properly scrutinised. However, I do not consider that this is supported by the evidence.
18. The planning application included a comprehensive Transport Assessment. Subsequently there were many meetings between the Appellant and the highway authorities and whilst this engendered a good degree of collaboration it did not mean that there was a lack of challenge. On the contrary the Transport Position Statement and Updated Transport Position Statement make clear the numerous topics of concern to both National Highways and the County Council. In addition, Jacobs-SYSTRA Joint Venture (JSJV) were commissioned by National Highways to audit the traffic modelling. It was also audited by the modelling officer at the County Council, who I was told is very experienced, including in working with Saturn models.
19. At the end of the process, the statutory highway authorities withdrew their objections and concluded that a severe impact on the strategic road network or local road network would not ensue. I heard no evidence to satisfy me that they behaved other than competently and responsibly in discharging their duties in the public interest.

## THE TRAFFIC MODELLING

### The baseline traffic model

20. The traffic modelling and highway impacts are included in the Transport Assessment. A SATURN model was built by WSP, the **Appellant's technical** transport advisers. The choice of model followed discussion with the statutory authorities about alternatives, including the **County Council's** SINTRAM model or that used by National Highways for the M25 Junction 10/A3 Wisley Interchange Development Consent Order (the DCO) Examination. SATURN comprises a network of nodes and links and the routes taken by traffic across the network are affected by levels of congestion. The study area was relatively extensive covering Guildford, Leatherhead and Woking and all junctions within the modelled area were included and tested within the SATURN model. The use of SATURN and the extent of the study area was agreed with the highway authorities.
21. I have no reason to doubt that WSP has a large and very experienced modelling team. The 2019 base year model was calibrated and validated, and the evidence indicates that it performed satisfactorily during the morning (am) and evening (pm) peak periods when assessed against the Department of Transport's TAG criteria. The Local Model Validation Report



was approved by the highway authorities. From the available evidence I have confidence that the model provides a reasonably reliable representation of baseline traffic conditions and is therefore fit for purpose in terms of future years traffic forecasting.

22. It was suggested by some objectors that the use of a microsimulation model would have been better. This was not requested by the highway authorities or the Borough **Council's Transport Officer** and there was no satisfactory reasoning to demonstrate why this would be preferable or even suitable for the purposes of assessment in this case.
23. A further concern related to the refusal of the Appellant to allow its Saturn model to be interrogated other than by the statutory authorities. I was told that this was based on licencing restrictions relating to access to the software, and in the absence of evidence to the contrary, this seems a reasonable explanation. The Transport Assessment contains a large amount of information relating to the model outputs. I have no convincing evidence to demonstrate that it was necessary for objectors to have access to the model in order to satisfactorily make their case.

#### The future forecast model

24. In order to assess the effect of the appeal development, future traffic growth during the forecast period has been added to the base model. The design year 2038 was chosen as being when the development would be fully operational. Although this would usually be 15 years from the opening year, which at the time was anticipated to be 2023, it still seems a reasonable assumption that by 2038 the development would be completed bearing in mind the likely build-out period of 10-12 years. The year 2030 was also included as a design year for the assessment of environmental impacts. Various scenarios were tested and these, along with the design years were agreed with the highway authorities.
25. General traffic growth is derived from the **Department of Transport's** National Trip End Model dataset through the application of TEMPro software and is available by local authority area. At the time that the modelling was undertaken the relevant version was TEMPro v7.2. However, this has now been updated to TEMPro v8, which predicts lower levels of trip end growth, especially in terms of households but also in relation to jobs. Over the modelled area the earlier version of TEMPro, which was used in the modelling, forecast a significantly higher level of growth, particularly in Guildford and the surrounding authorities.
26. Within Guildford Borough development commitments and sites that are expected to come forward through the LPSS have been included in the model. These are listed within what is termed an Uncertainty Log, which considers the probability of the development coming forward using the classification in the Department of Transport TAG guidance. In accordance with this guidance, additional growth has been added so that the lower level of growth derived from the sites in the Uncertainty Log matches the higher level of growth in TEMPro v7.2 for Guildford Borough.
27. There was criticism from some Rule 6 Parties and local people that various sites had been excluded from the Uncertainty Log. The first point to make is that its compilation is a snapshot in time, and it is not reasonable to expect

the model to be updated with every new development that subsequently comes forward, especially as these are largely windfalls that are not specifically detailed in the LPSS. In any event, such development would usually be relatively small-scale and generate a limited number of trips. The model has overestimated growth for the reasons explained above and it seems to me that this would be likely to more than compensate for any sites that have been excluded.

#### Traffic Generation from the proposed development

28. In a Technical Note of March 2021, it was explained that the residential trip rates were averages derived from a mix of TRICS sites data and the trip rate for the redevelopment of Dunsfold Airfield. The trip rates for other uses such as employment and schools were taken from those agreed in the Elmbridge Borough Local Plan. There was considerable debate from various objecting parties about the trip rate assumptions. The chosen TRICS sites were criticised, including that they were mainly in urban or suburban locations where car use could be expected to be lower. However, the proposed development would include a number of facilities on the site itself, including a primary school and Local Centre. The residential trip rates of 0.426 in the morning peak and 0.413 in the afternoon peak were agreed with the County Council and I am not convinced that there is justification for concluding that these are too low. Furthermore, it is to be noted that the modelling includes the full 2,000 dwellings rather than the 1,730 dwellings being proposed.
29. Objectors asserted that the generation of trips had been underestimated. This was on a number of grounds. It was pointed out that the Economic Benefits Statement indicated that 53% of jobs on the site would be taken by people from outside the Borough. Of the remaining 47% there was no breakdown as whether they would be taken by people living on the site or by those from other parts of the Borough. The Economic Benefits Statement indicated an expected 417 jobs, 230 of which would be in the offices. However, there is no trip generation rate for the B1 uses only for the B2/B8 unit, which according to the Economic Benefits Statement would only generate 28 jobs.
30. **The Appellant's response to** this was that the trip generation rates were applied to the floorspace and not to the number of jobs. This does not seem unreasonable because employees may travel outside of the peaks and some may travel by alternative modes, such as bicycle or bus. Furthermore, it was assumed that the office jobs would be small scale and local and internal to the site. This is not an unreasonable assumption and one that was agreed with the County Council.

#### SITE ACCESSES

31. The proposal is for the main access to the site to be onto the Ockham Interchange and Wisley Lane Diversion at the western end of the site. There would be a second access onto Old Lane at the eastern end of the site. The western access would be in the form of a roundabout and the intention was to obtain planning permission for this in advance of the remainder if the development. This was so that the roundabout and new stub road off it could be constructed at the same time as the DCO works were being undertaken. Planning permission was granted for the stub road proposal on appeal, but the consequent delay meant that the new access could not be programmed

into the DCO works. It would therefore have to be constructed following the opening of the Wisley Lane Diversion, which at I understand will be relatively soon. This is far from ideal and one consequence that was discussed during the inquiry was how construction traffic would get into the site in order for the roundabout and stub road to be built.

32. **The Appellant's preferred option would be** to use the existing access off Ockham Lane for a limited period until the construction of the access from the Wisley Lane Diversion has been completed. I understand this could take about 3 months. I note that the submitted Construction Environmental Management Plan indicates that lorries would be routed from the A3 along Old Lane and would not travel through Ockham Village or Ripley. Although there are weight restrictions along both Ockham Lane and Old Lane, these do not apply to access. I can understand local concerns about such an arrangement as these routes are relatively narrow and in the case of Old Lane run through the SPA. Although the access would only be temporary, the anticipated number of HGVs varied between 15-20 per day in the 2022 Construction Environmental Management Plan, 2 per day in the 2023 Construction Environmental Management Plan and 5 HGVs and 15-20 light vehicles per day in a Note<sup>2</sup> to the inquiry. This Note also refers to use of the Ockham Lane access for the land-forming earthworks in association with the first phase of the SANG.
33. At the inquiry I asked for alternative options for the temporary construction access to be considered. In my opinion an alternative off Old Lane, which seemed to be favoured by the County Council in its evidence to the inquiry, would not resolve the above concerns. I consider that the most acceptable solution would be for all construction access to the site to be from Wisley Lane Diversion as originally envisaged. This may entail a temporary construction access until the new stub road and roundabout have been constructed and are available for use. Whilst I appreciate that this would entail some traffic management measures as the Wisley Lane Diversion is likely to be open to traffic by then, I was given no evidence that it would not be possible. National Highways are obliged via the Land and Works Agreement with Wisley Property Investments Limited (now owned by the Appellant) to provide reasonable assistance for the construction of the main access from Wisley Lane Diversion. There appears to be nothing in that Agreement to prevent a temporary construction access being created and I heard no evidence that National Highways would be likely to oppose it.
34. Policy A35 in the LPSS indicates that the primary vehicular access should be via the A3 Ockham interchange. The Transport Assessment shows that in 2038 the number of trips in the morning peak would be higher at the Old Lane access. As was pointed out at the inquiry, the modelling has taken account of the traffic assignment from the DCO works which post-dated the LPSS. In any event, Policy A35 also requires a vehicular link through the site, so there is no means by which vehicles could be prevented from using Old Lane. The eastern access would be a simple T-junction with a priority left turn. Bearing in mind the illustrative Masterplan and various Parameter Plans, the western access is clearly intended as the more important. This

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<sup>2</sup> The Note to the inquiry was produced by the Appellant during the conditions Round Table Session and dated 1 December 2023.

could be assured through the reserved matters approvals, and in the circumstances, I have no concerns that the western access would be perceived as the primary entrance to the development.

35. The evidence shows that in 2038 traffic flows on the links closest to the western access such as Portsmouth Road, Ockham Road North and Wisley Lane would decrease in the morning peak following development. This would be despite 348 additional trips using the western access over this period. This is because in congested areas, SATURN will reassign and redistribute traffic flows already on the network to less congested areas. This reflects the behaviour of motorists who will often find an alternative route in such situations. The evidence indicates that the traffic that would be generated by the proposed development would be a relatively small proportion of the overall traffic flows in 2038. This would of course include the growth added by TEMPro as well as that from other committed sites. Indeed, the modelling shows that if the "with and without" development scenarios are compared, the growth in morning peak traffic across the modelled network would be about 1%. This seems to me to be very modest indeed.
36. Objectors pointed out that there was no information about where on the network the displaced traffic would go. As I indicated above it is not realistic to believe that the local road network would not become busier following the development. Considering the local links around the site for which there are flow figures the most significant increase would be along Plough Lane, which is shown to increase from a flow of 38 PCUs in 2019 to 71 PCUs without the development and 231 PCUs with the development. In percentage terms this is a relatively large increase but of course the overall numbers remain quite low. Furthermore, this is an assessment of 2,000 vehicles and not the 1,730 in the appeal scheme. In addition, the figures would likely be considerably lower if the TEMPRO v8 growth were to be applied. Bearing all of these points in mind, there is no evidence that Plough Lane would not have the capacity to accommodate the generated traffic flows without a severe impact. This also has to be balanced by the significant decrease in predicted flows along roads such as Long Reach and Ockham Lane.

#### SENSITIVE RECEPTORS

37. The 1993 *Guidelines for the Environmental Assessment of Road Traffic* by the Institute of Environmental Assessment (the IEMA Guidelines) sets out the approach for considering the environmental impact of development related traffic on non-motorised users (pedestrians, cyclists and the like). The assessment relates to the increase of development related traffic flows on highway links and the thresholds to be applied depending on the sensitivity of the receptors. It was agreed by the WAG transport expert that the IEMA Guidelines do not define what "**sensitive**" means in this context, although examples are given for consideration.
38. Chapter 11 of the ES includes all relevant highway links and whether they are considered to include sensitive receptors or not. The objection is that no explanation has been given for the reason why the links have been classified as sensitive **or not. I agree that the "yes/ no" exercise is rather** unhelpful. However, there is further assessment of each of the links within this part of the ES. Some of the links identified by the WAG transport expert would decrease in traffic flow, for example Long Reach and Wisley Lane. Some are

cycle routes, where speed reduction measures, including designated Quiet Lanes, are proposed. Rose Lane was also mentioned on account of the school. However, the impact from the increase in traffic flows has taken account of the footway between the school and the village. Of course, the ES includes judgements, but I have no evidence to satisfy me that the assessment was incorrect or that an alternative should be preferred.

39. For the above reasons I consider that the sensitivity of the road links has been adequately considered in the ES.

## MITIGATION

### Old Lane

40. Various highway interventions are proposed as part of the development proposal. Many of these are connected to the sustainable travel measures, although reductions in speed limits and traffic calming interventions would also have benefits for vehicular safety. Old Lane is not proposed as a designated cycle route, but it would carry more traffic as a result of the DCO scheme and the appeal proposal. A traffic management scheme is therefore proposed along this route, including speed reduction measures and a 30 mph speed limit. This would be secured by a planning obligation in the Section 106 Agreement and funded by the Appellant.
41. A mini roundabout is proposed at the Effingham Junction crossroads. This is required to increase capacity and ease the forecast congestion in 2038 associated with the appeal development and the residential development at the Howard of Effingham School. The improvement would be carried out by either that development or the appeal scheme, whichever was implemented first. There is also provision for a second mini roundabout on the Old Lane arm of the crossroads or a bus stop provision at the southern end of Old Lane. Which alternative would be required would follow an assessment by the County Council based on the Monitor and Manage Strategy. These provisions would be secured by a planning obligation in the Section 106 Agreement and funded by the Appellant.

### The Burnt Common Slips

42. These works would entail a southbound off-slip and a northbound on-slip between the A247 and the A3 in order to reduce through traffic along Ripley High Street and surrounding rural roads. When considering the matter, the LPSS Inspector indicated that the aim was principally to deal with the potential traffic impacts from the appeal site. There is a requirement for the slips in policy A35 and the land is designated for this purpose in policy A42. There was vehement objection from Rule 6 Parties<sup>3</sup> and local objectors that the Burnt Common Slips were not being provided as part of the appeal scheme.
43. I have carefully considered the strong views of the opposing parties. I appreciate that the Burnt Common Slips were proposed as part of the earlier appeal and that the traffic modelling supported them at this time. However,

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<sup>3</sup> Including Ripley and Send Parish Councils and East Horsley and West Horsley Parish Councils.

circumstances have materially changed since the adoption of the LPSS following the approval of the DCO and its associated works. One of its requirements is that prior to the opening of the Wisley Lane Diversion a scheme is to be approved for the management of traffic flows along Ripley High Street, along with a timetable for implementation. The specification includes two gateways, two puffin crossings, speed tables and speed cushions. This requirement was specifically added to the DCO by the Examining Authority and endorsed by the Secretary of State. This followed concerns by the County Council about traffic conditions along Ripley High Street and one of the purposes was to reduce vehicle speeds and create an environment more conducive to pedestrians and cyclists. I appreciate that at this stage the DCO modelling included the Burnt Common Slips, but of course it did not take account of the effect of the interventions described above.

44. The appeal scheme also proposes further traffic calming measures in this vicinity, including a segregated cycleway along either side of Portsmouth Road to Ripley. This would link to the cycleway along the Wisley Lane Diversion being provided as part of the DCO works. At present there is an on-carriageway cycle lane, but this is intermittent and unsegregated. On entering Ripley, a gateway feature would be provided along with a 20mph speed restriction. Further west, close to the Talbot Hotel, a zebra crossing on a raised table is proposed, which would also slow down traffic. These works would be undertaken prior to the occupation of the 50<sup>th</sup> residential unit, although the associated Traffic Regulation Order may take longer to complete.
45. Traffic management measures such as these can change background traffic flows as drivers seek alternative, faster route options. This is demonstrated in the 2038 model forecasts whereby there would be a reduction in traffic flows along Portsmouth Road in both peak periods and along Ripley High Street in the evening peak. In the morning peak the increase would be very modest indeed. These scenarios also take account of other development commitments within the Ripley area such as Garlick's Arch and the Burnt Common Warehouse development. Furthermore, the Transport Assessment indicates that the DCO traffic management interventions have not been included in the modelling. I would anticipate that with these in place traffic flows along this section of the local highway network would be even lower.
46. There was particular criticism from objectors that the transport modelling did not include a scenario with the Burnt Common slips in place. However, I **accept the Appellant's** argument that this was unnecessary because the modelling shows that the proposed highway interventions and speed reduction measures would have a comparable effect in terms of potential future impacts on Ripley High Street and the surrounding local highway network. In the *Guildford Infrastructure Delivery Plan (2017)*, the Burnt Common slips are listed as a key infrastructure requirement in the Infrastructure Schedule. Policy A35 indicates that regard should be had to the delivery of the key infrastructure requirements, but it includes a provision that alternative interventions that provide comparable mitigation can be put forward. This is such a case, and the policy is not offended in that respect. I return to this matter in my conclusions on the development plan at the end of my decision.



47. It is relevant to note that neither National Highways nor the County Council object to the lack of provision of the Burnt Common slips through the appeal development. This would be expected if a harmful impact to either the strategic or local highway networks was considered likely. Of course, there may be wider benefits from providing this infrastructure and, as I understand it, National Highways has presented a business case to the Department of Transport. It is now for the Government to decide whether it should be taken forward for potential inclusion as a Road Infrastructure Project within the next funding period (RIS3) of 2025-2030. However, whatever the conclusion on that, I am satisfied that the Burnt Common Slips would not be necessary in order for the appeal development to go ahead. Indeed, if such provision were to be included in the Section 106 Agreement, I would be unable to take it into account because it would not meet the requirement of necessity in Regulation 122 of the *Community Infrastructure Levy Regulations*.

#### THE OCKHAM INTERCHANGE

48. The works to this junction have been promoted by National Highways in association with the DCO and so the interchange will effectively become part of the strategic road network. This was modelled by National Highways in connection with the DCO Examination and that modelling included 2,000 dwellings from the strategic allocation at the appeal site. The Examining Authority and Secretary of State raised no issues with this, although a different model was used, and the outputs would not be directly comparable.
49. Potential issues with the operation of the roundabout were raised during the course of the inquiry by one of the Rule 6 Parties<sup>4</sup>. The main point was that the layout of the signalised junction in the LINSIG modelling did not align with the DCO layout and that additional lanes introduced greater capacity. The Appellant's **transport expert** pointed out that this error had already been picked up by JSJV on behalf of National Highways and that further LINSIG modelling had been done to rectify the issue. JSJV subsequently scrutinised the amended LINSIG modelling and was happy with it.
50. Regardless of the conclusions on impact, it seems to me that the fact that the information was not correctly set out in the Transport Assessment, or the discrepancy addressed in either the written or oral evidence, was very unfortunate. **I do not consider that the Appellant's** transport expert was trying to deliberately mislead the inquiry, but I do think that there was a lack of appreciation that regardless of the outcome, transparency and confidence in the process is important. So that the matter could be properly considered I allowed both highway witnesses to prepare additional evidence on the matter and for this to be presented to the inquiry and properly scrutinised through cross-examination.
51. The revised LINSIG modelling indicated that in 2038 the practical reserve capacity (PRC) of the roundabout would be much lower at peak periods than was recorded in the Transport Assessment. In the morning peak the PRC would be about 5% without the development and some 3% with it. In the evening peak the PRC would be negative at just under -9% without the

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<sup>4</sup> Wisley Action Group, Ockham Parish Council and RHS Wisley, represented by Mr Harwood.

development and about -8% with it. However, it does not follow that the proposed development would result in a severe impact. The first point to make is that the difference in PRC with and without the development would be very small. Furthermore, in the evening peak the situation would actually improve with the development in place. The second point is that the PRC is based on 90% of the theoretical capacity. The highway experts agreed that this means that there would be some flexibility at busy times. A negative capacity does not therefore indicate in this case that the performance of the roundabout would be unsatisfactory.

52. Another point that was made by the WAG transport expert was that the link flows in the SATURN model were not always the same at those in LINSIG. However, I understand that the two models have different structures and that direct comparisons are problematical. In the circumstances I place greater reliance on the fact that JSJV on behalf of National Highways audited both models, including the revised LINSIGs. I do not consider that the statutory authority would have been satisfied if it had found that there were discrepancies that resulted in unacceptable impacts on the operation of the road network for which it has a statutory responsibility.
53. I was told that the County Council and the Borough **Council's Transport Officer** had been consulted on the revised LINSIG modelling. The Objector pointed out that there was no evidence that the County Council had applied its mind to the matter. It is evident that officers from the Borough and County Councils were at many of the relevant meetings with the Appellant and National Highways. I appreciate that there is no evidence of a formal consultation response from the County Council. However, it is the statutory public authority responsible for the safe operation of the local highway network. It is not unreasonable to surmise that it discharged its responsibilities diligently and that there had been objections, they would have been voiced.
54. The main concern of the WAG transport expert related to potential impacts on the local road network. It was asserted that the LINSIG model showed lanes that were too short to hold the queue within them and that this would result in blocking back and traffic not being able to enter the roundabout. The second point is that LINSIG seeks to ensure that the junction overall performs optimally, and it does this through adjustment of signal timings to reduce queues below the length of the available storage. Furthermore, those links with no signal stop line serve to provide additional storage for the links ahead of them. Although this relies on drivers making the right lane choices this should be made clear by the lane markings. There would undoubtedly be some who get into the wrong lane due to unfamiliarity, but generally it is reasonable to assume that drivers behave in a sensible manner.
55. I have already addressed the issue of congestion and the reassignment of traffic unrelated to the development onto other parts of the network. It is worth pointing out though that the development traffic in 2038 would make little difference in terms of the junction capacity during the peak periods. Whilst drivers on the network may seek alternative routes at busy times, this is likely to happen whether the development is in place or not. It was suggested that more development traffic would use Old Lane to avoid the Ockham Interchange. However, it seems to me that the choice of access would be more likely to depend on where the motorist lived on the site.



Furthermore, anyone wishing to go north on the A3 or to Woking or Ripley would have to go through the Ockham Interchange anyway regardless of which exit from the site they used.

#### OTHER MATTERS

56. There were objections from the WAG transport expert that sufficient account had not been taken of the daily traffic flows. The modelling outputs comprise morning and evening peak flows. The annual average daily traffic (AADT) can be generated by adding the peak hour flows and applying a factor derived from network traffic count data. I understand that generally AADT is between 5.5 and 6.0 times the sum of the peak hour flows. In this case a variety of site data on both the strategic road network and the local road network was used from within the study area and seasonality was taken into account. It is appreciated that most visitors to RHS Wisley travel in inter-peak periods. However, as most of its traffic comes from the A3 direction it would be expected to reflect the flow profile on the strategic route. A range of factors between 5.6 and 5.96 were used, which seems reasonable.
57. A number of local objectors pointed to the congestion and traffic chaos that has arisen during weekend closures of the A3 in association with the DCO works, including the construction of the new Wisley Lane Diversion overbridge. This part of the A3 carries some 9,000-10,000 vehicles an hour and it is therefore not surprising that re-routing its traffic onto local roads had the effect that it did. However, it is not appropriate to compare this situation with the position that would occur when the appeal development would become operative. The DCO works will have been completed and the two scenarios are completely different, not least because of the relative traffic flows involved.
58. There was considerable concern from objectors about the safety of the local roads around the appeal site, many of which are narrow with poor forward visibility due to the road alignments and banked margins. Furthermore, I was told that local people had experienced drivers travelling at high speeds in unsuitable conditions. I saw for myself that many of the surrounding roads are in poor condition, with potholes and poor drainage along the margins. In relation to the latter point it is of course the responsibility of the Highway Authority to keep their road network in good repair. However, the Appellant is proposing over £3m in resilience funding for local road improvements, which would be secured by the Section 106 Agreement. Furthermore, it is reasonable to surmise that the proposed Old Lane Traffic Management Scheme and various off-site cycle routes, which seek to make the local roads safer for cyclists and other road users, would review the existing road conditions in order to carry out the various infrastructure interventions and speed reduction measures that are being put forward.
59. The ES considered accidents and safety on the highway network before and after development had taken place. This was then followed up at the request of the County Council with a further analysis in May 2023. It is clear from this evidence that most recorded personal injury accidents occur on the A3 and M25 close to junction 10. Conversely the evidence indicates that there are relatively few personal injury accidents on the lanes to the south of the appeal site and that these have reduced in terms of severity and number over time. That is not to say of course that accidents have not happened,

and I appreciate that not all are recorded. However, the evidence does not show that the roads and lanes around the appeal site are particularly dangerous. Indeed, the speed reduction measures, and proposed infrastructure interventions, are designed to make them safer for all road users.

## CONCLUSIONS

60. The traffic impacts arising from the appeal scheme are a major concern for local people. I have carefully considered their objections in reaching my conclusions. I have addressed above the main concerns raised in writing and orally at the inquiry. They were however extremely far reaching, and I have been unable to comment on every objection that was raised in respect of every road or lane within the area. That does not mean to say though that I have not taken these representations into account in the conclusions that I have reached on the highway impacts of the development.
61. It is worth repeating that this is a site allocated for a larger scale of development that has been proposed. Traffic impacts are inevitable and there is no doubt that some local roads would become busier. The conclusion of acceptability by National Highways and the County Council who are the statutory authorities responsible for the strategic and local highway networks respectively, is a matter to which I afford very significant weight.
62. The Framework makes clear that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety or the residual cumulative impacts on the road network would be severe. For the reasons I have given, I conclude that the appeal development would not result in an unacceptable impact on the highway safety of the local and strategic road network and that the cumulative impacts on the road network would not be severe.

## ISSUE TWO: EFFECT OF THE PROPOSED DEVELOPMENT ON AIR QUALITY

### INTRODUCTION

63. The effect of the proposed development on air quality was considered at the previous appeal, during the examination of the LPSS and most recently during the consideration of the DCO. On each occasion the relevant decision maker, which included the Secretary of State on two occasions, concluded that there would not be a significant adverse effect on either human health or ecology in respect of air quality.
64. The only assessment of air quality effects for this appeal is that undertaken by the Appellant. There were no criticisms of it by either the Borough Council or Natural England. In view of the importance of the ecological sites within the vicinity of the proposed development, it is reasonable to expect that the **Government's** statutory advisor on ecological matters would not merely accept the assessment at face value but would consider it critically and diligently in order to be satisfied about the impacts on these highly sensitive sites. The main objection was from one of the Rule 6 parties. Its expert evidence was

highly critical of the Appellant's air quality work, although it put forward no alternative assessment of its own<sup>5</sup>.

65. It was clear from the evidence that air quality assessment is a complicated exercise and is not an exact science. As with any modelling it includes elements of uncertainty. Furthermore, there was no dispute that much of it takes place behind the scenes and that every step is not always set out explicitly. The Appellant's air quality expert acknowledged that there were some mistakes. The typographical errors were hardly surprising given the volume of data involved in this case. They were subsequently corrected and, as far as I am aware did not materially affect the modelling outcomes.
66. There were many other criticisms of the Appellant's technical evidence and I consider some of these below. However, it was not always clear to what degree the alleged errors were of significance to the modelling outcomes and there was also no acknowledgement from the WAG air quality expert that any of them could be due to differences in professional judgement or the choices that modellers inevitably have to make. For the record, **I found the Appellant's** air quality expert to be generally authoritative and credible, and I do not consider that there are any grounds for questioning her professionalism or integrity.

#### THE RELEVANT POLLUTANTS

67. In relation to human health, the relevant air pollutants are nitrous oxides (NO<sub>x</sub>), in particular nitrogen dioxide (NO<sub>2</sub>), and particulates (PM<sub>2.5</sub> and PM<sub>10</sub>). NO<sub>x</sub> is emitted from vehicle exhausts and traffic related emissions of this pollutant are expected to fall significantly as vehicle fleet technology improves and the use of electric vehicles increases. Particulates are derived from vehicle emissions but also come from sources such as the wear of tyres and road surfaces. They are not expected to fall so quickly over time, in fact they could increase. It was however agreed that there would be unlikely to be significant effects from particulates if the current statutory targets for NO<sub>x</sub> levels are satisfied.
68. In relation to ecology, the relevant pollutants are nitrogen oxides (NO<sub>x</sub>) and ammonia (NH<sub>3</sub>), which result in nutrient nitrogen and acid deposition onto the ground. A large proportion of NH<sub>3</sub> is produced by agriculture but it is also emitted from catalytic control systems especially in motor vehicles and particularly those with petrol engines. It was established at the inquiry that no account was taken in the assessment of the beneficial effect of removing land from this use if the development were to go ahead.
69. The earlier assessments gave little consideration of the effect of NH<sub>3</sub> on ecological receptors. However, it is now generally recognised that this is an important factor that should be taken into account. **The UK's Air Pollution Information System (APIS)** sets out the relevant environmental standards for various types of pollutant specific to particular habitats and designated sites. In July 2023, the empirical critical loads for nitrogen relevant to the habitat types that support the SPA qualifying bird species were revised down.

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<sup>5</sup> Dr Marner gave expert air quality evidence on behalf of WAG, Ockham Parish Council and RHS Wisley (the WAG air quality expert) and Dr Tuckett-Jones gave expert air quality evidence on behalf of the Appellant (the Appellant's air quality expert).

## THE AIR QUALITY MODELLING

70. There were several iterations of the air quality modelling. In the ES (August 2022) it concentrated on the effects of NO<sub>x</sub> and particulates on human health and ecological receptors. Updated modelling of the impacts on the SPA was undertaken in March 2023, which considered NO<sub>x</sub> and NH<sub>3</sub>. There was a further update in July 2023, which included canyoning and the changes to critical loads referred to above. Whilst the WAG ecology expert commented that the results of these three iterations are different and none seemed to have been withdrawn, it seems to me reasonable to assume that in the event of difference it is the most recent (July 2023) that has precedence.
71. The traffic assessment and changes in daily flows provides a crucial input to the air quality assessment. As I have already concluded, the traffic modelling is robust and fit for purpose. It is appreciated that it focuses on traffic flows during peak periods, whereas the air quality work requires the input of traffic information for the whole 24 hour period expressed as AADT. However, it was clear from the evidence that there was collaborative working between the **Appellant's transport and air quality experts** and that the latter was satisfied with the factoring used to provide the necessary AADT data for the air quality assessment. There is no dispute that there was no requirement to provide the AADT data, although I was told that it would have been made available on request. It was clear that neither the WAG transport expert nor its air quality expert had asked for this information, which is surprising if it was considered to be a relevant concern. In any event, I was given no evidence to satisfy me that the factoring that was used resulted in data that was unsuitable for the purpose of the air quality assessment.
72. The ADMS-Roads v5.0 dispersion model was used, which predicts concentrations of pollutants in the vicinity of roads. The Emissions Factor Toolkit is published by DEFRA and was used to calculate vehicle pollutant emission rates for NO<sub>x</sub>, PM<sub>10</sub>, PM<sub>2.5</sub>. The CREAM v1A model was used to calculate traffic related NH<sub>3</sub> emissions. It is relevant to note that the future year assessment was 2038 when the scheme would be fully operational. However, the year used in the CREAM v1A toolkit was 2035. The assessment was thus precautionary because NO<sub>2</sub> emissions are expected to fall significantly between the 2019 base year and 2038 due to improvements to vehicle technology, amongst other things.
73. Canyons were introduced into the modelling to take account of the effect of roadside trees and vegetation on pollutant dispersion. The model took account of different levels of porosity and no re-planting was assumed where trees have been lost around the DCO works, notwithstanding that this is a requirement of the DCO. The criticism in relation to this matter related to the insufficient canyoning for buildings, but it was explained that this had been considered depending on the distance between the facades and the road edge. This is a matter of professional judgement, and I heard no evidence to convince me that what had been done was either wrong or that it made a material difference to the outcome.
74. The evidence indicates that the background concentrations of NO<sub>x</sub> are taken from DEFRA mapped sources rather than from representative monitoring sites. **The Appellant's air quality expert** explained that this was because of the size of the study area and the difficulty of avoiding double counting. I understand that

certain contributions could then be removed from the background concentrations, again to avoid double counting. It appears that the final choice may not have been made until the model had been reviewed, adjusted and verified. This seems a reasonable explanation for the differences in background concentrations between iterations of the model.

75. Background levels of nitrogen deposition are provided by APIS. It is agreed that there will be a future fall in nitrogen deposition. The dispute relates to the extent of the decrease. The Joint Nature Conservation Committee (JNCC) report, *Nitrogen Futures predicts in its "business as usual" scenario a fall in nitrogen deposition of about 1% per year over the UK between 2017 and 2030*. This is mainly on account of the fall in traffic related NO<sub>x</sub> concentrations rather than NH<sub>3</sub>, which was actually predicted to rise during this period. In such circumstances the improvement in terms of nitrogen deposition does not depend on decreasing emissions of NH<sub>3</sub> in this scenario.
76. The difficulty is how the national picture translates to the local level in the absence of a local factor that could be applied. The Nitrogen Futures report includes maps showing that reductions over the time period are forecast to vary over different parts of the UK and in respect of different habitats. However, the maps are too small in scale to see the situation around the appeal site with any accuracy. Whilst WAG's air quality expert, who was a contributor to the Nitrogen Futures report, has seemingly managed to extract this information, it is from an unpublished source that in my opinion can be given little weight.
77. **The Appellant's air quality expert has** therefore considered other information sources, including from APIS. She also points out that there is a more optimistic scenario in the JNCC Report relating to the National Air Pollution Control Programme which includes commitments by the Government to reduce emissions. It appears that these will still remain notwithstanding the likely repeal of the accompanying legislation. Overall, I consider that the annual 1% reduction in nitrogen deposition between the 2019 baseline and 2030 which has been assumed in the air quality assessment is soundly based. Furthermore, rates are likely to continue to decrease between 2030 and 2038. From the evidence before me, I therefore consider that the assessment in this respect is robust and I do not consider that it is likely to be overly optimistic.
78. The air quality assessment assumes that background NH<sub>3</sub> concentrations will be held constant over time. The WAG air quality expert criticised this on the basis that the national atmospheric emissions inventory predicts an increase in background NH<sub>3</sub> levels between 2021 and 2040 of 2.4%. However, there seems to be considerable uncertainty about what will happen in the future, for example through improvements in agricultural practices. As the **Appellant's air quality expert** pointed out, even if a 2.4% increase were to be accepted, if it was applied to the background concentrations provided by APIS for the SPA, the difference would be so small as to be insignificant. Also, the CREAM v1 tool that was used in the assessment is agreed to be precautionary in comparison with CREAM v2, which is not yet available for use<sup>6</sup>.

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<sup>6</sup> Dr Marner is currently developing version 2 of the CREAM model.

79. There are various reasons why the air quality modelling should be seen as precautionary. The first reason is that it relies on the traffic modelling and that includes 2,000 dwellings and not the 1,730 in the appeal development. It also overestimates background traffic growth and takes no account of modal switch resulting from the Travel Plan. The second reason is that it assumes reductions in emissions between the base year (2019) and 2035 rather than 2038, when the development would be fully operational. The third reason is that there is no allowance for the replanting of trees that were removed as part of the DCO works, even though there is a requirement to do so. The fourth reason is that no allowance has been made for the reduction in farmland that would arise from the development, notwithstanding that the main source of ammonia is from agriculture. The fifth reason is that from the evidence, it is apparent that the use of CREAM v1 over-predicts emissions of NH<sub>3</sub> and thus is itself precautionary. The final reason is that the background levels of nitrogen deposition were not reduced beyond 2030, notwithstanding that it is likely that they will continue to decline.

### Monitoring

80. The purpose of monitoring is to measure the actual pollutant position and use the results to check how well the base year model accords with the real-world situation. This process is called model verification. Development specific diffusion tube monitoring was undertaken from 314 locations in 6 rounds over different periods and different numbers of sites between 2013 and 2022. The 2013 data was not used in the assessment due to its age. In addition, data from local authority and National Highways monitoring was also used and this generally covered longer time periods. There was therefore a considerable amount of monitoring data used in the model verification process. All monitoring rounds measured concentrations of NO<sub>x</sub>. Three of the monitoring rounds also measured NH<sub>3</sub>. The CREAM toolkit does not require monitoring to verify the modelling of NH<sub>3</sub>. Nevertheless, that this was done has not been criticised by the WAG air quality expert, who was involved in the development of CREAM v1.
81. The DEFRA guidance indicates that survey data of less than 3 months should not be annualised. The development specific monitoring rounds were all for periods of 3 months or more and about two thirds of the receptor points involved surveys of 6 or 12 months. Three rounds involved surveys of 3 months and a small number of receptors had only 2 months of data with one receptor having only one month. I was told that sometimes diffusion tubes were tampered with or affected by insects. Whilst annualization of these may have resulted in some inaccuracies, it seems to me that this is likely to have been of little consequence given the quantum of monitoring undertaken.
82. There was also objection by the WAG air quality expert to the way that the adjustment for diffusion tube bias was undertaken. As I understand it such can be caused by a number of factors, including differences in solar radiation over the year as well as different handling methods in the laboratory. It was considered that using national factors derived from longer term surveys to correct short term measurements could introduce additional bias. The Appellant explained that fully calibrated local reference monitors are used but there are none available in Guildford. In such circumstances national factors are used and as far as I am aware such procedure follows DEFRA guidance.



## Model verification

83. The main criticism is that the base year model performs poorly when compared with the monitored position. The model generally underpredicted NO<sub>x</sub> concentrations to varying degrees. From the evidence it is clear that the various checks recommended in the DEFRA guidance were carried out to see why this was the case. It seems that the data locations where there were the greatest differences were at the edges of the model. This reflects the size of the modelled area and incomplete traffic data. Here, the impacts resulting from the appeal scheme could reasonably be expected to be relatively small. Conversely, at the data points closer to the site where impacts can be expected to be higher, the model appears to perform much better.
84. The receptors were placed in one of seven groups. About 80% were in groups J and L in the critical parts of the model, including Ripley and the SPA, where the greatest impacts would be expected. These had the lowest verification factors (1.66 and 2.16 respectively), which indicates a relatively good alignment between the modelled and monitored concentrations. **The Appellant's air** quality expert applied her professional judgement to the matter and there is no evidence to satisfy me that the verification factors were out of the ordinary in terms of dispersion modelling or that the verification groupings assigned to individual receptors were other than robust. There does not seem to be specific guidance about the number of verification factors that could or should be used, even though the WAG air quality expert asserted it should be no more than 3. The modelled area in this case was extensive and spatial variation is therefore to be expected. There were also a large number of monitoring locations. In the circumstances there was no explanation as to why the number of verification factors was unsound. To my mind it depends on the case in question and the judgement of the air quality professional.
85. It was pointed out that in several cases different verification factors had been used for receptors in close proximity. It seems a reasonable explanation that concentrations could be influenced by many variables such as the main direction of traffic flow, the predominant wind direction, the road gradient or the presence of boundary vegetation. Such factors either individually or together may result in significant variations between one side of a road and the other for example.

## Conclusion

86. For all of the above reasons, I do not agree that the air quality assessment is fundamentally flawed as alleged by the WAG air quality expert. From the evidence I have been given I am satisfied that it is sufficiently robust to allow the air quality impacts to be confidently predicted in future years when the proposed development is expected to be fully operative.

## THE EFFECT OF AIR QUALITY ON HUMAN HEALTH

87. The Borough Council undertakes monitoring for NO<sub>2</sub> across the Borough and this focuses on locations with sensitive receptors such as residential properties and schools that are close to busy roads. There are 3 Air Quality Management Areas that have been designated for exceedances in the annual average air quality objective for NO<sub>2</sub>. None of these are in proximity to the appeal site. The Borough Council does not monitor particulates but a Surrey County Council study in 2017 concluded that levels were well below the statutory limit values,

even in Guildford and at junction 10 of the M25. There is no evidence that this is not still likely to be the case.

88. The effect of air quality on human health was considered in both the previous appeal and in the DCO examination. In both cases it was concluded that there would be no significant adverse effect. In relation to the DCO, the Secretary of State's decision was made in May 2022. The cumulative assessment included the strategic development on the former Wisley Airfield with 2,000 dwellings and 753 jobs. The air quality assessments were based on dispersion modelling as is the case in the current appeal.
89. I understand that the statutory limits for NO<sub>x</sub> or NO<sub>2</sub> have not changed and there is no change in legislation or guidance that would justify a different conclusion now. Indeed, the air quality modelling shows that by 2038 the concentrations of NO<sub>2</sub> at all receptors, including those in Guildford town centre and Newark Lane in Ripley, would be well below the annual mean objective of 40 µg/m<sup>3</sup>. This is due to the general fall of NO<sub>x</sub> concentrations over time referred to above. Furthermore, it shows that the appeal development would make an insignificant difference to concentrations of NO<sub>2</sub><sup>7</sup>. The concentrations of particulates would also fall within the current national standards and the presence of the fully occupied appeal scheme would not make a significant difference.
90. The WAG air quality expert agreed that there was unlikely to be a significant adverse impact on human health if the air quality modelling was considered fit for purpose. For the reasons I have given, I am satisfied that the air quality assessment is robust, precautionary and fit for purpose and can be relied upon to conclude that there would be no significant harm to human health.

#### THE EFFECT OF AIR QUALITY ON ECOLOGY

91. Monitoring took place across a number of transects within the various sites of ecological importance, including the SPA and SSSIs.
92. There are two different measurements of relevance to the ecology baseline. Critical levels relate to airborne pollutants and are measured in µg/m<sup>3</sup>. Critical loads relate to deposited pollutants and are measured in kg N/ha/yr. As already mentioned, these were revised by APIS in July 2023. Different habitats vary in terms of their sensitivity, but the critical levels and critical loads provide a metric below which significant adverse effects will not occur according to present scientific knowledge.
93. In respect of air quality impacts the *Design Manual for Roads and Bridges* advises that only properties and designated sites within 200m of road projects generating increased traffic flows need be considered. This is because the pollutants, in this case NO<sub>x</sub>, decline rapidly with distance from the source. The rate of change is exponential so that the decrease becomes shallower and by 200m the concentration is considered insignificant. This was accepted by the Secretary of State both at the previous appeal and in the 2022 DCO decision. Natural England has similar guidance and has not suggested a greater distance should be applied in this case. Neither sets of guidance specifically addresses

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<sup>7</sup> This compares the "do Minimum" and "do something" scenarios in 2038. It is to be noted that the "do minimum" includes the other developments from the cumulative assessment.



NH<sub>3</sub> but there was no evidence presented to suggest that emissions related NH<sub>3</sub> does not behave in the same way or would follow a shallower trajectory. In **fact, the Objector's expert** opined that the decline curve should, in theory, be steeper. In any event, the **Appellant's assessment** has gone further by choosing a distance of 250m.

#### Nitrogen Oxide (NO<sub>x</sub>)

94. The critical level is an annual mean concentration of 30 µg/m<sup>3</sup>. The modelling demonstrates that the maximum concentrations in the 2019 baseline exceed this target at ecological sites close to major roads such as the A3 and M25. This situation generally persists in the 2038 baseline, although concentrations significantly reduce and the distance of the critical level from the road also considerably reduces. It is noted that Old Lane is below the critical levels in both the baseline and the 2038 scenarios.
95. The modelling shows that the impact of the proposal alone when fully operative<sup>8</sup> would either result in concentrations below the critical level or that the difference in concentration in 2038 with and without the proposed development would be no greater than 1%, which is considered to be negligible. The in-combination assessment in respect of the SPA shows that close to junction 10 and the M25 total concentrations in 2038 would be above 30µg/m<sup>3</sup> and that in-combination the critical level would be exceeded by more than 1%.

#### Ammonia (NH<sub>3</sub>)

96. The critical level of 3µg/m<sup>3</sup> has been applied to most designated sites including the SPA. However, for the Wisley and Ockham Commons SSSI and the Sheepleas SSSI there is a lower level of 1µg/m<sup>3</sup> to reflect the sensitivity of the habitats to nitrogen. **WAG's** air quality expert disputed the application in respect of the Horsell Common SSSI, the various SNCIs and the areas of Ancient Woodland, which he considered should also have been lowered to 1µg/m<sup>3</sup>. However, this seems to me to be a matter for the ecology experts and neither disputed the levels used. I am satisfied from the evidence given on the matter that the assignment of critical levels was correct.
97. Within the Ockham and Wisley Commons SSSI and Sheepleas SSSI the background concentrations already exceeded the critical level by 2019, regardless of the distance from the roadside. Around junction 10 of the M25, the critical level was also exceeded in 2019, but only adjacent to the roadside. Similarly, there was an exceedance at Elm Corner Woods Site of Nature Conservation Interest (SNCI) close to the A3.
98. By 2038 background levels have been modelled to be significantly higher as a result of the increased traffic. In the case of the SPA the concentration around junction 10 would be twice as high and would extend further from the roadside. The 2038 critical levels would also be exceeded around the A3, the M25 and the A245, extending 2.5m, 22.5m and 5m respectively from the roadside. It is noted that in the case of Old Lane there would be no exceedance of critical levels in 2019 or 2038 in respect of the SPA but there

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<sup>8</sup> In the transport and air quality modelling the 2038 operative development comprises 2,000 homes, rather than the 1,730 in the appeal proposal.

would be an exceedance in both years in respect of the Ockham and Wisley Commons SSSI. By 2038 the concentration of background levels is modelled to rise above the relevant critical level at Horsell Common SSSI and some areas of ancient woodland, for example along the A3 north of the M25. However, in each case the exceedances are close to the roadside.

99. The modelling shows that the impact of the proposal alone when fully operative would not generally result in additional concentrations that would exceed 1% of the relevant critical levels. In such cases the scheme would make negligible difference to the background concentrations. There would be an impact of more than 1% of the critical level of the SPA at Old Lane. However, total concentrations here would be well below the critical level, even at the roadside. At Wisley and Ockham Commons SSSI, baseline concentrations would exceed the relevant critical level in both 2019 and 2038. With the proposal the impact would exceed 1% of the critical level within 10m of the A3 north of the M25. At Sheepleas SSSI, the impact would exceed 1% of the critical level within 10m of the roadside.
100. The in-combination assessment in respect of the SPA shows that adjacent to junction 10, the M25 and the A3 total concentrations in 2038 would exceed the critical level by more than 1%. In the case of junction 10 this would be within 37.5m of the roadside, in the case of the M25 it would be within 12.5 of the roadside, and in the case of the A3 it would be within 27.5m of the roadside.

#### Nitrogen deposition

101. In a similar way to critical levels for ammonia, critical loads are habitat specific. Dwarf shrub heath, for example, has a critical load of 5KgN/ha/yr whilst for coniferous woodland it is 3KgN/ha/yr. Other habitats in this case including broadleaved deciduous woodland and calcareous grassland, have a higher critical load of 10 KgN/ha/yr. In all of the habitats in question, the levels of nitrogen deposition both in 2019 and 2038 exceed the critical loads by a significant amount. This is mainly as a result of high background concentrations rather than those arising from traffic, which are generally highest close to the roads. The increase in roadside deposition in future years can be attributed here to the DCO works, which involve the removal of large swathes of trees and the movement of the roads around the A3/ M25 junction further into the SPA.
102. In the SPA concentrations are modelled to increase between 2019 and 2038 around junction 10 of the M25, the M25 and Old Lane. In the Wisley and Ockham Commons SSSI concentrations are modelled to rise around all roads apart from the northern side of the M25. There are also forecast increases in concentrations at Sheepleas SSSI, Elm Corner Woods SNCI, Hunts Copse SNCI and Riverside Park SNCI.
103. In the SPA exceedances of more than 1% of the critical load as a result of the appeal development in 2038 would occur in the coniferous woodland near to the A3, M25 and A245 and in excess of 250m from Old Lane. In the dwarf shrub heath it would occur within 72.5m of Old Lane and close to the A245. In the Ockham and Wisley Commons SSSI, exceedances of more than 1% would occur in the fen, marsh and swamp habitat near to the A3 north of the M25 and within 72.5m of Old Lane. In Horsell Common SSSI exceedances of more than 1% would occur in the dwarf shrub heath habitat close to the roadside.

The modelling also indicates that there would be an exceedance of more than 1% within a number of the SNCIs and areas of ancient woodland.

104. The in-combination assessment in respect of the SPA shows that exceedances of more than 1% would occur for both habitat types adjacent to all of the assessed roads. In respect of the woodland vegetation this would extend for more than 250m from junction 10, the M25, the A3 and Old Lane. In respect of the dwarf shrub heath habitat, it would extend beyond 200m from junction 10, the A3 and Old Lane. However, in 2038 levels only exceed the 2019 baseline for both habitats within 45m and 30m of junction 10 and the M25 respectively. In most other cases the 2019 baseline is higher beyond a 5m distance from the road. This effectively means that other than relatively close to these strategic routes, there would be no difference in terms of nitrogen deposition whether the in-combination development goes ahead or not.

## CONCLUSIONS

105. Models are not exact replicas of reality. However, for all of the above reasons I consider that the air quality assessment is sufficiently robust to provide a sound basis for considering the impacts of the proposed development both alone and in combination with other plans and projects. I have concluded that there would be no adverse impacts on human health, and I consider the ecological impacts in the next section.
106. It should be said that my consideration has concentrated on the air quality effects arising from the operative phase of the appeal scheme. It was generally agreed that effects from the construction phase, including dust, can be addressed through a Construction Transport and Environment Management Plan (CTEMP). This would be controlled through a planning condition and is considered further in my assessment under the 2017 *Conservation of Habitats and Species Regulations (as amended)* (the Habitats Regulations).

## ISSUE THREE: EFFECT OF THE PROPOSED DEVELOPMENT ON ECOLOGY

107. The Borough Council had a number of concerns about ecological matters and engaged specialist advice from an external consultant. By the time of the inquiry these issues had been resolved, subject to the imposition of appropriate planning conditions and the covenants in the Section 106 Agreement. Natural England also raised various matters, but these had also been addressed to its satisfaction by the time of the inquiry. It is clear from the evidence that the Appellant liaised closely with both the Borough Council and Natural England in order to achieve a scheme that was acceptable to them on ecological grounds.
108. **Natural England is the Government's statutory adviser on nature conservation.** There is no evidence to support the insinuation made by the WAG ecology expert<sup>9</sup> that Natural England has not been sufficiently thorough in its consideration due to a cursory analysis, lack of expertise and underfunding. Indeed, the evidence suggests that the Complex Casework Unit

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<sup>9</sup> Mr Baker gave expert ecology evidence on behalf of WAG, Ockham Parish Council and RHS Wisley (the WAG ecology expert) and Dr Brookbank gave expert ecology evidence on behalf of the Appellant (**the Appellant's ecology expert**).

who oversaw the proposed development has a great deal of expertise in air quality and ecological matters. Its lead adviser has not only worked on this proposal but also on the previous appeal and the DCO scheme and so it is reasonable to surmise that he has a good working knowledge of the issues in question. It was also made clear that Natural England officers had made a number of visits to the site and the SPA. There is no evidence to satisfy me **that Natural England's** position in respect of this appeal should be given other than very significant weight.

109. There were many local objectors who remained vehemently opposed to the development on ecological grounds. These included several of the Rule 6 Parties, one of which presented expert evidence<sup>10</sup>, as well as individuals and nature conservation groups. Many of those who spoke at the inquiry may not have had formal ecological training, but they were often very well informed and clearly passionate about their local area and its natural environment<sup>11</sup>.
110. Surrey Nature Partnership is working on the *Local Nature Recovery Strategy* in response to the 2021 *Environment Act*. It objects to the scheme on the basis that it would harm the recovery of biodiversity through increased disturbance arising from the proposed new population and their pets. Surrey Wildlife Trust manages Ockham and Wisley Commons as well as other designated sites such as Elm Corner Woods SNCI, **Snake's Field and Hunts Copse**. It also strongly objects to the appeal scheme, on similar grounds. It disagrees with Natural England that the combined mitigation proposed by the SANG, Strategic Access Management and Monitoring (SAMM) and SAMM Plus would be suitably effective in preventing harmful deterioration of habitats, protected species and biodiversity overall. There is also concern about the skylark population and an alleged failure to recognise the Open Mosaic priority habitat.
111. I have considered carefully these concerns and objections in the paragraphs below.

## THE EFFECT ON PROTECTED SPECIES

### Surveys

112. The main objection is that there is insufficient survey material to allow a proper assessment of the ecological value of the site and the impact of the proposed development on protected species. The Borough Council through its ecology consultant originally objected on these grounds. However, following the receipt of further survey information its concerns were addressed. Natural England was also satisfied in this regard. The concern was maintained by the WAG ecology expert, other Rule 6 Parties<sup>12</sup> and individual objectors.
113. The evidence indicates that over the years there have been a considerable number of surveys undertaken, not only in respect of this appeal but also for the previous appeal and the DCO application. The latest of these were updates to previous surveys by the Appellant in 2023, which sought to respond to the

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<sup>10</sup> See above.

<sup>11</sup> This includes the Rule 6 Party Villages Against Wisley New Town (VAWNT), who provided a great deal of local evidence on ecology matters.

<sup>12</sup> In particular VAWNT.

Borough **Council's** concerns. **The Appellant's** team of ecologists undoubtedly have expertise in different species surveys. Since they have been involved in the site since the previous planning application it is reasonable to expect that they also have a considerable knowledge and understanding of its ecology. The WAG ecology expert did not dispute the importance of taking a proportionate approach but the criticisms that were levied by him and other objectors on this matter did not seem to me to always heed this principle. The main points relating to the adequacy of the survey material are set out below.

## Bats

114. The Bat Conservation Trust has produced *Good Practice Guidelines: Bat Surveys for Professional Ecologists* (the Bat Survey Guidelines). I note that this was updated in 2023 but, as far as I can see, the advice insofar as it is relevant to this appeal is much the same. This guidance stresses that survey effort should be informed by such factors as the likely presence of bats, the abundance of species and the nature and diversity of habitats present. The appeal site is extensive with a variety of habitats. **The Appellant's ecologists**, having regard to the Bat Survey Guidelines, have concluded that the site has a low suitability. This is a matter of professional judgement on which the WAG ecology expert and some objectors do not agree. However, that does not mean that the conclusion is either wrong or unreasonable.
115. The appeal site and adjoining areas, including the DCO land and Bridge End Farm, have been extensively surveyed since 2014. This has provided a wealth of information and allowed a very good picture to be built up of bat activity and how the site is used. Whilst the **Appellant's ecologists** consider the general suitability of the appeal site to be sub-optimal, they recognise that it includes some good quality habitat. This can be found along the northern boundary close to Elm Corner, adjacent to Old Lane, along the western side of the site, and close to Stamford Brook and its woodlands. There are also the areas of SNCI, which are recognised for a variety of habitats and species, including bats. Overall, though the surveys indicate that there are around 4 species of bat that have been regularly recorded using the appeal site and these are relatively common within this part of the UK.
116. A small number of passes of rarer species have been recorded more recently, including one Barbastelle bat pass in 2021 on the adjoining Bridge End Farm site. In the 2022 surveys, the automatic detectors picked up 8 Barbastelle bat passes. Further information provided to the inquiry indicated 3 locations, which were on the north-western boundary, close to the southern boundary within the SNCI, and on more open ground at the eastern end of the runway. Most passes were recorded at least one and a half hours after sunset. The Bat Survey Guidelines indicate a mean emergence time for females of 24 minutes, which would not suggest to me that these Barbastelle bats are likely to have come from a roost nearby.
117. There was criticism of the use of zero crossing detectors or full-spectrum recorders that were set to record only in zero-crossing. This is because some bat species, including Barbastelles, can be quite difficult to detect. The zero-crossing static detector can miss the quieter calls due to other louder sounds. Nonetheless, the Bat Survey Guidelines do not indicate that this type of detector should not be used. **Furthermore, the Appellant's ecologist explained** that it was a conscious decision to use this type of equipment in the 2023

survey in order to provide comparable results to other past surveys. I am not convinced by this argument, and I consider it would have been better to have used the full spectrum detectors. Nevertheless, any static detector only captures a moment in time. The transect surveys are equally as important in information gathering and I was told that at least one of each pair of ecologists who undertook them was an experienced bat surveyor. It seems to me of significance that even if their calls are difficult to detect, no Barbastelle activity was observed by these experienced field workers.

118. The WAG ecology expert considers that the presence of Barbastelle bats is highly significant. However, even taking account of the rarity of this species, the numbers recorded by the static detectors were extremely small relative to the total and it is quite possible that the passes could have been one or two commuting individuals captured by more than one detector. As previously mentioned, Barbastelle bats can travel considerable distances to forage. However, the Bat Conservation Trust identifies a core sustenance zone of 6km and there is no evidence of a Special Area of Conservation designated for this Annex II species within this distance from the appeal site. Having regard to all of the evidence, it is not unreasonable to conclude that the present site is unlikely to be a significant foraging ground for Barbastelle bats.
119. The habitat that could provide roosting potential on the appeal site is limited to individual trees, whereas on the adjoining Bridge End Farm site there are also buildings. **The latter is outside the Appellant's control and will need to be** considered in association with the development of that part of the allocated land. The ground-level tree inspection in 2019 found 4 trees with high suitability for roosting. These were mainly in the wet woodland in the southern SANG with one being on the western boundary. There were 19 trees with moderate suitability, many of which were in the wet woodland or just outside the western boundary. One was on the eastern boundary with Old Lane. There were a further 22 trees and 2 tree groups with low suitability for roosting, again around the edges of the site or within the protected trees to the south of the northern hardstandings. An update inspection survey was undertaken in 2023 and this generally concurred with the results of the 2019 survey with the addition of about 12 trees considered suitable for roosting of which about 4 were of moderate suitability and the remainder low.
120. The WAG ecology expert considered that the trees should have been more carefully inspected to confirm whether there were actual roosts present. However, it should be noted that most of the trees are to be retained, albeit that some in the wet woodland in the southern SANG would be removed to accommodate the footbridges and sculpture park. It would be unreasonably onerous to require full climbed surveys of these trees to be done now. If a tree is to be removed then its potential would need to be reassessed at the time, not least because bats are a mobile species. Tree works with the potential to affect a roost would require the necessary licences and most likely an updated survey.
121. Overall, considering all of the available information, I consider that there is no **reason to dispute the Appellant's assessment** that the appeal site has a local level of importance for bats. The proposed development has considerable potential to enhance the suitability of this land for this species. There would be a large area of SANG on the northern and southern parts of the site and considerable additional tree planting and habitat creation. Lighting has been



specifically considered and would be subject to control through a planning condition. It is not unusual for lighting schemes to be designed with light sensitive species in mind, particularly bats. Whilst the off-site cycle network interventions were criticised in terms of lighting impacts, it was made clear at the inquiry that this also could be designed to be effective in terms of safety to road users and sensitivity to wildlife.

## Birds

122. There have been a number of bird surveys of the appeal site over the years that give insight in this regard. In 2013 a targeted Woodlark survey was undertaken. Breeding bird surveys were also carried out in 2015 and 2019 and there was a targeted Hobby and Nightjar survey in 2021. Update surveys were undertaken in 2022. These surveys identified the presence of many bird species, but not any of the SPA birds. The WAG ecology expert criticised the survey effort and the failure to use bioacoustic equipment in the Nightjar survey. Whilst there are clearly different approaches, none of the evidence leads me to conclude that the surveys were flawed or unreliable. Indeed, it is of relevance to note that Natural England raised no concerns in this regard.
123. The WAG ecology expert considered that the Appellant should have undertaken bird surveys within the SPA rather than relying on those co-ordinated by 2Js on behalf of Natural England. Again, the manual nature of the surveys was criticised. In particular, his concern seemed to be that the mapped points did not provide an assessment of the bird territories. However, there is no dispute that territories are far from static, and it does not seem likely that attempting to apply a fixed radius would be any more illuminating. Whilst the use of bioacoustics may have advantages, there is no guidance to say it must be used and it seems to me that there are advantages to using the observations of experienced surveyors in the field. It seems that the same approach was used in the DCO proposal and that the Examining Inspectors as well as the Secretary of State had no difficulty with it.
124. It is noted, and of considerable relevance, that the Borough **Council's ecology** consultant, Natural England and the Royal Society of Protection for Birds (RSPB) raised no objections to the bird survey material that has been submitted with the appeal proposal.

## Great Crested Newts

125. The 2019 Great Crested Newt survey found no evidence of the species using the onsite ponds or Stratford Brook. Similar results were recorded in 2007 and 2013. It is acknowledged that the latest surveys are more than 4 years old, but taking account of the survey history there is not a reasonable likelihood of the species now being present. In such circumstances Office of the Deputy Prime Minister Circular 06/2005: *Biodiversity and geological conservation – statutory obligations and their impact within the planning system*, says that a survey should not be required and neither the Borough Council nor Natural England has indicated otherwise.
126. Protection would in any event be provided through the various provisions of the CTEMP and secured through a planning condition. This is to be submitted before the development of a phase is commenced. Relevant criteria require a plan of the habitat areas to be protected during construction and details of the measures to be used to minimise the environmental impact of the works,

including potential disturbance to protected species. Furthermore, it is understood that in 2022 District Licencing was introduced in the Borough for Great Crested Newts. In such circumstances I do not consider that there is any concern with the survey material for this protected species.

#### Invertebrates

127. Invertebrate surveys were carried out by an experienced entomologist at various times during 2022 and 2023. It seems that the concern of the WAG ecology expert is that the sightings of the various species were not specifically located, but he agreed that this would not have been practicable. In any event, using Natural **England's Pantheon tool**, invertebrate species can be linked to key habitats. The habitats to be created within the areas of SANG would offer considerable enhancement to the invertebrate resource.

#### Badgers

128. Walkover surveys were undertaken in 2015, 2019 and 2021 by specialist ecologists. Bait marking surveys were undertaken in 2015 and 2019 to identify hierarchies, territories and the number of clans present.

129. Under the *Protection of Badgers Act 1992*, it is an offence to harm a badger or interfere with its sett. Whilst badgers are not rare, due to the cruelty towards them by some individuals, the whereabouts of their setts are not in the public domain. I have considered the Confidential Badger Report, but I will not identify the location of the setts or foraging grounds in this decision. Nevertheless, at my site visit I was accompanied by a representative of the West Surrey Badger Group **and the Appellant's** ecology expert and was shown evidence of badger setts and areas where the animals forage on the site. However, there is no dispute that badgers are a mobile species and activity levels can fluctuate over time.

130. There could be harmful impacts on the setts and foraging grounds during the construction period. Due to the species mobility, it would be necessary for new surveys to be undertaken prior to works starting on a phase. The necessary licences would need to be obtained and mitigation measures undertaken. During the construction process, the CTEMP contains measures to ensure supervision by an ecologist and measures would be in place to prevent harm to the protected species. The new surveys and mitigation would be secured by planning conditions.

131. Having regard to the location of the setts and foraging grounds, I am satisfied that in the longer term the SANG proposals would provide a suitable habitat and a secure environment for the badgers that live on the margins of and adjacent to the appeal site.

#### SKYLARKS

132. The site is used by skylarks as I have myself observed on my various visits. This species is listed as important for conservation and biodiversity under Section 41 of the *Natural Environment and Rural Communities Act (2006)*. Furthermore, on account of the decline in its breeding population it is a Bird of Conservation Concern and on the Red List of threatened species. The number of territories that are present will vary depending on the crop rotation and field management. A survey in 2022 recorded around 20 territories, similar to 2015 levels. A local ornithologist suggested that there were now more



skylarks on the site and that a further survey was required. As indicated below a method statement is required for the Borough **Council's approval**. This would secure the necessary mitigation for this Red List species.

133. The proposed development would remove suitable habitat in which the skylarks could breed and forage. Whilst initially there were no proposals to address this, a mitigation scheme has now been put forward to provide new territories for the birds. The Borough Council prefers for this to be within the SANG in order to achieve maximum biodiversity net gain on-site in accordance with policy P7 in the *Guildford Borough Local Plan Development Management Policies* (the LPDMP). The Borough Council also points out that this is particularly important in view of the proposed habitat banking scheme secured by condition, whereby some phases of the development would provide higher net gains than others.
134. Provision within the Northern SANG would require the plots to be fenced off to avoid disturbance to the birds, especially from dogs. Natural England does not oppose such a scheme and would accept a small reduction in SANG, provided the remaining area was not significantly lower than 10.3ha per 1,000 population. The WAG ecology expert and local objectors however are against plots within the SANG and do not consider that such a scheme would be effective.
135. The alternative is the provision of plots off-site. The Section 106 Agreement includes a covenant that this would be subject to the Borough **Council's** approval and secured through a Confirmatory Deed prior to the commencement of development of the Northern SANG. The Section 106 Agreement refers to Blackmoor Farm, which is to the south of the appeal site between Ockham Road North and Old Lane. Objectors doubted its suitability, and I heard from an adjoining landowner that it had been permanent grassland for many years and that it was not inhabited by skylarks. That may be the case at the moment. However, I am not convinced that there is sufficient ecological evidence to determine whether the provision of plots here would be successful or not in the future. Land management is an important consideration, and this could change. Whilst I was told that there was noise from dog kennels nearby, I have no evidence that this would necessarily deter the skylarks. In any event, the Section 106 Agreement does not specify that this is the only off-site option that may be considered.
136. Provided suitable mitigation is provided for the skylarks in accordance with the planning condition and Section 106 Agreement, it is for the Borough Council to decide which option is most suitable. This could also include a mix of on-site and off-site provision if considered more appropriate.

#### THE EFFECT ON THE THAMES BASIN HEATHS SPECIAL PROTECTION AREA (THE SPA) AND THE HABITATS REGULATIONS ASSESSMENT (HRA)

137. For the purposes of this HRA, I am the Competent Authority required under Regulation 63 of the Habitats Regulations to consider whether the appeal development either alone or in-combination with other plans and projects would have a likely significant effect on the integrity of a designated European Site. In this case the European Site in question is the Thames Basin Heaths Special Protection Area (the SPA). The other plans and projects that have been considered for the in-combination assessment are those that were

considered for the cumulative assessment in the transport modelling and air quality modelling.

138. In order to assist the Borough Council in undertaking its HRA duty, the Appellant submitted the Information for Habitats Regulations Assessment (IfHRA) (August 2022), which comprises Appendix 8.13 to the ES. There were also more recent Addenda which addressed the revision to critical loads for nitrogen deposition and the DCO compensation sites, amongst other things. I have had regard to this information and the evidence to the inquiry when undertaking my HRA.
139. The SPA comprises a network of dwarf shrub heath habitats that has been designated for supporting internationally important breeding populations of three bird species comprising the Dartford Warbler, Nightjar and Woodlark. These nest on or close to the ground. The appeal site lies to the south of the designated area and in relatively close proximity.
140. The conservation objectives of the SPA seek to ensure that the integrity of the designated area is maintained and restored in terms of the populations and distribution of the qualifying features (the three bird species) and the extent, distribution, structure and function of the habitats of the qualifying features and the supporting processes on which these habitats rely. It is though relevant to note that unlike with Special Areas of Conservation, the habitats within a SPA are not protected in their own right and are not included as qualifying features.
141. In 2014, Natural England published a Site Improvement Plan for the SPA. This sets out various priorities relating to matters, including public access and disturbance and the impact of nitrogen deposition. The Ockham and Wisley Commons SSSI is the nearest component unit of the SPA to the site and is managed by Surrey Wildlife Trust. The Horsell Common SSSI is also a component unit of the SPA that lies to the north of Woking and about 6 km from the site.

#### Potential impact pathways

142. There are a number of potential impact pathways to be considered, although the majority of the evidence was focussed on air quality and recreational effects. I consider the likely significant effects relating to each impact pathway. The relevant component unit of the SPA is Ockham and Wisley Commons, taking account of its location relative to the appeal site. The IfHRA has though also included Horsell Common in its consideration of air quality. This is due to the extent of the traffic flows across the modelled road network that would be generated by the proposed development, notwithstanding that Horsell Common is some distance away.

#### *Off-site supporting habitat*

143. The Nightjar, Dartford Warbler and Woodlark may forage on land away from their breeding habitats, including potentially the appeal site. There have been a number of breeding bird surveys, as I have already considered above. From the evidence, I am satisfied that the appeal site does not provide suitable supporting habitat for the SPA bird populations. This impact pathway can therefore be scoped out.

### *Lighting*

144. Artificial lighting could affect the SPA birds, especially the Nightjar which is a species that is active at dawn and dusk. It is however noted that there are already roads that intersect SPA compartments, and these corridors will affect the light environment regardless of the development. In any event, there would be sufficient distance and boundary screening from the SPA and the bird territories to ensure that the on-site lighting would not have an effect on the SPA birds.
145. The sustainability of the proposed development would also rely on various off-site cycle routes. Although they are not included in the planning application, they are important to it in terms of sustainable travel. The proposed physical interventions would involve speed reduction measures, including some additional lighting for reasons of safety. The proposed route to Byfleet runs along Wisley Lane, close to the boundary with Wisley Common. Whilst the heathland is behind the boundary woodland, this is relatively narrow in places, and I note that there is no street lighting along this section of the road. Taking a precautionary approach significant effects cannot be ruled out at this stage.

### *Noise*

146. Increased levels of noise may affect the breeding and feeding behaviour of the SPA birds. Noise effects would occur through construction activity and once the new development is operational. In the circumstances, likely significant effects cannot be ruled out at this stage.

### *Cat predation*

147. Cats are predatory creatures, and the ground nesting SPA birds are particularly vulnerable. Whilst cats can roam a fair distance, no part of the built development would be within 400m of the northern site boundary and significantly further away from the heathland nesting habitats to the north-east of the site. In such circumstances, Natural England is satisfied that there would not be an undue danger to the SPA birds from cat predation. Furthermore, the majority of the new houses would be considerably further away and there would be large areas of green space within the development that would provide attractive places for cats to roam. In the circumstances, I am satisfied that this impact pathway can be scoped out.

### *Hydrology*

148. Changes to the quantity and quality of surface water and ground water can affect the heathland and woodland habitats that are important for supporting the SPA birds and providing the invertebrate prey on which they rely for food. There is a ridge across the central part of the site and there are drainage ditches running along the northern boundaries, which drain into the watercourses within the Ockham and Wisley Commons. Within the hardstanding areas occupied by the former hangers, there is a low-level area where surface water can collect and thereafter flow north-eastwards into the SPA. Changes to the water environment could occur during both the construction and the operational phases. In the circumstances, likely significant effects cannot be ruled out at this stage.

### *Air quality*

149. During the construction period, dust emitted from demolition and building activities would be likely to impact on vegetation, including within Ockham and Wisley Commons. This could affect the habitats on which the SPA birds rely for foraging and nesting, amongst other things.
150. Changes in air quality can result in damage to ecological receptors. Of particular relevance here is traffic related air pollution, including NO<sub>x</sub>, NH<sub>3</sub> and nitrogen deposition, which can result in changes to the composition and condition of habitats. The transport assessment has shown that there would be increases in vehicular movement along roads close to the SPA, most particularly Ockham and Wisley Commons but also Horsell Common.
151. In the circumstances, likely significant effects cannot be ruled out at this stage.

### *Recreational pressure*

152. This is likely to arise during the operational phase of the development due to the relative proximity of the site to Ockham and Wisley Commons and connections along several existing public rights of way (PROW). The SPA provides an attractive area for informal recreation and dog walking and is already well used for these purposes. The ground nesting birds are particularly sensitive to recreational use, which can affect their feeding and breeding behaviour. This can result from trampling of vegetation away from established footpaths, increased risk of uncontrolled fires that can damage large swathes of heathland and eutrophication of habitats on which the birds rely from dog fouling. In the circumstances, significant effects cannot be ruled out at this stage.

### *Conclusions*

153. For all of the above reasons significant effects in relation to lighting, noise, hydrology, air quality and recreational pressure cannot be ruled out. In such circumstances it is therefore necessary for me to undertake an Appropriate Assessment. Planning permission may only be granted if I can conclude, beyond reasonable scientific doubt that the appeal proposal, either alone or in-combination with other plans and projects would not result in a significant adverse effect on the integrity of the SPA. In reaching my conclusions I will be able to take account of the mitigation measures that have been put forward as part of the appeal proposal.

## The Appropriate Assessment

### *Lighting*

154. Lighting has been scoped out. However, I would point out that the CTEMP includes controls on site lighting from construction activity. In addition, control during the operational phase would be secured through the submitted Lighting Strategy. These are the subject of planning conditions and are to be approved by the Borough Council.
155. With regards to the off-site cycle routes, all but the Byfleet route would be in locations where any lighting provided for safety purposes would not have an effect on the SPA birds. However, the Byfleet Route runs along Wisley Lane,

which adjoins Wisley Common. In order to alert road users to the various speed reduction measures proposed along the route, some form of lighting would be likely to be necessary.

156. At the inquiry it was made clear that intrusive column lights were not being proposed here but rather unobtrusive solutions such as low-level LED lighting. This would mitigate any potential adverse effect and would be controlled by a planning condition whereby the lighting scheme would be subject to the approval of the Borough Council. With this mitigation in place I can conclude that there would be no likely significant effect on the integrity of the SPA.

#### Noise

157. **The Environment Agency's Air Quality Technical Advisory Group Guidance** (2004) indicates that continuous noise levels exceeding 55 dB  $L_{Aeq\ 1\ hour}$  and loud but discontinuous noise events exceeding 85dB  $L_{Amax}$  may have adverse effects on the breeding behaviour of some species. This is the threshold used in the IfHRA, which seems to me to be precautionary. This is because as far as I am aware, there is no substantive evidence that the SPA birds are affected by noise events in this way or to this level. With regards to the SANG, Natural England in its updated *Guidelines for Creation of Suitable Alternative Natural Greenspace* suggests a limit of 60dB before discounting becomes necessary.
158. The noise assessment considered noise arising from construction activity and during the operative phase from increases in traffic from the development in combination with other plans and projects. Receptor points were chosen within Ockham Common and within Wisley Common at the nearest points where the SPA birds had been recorded by 2 Jays Ecology as having breeding territories over the past 4 years of their surveys. These were 488m (Ockham Common) and 608m (Wisley Common) from the appeal site boundary.
159. The IfHRA indicates that during the construction phase the noise levels from the various activities at the nearest part of the site boundary would be below 42dB  $L_{Aeq\ T}$ . As the sound levels would be attenuated with distance it can safely be concluded that there would be no significant effect on the SPA birds during that period. In respect of operative noise, the assessment found that changes in noise levels at receptors on Old Lane and the A3 as a result of the appeal scheme would not exceed 3dB, which would be minimal.
160. The noise assessment showed that a small area in the northern corner of the Southern SANG would be affected by noise levels of between 60 and 65dB. This was estimated to be about 4% of the total SANG. Whilst this is not ideal, it is the section nearest to the Wisley Lane Diversion and A3 where people using the SANG could reasonably expect some raised noise levels to occur. The visitor centre, café, car park and dog training area would not actually be within this noise zone and there would be the option to follow a quieter path into the Northern SANG. On the other hand, it would be a relatively short walk into the quieter parts of the Southern SANG. Either way, it does not seem to me that the higher noise levels within this relatively small area would put people off using the SANG facilities, whether they be people arriving from outside the site or those living within the new development.
161. In the circumstances, I conclude that the integrity of the SPA would not be materially affected as a result of noise associated with the appeal scheme. In

addition, the efficacy of the SANG would not be diminished on account of the noise environment.

### *Hydrology*

162. During the construction phase, vegetation clearance and the stockpiling of earth mounds could result in silt pollution as material is washed into downstream watercourses during periods of rainfall. There is also the risk of surface water pollution from oil and chemical spills associated with construction activity. There could therefore be adverse effects on the quality of both the ground water and surface water that flows into Ockham and Wisley Commons. Mitigation is proposed through the CTEMP, which would be secured through a planning condition.
163. The development of the site would result in the removal of hard surfacing from the former runway and the hardstandings where the old hangers once stood. However, the development itself would result in a significant increase in hard surfacing and therefore the potential for increased surface water runoff and an increased risk of flooding downstream within the SPA. Changes in site levels and the creation of sustainable drainage ponds would have the potential for changing ground water levels, although the Flood Risk Assessment indicates that the pond outlets would regulate levels once they have been installed. The surface water drainage strategy has been designed to achieve greenfield discharge rates through sustainable drainage measures. This would be secured through planning conditions.
164. There is also the potential for contaminants from roads and other parts of the built environment to enter the drainage system and have an effect on water quality downstream within the SPA. Where runoff infiltrates the ground, pollutants could permeate to the ground water system and thence to the downstream watercourses. However, the Flood Risk Assessment indicates that due to attenuation within the vegetation and soils it is unlikely that there would be a significant change to water quality from ground water pollution. Nonetheless, a planning condition requires a Ground Water Protection Strategy for each phase of the development to be approved by the Borough Council. This would ensure that ground water resources would be protected during both the construction and operational phases.
165. Having regard to the proposed mitigation, which would be secured through planning conditions, no likely significant adverse effects on the integrity of the SPA would arise through hydrological changes associated with the proposed development.

### *Air quality*

#### Dust

166. There would be dust emissions deriving from demolition and construction activity. The zone of influence comprises the site and a 350m zone around it plus a further 50m buffer of roads used by construction traffic within 500m of the site accesses. However, for the reasons I gave under Issue One, the only site access that construction traffic may use is from Wisley Lane Diversion and this would be secured by a planning condition.
167. The CTEMP also includes a requirement for details of the traffic routes for construction traffic to be mapped as well as measures for controlling dust and



maintaining air quality on the site. These measures would be secured by a planning condition that requires the approval of the Borough Council. Having regard to the proposed mitigation, no likely significant adverse effects on the integrity of the SPA would arise through dust pollution associated with the proposed development.

#### Vehicle emissions: Introduction

168. For all of the reasons I have given under Issue Two, I am satisfied with the air quality modelling that has been undertaken by the Appellant. I can therefore **rely on the Appellant's work as a sound basis from which to draw my conclusions** in relation to the effects of airborne pollution and nitrogen deposition on the SPA.
169. There is no dispute that the appeal scheme, both on its own and when considered alongside other committed development, would give rise to increases in vehicle emissions that would reach some parts of the SPA. The nearest components, and therefore the most affected would be Ockham and Wisley Commons, but I have also considered Horsell Common for the reasons I have already given. *Natural England's Approach to advising competent authorities on the assessment of road traffic emissions under the Habitats Regulations* (June 2018) (the 2018 Guidance) provides a stepped approach to the consideration of road traffic emissions under the Habitats Regulations. Whilst this is internal guidance it is in the public domain, and I heard no good reason why it should not be followed.
170. The 2018 Guidance advises that likely significant ecological effects from traffic related emissions would be confined to within 200m of the roadside<sup>13</sup>. It is clear to me that this means that for the purposes of the HRA it is only the part of the SPA that falls within the 200m zone that needs to be considered. It also advises that a significant effect from air pollution would be unlikely to occur if the development alone or in-combination would not exceed 1% of the Critical Load or Level or involve a change of more than 1,000 AADT or 200 heavy duty vehicles.

#### Airborne pollution

171. APIS is the main source of information about pollutant levels at designated sites and the sensitivity of the relevant habitats to them. Airborne pollutants from road traffic include NO<sub>x</sub> and NH<sub>3</sub>. I have already considered the critical levels for these airborne pollutants and that above this level there may be harmful effects on receptors, including ecosystems.
172. As considered under Issue Two, in 2038 the in-combination assessment shows that for NO<sub>x</sub> the 1% exceedance of critical levels would be limited to areas close to the roadside at junction 10 and the M25. For NH<sub>3</sub>, the 1% exceedance would be 12.5m from the roadside of the M25, 37.5m from the roadside of junction 10 and 27.5m from the roadside of the A3. These areas do not include habitats on which the SPA birds rely. In the case of Old Lane, the critical levels would not be reached. On the A245, adjacent to Horsell

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<sup>13</sup> The 200m distance is also endorsed by the Institute of Air Quality Management in *A guide to the assessment of air quality impacts on designated nature conservation sites* (June 2019).

Common, critical levels would be reached due to high background levels, but not exceeded by more than 1% in the in-combination assessment.

173. The birds themselves are unlikely to be adversely affected by air pollution directly, other than in cases where it is very high. In this case, the RSPB has raised no concerns in this regard and neither have the Surrey Wildlife Trust. Airborne pollutants would be unlikely to adversely affect the integrity of the SPA.

#### Nitrogen deposition

174. NO<sub>x</sub> and NH<sub>3</sub> also give rise to nitrogen deposition on the ground, which is measured in terms of critical loads. As with atmospheric pollution where these are exceeded by more than 1%, there is a risk of harmful effects on sensitive elements of the environment. In the case of the SPA such sensitivity concerns the habitats on which the SPA birds rely, including for nesting and the foraging of insects that provide their main food resource.
175. As has already been noted in Issue Two, critical loads for nitrogen deposition were reduced by APIS in July 2023. Whilst these are expressed as a range, the lowest figure has been adopted in this case to ensure a robust assessment. For coniferous woodland the critical loads fell from 5kg N/ha/yr to 3kg N/ha/yr and for dwarf shrub heath they fell from 10kg N/ha/yr to 5kg N/ha/yr. These reductions follow scientific research that indicates an increased potential sensitivity of broad habitat types to nitrogen deposition. They do not mean that the SPA birds themselves have become more sensitive to the pollutant levels or that the rates of deposition have changed.
176. However, in actuality background levels of nitrogen deposition on the SPA heathlands have considerably exceeded critical loads, regardless of whether they are set at 5kg N/ha/yr or 10kg N/ha/yr, since before 2005 when the SPA **was designated. Nevertheless, Natural England's SPA-wide** monitoring indicates an increasing trend in the number of territories of the qualifying birds' since 2010. Aerial photographs also show that since **the late 1990's** there has been a large increase in heathland and reduction in woodland across Ockham and Wisley Commons through active land management. This has taken place in accordance with the conservation objectives for the designated site. For the above reasons there is little evidence to support the assertion by the WAG ecology expert that there will be a time lag between the accumulation of nitrogen deposition and the harm arising to habitats and bird populations.
177. The effect of lowering the critical loads has meant that the exceedance zone will extend further into the SPA. In this case the 1% threshold for nitrogen deposition, both in respect of the project alone and in-combination with other plans and projects, would be exceeded in 2038 both in Ockham and Wisley Commons and Horsell Common. In this case the Appellant has used a wider distance of 250m, but this was not, as I understand it, at the behest of Natural England, but rather for added robustness.
178. There was a suggestion from the WAG ecology expert that if the critical load is already being exceeded, any additional nitrogen exceedance would necessarily result in a significant effect. However, this would effectively place a moratorium on any development which generated a single car journey. This approach was discounted by the previous appeal Inspector and Secretary of



State, the LPSS Inspector, and the DCO Examining Inspectors and Secretary of State in his confirmation of the DCO. The allocation of the site would not have been found sound under this scenario and it was not supported in the High Court challenge to the LPSS that followed. It is the effect that would arise from the development both alone and in-combination with other relevant plans and projects that is at issue. An exceedance of the critical load by 1% indicates that the pollutants arising could result in a significant adverse effect on the designated site but not that it will necessarily do so.

179. Whilst the qualifying features of the SPA are the three bird species, there is a close synergy with their supporting habitat, as outlined above. This comprises dwarf shrub heath and rotationally managed coniferous plantation woodland<sup>14</sup>. It is relevant to note that the reference in APIS to critical loads refers to coniferous woodlands as a general habitat type rather than that which is rotationally managed, which is the subset on which the birds rely. This is because the rotational clearance provides open areas, which will be important for nesting and foraging, amongst other things.
180. An important matter is whether there are supporting habitats within 200m of the affected road network that are sensitive to pollution through nitrogen deposition. There is no rotationally managed coniferous plantation woodland within this zone in either Ockham and Wisley Commons or Horsell Common and there is no evidence that any is proposed, either through the DCO restoration works or through future management by Surrey Wildlife Trust. In Horsell Common, the area close to the A245 is mixed woodland and therefore not supporting habitat for the SPA birds.
181. The WAG ecology expert opined that the woodland belts along the A3 and M25 roadside boundaries, albeit that they have been affected by the DCO works currently underway, provide an invertebrate resource and thus a supporting habitat. A similar argument was made at the DCO examination<sup>15</sup>, but this was not supported by Natural England, the RSPB or the Surrey Wildlife Trust and was not accepted by the Examining Authority or the Secretary of State.
182. **The Examiners' Report makes clear that the function of this woodland is to** provide a physical buffer to protect the heathland habitats from roadside emissions. It is acknowledged that the woodland may contribute to the invertebrate resource, but it is not identified as a principal habitat that functions to support the protected bird population. Having regard to Natural England's *Supplementary Advice on Conserving and Restoring Site Features: Thames Basin Heaths Special Protection Area*, it is clear that an abundant food supply is required, and that each species has particular preferences. Beetles, spiders and caterpillars seem particularly favoured, for example. This does not suggest to me that the SPA birds are particularly fussy feeders requiring a specific invertebrate genus that they predate. As I have already said, there is insufficient evidence to support the assertion by the WAG

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<sup>14</sup> This is set out in Natural England's *European Site Conservation Objectives: Supplementary Advice on Conserving and Restoring Site Features. Thames Basin Heaths Special Protection Area* (May 2016).

<sup>15</sup> At the DCO examination Mr Baker acted as expert ecology witness on behalf of the Wisley Action Group and Ockham Parish Council.

ecology expert that the lack of a specific assessment of the air quality effects on invertebrates is a fundamental shortcoming.

183. It was also said by the WAG ecology expert that the shelterbelt function of the woodland could be provided by a narrower band, which left potential in the future for restoration of at least some of this land to heathland. This argument was also made at the DCO inquiry and rejected by the Examining Inspectors and the Secretary of State. This is because favourable status of the heathland depends on the improvement of the existing habitats rather than creation of additional heathland through extensive woodland felling. Even if there were to be some replacement of the woodland buffer with heathland in the future, the Examining Authority did not consider that changes in air quality would prevent this from happening. The evidence does not lead me to take an alternative view.
184. There is dwarf shrub heath within the 200m roadside zone at Ockham and Wisley Commons. In 2038 the in-combination air quality assessment shows that the critical load would be exceeded by more than 1% along the A3, M25 and Old Lane corridors, taking account of the changed road layout following the DCO works. There would be no such exceedance in respect of Horsell Common and I do not consider it further in this part of my decision. Increased nitrogen can lead to accelerated vegetation growth, changes in species mix and increases of grasses at the expense of heather, for example. This not only affects insect resources but also reduces the open habitat favoured by the birds for nesting.
185. The evidence indicates that for the appeal development alone, the 1% exceedance zone would be close to the roadside and would not affect any areas of dwarf shrub heath. However, the in-combination assessment shows that critical loads would be exceeded by more than 1% within parts of the DCO heathland restoration areas and also small areas of existing heathland within 200m of Old Lane and the A3.
186. In considering whether such exceedances would affect the integrity of the SPA it is however relevant to consider three important factors. The first is that, as already considered under Issue Two, background nitrogen deposition will fall in the future. Apart from small areas adjacent to the A3 and the M25, which are the areas associated with vegetation clearance as a result of the DCO works, the level of nitrogen deposition in 2038 is modelled to be lower than in 2019 regardless of whether the appeal development goes ahead. The second factor is that the evidence suggests that despite the historic extent of nitrogen deposition within the SPA, this has not prevented an increase in the extent of heathland within Ockham and Wisley Commons through active land management. The third factor is that there is good indication that the population numbers of the SPA birds have shown a general upwards trend.
187. The evidence indicates that the area of affected heathland, including that generated by the DCO restoration works would be some 9.5 ha, which would be about 4.3% of the total heathland within the Ockham and Wisley Commons SPA component. As indicated above, this area has historically experienced higher levels of deposition and the overall effect would be that there would be a slower rate of recovery. **The Appellant's evidence is that** the effect would be negligible, and I am inclined to agree for the reasons I have given.

### The DCO compensation land

188. There are two new areas of land that will be incorporated into the SPA in compensation for the loss through the DCO works. On a small part of the compensation land, which adjoins Old Lane, there would be more than 1% critical load exceedance as a result of the appeal scheme. A larger part of this land and about a third of that adjoining the M25 would be within the 1% contour in the in-combination assessment. However, the conservation objectives of the SPA, including the maintenance and restoration of the habitats on which the qualifying bird species rely, would not be undermined. This is because the SPA compensation land is at present species-poor grassland, but the intention is to plant trees and improve the quality through grazing to wooded pasture with species rich grassland. The objective is to increase the insect resource for Nightjar and perhaps Woodlark in order to offset the potential reduction of invertebrate prey as a result of the roadside woodland habitat.
189. Although the improved habitat would not comprise supporting habitat for the SPA birds, consideration has been given to the effects on air quality as a result of the appeal scheme in combination with other plans and projects. In terms of NO<sub>x</sub> and NH<sub>3</sub>, the critical levels for grassland are the same as for heathland and a likely significant effect can be screened out for similar reasons. For nitrogen deposition APIS considers the critical load for grassland to be considerably less sensitive, and I am satisfied from the evidence that the 1% exceedance of the critical load would only relate to a very small part of the compensation land immediately adjacent to the south of the M25.
190. The compensation land would therefore provide additional insect resource available for the SPA birds over and above that available from their main heathland habitats. The Examining Authority concluded that the delivery of the compensation land in this respect was purely a precautionary approach. Bearing these points in mind, the conservation objectives of the SPA would not be undermined. It is relevant to note that as part of the DCO proposal bird surveys were carried out, including of the compensation land. These established that the habitat was not presently being used by the SPA birds and this was consistent with the findings of the 2 Jays surveys.

### Conclusion

191. For all of the reasons given above, I conclude that the appeal development both alone and in-combination with other plans and projects would not undermine the conservation objectives of the SPA and would not result in adverse effects on the integrity of the designated site in respect of air quality.

### *Recreational impacts*

#### The SANG

192. The objective of the SANG is to divert visitors away from the SPA to avoid additional recreational pressure through the trampling of the sensitive habitats, dog fouling and predation. The effectiveness of the alternative greenspace will depend on whether it is sufficiently attractive to encourage existing and future users of the SPA to use it in preference.

193. In this case, there would be some 44.5ha of SANG, which would exceed **Natural England's required** standard of 8ha per 1,000 population. A further 5.4ha would be provided for the remainder of the allocation outside of the current application site. There would be 2 main areas to the north and south-west of the developed area. The northern SANG would be the largest area comprising some 31.4ha and would provide a buffer of at least 400m between the nearest houses and the SPA.
194. The SANG part of the scheme is accompanied by full details. Although it is to be constructed in phases, the majority would be delivered in the first phase. The detailed drawings have been submitted specifically to ensure that the SANG could be constructed as the first element of the development. The Section 106 Agreement requires the SANG Creation and Management Plan to be approved by the Borough Council and for Phase 1 to be completed and available for use before any dwelling is first occupied. No further residential phases would be able to be occupied until the SANG on which they rely for mitigation has been provided. The SANG and Access Phasing Plan would be secured through a planning condition to ensure that the detailed accesses and infrastructure is provided before each phase is available for use.
195. **The SANG has been designed to accord with Natural England's** updated *Guidelines for Creation of Suitable Alternative Natural Greenspace*. It would comprise a semi-natural environment that would be within a 400m walking distance of the residential properties. There would also be free car parking areas to accommodate those coming from elsewhere as well as a café and toilet facilities. The SANG would contain a variety of habitats, including ponds and wetlands. There would be a range of walks along surfaced pathways and boardwalks, including circular routes up to 4km in length, nature trails and trim tracks designed for exercise. A number of the routes would be open in the first SANG phase, including circular walks over 3km in length. Many of the people who use the SPA do so for dog walking. The SANG has therefore been designed so that dogs can run off the lead for much of the walk. In addition, there would be ponds where they can splash about and dog training areas near the car parks.
196. The most important constraint in this case is the proximity of the SPA to the northern site boundary and the existing public rights of way (PROW) that lead directly towards it. Whilst these routes would remain open their context would change considerably as they would traverse a housing development rather than an open former airfield and farmland. The SANG has been designed to encourage east to west movement with new landforms and structural planting limiting visibility across it, particularly within the narrower parts. The PROWs, which cross at right angles would be given less prominence through their surface treatment, for example. In the 2017 appeal the SANG was part of the outline proposal and of course included the self-same PROWs that lead towards the SPA. Nevertheless, the Inspector and the Secretary of State concluded that these mitigation provisions were sufficient to ensure no likely significant effect through increased recreational pressure on the SPA.
197. The size of the SANG and the length, nature and design of the routes would, in my opinion, result in a very attractive and convenient recreational facility for new residents as well as incomers to enjoy, with or without their dogs. It is appreciated that built development would be seen, especially as it would generally be at a higher level due to the slope of the land. However, in

addition to the earth contouring there would be structural planting and the SANG Planting Plan indicates new woodland, individual trees and scrub mix that would help soften the developed edge. Whilst the SANG may not achieve the same sense of rural isolation as parts of Ockham and Wisley Commons, I do not consider that it would be perceived as a semi-urban space.

198. Most objectors questioned the efficacy of the SANG and did not believe that either existing or new residents would use it as an alternative to the SPA. There were also objections on similar points from the RSPB, Surrey Nature Partnership and Surrey Wildlife Trust. Of course, it would be unrealistic to surmise that no new occupier would set foot in the SPA. However, there is no reason to believe that existing visitors to Ockham and Wisley Commons would necessarily shun the SANG. I acknowledge that many of those who spoke at the inquiry live locally and are deeply invested in the existing habitats and natural features of the SPA. A number are nature conservation volunteers, and many are dog walkers who value the extensive spaces that the heathlands provide. Their opposition to using the proposed SANG is understood. However, to my mind very careful thought had been given to how the SANG would work, especially in view of the PROWs that lead through it. Natural England has been closely involved throughout the process and is satisfied that the SANG would be effective.
199. It is crucial that once the SANG has been established it is properly maintained and managed for the lifetime of the development. The SANG is a part of the community infrastructure that will be owned, managed and maintained by the Stewardship Body. I consider this later in my decision along with the relevant provisions of the Section 106 Agreement.
200. In 2018 a visitor survey was undertaken across a number of access points to the SPA, including Ockham and Wisley Commons. This found that there had been a decrease in visitor numbers in comparison with a 2005 survey. This was despite a substantial increase in housing numbers within a 5km radius of **the SPA boundary. The Appellant's evidence was that** the SANG would be effective in diverting recreational visits from the SPA. I agree for the reasons I have given.

#### The SAMM and SAMM PLUS

201. The provisions for the SAMM are set out in the *Thames Basin Heaths Avoidance Strategy 2017* Supplementary Planning Document. This is a tariff-based contribution that is levied on all new dwellings within proximity of the SPA. It provides strategic funding towards education and guidance, the provision of wardens, directional signage and so forth in order that access to the heathlands can be managed to protect them from recreational damage. However, as a strategic fund it would go to the parts of the SPA that need it most and this would not necessarily be Ockham and Wisley Commons.
202. An additional contribution (SAMM Plus) is therefore proposed to be secured through the Section 106 Agreement. This would provide targeted measures specific to this part of the SPA. A dedicated wardening service would be provided for Ockham and Wisley Commons, which would not only include the SPA but also the SANG and PROWs. This is explained in the IfHRA and envisages funding for 1.5 full-time wardens. They would seek to engage, inform and educate those using the area in order to encourage visitors to use the SANG in preference to the SPA. An obvious example would be extolling its



virtue during nesting season when dogs would not need to be walked on the lead in order to avoid harming the ground nesting birds. Promoting links between the SANG and off-site PROWs that do not lead to the SPA is another example. The evidence indicates that many people like to go to different places to walk. Providing information of such opportunities will encourage visitors to seek a variety of routes away from the SPA. The SAMM PLUS Scheme is to be submitted to the Borough Council for approval along the lines of the details set out in the IfHRA and is appended to the Deed.

203. The main objective of the proposed SANG and SAMM/ SAMM PLUS mitigation strategy is to seek to achieve no net increase in SPA visits. Natural England and the Borough Council have both considered it in detail and are satisfied that it would be effective in achieving this outcome. I agree with this conclusion for the reasons I have given.

#### Conclusions on the Habitats Regulations Assessment

204. I have considered the position with the project alone and in-combination with other plans and projects. For all of the reasons I have given there is the potential for significant adverse effects from lighting (off-site), noise, hydrology, air quality and recreational pressure. I have therefore undertaken an Appropriate Assessment in relation to these impact pathways. In respect of lighting (off-site), noise, and hydrology, adverse effects would ensue, but these would be adequately mitigated through planning conditions. In respect of air quality, there would be no significant adverse effect. In terms of recreational pressure, adverse effects would be mitigated by the SANG, SAMM and SAMM Plus, which would be secured by the Section 106 Agreement and planning conditions.
205. I have considered the conservation objectives of the SPA in my assessment and do not consider that they would be undermined for the reasons I have given. I am able to conclude, beyond reasonable scientific doubt, that the appeal proposal, either alone or in-combination with other plans and projects, would not result in a significant adverse effect on the integrity of the SPA.

#### EFFECT ON OTHER NATIONAL AND LOCAL DESIGNATIONS

206. There are a number of designated sites of ecological importance within the vicinity of the appeal site. Policy ID4 in the LPSS requires that in the case of nationally important sites (SSSIs) permission should only be granted provided there is no harm to the nature conservation interests of the site and its function as an ecological unit. Permission should not be granted if there would be likely material harm to local sites of nature conservation interest unless there is clear justification and harm has been reduced as far as possible through mitigation or compensation.
207. The effect of the various impact pathways on ecological sites in the vicinity of the appeal site was considered in the ES. This included the statutory designations within a 5km zone of the site (SSSI and Local Nature Reserves (LNR)) and the non-statutory designations within 200m of the site (SNCI). Woodland listed on **Natural England's** Provisional Ancient Woodland Inventory was also included. The same impact pathways would be relevant as those considered in respect of the SPA and generally it is the most proximate sites that would be likely to be most sensitive to changes arising as a result of the



proposed development. The exception relates to air quality and recreational effects, which could potentially effect sites at a greater distance.

208. With regards to the effect of cat predation, lighting, noise, construction dust and hydrology on the interest features of these sites, my conclusions are similar to those reached in relation to the SPA. Whilst there would be potential for adverse effects (apart from cat predation, which was scoped out), the proposal includes mitigation to address them, which would be secured by planning conditions.

#### Air quality effects

209. During the operational phase the same pollutants have been considered, namely NO<sub>x</sub>, NH<sub>3</sub> and nitrogen deposition. The assessment in the ES has considered a relatively wide range of designated sites and ancient woodland. The same criteria have been applied to the SPA assessment and effects are limited to within 200m of the roadside with the 1% threshold applied to critical levels and loads to determine adverse effects.
210. With regards to NO<sub>x</sub>, the assessment shows that concentrations between 2019 and 2038 have fallen. The 2038 baseline, which includes other development commitments, shows that critical levels within many of the designated sites and areas of ancient woodland have not been reached and where they have, the inclusion of the development would result in an increase in concentrations of less than 1%. This means that likely significant effects can be excluded.
211. With regards to NH<sub>3</sub>, the assessment shows that levels have risen between 2019 and 2038. On most of the designated sites and ancient woodland the 2038 critical level would not be exceeded. Where it is exceeded, this is because of high background concentrations and the contribution from the proposed development would not exceed 1%.
212. In Ockham and Wisley Commons SSSI the assessment shows that the critical level is exceeded in both the 2019 and 2038 baselines due to high background concentrations. The contribution from the proposed development would exceed 1% by the A3 within 10m of the roadside and at Old Lane within 60m of the roadside. These areas are mainly woodland but include a small section of heathland, 0.1ha in extent, next to Old Lane. Whilst heathland is a notified feature, this area represents a very small part of the total and any effect would be likely to be insignificant. In Sheepleas SSSI the critical level is also shown to be exceeded in both the 2019 and 2038 baselines. With the appeal development the 1% threshold would be exceeded but only within the woodland up to 10m from the roadside.
213. Turning to nitrogen deposition, the assessment shows that on all of the sites and habitats, the critical load is exceeded in 2038. Although in some cases the proposed development exceeds 1% of the critical load, the deposition rates are still lower than in 2019 either for the whole site or beyond the immediate roadside where there are not habitats present for which the sites were designated.

#### Recreational effects

214. For the sites close to the appeal site, including Ockham and Wisley Commons SSSI and LNR, Elm Corner Woods SNCI and Hunts Copse SNCI, the proposed SANG, the SAMM and SAMM Plus would provide mitigation of adverse effects

from the new population in the same way as for the SPA. Recreational effects on these sites would therefore be unlikely to be significant.

215. The Borough **Council's Thames Basin Heaths Special Protection Area** supplementary planning document indicates that people will travel to the SPA from new dwellings up to 5km away. There are other designated sites within this zone that are further away such as Papercourt SSSI, Sheepleas SSSI and LNR, Old Common LNR and Bookham Common SSSI. However, bearing in mind their distance from the appeal site and the attractiveness and convenience of the SANG it seems to me unlikely that the number or frequency of visits to these sites would be likely to be significant.

#### Wisley Airfield SNCI

216. I consider the Wisley Airfield SNCI separately as it includes areas within the western, northern and southern parts of the appeal site as well as extending to the north and incorporating **Snake's Field and Barnish Meadow**. The SNCI is about 28ha in extent and is in unfavourable condition due to a lack of management and neighbouring intensive farming regimes. It has a wide variety of habitats including broad leaved and wet woodland, scrub, tall ruderal vegetation and semi-improved neutral grassland. There is an assemblage of rare or notable vascular plants. Arable field margins provide foraging areas for bats and dispersal corridors for amphibians and reptiles.
217. The appeal development would result in the loss of about 1.6ha of the SNCI. In addition, 2.9ha will have been lost as a result of the DCO works. The cumulative loss would therefore be about 5.6% of the total. Policy A35 in the LPSS indicates that every effort must be made to reduce the harm to the SNCI through appropriate avoidance and mitigation measures. The condition of the SNCI would be improved through the proposals for the SANG in the SANG Creation and Management Plan. This would be secured through the Section 106 Agreement. There would be areas within the SANG but outside the present SNCI where new habitats would be created with similar features to the SNCI. These measures would mitigate and compensate for the small loss of SNCI that would ensue from the development of the site and would be in accordance with the relevant provision in policy A35 of the LPSS.
218. Part of the SNCI would be within the SANG and therefore there would be the potential for recreational disturbance effects without mitigation. The SANG Creation and Management Plan, which is at Annexure S to the Section 106 Agreement, would include measures to manage public access, including where it would be restricted. It is to be submitted for the approval of the Borough Council and its provisions implemented in the longer term by the Stewardship Body. A Management and Maintenance Scheme is required to show how the boardwalks and footbridges in the Southern SANG will protect the wet woodland from trampling. The Landscape and Ecology Management Plan is to include details of how the wet woodland habitats will be enhanced and how new habitats will be created, maintained and managed.
219. The effects of the other impact pathways considered in the preceding section apply to this SNCI too. There are various specific mitigation measures proposed that are directly relevant to the protection and enhancement of the ecological resources of the on-site parts of the SNCI. These would be secured by planning conditions. During the construction phase the CTEMP would include details of the measures to be used to minimise the environmental

impact of the works, including potential disturbance to protected species. During the operative phase the Lighting Strategy would require an assessment of the impact on sensitive ecological features, and this would include bats. There are also requirements relating to the protection of water resources, which are of particular relevance to Stratford Brook and the wet woodland.

220. An objection was made to the removal of a large part of the SNCI designation following the allocation of the site for development under policy A35 of the LPSS. However, this was considered by the Local Plan Inspector in his Report and was the subject of a main modification, which the Borough Council made accordingly. Whatever the history relating to this matter, it remains the case **that the Borough Council's statutory development plan shows the area of the SNCI as described above.** The wider designation would clearly have been incompatible with the allocated development area as pointed out by the Local Plan Inspector and is not a material consideration in this appeal.

### Conclusion

221. For all the above reasons, I consider that the sensitive habitats and features, for which the other national and local sites have been designated, would not be adversely affected by the appeal development. In such circumstances policy ID4 in the LPSS would not be offended

### OPEN MOSAIC HABITAT

222. Open Mosaic Habitat on Previously Developed Land is a Habitat of Principal Importance for the conservation of Biodiversity in Section 41 of the 2006 *Natural Environment and Rural Communities Act*. There are extensive areas of hardstanding, particularly within the northern part of the site and some 1.17ha has been identified in the ES to include the successional vegetation that accords with this habitat type. The evidence indicates that this has been taken into account in the baseline surveys in the Biodiversity Net Gain calculation.
223. The appeal scheme would result in a permanent loss of this habitat and the ES classes it as a significant negative effect without mitigation. The proposal is for compensation by recreating this habitat within the SANG. This is detailed in the SANG Creation and Management Plan at Annexure S to the Section 106 Agreement and would be secured through the obligations in the Deed.

### BIODIVERSITY NET GAIN (BNG)

224. The July 2023 calculations were made in accordance with Natural England's BNG Metric. The results indicate that there would be gains of 48.62% in area habitats, 25.34% in hedgerows/ lines of trees and 11.05% in rivers/ streams. These are specific categories that the metric uses. As far as I am aware no other calculation has been done by objectors putting forward alternative figures. However, there were several who raised concerns, including the WAG ecology expert. Natural England is content with the BNG work. The Borough Council was concerned about delivery, including future monitoring and management. There are provisions for this in the Section 106 Agreement and a condition requiring 20% BNG over the scheme as a whole. Subject to these provisions

the Borough Council did not pursue its putative objection on this matter at the inquiry.

225. The BNG assessment used an earlier version of the BNG Metric. Natural England makes clear that if an assessment was made using an earlier version that was current at the time, it should continue to use that version. This is because values are not necessarily translatable between different versions of the Metric.
226. The delivery of a BNG of at least 10% is now a statutory requirement, subject to exceptions that are not applicable here. The assessment confirms that in each of the assessed areas this would be met. Policy P7 in the LPDMP, includes a provision that once the national scheme for BNG is in place there should be an increase of at least 20%. The appeal scheme would comply with this policy requirement, other than in respect of streams and rivers. The only relevant habitat at present is Stamford Brook, which is proposed to be enhanced within the southern SANG. It is difficult to know what more could be done in terms of this particular category. There is no specific requirement that each category individually should exceed 20%. A sensible approach when considering what BNG is actually seeking to achieve is to look at the overall picture. It is not unreasonable to come to the conclusion that on average the gains in biodiversity units would well exceed the 20% required under policy P7.
227. SANG can contribute towards BNG but only insofar as account is taken of gains additional to the satisfaction of the Habitats Regulations. There is no formal methodology as to how this should be done, and it is not unreasonable to consider that the bespoke approach that the Appellant agreed with Natural England's BNG Team should be fit for purpose. This records the difference between a basic SANG meeting the minimum requirements for the development and the proposed SANG and then calculating the uplift from the baseline. This seems to me a perfectly reasonable approach and preferable to that suggested by the WAG ecology expert, which had no regard to the baseline and solely relied on the post-development scores.
228. I have considered the other concerns raised by the WAG ecology expert, but these seemed mainly to amount to differences in professional judgement. Natural England has endorsed the BNG assessment of the Appellant, which it is satisfied accords with its own guidance. In such circumstances, I consider that the net gains that flow from the BNG evidence are sound and can be relied upon.
229. A site-wide BNG Strategy would be secured through a planning condition to demonstrate how the minimum of 20% would be achieved across the development as well as future management and monitoring regimes to ensure the gains to biodiversity would continue in perpetuity. A further condition would require a BNG Report to be submitted on a phased basis. The Section 106 Agreement makes provision for the Stewardship Body/ WACT to oversee the Strategy and for a BNG Monitoring Report to be provided by a qualified ecologist for each phase in accordance with the Strategy. These provisions will ensure that the BNG arrangements are properly implemented and remain in place for the lifetime of the development.

## CONCLUSIONS

230. For the reasons I have given I conclude that the proposed development would not have an adverse effect on ecology. In reaching this conclusion I have considered the survey material and am satisfied that it is sufficient to understand the ecological value of the site. I have considered the effect on protected species, skylarks, open mosaic habitat, the SPA and other national and local designations. In each case I am satisfied that there would be no adverse impact or significant effect that would not be mitigated or compensated. I have considered the proposal for improvements to biodiversity and consider that these would comply with the 20% net gain required by policy.
231. The Borough Council and Natural England have been closely involved with the ecological issues and raise no objections. This is a matter of considerable weight, especially **the support of Natural England who are the Government's ecological advisers.**
232. In the circumstances the proposal would be in accordance with policies P5 and ID4 of the LPSS; Policies P6 and P7 in the LPDMP; and policy LPEN2 in the LNP. It would also accord with the relevant part of policy A35 in the LPSS and the Framework in respect of conserving and enhancing the natural environment.

## ISSUE FOUR: WHETHER THE PROPOSED DEVELOPMENT WOULD PROVIDE THE NEW POPULATION WITH SUSTAINABLE TRAVEL CHOICES

233. The Framework seeks to ensure that appropriate opportunities to promote sustainable transport modes can be or have been taken up, given the type of development and its location. This is echoed in the development plan. Policy ID3 in the LPSS requires that new developments maximise the use of the sustainable transport modes of walking, cycling and the use of public and community transport. Policy ID9 includes a number of provisions to encourage cycling and the provision of new cycle routes. Policy A35 includes requirements for a significant bus service to serve the site and an off-site cycle network to key destinations. In the Lovelace Neighbourhood Plan (LNP), policy LPN12 supports developments that reduce the need for car travel with sustainable travel choices. Policy LPN13 aims for major developments to provide safe and convenient walking and cycling links.
234. At present, there is no dispute that the allocated site is not a sustainable location in terms of travel. There is currently an hourly bus service between Guildford and Woking as far as the Ockham Interchange and an hourly service between Guildford and Kingston along the A3 and through Ripley. In addition, a school bus service runs between Ripley and the Howard of Effingham School. There are also unsegregated on-road cycle lanes between the Ockham Interchange and Ripley, although these are quite narrow and not continuous along the whole route. The DCO works propose some improvements for cyclists along this route and a new cycleway along the Wisley Lane Diversion. However, as things stand there are few sustainable travel choices that would be available to the new population as an alternative to the private car.

235. The appeal scheme seeks to establish a range of sustainable travel choices, both within the site itself and to various destinations, including local railway stations, beyond its boundaries. However, there was a great deal of objection, both from the Rule 6 objecting parties and from local people, about the potential opportunities for sustainable travel and whether the proposals put forward would be successfully implemented in the long term.

## WALKING

236. The opportunities to undertake journeys on foot would be mainly within the site itself. The appeal development would be of a sufficient size to support a range of services and facilities. The Local Centre would be roughly in the middle of the site within Neighbourhood 2. It would include a number of uses to meet the day-to-day needs of the new population. There would be a small convenience store, a community centre, a primary school and nursery, a mobility hub and various Class E uses, which could include a café, small-scale employment uses and retail uses. Provision would also be made for healthcare facilities, although the size of the unit and whether it would be on-site or not would be a matter for the Integrated Care Board to determine. In addition to the Local Centre there would be smaller Neighbourhood Centres within Neighbourhoods 1 and 3.

237. There would be segregated walking routes along the Sustainable Movement Corridor, which would run through the centre of the site from one end to the other. There would also be good quality walking routes to and through the areas of SANG and open spaces. It is proposed that all residents would be within about 200m of a bus stop, 500m of the secondary centres and 1km from the Local Centre, primary school and nursery. The detailed design would be determined at reserved matters stage, but there is no reason why walking should not be a popular modal choice for journeys within the development.

## CYCLING

### Policy context and LTN 1/20

238. There are many facilities within cycling distance of the appeal site. Policy A35 requires the provision of an off-site cycle network to key destinations including Ripley, Byfleet, Effingham junction railway station, Horsley railway station and Horsley Station Parade. The routes should be attractive and safe for the average cyclist. The County Council defines the **"average cyclist"** as being equivalent to Bikeability Level 2. This is a person competent in traffic, but not if the road is very busy or there is a complex highway layout. I understand that people generally achieve it at about 14-16 years old.

239. Policy ID9 in the LPDMP seeks to achieve a comprehensive Guildford Borough cycle network. This includes the provision of a Sustainable Movement Corridor within Guildford itself and other routes within the Borough shown on the Policies Map. These include some of the rural roads close to the appeal site.

240. Policy ID9 includes a provision that cycle routes and infrastructure are to accord with the principles and quality criteria contained within the latest national guidance. This comprises Local Transport Note 1/20: *Cycle Infrastructure Design* (July 2020) (LTN 1/20) and reflects **the Government's** ambition to encourage a significant increase in cycling as a mode of travel. It sets out guidance and good practice in the design of cycling infrastructure.



There is a great deal of information about standards, but it is relevant to bear in mind that it seeks to provide guidance on the design of new cycling schemes by local authorities, and in particular those applying for Government grant funding. In addition, whilst there is content on quiet streets, lanes and off-road routes, the majority of the document seems to me to be directed towards urban environments. This is reinforced by reference to most of the diagrams and photographs.

241. The Ministerial Forward to LTN 1/20 indicates that the application of its standards will enable persons of all ages and abilities to cycle. There was the suggestion that because the more recent policy ID9 in the LPDMP effectively requires compliance with LTN 1/20, this is now the standard to follow rather **that the "average cyclist"** standard in policy A35 of the LPSS. However, policy ID9 is a Borough-wide policy and does not seek to disavow the allocation policies in the LPSS.
242. Indeed, the policy specifically refers to delivering the site-specific cycle infrastructure in site allocation policies. The policy A35 allocation was made in full awareness of the type of roads and lanes within the vicinity of the appeal site. It recognises that the proposed off-site cycle routes would not be suitable for everyone, which is why it focuses on **the "average" cyclist**. Furthermore, Policy ID9 itself recognises the constraints by providing that cycle routes should be within the highway boundary or on land within the control of the Appellant. This may not fully align with LTN 1/20 and in this case the proposed cycle routes are unlikely to be suitable for young children or novice cyclists. Despite many objections to the proposals, there were no achievable alternative routes or solutions put forward by objectors within the context I have explained.
243. That is not to say that LTN 1/20 should be disregarded in this case, but it should be used sensibly and treated as guidance rather than a mandatory set of rules. Its principles and standards should be applied in a reasonable and realistic way. There were some Rule 6 Parties<sup>16</sup> who seemed to be suggesting that failure to comply with it in all or even most respects would be fatal to the scheme. That seems to me to be an extreme and unjustified position, which fails to recognise the allocated status of the site in the development plan and that providing good cycle routes in rural areas is often considerably more complex and challenging than in urban areas. To my mind the cycle route proposals have taken account of the principles in LTN 1/20 and accommodated them where possible.
244. This is the approach adopted by the County Council and also Phil Jones Associates, who was a main contributor to LTN 1/20. Both have been closely involved in the design and review of the proposed cycle routes. Phil Jones Associates, in their review of the cycle route proposals, concluded that all the appropriate opportunities to promote cycling to key destinations had been taken up, with the result the routes would be safe and accessible to the average cyclist.

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<sup>16</sup> Including Mr Russell on behalf of WAG, Ockham Parish Council and RHS Wisley and Mr Smith on behalf of East Horsley and West Horsley Parish Councils.

### On-site cycle provision

245. On the site there is the opportunity to provide LTN 1/20 compliant cycle infrastructure. The Access and Movement Parameter Plan indicates that segregated cycle lanes would be provided in each direction along the Sustainable Movement Corridor. This would run through the site between the two main accesses from the Wisley Lane Diversion and Old Lane. The updated Cycle Strategy also indicates north to south routes along the existing public bridleways of Hyde Lane and Hatch Lane. The ambition would be to allow easy access by cycle for residents to the various on-site facilities as well as providing links to the off-site routes and the cycleway along the Wisley Lane Diversion. There is no reason why there would not be a high-quality cycle network, which people would use to move around the site.

### Off-site cycle provision

246. From my own observations and from listening to the representations made to the inquiry it is clear that the rural lanes to the south of the site are popular with recreational cyclists. These are often experienced riders who are not the target group for the proposed cycle routes. The objective is to provide safe and attractive conditions to encourage residents of the site to undertake some of their day-to-day journeys by cycle, including to nearby railway stations and settlements with shops, services and community facilities. This is what policy **ID9 in the LPDMP refers to as "utility cycling"**.

247. The evidence shows that there has been a considerable amount of consultation on the proposed routes. This included with relevant stakeholders such as Sustrans, Cycling UK and the Guildford Bike User Group (GBug). It also included the County Council and Phil Jones Associates as referred to above. The updated Cycle Strategy indicates how the feedback from this consultation exercise shaped the evolution of the scheme. Stakeholder input was clearly important in developing not only the route destinations but also the design of the infrastructure and introduction of measures to encourage behavioural change. The latter would include various initiatives in the Travel Plan to encourage more people to cycle, such as training sessions, a loan and discount scheme to encourage bike ownership and more secure cycle parking provision.

### *Proposed interventions*

248. Many objectors considered that there should be fully segregated routes for cyclists. The proposed route to Ripley could and would be segregated for most of its length. Some other routes have segregated elements. However, in many cases there is insufficient space within the highway. Policy ID9 specifically does not suggest that third party land should be acquired for this purpose. It is likely that there are a multitude of land ownerships along the proposed routes and no land has been safeguarded for this purpose in the development plan. Neither the Borough nor County Councils have indicated that they would be willing or able to purchase such land compulsorily and it is outside the control of the Appellant. Finally, it is likely that new segregated routes would be a considerable intervention within this rural environment. I would expect that in this case any such proposal would be likely to attract significant objection on environmental or ecological grounds.

249. In the previous appeal, cycle routes to Ripley and Byfleet were proposed. At that time Muddy Lane was not a bridleway available for cycle use and the DCO works had not been undertaken, including the new segregated cycleway and overbridge. As the routes were limited and had little detail, the Inspector gave the cycling proposals little weight. The present appeal not only includes a greater number of proposed routes but also a considerable amount of detail as to how they would be improved for cyclists.
250. The proposed off-site cycling provision would complement the County **Council's** existing and proposed cycle network outlined in policy ID9. The appeal scheme includes off-site cycle routes to Horsley railway station, Ripley, Byfleet, Cobham and Stoke **D'Abernon**. All would be less than 5 miles in length. The first three are included as required destinations in policy A35. The proposals include various interventions that seek to improve the environment for cyclists on the designated routes. There would be traffic calming and speed reduction measures such as carriageway markings, gateway features, rumble strips and raised tables, that would be aimed at slowing traffic down. These measures would reinforce speed limit reductions to either 30mph or 20mph and Quiet Lanes would be designated where traffic volumes and speeds are relatively low. LTN 1/20 indicates that here a road space is shared by all users, including pedestrians, cyclists and equestrians.
251. It was confirmed to the inquiry<sup>17</sup> that the County Council is committed to making the associated Traffic Regulation Orders in connection with the proposed cycle routes. This accords with its wider cycling strategy in policy ID9. The costs associated with the Traffic Regulation Orders would be paid by the Appellant and secured through the Section 106 Agreement. It is appreciated that these would be subject to public consultation, but it is difficult to understand why there would be objections to a scheme that would make the local road network safer for all road users. In terms of the physical interventions, the evidence to the inquiry indicated the type of sensitive treatments that would be applied to respect the rural character of the area.
252. There was some local concern about whether the various traffic calming measures would prevent heavy goods vehicles and farm vehicles from gaining access to their destinations along the routes. Having regard to the evidence about the infrastructure being proposed I see no reason why any vehicle wishing to travel along the routes in question should not be able to do so.

#### *Effingham Junction*

253. There would not be a designated cycle route to Effingham Junction station, which is the fourth destination required by policy A35. Old Lane is a relatively busy road and flows are forecast to significantly increase as a result of the DCO scheme and the appeal development. The evidence also indicates that drivers exceed the 40mph speed limit. This means that the route would only be suitable for the average cyclist if there was lane segregation. From the evidence and my own observations, a continuous segregated route could not be safely or effectively provided within the boundaries of highway land. Old Lane is therefore not proposed as a designated cycle route. However, a reduction in the speed limit to 30mph coupled with traffic calming measures is

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<sup>17</sup> Mr R Cooper, Principal Transport Development Planner at Surrey County Council.

proposed, which would provide an option for more confident cyclists to ride to Effingham Junction station.

254. Horsley Station is one stop down the line and serves similar destinations to Effingham Junction, albeit that the lines divide at the latter so a change may be needed for some services. **The Appellant's argument, which is not unreasonable**, is that East Horsley also has a good range of shops and services, which are not present at Effingham Junction. In any event, new residents would have the option of using the proposed new bus service to Effingham Junction Station.

#### *Environmental effects*

255. There was concern from local objectors and some Rule 6 Parties<sup>18</sup> about the environmental effects of the proposed cycle routes and the various interventions that are being proposed. There is no doubt that the increased signage, lighting and various other physical changes would be likely to have a degree of impact on the character and appearance of the rural area. However, the delivery of the cycle routes is an important policy objective in the development plan and a key element in making the site more sustainable. In such circumstances the proposal should seek to limit the adverse effects as much as it reasonably can.
256. Each of the routes were considered in the Environmental Statement in terms of environmental impacts and any significant adverse impacts were considered to be limited. Once the routes became operational the ES considered that the nature of the use as a sustainable transport measure would be unlikely to harm ecological interests. However, as the document states this was a high-level assessment.
257. Planning permission is not being sought for any of the cycle routes and therefore there are no detailed ecological, arboricultural or heritage assessments. Although the cycle routes would be funded by the Appellant, the works would be wholly on highway land. Implementation would be through an Agreement with the County Council under Section 38 and/ or Section 278 or of the *Highways Act* 1980. The Borough Council and objectors consider that a condition should be imposed requiring further details of the effect of the works on various environmental, ecological and heritage matters.
258. The works in question **do not fall within the definition of "development"** unless they would have significant adverse effects on the environment. In the main therefore the County Council, whilst it has a duty to act in the public interest, would not require the permission of the Borough Council when it carries out the works. Any condition that limits or restricts those rights, which have been conferred by Parliament, would need special justification. I consider that there would be such justification in relation to the Ripley route for the reasons I give below.
259. There was some concern about lighting, which may be needed in some places along these routes, particularly where interventions are proposed. The evidence indicates that there are low level and unobtrusive solutions that are sensitive to wildlife, including bats, and result in minimal light intrusion to the

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<sup>18</sup> Particularly Villages against Wisley New Town.

darker areas that are a feature of some country lanes. However, there is no specific detailing at this stage and no control over the type of lighting that would eventually be employed. It therefore seems to me that details of the lighting proposed along all of the cycle routes would be necessary and this would be secured by a planning condition. There would thus be justification in this case for interference with the statutory rights referred to above and in the terms I have described.

### *The Ripley Cycle Route*

260. In July 2023 and subsequently to the ES assessment, further details of the proposed cycle route to Ripley were submitted by the Appellant. On the northern side of Portsmouth Road there would be a cycle lane at carriageway level segregated by a buffer. On the southern side the cycle lane would be a segregated route within highway land along the alignment of the current footway. As I understand it, the section nearest to the Ockham Interchange would be provided by National Highways as part of the DCO works. I have driven in both directions along this section of Portsmouth Road. The trees on both sides, which include adjacent Ancient Woodland, provide an attractive verdant entry to the village.
261. The existing footway on the southern side rises above the road and runs through the trees. In order to gain the additional width needed for a shared route for pedestrians and cyclists the plans show a potential impact on a number of trees. I have walked this route in both directions and consider that this does not mean that they would all need to be felled. Indeed, I think this would be unlikely and that many could be retained with careful treatment to protect roots and canopies. This could be achieved with specialised construction techniques. This needs to be carefully assessed but, in my judgement, it should be possible to achieve a satisfactory outcome without the leafy character of this section of Portsmouth Road being unduly diminished.
262. Ripley Conservation Area extends a short distance beyond the existing dwellings either side of Portsmouth Road. The Conservation Area Appraisal refers to the importance of trees to the character of the village, including at the eastern end of the High Street and the entrance to the village. At this end of Ripley there are also a number of designated heritage assets, including the Grade II\* Listed Talbot Hotel. These undoubtedly make an important contribution to the significance of the Conservation Area. The proposed cycle route would potentially involve tree loss within the Conservation Area and its setting. In addition, the proposed physical interventions such as the remodelling of the area outside the Talbot Hotel and the installation of a zebra crossing on a raised table may have an impact on the designated heritage assets.
263. Bearing the above points in mind, there is sufficient evidence to conclude that this proposed cycle route could result in adverse effects. In such circumstances a planning condition would be justified to ensure that any such effects are assessed and mitigated as far as possible.

### *The Monitor and Manage Strategy and Resilience Funding*

264. An indicative Monitor and Manage Strategy is appended to the Section 106 Agreement at Annexure V. However, for the reasons I have given when

considering the planning conditions, there is a need for updated information to be submitted on a phased basis. Schedule 13 of the Deed, which relates to Stewardship, indicates that one of the functions of the Stewardship Body/WACT is to support sustainable transport, including through the Monitor and Manage Strategy. This would allow further interventions if deemed necessary by further monitoring such as more speed control measures or additional traffic calming measures, for example.

265. Schedule 3 of the Deed, which relates to Highways, includes a contribution of £3.1m for safety and resilience improvements by the County Council. These include specific works relating to traffic management and speed reduction, highway drainage and carriageway works to improve safety for cyclists. This is explained in more detail in the section of the decision relating to the Section 106 Agreement.

#### *The Proposed Cycle Routes*

266. The Updated Cycle Strategy includes details of the proposed interventions and traffic calming measures along each of the five routes route. There were many detailed points raised by objectors but many concerned specific shortcomings that could not be remedied to achieve a fully LTN 1/20 compliant solution. I have already dealt with the principle of this point above.

#### Cycle Route to Horsley Station and East Horsley

267. The proposed route, would be around 3.5 miles. It would not be the most direct route, which would be along Ockham Road North. However, the traffic volumes and speeds would not make this road a suitable choice for the average cyclist without segregation. For similar reasons that I have given in relation to Old Lane, this could not be achieved within the highway boundary. However, in association with another development, I understand that traffic calming measures would be introduced along Ockham Road North with a speed reduction to 30mph from the junction with Green Lane. These measures would provide a safer route for more experienced cyclists. The proposed cycle route would be about 0.8 miles longer, but it would provide a more pleasant and safer cycle environment along Long Reach. This would be an attractive option for cyclists with less confidence and expertise.

268. Many objectors were very concerned about the Ockham Lane section of the cycle route. This is narrow and winding and from all accounts some vehicles travel far too fast. It does though appear to be well used by recreational cyclists and there is no evidence that there has been an untoward issue with reported accidents involving them. Nevertheless, I would agree that this section of Ockham Lane is not conducive for utility trips by other than more competent riders. Significant traffic calming measures are proposed along Ockham Lane. It is also intended to lower the speed limit to 20mph with a Quiet Lane designation. The centre lines would be removed, and cyclists would have priority over car drivers within this shared space. It seems to me that these measures would discourage drivers from using Ockham Lane and thus also provide some benefit to those living in the village. It would provide a safer and more attractive environment suitable for less competent cyclists, in my opinion.

269. The route follows Lollesworth Lane, which is a bridleway to the south of East Lane. There are several residential properties along this section of the route.



The owner of the lane is concerned about increased use and works that could change its character. Whilst I appreciate these concerns, there is no proposal within the updated Cycle Strategy or Section 106 Agreement to introduce changes or lighting to this section of the cycle route. If the surface is potholed as suggested, the County Council would be empowered to carry out the necessary remedial works. There is no reason to believe that an increase in use of the bridleway by cyclists would cause unacceptable disturbance or other harm to the character of the lane or the amenities of those living along it.

270. There was considerable objection to the part of the route along Footpath 99. This adjoins the railway from which it is separated by a chain link fence. The proposal is for a shared surface for cyclists and pedestrians, which would be increased in width to 2.5m for the most part. This would be sufficient to allow two cycles to pass or a cycle and pedestrian. In a few places where the trees adjoin the path it would narrow to 2m. To be fully LTN 1/20 compliant the footpath would be 3m wide with 0.5 margins on both sides. However, this would not be possible given the constraints of the fence on one side and trees, including an area of Ancient Woodland, on the other. I appreciate that some objectors consider this footpath unsafe and that a very serious incident took place along it some years ago. I observed as I walked along it that there is relatively good forward visibility and at the time of my visit, it was being well used by pedestrians and cyclists. Whilst some may be more reticent to use it after dark, there would be provision for low level lighting, which would enhance safety. Although this section has some shortcomings, I consider it would be acceptable to many cyclists as part of the overall route.

#### Cycle Route to Byfleet

271. This route provides access to the District Shopping Centre as well as Byfleet and New Haw Station and at around 3 miles would be considerably shorter and also quicker than the driving route, especially on an electric bike. The start from the site would mainly be segregated using the resurfaced Hyde Lane bridleway, which is proposed to be a 4m wide shared surfaced route. The route would continue along the segregated route provided by the DCO works along the Wisley Lane Diversion and across the new A3 overbridge. The route then proposes to use the 3m wide shared surface for cyclists and pedestrians along Footpath 7 through RHS Wisley. This is supposed to have been provided by virtue of a planning condition attached to its redevelopment project that has now been completed.
272. I understand that RHS Wisley is now discussing an alternative shared surface route with the County Council. It has been suggested that there is no requirement for RHS Wisley to make the cycle route through its grounds available for public use. That may be the case in legal terms, but the purpose of its cycleway is to encourage sustainable travel choices. Furthermore, RHS Wisley has said that it is not seeking to be difficult or delay proceedings with the appeal. There thus seems no reason why, whichever route is decided, RHS Wisley should object to its use by occupiers of the appeal site, especially as they may also be visitors to its gardens.
273. Muddy Lane is now a bridleway and is already used by cyclists. As its name suggests its surface would need to be upgraded and widened to form a shared surface for pedestrians and cyclists. The underpass to the M25 is lower than

the height recommended by LTN 1/20 and looks somewhat uninviting. This will though be improved by the **Environment Agency's** Sanway-Byfleet Flood Alleviation Scheme, which proposes improvements to the underpass through daytime lighting, repainting and removal of fencing. From the underpass the cycle route would follow generally low trafficked residential streets to the town centre and station. Traffic calming features would be introduced with the possibility of 20mph speed limits if the County Council consider these would be justified.

#### Cycle Routes to Cobham and Stoke D'Abernon

274. Cobham is a District Centre with a wide range of shops and services. The proposed cycle route would be about 3.5 miles in length. Currently it is relatively lightly trafficked up to the junction with Downside Road and is a popular route with recreational cyclists, notwithstanding that the national speed limit applies. The traffic modelling shows that in 2038 the forecast flows along this section of Ockham Lane and Plough Lane would significantly increase, although in absolute terms it would remain relatively low. In order for this route to be safe for less experienced riders there would need to be significant intervention.
275. The proposal is to reduce the speed limit along the whole section of the route up to Downside Road to 30mph and it would be designated as a Quiet Lane. Traffic calming measures would be introduced, including carriageway narrowing and cycle road markings. I do have some concerns about this section of the route. The roads are relatively narrow and winding in places with high banks and I note that between 2015 there have been several accidents involving cyclists. Downside Road is much busier and segregated cycle lanes would be provided, apart from in the vicinity of the church where management measures are proposed.
276. I appreciate that the various interventions would be designed to make the route safer, but the geometry of various sections could not be changed, and I observed that it is used by heavy traffic, including vehicles associated with the farms along the route. There was a great deal of local concern about the safety of this route for other than experienced cyclists even once the proposals have been implemented.
277. Another issue relates to the flooding at the lower points in Plough Lane. I have seen this for myself and heard from many who spoke at the inquiry that it often persists for a considerable length of time with consequent road closures. Objectors consider that the primary source of flooding is the River Mole, which is only a short distance to the north. However, the Appellant commissioned a drainage report from GTA Civils & Transport. This indicates that the frequency of flooding is unlikely to arise from fluvial flooding in view of the surveyed levels of the road, which are higher than the 1 in 2 year flood levels. It was therefore concluded that the most likely source is from surface water flooding. The report identified a culvert to the north of the junction with Pointers Lane, which was found to be largely submerged and blocked with rubbish. It also reported that the roadside ditches were overgrown with vegetation and were not being properly maintained. The conclusion was that after periods of significant rainfall water flows were obstructed leading to flooding of low-lying areas, including this part of Plough Lane. One of the

places that the resilience funding would be used would be for drainage works, including on Plough Lane.

278. **Stoke D'Abernon has a railway station on the same** line as Horsley and Effingham Junction. The cycle route also includes Ockham Lane and then it would turn off along Chilbrook Road. It would generally follow mainly lightly trafficked roads and include a number of interventions including 30 mph speed reduction measures and a section designated as a Quiet Lane along Downside Common Road. There would also be a significant off-road section with improvements proposed to Bridleway 82, including an attractive section along the River Mole. Once into the built-up area, the route would follow residential streets to the railway station. In all, the cycle route would be about 4 miles from the site. Whilst this does provide an alternative option, it seems to me that the route to Horsley Station is likely to be quicker and so may prove to be a preferable choice for utility cyclists.

### Conclusions on cycling

279. There would be high quality provision for cycling within the site, which would be compliant with the guidance in LTN 1/20. I would anticipate that many people would choose cycling as a safe and convenient mode of travel when visiting the facilities and services within the Local Centre and elsewhere on the site.
280. I have carefully considered the concerns about the off-site cycling routes, including by G-Bug who spoke at the inquiry. I do not disagree that the Ockham Road North route to East Horsley and Horsley Station would be quicker, and no doubt would be used by confident cyclists. However, for the reasons given above, I agree that a safe segregated route suitable for the average cyclist is not possible along this busy road. In such circumstances the longer route along Long Reach would provide an alternative and I am not convinced that it would not be an attractive option for the reasons I have given.
281. The other off-site cycle routes to Ripley and Byfleet would offer safe and reasonable quality routes for the average cyclist. These would not comply in every respect with the guidance in LTN/120, but for the reasons I have given I consider that they would provide the new population with the opportunity to undertake utility trips to these destinations in accordance with policy A35. In addition, **there would be the Stoke D'Abernon route, which would offer** another choice suitable for the average cyclist, but a longer alternative to a station just two stops up the line from Horsley Station.
282. I have more reservations about the Cobham cycle route for the reasons I have given. I am not totally convinced that this would be suitable for the average cyclist even with the proposed interventions and traffic calming measures. There is also the issue of flooding, which may or may not be resolved by the drainage proposals.
283. Policy A35 requires a cycle route to Effingham Junction railway station. For the reasons I have given this would require segregated cycle lanes in order to be suitable for the average cyclist due to traffic volumes and speeds. In this respect the scheme would not comply with this aspect of the policy although policy ID9 in the LPDMP requires the cycle routes to be within the confines of

the public highway. I will return to this element of conflict with the development plan in my final section of my decision.

## BUS TRAVEL

284. Policy A35 in the LPSS requires that a significant bus network is to be provided in perpetuity, to serve the site and Guildford, Cobham, Effingham Junction railway station and/ or Horsley railway station. Policy LNPI2 in the LNP encourages the delivery of public transport and sustainable travel. It includes a provision that development at the former Wisley Airfield site will be encouraged to include a regular bus service in perpetuity to Woking station, particularly at rush hour.
285. The proposal for bus travel from the site is set out in the updated Public Transport Strategy. It is an ambitious programme and of key importance in making this location sustainable. The new service would initially comprise a shuttle bus to Horsley Station. This would run every 15 minutes during peak periods and every 30 minutes at other times. This service would be provided very early on in the build-out. By about Year 3 it is forecast that demand would have increased to support the replacement of the shuttle bus by a circular service to Horsley and Effingham Junction Stations of similar frequency. By about Year 8 further capacity would be provided by the re-introduction of the shuttle service to Horsley Station during peak periods. It is proposed to use electric buses for these services.
286. An additional service is proposed to local destinations such as Cobham, which would likely be an on-demand electric minibus. The idea is that people book their trips in advance or on the day, and these are then combined into an optimal route. I was told at the inquiry that this model has been used in other places where such schemes provide a successful and well used service. Chatterbus was one such example, which serves villages around Cobham and takes commuters to and from the station and provides a school service. I understand that it is in its 9<sup>th</sup> year of operation so is clearly popular and successful.
287. There is an existing hourly service between Guildford and Woking via Ripley, which is subsidised by the County Council. The Public Transport Strategy puts forward the option to supplement this and extend it into the site. A new half hourly service is also proposed from the site via Ripley to Guildford. It would need to be carefully integrated in order to achieve an optimal and cost-effective solution where passenger demand would not be diverted away from the subsidised services that presently exist.
288. The new services would be built up as the development progresses. The forecast in the Public Transport Strategy indicates that by Year 4 or the occupation of 350 homes, all the proposed routes would be up and running. This is important as it would help to influence and shape travel behaviours from an early stage. The projections indicate that by the time the whole allocation is built out, the bus services would be profitable and could be run without subsidy. Although the new bus routes would be intended to serve the new population, they would also be available for existing communities to use as well. This seems to me a significant benefit and would improve the public transport available to those living and working in the surrounding area.

289. I have set out my reservations about the cycle route to Cobham. I have also **pointed out that there is no cycle route suitable for the "average cyclist" to Effingham Junction station as required by policy A35.** Both of these places would be served by the new bus services and would avoid having to find a car parking space which, from all accounts is a problem in both locations.
290. A major concern of objectors was the extent to which the bus services could be guaranteed to continue in the long term. It was pointed out that services in the local area are heavily subsidised and it was said that the new residents would prefer the convenience of the private car. It would be unrealistic to believe that everyone living or working on the site would travel by bus. However, the proposal is for a regular and frequent service, which would offer an attractive and convenient option for many journeys. The buses would run along the Sustainable Transport Corridor and as I have already commented, it is proposed that all residents would be within a short walk of a bus stop.
291. The financial strategy is explained in the In Perpetuity Funding Framework and its Addendum, which are at Annexure T to the Section 106 Agreement. This includes a resilience funding stream provided by the endowed assets. The long-term stewardship of the community would be provided by the Wisley Airfield Community Trust (WACT), and I have considered this in the section of my decision dealing with the Section 106 Agreement. There are detailed requirements within the Deed and one of these is to manage the bus services in accordance with a contract with either the County Council or a private bus operator. There is also a requirement to support sustainable transport including a Monitor and Management Strategy. I have referred to this in respect of cycling, but it also sets out requirements to monitor bus patronage, journey times, cost and quality and to manage the services appropriately.
292. It was questioned whether the WACT Board could choose to stop the bus services altogether or significantly curtail them in preference to using the funds for other things. The first point to make is that it is expected that the bus would be a popular modal choice of real benefit to those living and working on the site. I see no reason why the services would not be well patronised so there is therefore no reason why they would discontinue. Furthermore, the Board is not likely to be made up entirely of residents of the site, but rather include representatives from other organisations and the existing local community. This would include bodies such as the County Council and Borough Council who have a duty to act in the public interest. In addition, the latter has step-in rights if such action were ultimately to be needed. The bus services are a critical aspect of the sustainability of the site, and sustainable transport would be a funding priority. The Borough and County Councils support the Public Transport Strategy and, in such circumstances, I see no reason why the bus services should not continue successfully in perpetuity.

## CONCLUSIONS

293. For the reasons I have given above, I conclude that the proposed development would provide the new population with realistic travel choices other than the private car. There would be a good and frequent bus network to serve the site to the places identified in policy A35. This would be secured in perpetuity to provide residents and visitors with sustainable travel options to the site. Furthermore, there would be an off-site cycle network to the

locations envisaged by policy A35, apart from to Effingham Junction railway station. There are good reasons why that is not possible as I have explained.

294. It is acknowledged that many journeys would be undertaken by car, and it would be unrealistic to think otherwise. However, the traffic evidence has demonstrated that the surrounding road network would be able to safely accommodate the forecast traffic generation. There was local evidence given about the limited car parking, both in local towns such as Cobham as well as at railway stations such as Effingham Junction and Horsley. However, these constraints would encourage people to consider the other available modal options, which would be particularly attractive especially when undertaking such relatively short journeys.
295. Policy LNP12 in the LNP encourages a regular bus service to Woking Station and this would be one of the options for extending the existing Guildford to Woking service into the site. The cycling and walking objectives in policy LNP13 of the LNP would be met by the proposed development as would the sustainable transport objectives in policy ID3 of the LPSS.

## OTHER MATTERS

### HERITAGE

296. There are no heritage assets on the appeal site itself, but there are a number nearby. There include the following listed buildings, Yarne, Upton Farmhouse, Bridge End House and Appstree Farmhouse (all Grade II); Chatley Semaphore Tower (Grade II\*); Ockham Conservation Area and its heritage assets; and RHS Wisley Registered Park and Garden (Grade II\*). I have seen all of these heritage assets at my various site visits and been able to consider their relationship with the site.
297. The relevant issue is the effect of the proposed development on the significance of these heritage assets. This is defined in the Framework as the value of the asset because of its heritage interest. It may be archaeological, architectural, artistic or historic. In this case it is the effect on the setting of the heritage assets that is at issue and how the proposed changes would thereby affect their significance. The Framework defines the setting of a heritage asset as the surroundings in which it is experienced. It indicates that it may change over time and may make a positive, neutral or negative **contribution to the asset's significance**. Historic England was consulted on the appeal proposal but has made no objections on heritage grounds.

#### Chatley Semaphore Tower (Grade II \*)

298. This is one of a number of towers that were built in early Victorian times to signal messages between Portsmouth and the Admiralty in London. The building is on elevated ground within a treed location. I understand that it is used as holiday accommodation and that several times a year the viewing platform at the top is open to the public. The building is over 800m to the north-east of the site. The photographic evidence shows that the development would only be visible from the top of the tower, above the trees.
299. The building itself in terms of its architecture and history would not be affected by the appeal scheme. However, it also draws significance from its signalling function. On the occasions that the public can visit, the development would be visible in the view from the top of the building.



However, taking account of the distance and elevation, it would not impede the view towards Guildford to the south-west, which is where the next tower in the sequence is located. The historical perspective could therefore still be appreciated and experienced by those visiting the viewing platform. I consider that the harm to the setting of the tower would be less than substantial in nature and at the lowest end of the spectrum.

RHS Wisley Registered Park and Garden (Grade II \*)

300. RHS Wisley originated as an experimental garden in the late 19<sup>th</sup> century by a prominent fruit and orchid grower called George F Wilson. Gerdrude Jeckyll, the garden designer, was also involved in its development. It was donated to the RHS in 1903 and has subsequently evolved as a series of formal and informal gardens and landscapes. The associated laboratory, which is a Grade II listed building in its own right, was used for plant research and training. The significance of the gardens derives mainly from their historic and aesthetic value, which reflect advances in horticultural practice since the 19<sup>th</sup> century. There is also communal value as a highly regarded visitor attraction. The laboratory also has architectural value. The gardens continue to evolve, the latest stage being a multi-faceted development, which includes a new entrance facility, shop and restaurant and the dramatic Hilltop building, which houses a restaurant and expanded training and learning facility.
301. The gardens and their buildings, including the laboratory, would not be directly affected or diminished by the appeal development. There are longer views over the Surrey countryside from a limited number of higher parts of the site, including Battleston Hill, the viewing mound and the roof terrace of the Hilltop building. The proposed development would result in development within the rural outlook and the tops of the new buildings would be visible, albeit at a distance and filtered by intervening trees, especially those along the southern boundary of the gardens site itself, which include a number of tall Redwoods. Whilst the DCO works have resulted in tree removal there is a significant belt of woodland that will remain between the appeal site and the reconfigured A3. The southerly vista does not appear to be a design feature of importance in the layout or subsequent evolution of the gardens. In this respect the contribution of this wider setting to significance seems to me to be very limited.
302. The Examining Inspectors considered the effect of the DCO works on the significance of the gardens and listed laboratory. Their assessment included the impact of the road works themselves and also the associated loss of trees. The conclusion, which was endorsed by the Secretary of State, was that there would be no harm to the significance of the gardens themselves or the listed building. I would agree with that conclusion, especially as the new Wisley development includes expansive car parking and a large entrance building, between the gardens and Wisley Lane. However, I would also agree that the alteration to the approach to the site, including the engineered Wisley Lane Diversion overbridge and loss of trees would impact on the experience of visitors entering and leaving the site. This would result in harm to the communal value of the heritage asset, especially bearing in mind that the visitor numbers are forecast to grow significantly. However, this effect on the setting would be caused by the DCO works, which will occur regardless of the appeal development. Nevertheless, the DCO works have been constructed in part to accommodate the appeal development.

303. Overall, the harm to the significance of the Registered Park and Garden and the listed laboratory from the appeal development would be less than substantial in nature and at the lowest end of the spectrum.

#### Yarne (Grade II)

304. Yarne and its gardens adjoin the south-eastern boundary of the appeal site. The house itself is set back from the road and is sited towards the eastern side of its curtilage. The medieval core dates back to the 15<sup>th</sup> century but there have been subsequent additions and alterations. From the listing description it is clear that the heritage interest of the property relates mainly to its fabric with the various alterations reflecting the aspirations of different owners through the centuries. The historic and evidential value of Yarne would not be affected by the appeal scheme.

305. The immediate setting of Yarne comprises its curtilage. It is not clear whether it was originally built as a farmhouse but even if it was not, it derives value from its wider rural setting. This includes the western part of the appeal site, which prior to the construction of the airfield would have been farmland. The appeal proposal would result in a considerable change to this element of the view. However, the scheme proposes a landscaped Broadwalk around this perimeter of the site. As part of the SANG it would be constructed at an early stage and the inquiry was told that semi-mature nursery stock would be planted within an area some 20m in width. The Parameter Plan shows that the adjoining dwellings would be 2 storey in height and the illustrative Masterplan indicates a relatively low density and loose configuration. This is a more sensitive treatment than the earlier appeal proposal and would of course be subject to the Borough **Council's control at reserved matters stage**.

306. Bearing these points in mind, I agree with the previous appeal Inspector that there would be less than substantial harm to the significance of Yarne by virtue of the proposed development within its setting. The fact that the historical significance of the building predominantly lies in its fabric, which would not be affected, plus the mitigation measures described above, would result in harm at the lower end of the spectrum.

#### Upton Farmhouse (Grade II)

307. The gardens of Upton Farmhouse front onto the southern side of Ockham Lane and slope downwards from the road. The house is a timber framed 15<sup>th</sup> century building with 16<sup>th</sup> and 20<sup>th</sup> century extensions. It stands well back on its site at the end of a long driveway. Its historic and architectural interest derives from its fabric, which would not be affected by the appeal scheme. The immediate setting is mainly provided by the gardens and grounds which surround the house, although there is a wider setting comprising the surrounding farmland. Whether or not the appeal site was once part of the farm holding is not known. However, to my mind it plays a very minor role in terms of the significance of Upton Farmhouse.

308. The appeal site is some 90m to the north. There would be some views of the upper parts of the new development, especially from the garden to the north of the house. However, taking account of the topography, intervening built structures and vegetation the effect on the significance of Upton Farmhouse would be very small indeed. Any less than substantial harm would be at the lowest end of the spectrum.

### Bridge End House (Grade II)

309. Bridge End House is located at the junction of Hyde Lane and Ockham Lane and in the north-eastern corner of the Ockham Conservation Area. It is a 16<sup>th</sup> century timber framed house with 18<sup>th</sup> and 20<sup>th</sup> century additions and stands back in its well screened plot and surrounded by its gardens. It is the historic and architectural value of the house that contributes most to its significance. The appeal site is over 300m to the north, and it seems unlikely that there would be views of the new development having regard to the intervening topography and vegetation. Whilst surrounding farmland may have once been associated with Bridge End House, this wider setting seems to me to play little part in its significance. The previous Inspector did not identify any harm to the significance of the heritage asset resulting from the proposed development, and I am inclined to agree. Even if there is considered to be less than substantial harm this would be at a minimal level.

### Appstree Farmhouse and Derwent Cottage (Grade II)

310. The timber framed building dates back to the 16<sup>th</sup> century with later 20<sup>th</sup> century additions. It is now subdivided into two units and is an example of a post medieval rural dwelling. The house stands well back from Ockham Lane with its farm buildings close to the road and a PROW. It is within the northern part of Ockham Conservation Area. The significance of the dwelling is mainly derived from the historical and architectural value of its fabric, which would not be affected by the proposed development.

311. The surrounding agricultural land provides a wider rural setting beyond its immediate curtilage. However, the appeal site is some 570m distant and the proposed development would stand well back from the southern boundary behind the landscaped Broadwalk. There may be greater visual interaction with the development around Bridge End Farm, but this is not within the appeal site. Overall, any harm to the significance of Appstree Farmhouse and Derwent Cottage would be less than substantial in nature and at the lowest end of the spectrum.

### Ockham Conservation Area

312. The Conservation Area is irregular in shape and lies predominantly to the south of Ockham Lane and includes Alms Heath as well as the partially wooded parkland associated with Ockham Park and the Grade I listed Church of All Saints. There are a number of Grade II listed buildings, but apart from those already mentioned individually above, I am satisfied that the appeal site does not contribute to their significance.

313. No appraisal has been undertaken for Ockham Conservation Area. However, its significance seems to me to mainly derive from its historic associations, as a rural settlement probably dating back to Medieval times. Its informal layout of buildings generally front Ockham Lane, Ockham Road North and Alms Heath and stand within a green and well treed environment. Many have a distinct form of architecture, with red brick and tile elevations, clay tiled roofs and distinctive detailing. These features provide a clear identity. The eastern and western parts of the Conservation Area include open fields and parkland, but there is a sense of green enclosure that contributes to the character of the Conservation Area and its sense of place.

314. There are remnants of the surrounding historic agricultural landscape, especially to the south and east but also to a lesser extent to the north. This contributes to the setting of the Conservation Area. The appeal site though has been considerably changed due to the development of the airfield. It is on higher ground and well distanced from the northern boundary of the Conservation Area. Whilst the nearest part adjoins the southern boundary of the allocated land the appeal site itself is further to the north. There would be some intervisibility between the Conservation Area and the appeal site, although it is fair to say that in many places these views are screened by vegetation.
315. For the above reasons, I consider that the appeal proposal would have negligible effect on the setting of the Conservation Area and the significance of the heritage asset. There would be some additional traffic arising from the proposed development that would affect the country lanes. It is though noted that the proposed cycle route to Horsley would involve some physical interventions to reduce traffic speeds along Ockham Lane, Alms Heath and Ockham Road North. Overall, there would be a small amount of less than substantial harm to the significance of the Conservation Area arising from the increased traffic and traffic calming measures, but this would be at the lowest end of the spectrum.

#### Conclusions

316. The proposed development would result in less than substantial harm to the significance of a number of heritage assets. In each case I have found that this would either be at the low or lowest end of the spectrum. The Framework makes clear that less than substantial harm to the significance of a designated heritage should be weighed against the public benefits of the proposal, bearing in mind that great weight is to be given to the **asset's conservation**. I undertake that balancing exercise in the final part of my decision when I also reach a conclusion on compliance with the relevant planning policies.

#### CHARACTER AND APPEARANCE

317. The appeal site comprises a large swathe of open land. The former runway runs east to west along a ridge and the land falls away to the north and south. There are also large areas of hardstanding on the northern part of the site where the now demolished hangars once stood. Parts of the site comprise farmland, including the allocated area to the south of the appeal site around Bridge End Farm. There are trees and hedgerows along the northern, western, south-western and eastern boundaries. There is also a line of protected trees to the south of the former hanger area.
318. The appeal site lies within the Ockham and Clandon Wooded Rolling Claylands Landscape Character Area. The 1870 historic map shows a landscape of small to medium sized fields enclosed with trees and hedgerows. Whilst some agricultural land remains, the development of the airfield **in the early 1940's** has resulted in a substantial change. The enclosed landscape no longer exists, except at the perimeters of the allocated land. Overall, the appeal site bears little similarity to the features that are typical of the Landscape Character Area and are prevalent to the south. The main characteristic that remains is

the long views to the chalk downland in the Surrey Hills National Landscape<sup>19</sup> to the south, which is due to the topography of the site.

319. Many local objectors referred to the previous appeal scheme and the Inspector's **concerns** about the substantial harm that it would cause to the character and appearance of the area. Whilst that was a different proposal in some important respects, the basic issue of placing a new settlement within a rural area where most development is grouped in small historic hamlets remains the same. There would undoubtedly be a considerable change to the local environment, and I can well understand why this is so unwelcome to the many people who spoke so passionately against the scheme at the inquiry.
320. However, the principle of development is no longer in question as the appeal site is the main part of the A35 allocation in the LPSS. In finding this element of the development plan sound, the Local Plan Inspector commented that the site shared little of the character of the countryside around it and that most was flat and rather featureless. He pointed out that the previous appeal decision had been made within the context of the countryside and Green Belt policies in the now superseded 2003 Local Plan. In his view development could generally be self-contained visually and would not give the appearance of urban sprawl.
321. In light of the above, the correct approach now is to consider the present appeal proposal within the context of the site allocation. The previous **Inspector's conclusions**, which started from a different baseline for the reasons given above, need reconsideration. Furthermore, the current proposal has been refined to address as far as it is possible to do so, the concerns that were previously raised.
322. The proposal is now for a lower number of dwellings on the same site, which would result in a reduced density overall<sup>20</sup>. It is acknowledged that the net density would be significantly higher than the surrounding villages, but that is hardly surprising given the large quantum of greenspace being proposed. I note that the *Strategic Development Framework* SPD, which is purposed to guide Masterplanning on the strategic sites, indicates a density of 42 dwellings per hectare for this site, which is similar to what is being proposed.
323. The various parameter plans, which are to be determined as part of the outline application, indicate that the buildings would generally be two and three storeys in height with a limited number rising to four storeys in the vicinity of the Local Centre. There was some discussion at the inquiry about the higher clock tower within the market square. This seems to me acceptable as a feature building and wayfinding device at the centre of the development. The scheme would be divided into three distinct Neighbourhoods that would be separated by public green space. The development edges, including to Ockham Lane, would be at a lower density and set back behind generous sized landscaped buffers. There would an inevitable change to the character along this section of Ockham Lane. However, in my opinion there is the

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<sup>19</sup> Areas of Outstanding Natural Beauty were renamed National Landscapes in November 2023.

<sup>20</sup> The previous appeal related to a development of 2068 dwellings. The present scheme is for 1,730 on the same site area.

potential at reserved matters stage to achieve a sensitive design along this frontage in accordance with policy A35.

324. I have undertaken various visits to the site itself, the lanes and PROWs surrounding it and further afield to the PROWs within the National Landscape. I have no doubt that a development of the scale proposed would result in a considerable change to the existing character of the site and its immediate area. With regard to views from the National Landscape, the site can be seen from various public viewpoints. However, this is at a considerable distance and within the context of a wide panorama. I acknowledge that the site rises to a central ridge, but the new buildings would be seen within a small part of the overall field of view and would be shielded in many places by trees and vegetation. If anything draws the eye it is the cluster of tall buildings in Woking town centre. For these reasons, any adverse impact would be minimal and would not diminish the beauty or enjoyment of this designated landscape or its setting. I note that the AONB Planning Adviser has raised no objections in this respect, and I consider that the proposal would comply with policy P1 in the LPSS.
325. Whilst there would be a degree of harm to the character and appearance of the area this would be limited, for the reasons I have given. There would be no conflict with the provisions of A35 in the LPSS and in particular the provision of sensitive design at the site boundaries that has significant regard to the transition from village to greenfield. As the site is a strategic allocation it is neither in the Green Belt or designated as countryside on the Policies Map. Policies P2 or P3 in the LPSS are therefore not offended.

## DESIGN

326. Policy A35 in the LPSS includes provisions requiring high quality design and policy D1 contains criteria relating to the shaping of places. Policy D4 in the LPDMP also seeks to achieve high quality design and local distinctiveness and refers to the National Design Guide in this respect. Good design is a key ingredient to creating a sustainable development where people want to live. The importance that the Government places on this matter cannot be overstated and this is reflected in the Framework, which provides guidance on creating well-designed and beautiful places.
327. The evidence that was given on urban design and landscaping to the inquiry indicated that the developer envisages that this would be an exemplar development in its portfolio. The proposal has clearly undergone a carefully considered iteration process and a considerable amount of information has **already been submitted to support the developer's** aspirations for the site, including a large number of background documents and a detailed Design and Access Statement. There is also a Design Principles Document and a Placemaking Infrastructure Design Code. These are documents to be approved at this stage and secured by a planning condition. Objectors criticised the linear nature of the proposed scheme. However, the allocation is for a site that is longer than it is wide and policy A35 requires an access at either end. In the circumstances a spine road through the centre of the site seems inevitable and it is difficult to understand how an alternative arrangement could be devised.
328. It is relevant to note that the appeal scheme went before the independent Strategic Sites Design Review Panel on 4 occasions at pre-application stage. I



note on the final occasion, the Panel considered that positive progress had been made in respect of their earlier recommendations. They were supportive of the vision and ambition for the site but remained concerned to ensure its delivery with high quality design and distinctive placemaking. The mechanism for such assurance is now provided within the Section 106 Agreement, which I consider in more detail below.

329. As with most developments of this scale, its success would depend in large part on the detailing, which would be secured through the reserved matters applications, the planning conditions and the planning obligations. Amongst other things, this means the use of high quality, sustainable materials that reflect those in the locality; introducing sensitively designed housing typologies that respect the local vernacular; creating a strong sense of place; and providing a well-designed landscape framework that has regard to the receiving environment. Insofar as the proposal is able to do so at this stage, it would comply with policy D1 in the LPSS and policy D4 in the LPDMP.

#### RESIDENTIAL AMENITY

330. There is no doubt that those living within the vicinity of the appeal site would experience disturbance and inconvenience during the construction period, and that this would go on for a considerable period of time. Unfortunately, this is inevitable if the allocated site is to be built out in accordance with the LPSS. However, there would be mitigation so that the negative effects would be reduced as far as possible. For the reasons I have given in the section on the planning conditions I do not consider that construction traffic should access the site other than from Wisley Lane Diversion. This means that heavy goods vehicles should not use the adjoining lanes, which are weight restricted, because they would not need to do so for purposes of access. Effects including dust and noise from construction activity would be controlled through the CTEMP. I do not consider that the development would contravene policy D5 in the LPSS or policy LNPH1 in the LNP in this respect. The supporting text makes quite clear that the provisions do not apply to the construction phase but only to development once it has been built.
331. There are relatively few residential properties in close proximity to the site boundaries. The small hamlet of Elm Corner is to the north and the houses at Hatchford End are to the north-east. Both of these residential areas would adjoin the area of the site occupied by the northern SANG and would be a considerable distance from the nearest new houses. I appreciate that the present open outlook would change, especially having regard to the topography. It is likely that activity levels would increase with people using the SANG to walk with and without their dogs, although this would be ameliorated by landscaping and tree planting and also by the existing hedges and trees along the site boundaries. To the west of Elm Corner there would be playing fields, but they would be well distanced from the residential boundary and there is a protected intervening tree belt.
332. Yarne and Ockham End adjoin the south-eastern corner of the appeal site. There is some existing tree and hedge screening along their respective garden boundaries, but they would also experience a considerable change in outlook. However, as previously mentioned, the scheme would include the 20m wide landscaped Broadwalk around this edge of the site. The Design Framework Parameter Plan shows a lower density frontage and although the Masterplan is

illustrative, it indicates a loose housing layout with buildings standing back from the Broadwalk. The detailed layout, orientation and appearance of the new houses would be determined by the Borough Council at reserved matters stage and there is no reason why a satisfactory relationship between new and existing development could not be achieved. Overall, and bearing in mind the allocated nature of the site, I do not consider that the living conditions of existing occupiers would be unduly diminished by the proposed development of the site.

#### LOSS OF AGRICULTURAL LAND

333. About 70ha of the 114.3ha appeal site comprises agricultural land. Of this, around 45ha is Grade 2 or 3a, which is considered to comprise best and most versatile agricultural land through the Agricultural Land Classification. This would be lost through the proposed development of the site. Food security is an important issue and objectors are correct to be concerned that there would be a permanent loss of good quality agricultural land that could otherwise be used for food production. The economic benefits of best and most versatile agricultural land are recognised in the Framework and policy E5 in the LPSS includes a provision to protect it. However, its loss would be an inevitability that would arise from the implementation of the allocation and for that reason I attribute little weight to the conflict with this policy in the planning balance.
334. It should be noted that the proposal would include two areas for allotments, which would amount to about 1ha of land that people could use for the growing of food. It is recognised though that this would be a very small proportion of the overall good quality agricultural land that would be lost.
335. Soils are a finite resource and should be protected and re-used sustainably. During construction they should be properly managed and stored in a way that protects their structure and composition in order that they can be re-used within the site. The submission and approval of a Soil Management Plan would be secured by a planning condition.

#### GREEN BELT

336. The appeal site was removed from the Green Belt by the Local Plan Inspector when the allocation was made under policy A35. This is because the allocation would be incompatible with a Green Belt designation. This is clearly shown on the Policies Map to the LPSS. It is an important difference with the previous appeal when the site was not allocated and was within the Green Belt.
337. It is appreciated that the Green Belt boundary lies close to the south and west of the site, but its proximity does not mean that Green Belt policy is applicable. There is no policy provision either in the LPSS or the Framework that Green Belts have a setting where specific policy restrictions apply. There is also no provision that openness within the Green Belt can be affected by development outside of it. Indeed, there are many examples of where Green Belt boundaries adjoin developed areas, and this accords with one of their purposes, which is to prevent urban sprawl. There is no evidence to support the assertion that the site will be reinstated as Green Belt land.
338. It is appreciated that the proposed cycle routes run along roads and other routes that are within the Green Belt. The proposals include various interventions as I have considered above. However, these works would be

within highway land, and I am satisfied that it would not be inappropriate development that would conflict with the purposes of the Green Belt or fail to preserve its openness.

#### FOUL DRAINAGE

339. There was considerable local concern about the capacity of the Ripley Wastewater Treatment Works and the drainage network and its ability to accommodate the foul drainage arising from the appeal development. Evidence of flooding along local roads and surging manholes was presented, and I was told that this has been a problem that has been ongoing for a considerable period of time. It was also pointed out that there are a large number of new homes being built in the area and that there is a need for significant investment in order that the system can cope.
340. One of the infrastructure requirements of policy A35 is to ensure that sufficient capacity is available within the Ripley Wastewater Treatment Works to accept wastewater from the development within its permitted limits. The draft Infrastructure Delivery Plan submitted with the planning application recognises that upgrades to the public foul sewer network and the Ripley Wastewater Treatment Works would be necessary in order to accommodate effluent from the proposed development. It anticipates a phased delivery that would relate to the available headroom in the system. The improvements would be funded by the infrastructure charges that the Appellant would be required to pay to Thames Water.
341. Thames Water has acknowledged that there are capacity issues within the foul water network, and it is reasonable to surmise that this conclusion takes account of committed development within the catchment of the Ripley Wastewater Treatment Works. Thames Water is satisfied that the proposed 420 pupil primary school and the first 600 houses could be satisfactorily accommodated but that at the moment upgrades would be required beyond that point. A planning condition has been agreed with Thames Water to the effect that either the restriction would apply until the necessary upgrade has been carried out or that an infrastructure plan would be agreed to show how further development would be phased. This would depend on the available headroom at the relevant time.
342. Many of the surcharges happen after periods of heavy rainfall and it is acknowledged that in many older properties surface water drains into the foul sewerage system, although this is no longer permitted for new development. Thames Water therefore require that surface water from the scheme would not discharge into the public sewer network, and that any ground water discharges should be kept to a minimum. The latter usually occur during construction and require a permit. The surface water drainage scheme would be designed on sustainable drainage principles. Ground water discharges during the construction period would be controlled through the CTEMP. Both would be secured by planning conditions.
343. The appeal development cannot be expected to resolve existing issues, but it can be expected not to make them worse. For the above reasons and subject to the proposed mitigation measures, I am satisfied that the development would mitigate its own impact on the foul drainage network.

## THE WISLEY AIRFIELD COMMUNITY TRUST (WACT)

344. The vehicle that has been chosen for the long-term stewardship of the community assets and infrastructure is the Wisley Airfield Community Trust (the WACT). This would be a charitable organisation that would be accountable to the new community of residents and stakeholders. It is intended that its Board of Trustees would include community representatives and other stakeholders. The latter are likely to include representatives from the Borough Council, the County Council, Ockham Parish Council and Natural England and the Owner during the build-out.
345. The funding arrangements are explained in the In Perpetuity Funding Framework and its Addendum, which is at Annexure T to the Section 106 Agreement. The financial model seems to me to be well-considered and robust, with the estimated costs covering the whole allocation and the revenues solely relating to the development of the appeal site. Any shortfall in funds during the build-out of the scheme would be made up by the Appellant. One of the important elements of the financial strategy is the income from endowed assets. The current proposal is for this to be derived from commercial premises and 19 residential properties that would be gifted to the WACT in order to provide it with a long-term rental income stream. By the end of the build-out period it is estimated that there would be an operating surplus of just over £50,000.
346. There was considerable scepticism from objectors that the WACT would be financially viable or effective in the long-term management of the site. There was particular concern that it would have no experience of SANG management whereas a Land Trust, for example, is a tried and tested model. However, there are very detailed requirements in the Section 106 Agreement under which the WACT must operate and the funding streams, including from the estate charges and endowed assets, would provide a reliable and steady income. Furthermore, the Appellant is required to set up and underwrite the WACT during the relatively long build out period. Natural England also had initial concerns as I refer to below but it is now satisfied on this point.
347. The Section 106 Agreement includes provisions for regular monitoring to demonstrate to the Borough Council that the WACT is being properly managed and fulfilling its functions. In the event that the Borough Council considers that this is not the case it has the right to take corrective action or, as a final resort, step in and take control. Regardless of the Borough **Council's current** financial position, it has a statutory duty to act in the public interest and it confirmed at the inquiry that its concerns about the WACT had now been addressed. In any event, as I understand it, the Borough Council would be able to draw on the WACT funds if necessary to cover its costs.
348. Natural England was concerned that there may be insufficient funding to cover the management of the SANG and the County Council had similar concerns about the bus service. Whilst there is no ringfencing proposal for a particular area of responsibility, it is proposed that there would be prioritisation of funds to the SANG followed by the sustainable transport. This would be within the Stewardship Body/ WACT Scheme to be approved by the Borough Council in the establishment of the WACT. With that assurance, both Natural England and the County Council are content that the stewardship arrangements would be fit for purpose.

349. I consider the various obligations in the part of my decision dealing with the Section 106 Agreement. However, from the evidence before me I am satisfied that the stewardship arrangements, including the WACT, would be acceptable.

#### SUPPORTING INFRASTRUCTURE

350. It is very important for development to have the infrastructure to support it. There were many objections by the Rule 6 Parties and individual objectors that such infrastructure would not be provided and that local services would be put under unwarranted pressure. Particular concern related to schools and healthcare. These are both considered in the relevant part of my decision that deals with the Section 106 Agreement. This explains the triggers and the responsibilities of the Local Education Authority and the Integrated Care Board with regards to provision.

351. I have commented that there would be benefits to sustainability arising from having a healthcare facility on the site. Whilst this appeared to also be the preference of the Appellant, the ultimate decision would be made by the Integrated Care Board, having regard to its Estates Strategy. A considerable financial contribution would be made in the alternative, and this would mean that new residents would have healthcare facilities available, albeit they would have to travel to access them, presumably like much of the existing population have to do at the moment.

352. There were some objectors who referred to the inadequacy of healthcare staff, regardless of the availability of the services. This could apply to doctors, nurses and dentists but unfortunately is a much wider problem that is applicable to many parts of the country. It is an issue that is beyond the scope of this inquiry to resolve, and certainly not a reason why the allocated site should not be delivered.

#### CLIMATE CHANGE

353. Several Rule 6 Parties<sup>21</sup> and individual objectors considered that the proposed development showed an inadequate response to climate change and the Borough **Council's** declaration of a Climate Emergency in 2019. The ambition is for the Borough to become zero carbon by 2030. There is no doubt that climate change is a global, national and local issue of great importance. Transport is the biggest source of carbon emissions in the UK and I have little doubt that those living in the new development would rely on car travel for some of their journeys. However, the proposal includes a number of measures to encourage modal switch and to my mind these would give new occupiers attractive and realistic choices to undertake journeys by alternatives to the private car. There would be the opportunity for significant modal shift, in my opinion as explained under Issue Four.

354. As would be expected in a new development of this scale there would be provision for charging points for electric vehicles and bikes, including a site-wide strategy to be approved by the Borough Council prior to the commencement of development. These would be secured through planning

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<sup>21</sup> Including Mr Smith who represented East Horsley and West Horsley Parish Councils and VAWNT.

conditions. It is also to be noted that the new bus service would be run with the use of electric vehicles as indicated in the Public Transport Strategy.

355. It is important to remember that people need places to live. This is the largest strategic allocation in the development plan and an important element of the Borough **Council's housing land supply**. Making the site a sustainable location in terms of transport is a key objective of this planning proposal and one which to my mind would be successful. The Framework states that the purpose of the planning system is to contribute to achieving sustainable development. Whilst moving to a low carbon economy is one of the environmental objectives, ensuring that homes are provided to meet the needs of present and future generations is one of the social objectives.
356. The part of the proposal that would involve built development is at present in outline form. Construction would have to adhere to the Building Regulations in force at the time, which have their part to play in reducing carbon emissions in buildings. In terms of the development plan the relevant policies are policy D2 in the LPSS and policies D14-D17 in the LPDMP. These contain no specific standards other than referring to current Building Regulations. These were changed in 2022 to reduce carbon dioxide emissions in new build homes by 31% of previously set standards and in commercial premises by 27% of previously set standards.
357. The submitted Energy Strategy (January 2023) sets out the proposed measures for this development in accordance with the energy hierarchy. These include the use of energy efficient building fabrics during construction, photovoltaic panels on 60% of the apartment block roofs and 30% of the commercial buildings, and an energy centre using air source heat pumps to provide hot water and heating. These technologies are said to reduce carbon dioxide emissions by some 67%, which would clearly exceed the policy requirement as things presently stand.
358. Objectors consider that opportunities have been missed to extend the use of solar panels to all homes and buildings and substantially increase the output from this source. The home insulation proposed is considered to be out-of-date and resulting in a poor outcome. There is scepticism about the success of the energy centre and whether new occupiers would sign up to using it.
359. These concerns are appreciated. However, there is no reason why this development should not play its part and be an exemplar scheme in this regard. In terms of the built development the proposal is outline only. No details of the construction methods, the use of solar panels or the energy centre have yet been provided or agreed. The Section 106 Agreement requires an Energy Scheme for the whole site to show details of how the Energy Centre would deliver low carbon hot water and heating to all buildings. The obligations also include that following approval it would be implemented for the lifetime of the development and transferred at no cost to the WACT.
360. Furthermore, at reserved matters stage for each phase a Sustainable Design and Energy Statement is required for approval by the Borough Council. This would provide details of the sustainable design and construction and energy production. This means that advances in technology or changes in policy requirements for carbon reduction during the build period would be captured. In addition, there would be water efficiency measures that would be secured by a planning condition.



361. The development would be in accordance with the relevant planning policies, and, in such circumstances, I do not agree that the **Appellant's response to the Climate Emergency** is inadequate as alleged by those opposing the scheme.

#### CONSULTATION

362. The *Framework* encourages public engagement with development proposals at an early stage. The *Planning Practice Guidance* also encourages pre-application community engagement where it will add value to the outcome. There were clearly a number of different consultation events both online and in person. I understand that there were several Community Liaison Group workshops, an online session for Councillors and a community presentation in Ripley.

363. The evidence that I was given from objectors at the inquiry was that these events did not involve true consultation where questions were answered, and opinions were taken into account. My impression was that they were generally **considered to be a "tick box" exercise** on details that had already been decided. The view of the Appellant was, not unexpectedly, very different. It is impossible for me to reach a view on this matter as I was not in attendance or involved at that time. What is clear however is that there is a large amount of discontent and distrust of the Appellant and its development within the local communities within this part of the Borough. I have no doubt that this has been exacerbated by the long period of time since the development of this site was first put forward and the uncertainty that has ensued. I realise that my decision will be very disappointing to many people. However, I have considered all issues and views very carefully and explained in my decision the reasons for my conclusions.

#### PLANNING CONDITIONS

364. A draft list of planning conditions was drawn up for discussion at the round table sessions of the inquiry. All main parties and interested persons were invited to participate and I have taken account of the points that they made in the reasoning set out below. I decided that it would be best to consider the conditions relating to the full and outline elements of the appeal scheme separately. This is because the majority of the SANG, for which full details have been provided, is to be constructed first and therefore it is likely that many of the conditions for this element would also need to be discharged first. It is recognised however that there will be some duplication between the two lists where the conditions are relevant to both elements of the overall development.

365. In considering the planning conditions, I have had regard to Paragraph 56 of the *Framework* and advice in the *Planning Practice Guidance*. I have changed the suggested wording in some cases to reflect the round table discussion at the inquiry and also to ensure that the conditions are precise, enforceable and not unduly repetitive.

#### CONDITIONS RELATING TO THE FULL ELEMENT OF THE DEVELOPMENT SCHEME

366. The statutory 3 year time limit for commencement applies to the SANG and its associated infrastructure. It is necessary to specify the approved plans for

the avoidance of doubt and in the interests of proper planning. It is not though appropriate to include supporting documents and they are referred to separately where necessary. The Environmental Statement shows that the SANG would be provided in 4 phases. In order to ensure that the development proceeds in an orderly manner a phasing plan is necessary before any development on the site commences. Prior to each phase being commenced a construction programme for the accesses and the infrastructure for that phase is also required. I have divided these provisions into separate conditions to reflect the different implementation periods.

367. The SANG would be provided on the basis that there would be no net increase in recreational visits to the SPA and I have considered this under my third issue. In order to achieve this objective, it is necessary that the SANG phase is in place and open for use before the dwellings that it supports are occupied. This is secured through the Section 106 Agreement. On the other hand, it is reasonable to ensure that the SANG is not available for use until the first dwelling is occupied. Otherwise potentially it could be used by those not living on the site, which would seem counter intuitive.
368. The site is of local importance for archaeological resources and has been investigated through initial work, including trial trenching as recorded in the Environmental Statement. In view of the work already undertaken, it is not necessary to require a site-wide pre-commencement condition and investigation to be undertaken before work commences on individual phases. The **County Council's Archaeological Officer agrees with this approach** and the two conditions he suggests seem to me to be reasonable although I have reworded them for clarity and concision.
369. The construction period would inevitably cause disruption and inconvenience to road users and those living nearby. It is therefore necessary to provide safeguards to mitigate adverse effects as far as possible. Construction activity can also cause adverse environmental and ecological effects, and these would also need to be properly mitigated, including in relation to the SPA. The CTEMP covers matters raised by the Environment Agency, the County Council and National Highways and is to be imposed on a phased basis. The provisions are reasonable and necessary to ensure the necessary mitigation of construction activity. There was considerable discussion at the inquiry about how the construction traffic would enter or leave the site until the access from Wisley Lane Diversion was built. I have concluded under Issue One that no construction access should be taken from Old Lane or Ockham Lane, and I have imposed a condition accordingly.
370. In order to ensure that construction waste is treated in a sustainable way it should be minimised with opportunities for recycling and re-use maximised. This would be detailed in a Site Waste Management Plan. I have already considered the issue of best and most versatile agricultural land. The protection of the soil resource would be secured through a Soil Management Plan. Sections have already been provided on the SANG Landform Plan and there is an existing topographical survey. The Earthwork Strategy would be required to show the methodology for the level changes and earth movements, details of any required importing of soil and spot heights for proposed land levels. These requirements would be met on a phased basis.

371. The site is on Secondary A aquifers and the water table is very shallow in places and therefore vulnerable to contamination. The Environment Agency does not consider that contamination has been fully addressed in the submitted reports, bearing in mind the former use of the site as an airfield and the areas of landfill. A Ground Water Protection Strategy is therefore required. There are a number of boreholes on the site, installed in connection with the contamination surveys and these would need to be made safe and secure to avoid ground water contamination. The Environment Agency points out that contamination from some sources has not been investigated and that this is necessary on account of the past uses. Conditions are also required to address remediation, unexpected contamination and verification. A further condition is necessary to ensure that the proposed uses would not commence until all remediation works have been carried out and verified as effective.
372. A tree survey, tree protection plan and arboricultural assessment have been submitted. However, an Arboricultural Method Statement is required and a further Tree Protection Plan to demonstrate how roots of retained trees and hedgerows would be protected from proximate service runs, hard surfacing and drainage works. In addition, the Arboricultural Method Statement should be accompanied by an ecological survey to address any effects of tree or hedge removal associated with the boardwalks in the southern SANG. There is a Veteran Oak, which is close to one of the footpaths in the Southern SANG. This tree is relatively fragile, and I observed it has already been damaged through public misuse. In order to protect it from further harm and to ensure its future health, a Management Plan is necessary. I have reworded some of the provisions so that they are clear and concise.
373. The submitted Lighting Strategy sets out the proposed design principles for the site. However, a greater level of detail of the external lighting for each phase is necessary. This should have particular regard to the effect on nearby existing and proposed residential properties and ecological features, such as bats and other wildlife that are sensitive to lighting. I have adjusted the wording of the condition to make it clear and concise.
374. The Borough **Council's Landscape Consultant made various** comments about the use of non-native species and the submitted Planting Plans have been revised to reflect this. It is therefore unnecessary to require further details of the soft landscape proposals. Whilst there is information about the self-binding gravel pathways and car park surfacing, it is not clear if all routes are to be in this material and more detail about their width is required. The position of service runs is also required to ensure that they do not compromise the planting or hard landscaping. I have adjusted the wording accordingly. The Environment Agency was concerned about the flood zone in the Southern SANG and following discussion at the inquiry it was agreed that a Landscape and Ecology Management Plan would be necessary to protect wildlife and enhance biodiversity in this part of the site.
375. There are some fencing details already submitted, but the boundary treatments around the northern boundary of the SANG in particular are unclear. The details would need to ensure that the objective of providing a semi-natural greenspace that people would want to use in preference to the SPA is not compromised. It was suggested that the boundary fence would need to be of sufficient height or configuration to stop cats entering the SPA. I

have considered cat predation under Issue Three and concluded that it would not be an issue of concern.

376. The need for skylark mitigation and what is being proposed has been considered in Issue Three. The decision as to whether the new plots would be on-site or off-site or a mix of the two would be a matter for the Borough Council to decide. The only remaining dispute between the Borough Council and the Appellant relates to how long the plots should remain in place. I agree with the Borough Council on this point. As well as being on the Red List, the skylark is also a Section 41 species in the *Natural Environment and Rural Communities Act*. This would presumably remain the case if skylarks were removed from the Red List. Even if matters improved and the birds were placed on the Amber List, the population may still have unfavourable conservation status. From the available information it seems unlikely that the skylark would be removed from the Red List or cease to be listed under Section 41 of the aforementioned Act. In the circumstances, I can see no justification at the present time for a provision that would allow the mitigation to cease during the lifetime of the development.
377. The justification for providing 20% BNG was considered under Issue Three and a condition is required to secure it through a site-wide BNG Strategy to be approved by the Borough Council. There is a provision for habitat banking arrangements across phases with a need to achieve the 20% target across the site overall, which for a site of this size seems reasonable. The use of the site by badgers has been considered under Issue Three. Due to the mobility of this species, new surveys would be necessary before the start of construction.
378. It is appreciated that the Environment Agency wishes to specify the mitigation measures relating to flood risk in the Southern SANG. However, these are already included in the Flood Risk Assessment and its Addendum. Compliance with that document is therefore sufficient. Similarly, details for the boardwalk and footbridges are shown on the Southern SANG Boardwalk Informative Plan. In the circumstances I have re-worded the suggested conditions and added an implementation and retention clause to the latter to ensure that the boardwalks and footbridges are properly managed and maintained in perpetuity.
379. The County Council as Lead Local Flood Authority is satisfied with the proposed sustainable drainage strategy (SuDS). To control flood risk on and off the site, further details are required to comply with the Flood Risk Assessment and the SuDS Design Code, both of which have been submitted as part of the Environmental Statement. With regards to timing, it seems to me that there is justification in requiring the details of the surface water drainage strategy before any site work on a particular phase commences. Bearing in mind the topography, such works could result in unintended consequences from runoff to land outside the site. Thereafter it is necessary for verification in order to ensure that the SuDS have been completed in accordance with the requirements and would be maintained so as to remain effective in perpetuity. In order to protect water resources from pollution the Environment Agency require details to be approved if infiltration is to be employed as a SuDS technique.
380. The Green and Blue Infrastructure Parameter Plan shows play areas in SANG phases 1 and 4. In order to provide high quality facilities for children living on

the development, details of the design of the play areas, a timescale for their delivery and future maintenance and management arrangements are necessary. The provision of the two car parks is required to encourage users to use the SANGs rather than the SPA. In order to encourage sustainable travel by those living on and off the site, charging points for electric vehicles and bikes and secure cycle parking are necessary in the parking areas.

381. The existing PROWs cross the SANGs and would be retained. For the reasons given in Issue Three, people would be encouraged to use the SANG footpaths rather than the PROWs into the SANG. The Public Rights of Way Strategy is necessary to ensure that the existing PROWs integrate successfully with the proposed new footways and paths. I note the point made by objectors that mown paths may not be appropriate. That is a matter that can be considered in the round when the Strategy is considered by the Borough Council.

#### CONDITIONS RELATING TO THE OUTLINE ELEMENT OF THE DEVELOPMENT SCHEME

382. There are a number of similar conditions on both the full and outline elements of the appeal scheme. Rather than repeat the reasoning I refer back to the previous section of my decision:

- a) Archaeology (paragraph 368); protection of trees (paragraph 372); lighting (paragraph 373); badgers (paragraph 377).
- b) Management of construction activity and access (paragraph 369); management of site waste, soils and earthworks (paragraph 370).
- c) Ground Water Protection Strategy (paragraph 371); management of boreholes (paragraph 371); contamination, remediation and verification (paragraph 371); surface water drainage (paragraph 371).

383. All areas other than the SANG are submitted in outline form with all matters reserved. The standard requirements regarding the submission of reserved matters have been imposed including a requirement that the final reserved matters should be submitted within 10 years. This is to ensure that the development is completed expeditiously and the homes that the strategic site would provide would be brought forward within a reasonable timescale. There is a requirement that the development should accord with the submitted drawings in the interests of precision and proper planning. These include a number of plans that establish the various parameters for the scheme. I have also added the access plans as whilst this is stated as a reserved matter on the application form, detailed access drawings have been submitted.

384. The development would be constructed in phases. In order to ensure that it is planned comprehensively and proceeds in an orderly manner, a Master Phasing Plan is required that shows the relationship between the different phases and the disposition of uses. To be effective this needs to be submitted in advance of the first reserved matters. The condition allows flexibility as the development progresses and an updated Master Phasing Plan for the whole development is to be submitted at the start of each phase. There was some concern about this, and I can appreciate that it is important for those living nearby to have certainty about the development process. On the other hand, this would be a large development that would be built out over many years. Inevitably changes in circumstance would arise. However, there would be

safeguards in that any updated phasing plans have to be in accordance with the various parameter plans, which set out a definitive framework.

Furthermore, any changes would be subject to the Borough **Council's** approval. I therefore consider that the proposed flexibility is reasonable, but I have split the provisions into two conditions for clarity and precision.

385. I have already considered the importance of good design and that high urban design quality is expected in development plan policy and national guidance. Conditions are therefore necessary to secure the Design Principles Document and the Placemaking Infrastructure Design Code as approved documents. Design Codes are required to be submitted for the site overall as well as individual Neighbourhoods and the commercial buildings. For the energy centre and SANG buildings the Placemaking Infrastructure Design Code is insufficient in detail in certain respects and an amended document is required covering sustainable design and access for these elements.
386. Whilst an outline Cultural Strategy has already been submitted, further details are necessary in relation to the approach to public realm and how public art would be integrated into the development in accordance with policy D7 in the LPDMP. This would contribute in a positive way to the quality of the development and provide a unique sense of place and identity. There is a great deal of history associated with the former airfield and the re-use of the decommissioned NATS beacon is something that deserves consideration.
387. Policy A35 sets out the various uses anticipated along with approximate floorspaces. It is noted though that it refers to Use Classes that have now been largely superseded. It is therefore necessary to ensure that the development proceeds as envisaged with the mix of uses required by the allocation to support a sustainable community. Whilst the Land Use Parameter Plan indicates general industrial uses (Class B2) in the Local Centre, it was confirmed at the inquiry that this was not the intention. The Local Centre is not a suitable place for such uses and a condition is required to this effect. Class E in the amended Use Classes Order includes a wide range of uses. It is important to ensure that the retail facilities would be retained in order to provide new residents with on-site shopping facilities to meet day-to-day needs. A condition restricting a change to other Class E uses is therefore justified in this case. The Local Centre would be in Neighbourhood 2, as defined in the Section 106 Agreement. In order to ensure that there would be retail and community facilities available at an early stage, a temporary retail and community facility would be provided. It seems to me that it is not only necessary to indicate where this would be located and its size, but also when it would be provided and removed. I have added these provisions to the condition accordingly.
388. Noise has been considered in the Environmental Statement, which indicates that the main existing external noise source emanates from traffic on the A3 and that the highest noise levels are experienced on the western side of the appeal site. It is necessary to ensure that future residents, including those living in the elderly persons accommodation, would not suffer from an adverse noise environment within their homes and outdoor amenity areas. The proposed conditions were discussed at the inquiry and revised at my request to provide measurable parameters in accordance with the recommendations in BS8233: 2014 *Guidance on Sound Insulation and Noise Reduction for Buildings* and the World Health Organisation *Guidelines for Community Noise*.



The various requirements would be met through the layout and orientation of dwellings and the use of suitable external wall and roof materials and sound reduction glazing. Some residential units would be in close proximity to commercial uses, for example in the Local Centre. In such situations it would also be necessary to control internal noise transmission.

389. The gypsy and traveller site would be more difficult to mitigate for noise intrusion due to the nature of the mobile dwellings and the proximity of this part of the site to the A3. However, the area would be screened by a noise bund and details are required of this and any acoustic fencing in order to provide satisfactory noise mitigation.
390. There are likely to be noise impacts associated with the sports pitches, school and nursery, which could affect existing and new residential occupiers. A condition was proposed for the submission of a Noise Management Plan to protect existing and proposed residential uses. This fails to give any noise level with which to adhere, and it would be very difficult to assess at this stage what would be reasonable. A better way to control unacceptable impacts would be at reserved matters stage when details of the uses are known and directly related conditions can be imposed. It is necessary to ensure that the plant and equipment associated with commercial premises within the Local Centre are sound insulated to avoid harmful impacts to nearby residential properties and buildings. In the interests of clarity and precision I have reworded the proposed conditions.
391. I have considered the condition relating to the Site-Wide BNG Strategy in relation to the SANG element of the scheme in paragraph 377 above. This related to the delivery of 20% BNG across the site overall. It is also necessary to understand how each phase within the outline element of the scheme would contribute to achieving that requirement and the required strategy would include a metric calculation.
392. The submission of a detailed Landscape Ecological Management Plan for each phase outside the SANG is not necessary. This is because the Section 106 Agreement includes provisions for the management of strategic and local green infrastructure and monitoring of each phase to ensure compliance with the BNG requirements. In the Environmental Statement, an Ecological Mitigation and Enhancement Strategy has been submitted, which included mitigation measures for protected species. In order to ensure that its provisions are adhered to throughout the course of the development, an Ecological Mitigation and Enhancement Plan is required for each phase alongside the reserved matters applications.
393. Policy ID6 in the LPDMP sets out the standards in terms of quantity and accessibility for various types of open space within new residential developments. Provision of such green spaces is also a requirement of policy A35 in the LPSS. A plan showing the indicative open space provision and how this would meet the policy requirements has been submitted, but this is not an approved Parameter Plan. The Green and Blue Infrastructure Parameter Plan indicates where on the site the various open spaces would be. It is therefore necessary for full details to be provided on the relevant phase to ensure that high quality open spaces and sports facilities would be provided for future residents.

394. The Borough Council has no up-to-date Playing Pitch Strategy. Sport England has responded that there is a need for playing fields within this part of the Borough and this is borne out by the supporting representations from several sporting bodies to the inquiry. Conditions are necessary to ensure that the playing fields, all-weather artificial pitches and associated facilities would be constructed to a high standard, provided expeditiously, and be properly maintained and managed thereafter.
395. I acknowledge the concern of some objectors about the use of microplastics in artificial surfaces and its environmental effects. However, this is a wider debate that cannot be resolved through this planning appeal. Certainly, there is no evidence that the proposal would harm the ecology of the nearby SNCI as suggested. The playing fields and pitches would be important to the health and wellbeing of the new population and would contribute to the sustainability of the scheme. It is thus necessary to ensure that these facilities are not changed to other local community uses permissible under Class F2 of the Use Classes Order.
396. Sport England encourages private sports pitches to be available for community use and this is reiterated in policy ID6 and its supporting text. In the circumstances it is necessary for a community use scheme to be secured in respect of the primary school sports facilities. I have re-worded the conditions in the interests of clarity and precision. It is solely for the Borough Council to discharge planning conditions, although it may of course consult with whom it wishes, including Sport England, in doing so.
397. There is a submitted Sustainability Statement and Energy Statement, which indicate at a relatively high-level how the development proposes to address climate change and low carbon outcomes through sustainable design and construction. The submission of Sustainable Design and Energy Statement is required for each phase of the built development to show how the policy requirements relating to these matters would be achieved. The submitted Energy Statement includes some general points about how embodied carbon could be reduced during the construction process. However, more detail is required through an Embodied Carbon Statement before each phase is commenced in order to ensure the delivery of a sustainable development.
398. Policy D2 requires water efficiency to meet the highest national standards. The supporting text indicates that this is presently 110 litres per person per dwelling per day, but it is only an optional requirement in the Building Regulations. Afinity Water is the provider and requires the restriction to protect water resources in this water stressed area. It is not necessary to set out the various water reduction measures in the condition, but they are referred to in the *Climate Change, Sustainable Design, Construction and Energy* SPD (2020). I have reworded the condition to be more concise.
399. The Sustainable Movement Corridor would run through the site between the Wisley Lane Diversion and Old Lane. It would be the main spine road that would be edged with segregated cycle tracks and pedestrian footways. It would also be the main route for the bus services. The full details of this sustainable route need to be provided before the developed areas are started in order to ensure that the various sections through the different Neighbourhoods integrate with each other satisfactorily. It may be constructed in a single phase or as part of more than one phase, but it is

necessary for it to be completed in totality at a relatively early stage. I am satisfied that the occupation of up to 350 dwellings would be a reasonable trigger. There was concern from objectors about access for emergency vehicles during the period when only one main access would be available. However, the access for non-motorised users onto Ockham Lane shows a hatched temporary accommodation access, which would be available for use by emergency vehicles.

400. The Borough Council requests a condition that requires a Cycle Route Environmental Mitigation Strategy to be submitted before or at the same time as the first reserved matters application that includes residential development. This would include the detailed design, materials and lighting and in the case of the Ripley route other matters such as the effect on trees, ecology and heritage. This responds to the Borough **Council's concerns about** various aspects of the Ripley route and other matters raised by objectors on the cycle routes in general. I have carefully considered the justification for such a condition under Issue Four and come to the conclusion that it would be reasonable in respect of the Ripley route and in respect of lighting on all of the routes. However, I find insufficient evidence of environmental sensitivities that would justify imposing control on matters of design or materials within the boundaries of the public highway.
401. The reserved matters would include the layout of the roads, footways, footpaths and cycle routes on the site. However, materials, signage and the like would be additional. Whilst these details are necessary to ensure that the development is accessible for all travel modes and fit for purpose the condition would need to be separate from any reserved matters approval. I have re-worded it accordingly. It was also agreed at the inquiry that the required details of the visibility splays and ensuring that they would not be compromised by obstructions, should be the subject of a separate condition.
402. Bus stops would be provided along the Sustainable Transport Corridor, and it is important that they are well designed and properly maintained to encourage people to use the bus services. A programme of delivery is also required to ensure that the bus stops would be available for use once the bus services are up and running. I have not included a management provision as it seems likely that this would fall within the responsibilities of the WACT.
403. It is inevitable that some trips associated with the new development would be undertaken by car. It is therefore necessary to ensure that the various uses on the site have sufficient car parking. On the other hand, a sustainable development allows people choices for travel by alternative modes and there are various alternatives available in this case. In order to ensure the right balance, a parking strategy is necessary and this needs to be kept under review through monitoring. Safe and secure cycle parking and charging for E-bikes is required in order to encourage use of this travel option for some journeys. There is County Council guidance on these matters and policy ID10 in the LPDMP establishes the expectations in terms of parking standards on strategic sites.
404. There are several PROWs that cross the SANGs, and these are to be incorporated into the scheme along their existing alignments. They provide connectivity to the PROW network outside the site and will also link to the new footways, including along the Sustainable Movement Corridor and Wisley

Lane Diversion. It is important to ensure that there are safe and well-designed crossing points where these existing routes intersect with the new road network, including the main spine road. The surfacing of the PROWs will be important so that they sensitively integrate with the development whilst waymarking the route for users to follow as they traverse the site.

405. The County Council sets out the requirement for provision of fast electric charging points for residential and other uses. This is in accordance with encouragement by the Government for greater use of electric vehicles and I have already addressed the consequential reduction in emissions under Issue Two. It was agreed at the inquiry that it was important to ensure that the underground infrastructure serving each phase was properly connected and that a site-wide strategy was therefore required. However, until the details of each phase are submitted the detailed parking arrangements would not be known. It was therefore agreed that the condition should require a site-wide strategy and that details would be included in Design Codes and provided at reserved matters stage on a phased basis. This seems to me a reasonable approach.
406. It was clarified at the inquiry that the requirement for a Delivery and Servicing Management Plan would be related to the commercial elements of the scheme. This would be on a phased basis that all such users, including the school, retail and health users would sign up to. For clarity I have used the term non-residential uses and also added a retention clause. The requirement is necessary to ensure that the site is properly managed, and the living conditions of new and existing residents are protected.
407. It was confirmed at the inquiry that the County Council was satisfied with the obligations relating to bus services in the Section 106 Agreement and the changes that could be introduced through the Monitor and Manage Strategy. In the circumstances a condition relating to further details through an updated Public Transport Strategy for each phase would be unnecessary. A site-wide Framework Travel Plan has been submitted, which seeks to encourage sustainable travel choices that would integrate into the lifestyles of new residents. The County Council confirmed that it was satisfied with the provisions of this site-wide document. Bearing in mind the length of the development period, this would need to be refreshed on a phased basis to include ongoing monitoring of its provisions. A Travel Information Pack is a commonly used method of providing incentives to the first new residents and employees and thus encourage them to use the available sustainable travel options. It was confirmed at the inquiry that this would not apply to the school, which would have its own Travel Plan. I have reworded these conditions to reflect the discussion at the inquiry. I have not included a maintenance requirement as this seems unnecessary.
408. It was agreed at the inquiry that it was unnecessary for conditions to require a Mobility Strategy and Cycle Strategy. This is because these matters are adequately covered by planning obligations in the Section 106 Agreement. National Highways recommend a condition for the approval of the Monitor and Manage Strategy. This has now been provided and is attached at Annexure V to the Section 106 Agreement and that document includes a covenant that the WACT will support sustainable transport including the strategy which is said to be indicative. This seems to me to be an important provision in ensuring that the sustainable travel proposals are managed effectively over

time through a rigorous monitoring process. In the circumstances I consider it justifiable to require that a Monitor and Manage Strategy is submitted for approval on a phased basis and in general accordance with the document attached as Annexure V to the Section 106 Agreement.

409. National Highways seek to ensure that no part of the development is occupied until the DCO works currently underway on the A3 and at Junction 10 of the M25 have been completed and are open to traffic. The draft condition just refers to the first occupation of residential dwellings but in order to ensure no severe or unacceptable impact on the strategic road network this should apply to the occupation of any part of the development as indicated by National Highways.
410. A condition is necessary in order to ensure that there is sufficient foul drainage capacity to accommodate the development. The justification has been considered in the Other Matters section above. A Utilities Infrastructure Assessment has been submitted. However, this is a relatively high-level document and considers water, electricity, gas and telecommunications. I note that it was drawn up in 2022 and includes various options. It was agreed at the inquiry that there is justification for a further site-wide Utilities Strategy with details provided on a phased basis, although I have reworded the draft condition for clarity. This would ensure that the site would be provided with the required utilities, including high quality digital connectivity.
411. In order to ensure that the market housing reflects the housing need identified in the Strategic Housing Market Assessment it is necessary to specify the dwelling mix. The affordable housing provision is subject to covenants in the Section 106 Agreement. It is also necessary to ensure that the residential development offers a good choice of high-quality housing options for all occupiers. A proportion of the dwellings would be suitable for wheelchair users and there would also be some living spaces that could be adapted to meet **people's changing needs**. These provisions are necessary to comply with policy H1 in the LPSS.

#### THE PLANNING OBLIGATION BY AGREEMENT (SECTION 106 AGREEMENT)

412. The Section 106 Agreement was engrossed on 19 January 2024 and its provisions are binding on the Borough Council, the County Council, Wisley Property Investments Limited who own the site, Taylor Wimpey who will be developing the site and Vivid Housing who has a charge on part of the site.
413. The Deed was discussed in detail at the inquiry. I have considered the various obligations with regards to the statutory requirements in Regulation 122 of the *Community Infrastructure Levy Regulations* (the CIL Regulations) and the policy tests in paragraph 57 of the Framework. Paragraph 3.3 of the Deed **contains a "blue pencil" clause in the event that I do not consider** that a particular obligation would be justified in these terms. Following discussion at the inquiry there is an addition that allows me to also consider the extent and quantum of the obligation in terms of the Regulation 122 tests.
414. Policy ID1 in the LPSS includes a provision that when considering planning obligations, account will be taken of the delivery and timing of delivery of key infrastructure on which the plan depends. The *Planning Contributions Supplementary Planning Document* (2017) provides guidance on the approach

but not specific justification for the level of contribution that will be sought. It should be treated with some caution as it precedes the existing LPSS and supports policies in the 2003 Local Plan, which is no longer extant.

415. I requested further information on a number of matters, including the justification for the various financial contributions, particularly monitoring. There are the necessary provisions in the Deed to index-link any contributions and there is a 15 year pay-back clause in Schedule 16 for any unspent contributions.
416. The triggers are defined as follows. Implementation is the carrying out of a material operation as defined in section 56 of the 1990 Act. Commencement does not include preparatory work and demolition. Occupation relates to when any part of the development is first occupied.
417. There was discussion at the inquiry about the exclusion of liability in clause 15.3 for the affordable housing provider. Vivid Housing Limited is an affordable housing provider but will not necessarily deliver the affordable housing in this case. It has entered into the Deed not because it is an affordable housing provider but because of its interest in a part of the site.
418. There are 16 schedules in total. Schedules 1 and 3-15 include the obligations entered into by the Owner, which come into effect on the grant of planning permission and the commencement of development as defined by Section 56 of the 1990 Town and Country Planning Act. I consider these individually below. Schedule 2 lists the Annexures, which include various plans and strategies referred to in the Deed. Schedule 16 include the Borough **Council's and County Council's obligations and mainly relate** to procedural matters and the requirement to manage the financial contributions appropriately and pay back any unspent elements within 15 years; undertaking any required actions expediently; and the procedure for the appointment of external consultants in respect of monitoring. The obligations in Schedule 16 are reasonable and necessary in order to ensure that the various obligations by the Owner are properly administered in the public interest and without cost to the public purse. Clause 26 of the Deed includes an obligation to pay the reasonable costs of the Borough Council and County Council in the successful enforcement of any covenants, obligations and undertakings.
419. I now turn to consider the other obligations made by the Owner of the site.

#### MONITORING FEES (SCHEDULE 1)

##### The Borough **Council's Monitoring Fees**

###### 420. *Borough Council Initial Monitoring Fee - £25,000*

This would be a large and complex site to monitor with a considerable number of obligations requiring input from the Borough Council. This is the first of the large strategic sites to be developed and it is understandable that the internal structure and governance for monitoring performance will need to be put in place involving a range of departments. The Borough Council has estimated that this would involve 36 officer days and 35 support staff days, and the fee is based on the cost of employing those staff. This is based on experience of large-scale developments in Hampshire involving SANG, BNG and mixed uses and seems to me reasonable.



421. *Borough Council Annual Monitoring Fee - £15,000 (annually)*

There would be on-going monitoring and implementation of the many obligations in the Deed. This would be an annual fee to be paid throughout the construction period until the first anniversary following completion. The Borough Council has estimated that this would take 34 officer working days annually and has submitted a detailed breakdown of the likely costs of the various monitoring tasks in the Deed over a 10 year period, which seems reasonable.

422. *Administrative Fee (£300)*

This is defined in Schedule 6 (Housing) and relates to the administrative costs relating to the disposal of a First Home. The fee accords with the relevant National guidance and therefore is justified.

423. *BNG Monitoring Fee - £2,465 (annually)*

The Borough Council is obliged to approve the BNG Report and to make any recommendations that it considers appropriate. The monitoring is for the first 5 years and then every 5 years up to a period of 30 years. The fee, which seems to me reasonable, has been worked out on the basis 5 officer working days for the tasks in question. The monitoring is on a phased basis and so for each phase the fee would be a total of £24,650. The annual phased contribution, which seems to me reasonable, has been worked out on the basis of 5 officer working days and 1 support officer working day for the tasks in question.

424. *Borough Council Stewardship Body/ WACT Working Group Payment (£10,000)*

The Borough Council along with the Owner and the County Council is to be part of the WACT Working Group, which is responsible for considering the structure, management, Memorandum and Articles of Association along with the Stewardship Body WACT Scheme. The Borough Council is also required to approve the final form of these important matters. The payment, which seems to me reasonable, has been worked out on the basis 22 officer working days for the tasks in question.

425. *Stewardship Body/ WACT Monitoring Payment - £5,000 (annually)*

There are various tasks that the Borough Council must undertake, including monitoring the accounts and the performance of the WACT. The payment, which seems to me reasonable, has been worked out on the basis of 11 officer working days annually and it is to be paid by the WACT following the takeover date.

426. *Gypsy and Traveller Keep Open Review Monitoring Fee - £500 (annually)*

The provider of the gypsy and traveller site is required to provide an annual review to demonstrate that the pitches that have been provided are being maintained in accordance with the approved management plan. This is to be assessed by the Borough Council who estimate that it will entail just over half a working day each year for 2 officers to undertake. The monitoring fee seems reasonable.

427. *Neighbourhood Area Neighbourhood Strategic Green Infrastructure Scheme and Neighbourhood Local Green Infrastructure Payment - £10,125 (for each of the 3 Neighbourhoods)*

The Borough Council is required to approve both the Strategic and the Local Green Infrastructure Schemes for each of the 3 neighbourhoods. There is a review provision and inspections and site visits will be required. The payment, which seems to me reasonable, has been worked out on the basis of the amount of officer time anticipated for the tasks in question.

### **The County Council's Monitoring Fees**

428. *County Monitoring Contribution - £6,525*

This is the total fee for monitoring the various financial contributions that **come within the County Council's areas of responsibility. They relate to the** secondary education provision, the library provision, the local highway safety and resilience improvements and the Access for all Improvements, all of which involve contributions. The hours of officer time for each and their hourly rate have been worked out in terms of monitoring the trigger points and to ensure that the monies are paid to the service provider. These seem to me reasonable and justified.

The contribution for the 18 additional early years places is only to be paid if the provision is to be made off-site but not if a private on-site nursery is to be provided. The problem here is that the monitoring contribution has to be paid prior to the commencement of development. Whilst this is not unreasonable, the decision by the County Council as to which option is to be provided would be after this time and probably around the occupation of 850 residential units. The County Council may say that the payment would only be required when it decides whether the nursery places are to be provided off-site. Unfortunately, the Deed does not separate out the constituent parts of the monitoring fee and I have no power to require that element to be paid at a later date. Furthermore, there is no clause to indicate that this element of the contribution would be paid back other than in 15 year's time through the arrangements in Schedule 16 Part 2 clause 1.1.3. That would clearly be unreasonable.

In such circumstances I cannot conclude that this element of the monitoring contribution is fairly and reasonable related in scale and kind to the development. Clause 3.3 of the main Deed allows me to adjust the quantum of the contribution and I shall therefore deduct the £900 for monitoring the early years contribution.

The County Monitoring Contribution shall therefore be ££5,625.

429. *Travel Plan Monitoring Fee - £6,150*

The Travel Plan Monitoring Fee is to be paid to the County Council for the ongoing monitoring and management of the Travel Plan. The successful implementation of the Travel Plan measures is required to encourage people living at and working on the site to undertake as many journeys as possible by non-car travel modes. The sum is a standard fee applied to all travel plans and **is set out in the County Council's Travel Plans – a good practice guide for developers** (July 2018). It was also estimated on the basis of the likely time that an officer would spend in monitoring the Travel Plan for a development of

this size. I was told that it is designed to cover the first 9 years from first occupation. This seems reasonable as by this time the Travel Plan provisions should be well embedded. After that time monitoring will be carried out by the Stewardship provisions through the Monitor and Manage Strategy.

#### HIGHWAYS AND TRANSPORT (SCHEDULE 3)

430. It was argued at the inquiry by one of the Rule 6 Parties<sup>22</sup> that some of the obligations relate to the carrying out of highway works outside of the land bound **by the Deed. However, having listened to the Appellant's response, I** am satisfied that the obligations in question all require a positive action that restricts the development or use of the appeal site in a specified way as required by Section 106 of the 1990 Town and Country Planning Act. In this case the positive action requires that a certain number of dwellings should not be occupied until the off-site works have been undertaken. This clearly relates to the use of the land in question, which is the appeal site.
431. The justification for the off-site highway provisions have been considered under Issue Four. The obligations relate to the delivery of five cycle routes, improvements to various PROW, and works to Ockham Lane and Old Lane, including at the Effingham crossroads. The relevant drawings and documents are at Annexures I, J, K, M and N. The various off-site highway works would be funded by the Appellant. The works relating to Old Lane, the cycle routes and the PROW are to be completed by the occupation of the 50<sup>th</sup> dwelling, although this does not apply to the Traffic Regulation Orders, which would be required for the speed limit reductions and would be likely to take longer to complete. The trigger will give new occupiers the benefit of modal choice at an early stage of the development. The mini roundabout at the Effingham crossroads would depend on the timing of delivery of the Howard of Effingham School development. The second mini roundabout or bus stop provision would rely on monitoring to establish whether they are needed. A later occupation trigger for these elements is therefore reasonable.
432. On the site there are various PROW that are intended to be used by pedestrians and cyclists in order to encourage cycling within the site. In the case of the public footpaths this would require the County Council to make a Cycle Track Order. There is an obligation relating to this and also for the Owner to enter into the relevant Agreements for the adoption of the roads within the site.
433. A Local Highway Network Safety and Resilience Improvements Contribution of £3.1m is to be paid in order to carry out various improvements to local roads as follows:
- a) Traffic management and speed reduction measures on Newark Lane, Rose Lane, the B2215 between Ripley and Send and the A247 between the B2215 and A246.
  - b) Highway drainage improvements on Plough Lane, Ockham Road North and the Drift.

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<sup>22</sup> Mr Harwood on behalf of WAG, Ockham Parish Council and RHS Wisley.

- c) Carriageway haunching works on several roads to make them safer for cyclists, including Potters Lane, Ripley Road, Ripley Lane and Ockham Road North.

The areas of improvement are shown on the map in Annexure L. Following discussion at the inquiry the three areas of work were separately costed. The contribution would not cover the full scheme cost, which was estimated on the basis of standard contract costs to be in the region of £5m. The contribution from the appeal scheme would be a pro rata payment per dwelling and seems to me reasonable on the basis of the contributions to safety improvements from other developments in the locality. The payments would be in three tranches with the first being due prior to the occupation of 200 dwellings and the third prior to the occupation of 500 dwellings. Staged payments are reasonable to reflect the increase in traffic generated as the development proceeds. In 2038 the traffic modelling indicates that some local roads would become busier through additional traffic movements generated by the appeal development. The County Council considers that this would be likely to have safety implications for road users, including cyclists on the local roads in question.

The three areas of improvement would be first subject to surveys, and it may well be that as a result one or other area would not be needed. However, as the total cost exceeds the contribution and the individual sets of improvements have been costed, I see no reason why the contribution could not be distributed according to where it is most needed. The important thing is that the evidence indicates that improvements would be necessary so there is no reason why the County Council could not choose which areas the contribution would address in order to provide the most effective mitigation. The drainage works to Plough Lane have been questioned by local objectors. I have considered this matter under Issue Four. However, the decision as to which resilience works to choose is ultimately a matter for the County Council, bearing in mind its objectives regarding sustainable travel and highway safety. If there is any unspent money, which seems unlikely given the costs of the works, there is a 15 year payback clause in Schedule 15 of the Deed.

434. The purpose of the mobility hubs would be to provide an accessible area that would include travel information, charging points for E-bikes and electric vehicles, secure cycle parking facilities and links to local bus services. The main hub would be in the Local Centre with secondary hubs in the two Neighbourhood centres. These hubs would be necessary in order to encourage sustainable modes of travel both within and off the site. The obligations require specifications and locational details. Delivery would be linked to occupation. It would be at a very early stage in respect of the Neighbourhood Centres and when about one third of the dwellings have been occupied for the Local Centre. These timings are reasonable to allow the facilities to be ready for use at a relatively early stage.
435. The County Council in discussion with Network Rail consider that improvements are needed to the stations at Horsley and Effingham Junction, which are termed Access for All facilities. The estimated cost is £14m and there is a list of improvements that are intended to address accessibility for all users, including those with disabilities, wheelchair users, the visually impaired and those pushing pushchairs and prams. Both stations are expected to be

used by people living and working on the site and various measures will be provided to encourage travel to these stations by bike or bus.

The Access for All Improvements Contribution is necessary to encourage all new occupiers to use train travel from the nearest stations. The contribution of £4m would be a pro-rata payment per dwelling and would be on the basis of the contributions to accessibility improvements from other developments in the locality. Whilst some objectors considered it was insufficient, I consider it has been determined to be fairly and reasonably related to the scale of the appeal development bearing in mind other contributions, which will also contribute in a similar way. A bid for funding to the Department for Transport has been submitted by Network Rail. The contribution would be paid in four tranches, with the first payable prior to any occupation and the last payable when about half the dwellings have been occupied. These timings reasonably reflect the impacts that would arise as the development progresses.

436. I have considered the proposed bus provision, which is set out in the updated Public Transport Strategy under Issue Four and concluded that it is of key importance to making the location of the site sustainable. The planning obligations are therefore of considerable importance to ensuring that the bus services would be delivered in a timely manner so that the travel behaviour of new occupiers would be influenced at an early stage by the availability of a good bus service. Accordingly, the service would be required to commence by the occupation of the 50<sup>th</sup> dwelling. Thereafter there would be a staged provision as the development progresses. This would be in accordance with the Public Transport Strategy, which is at Annexure H, or as agreed with the County Council to allow flexibility. This is necessary to take account of the long-term nature of the development and possible changes in passenger demand. I appreciate the concern of some objectors about the long-term future of the bus service. However, the County Council is the statutory authority responsible for the safety of the local road network. This depends on the measures that will be put in place to make the site sustainable enduring for the lifetime of the development.

In the circumstances there is no reason to doubt that the County Council would not agree to any measures in terms of the bus provision that would dilute its effectiveness or the fundamental sustainability of the site. The Owner would provide the services until the Stewardship Body or WACT is in a financial position to take it over. The obligations provide for the bus services to be run by the County Council, provided it offers best value, and funded by the Owner. Before each Neighbourhood area is occupied, an updated Public Transport Strategy and monitoring programme is to be agreed with the County Council. All of these obligations are necessary for the reasons given above.

437. The Car Club would be run from the site by an independent operator and would allow members to make use of shared vehicles for journeys that cannot be undertaken by other modes. This facility would reduce the level of car ownership and the need for car parking. It is one of the measures within the Travel Plan, which seeks to encourage people to reduce their car journeys in preference to other modal choices. The obligations require a Car Club Scheme, which includes the location, timing and an agreement with an operator to be agreed prior to any residential occupation. Thereafter the first

occupier of each dwelling would be given free membership of the Car Club and £50 of credit, which would encourage usage of its facilities.

438. An E-bike hire scheme is proposed whereby residents, visitors and workers can hire an E-bike for trips within the site or to destinations outside of it. This is also part of the Travel Plan and would allow people to travel further, faster and with less effort sustainably. The scheme would be set up in the two Neighbourhood Centres and the Local Centre. The trigger for approval of the E-bike Scheme and getting an operator on board for Neighbourhoods 1 and 3 would be the occupation of 20 residential units within those areas. For the Local Centre it would be the occupation of 599 residential units, which is also the trigger for the provision of the Principal Mobility Hub. These obligations are necessary to encourage sustainable travel options for new occupiers of the site and provide them in a timely fashion.
439. The allocated site comprises two parcels of land that would be built out separately from the appeal development by Harris and Hallam. In order to make sure that the various parts of the allocation are properly connected up there would be three vehicular connection zones at the appeal site boundary shown on the Access and Movement Parameter Plan. These would allow access from the appeal site to these parts of the allocated site but no access from the appeal site to Ockham Lane.
440. The Masterplan principles in the Strategic Development Framework indicates limited access off Ockham Lane, which is proposed for the Hallam development. This is a matter for the Borough Council when it considers that planning application, but the vehicular connection shown at the south-eastern end of the appeal site would allow the opportunity of a vehicular access to the Hallam land. As indicated above, access to the appeal development from Ockham Lane is specifically prohibited by the Access and Movement Parameter Plan. This plan has been agreed with the other two landowners in their Statement of Common Ground with the Appellant. The A35 connection provisions would also require linkages from the connection zones to the Sustainable Movement Corridor.
441. In terms of timing, the relevant connections would not be made until the Sustainable Movement Corridor has been constructed to provide a route to Wisley Lane Diversion and/ or Old Lane. In addition, there is a requirement for a legal agreement between the Appellant and adjoining landowners to pay a proportionate share of the strategic infrastructure identified under policy A35, which serves the various land uses within the allocation. This would include the primary school, health centre provision, Local Centre, and SANG infrastructure, amongst other things. This provision has been agreed in the aforementioned Statement of Common Ground.
442. The obligations in the Deed that relate to the A35 connections are required as part of the transport strategy requirements in policy A35. They would ensure that the individual land ownerships would not prejudice the overall delivery of the strategic allocation or its infrastructure.

#### EDUCATION (SCHEDULE 4)

443. The proposal would include a primary school with associated playing fields and a contribution to secondary education. Policy A35 includes a requirement for primary and secondary schools to be provided on the site but recognises that



the need for the secondary school will be reassessed at the time of the planning application to take account of any new provision. the County Council is the Local Education Authority and has a statutory duty to ensure that there are sufficient school places for pupils within its area. It is satisfied with the proposed educational provisions and took part in the round table discussion at the inquiry to explain its position regarding how best the educational needs of the new development should be met.

444. The two-form entry primary school would accommodate 420 children. The projected pupil yield anticipates that it would be sufficient to serve the appeal site and the two other developments in the A35 allocation with a small surplus. However, if the housing mix changes and pupil yield increases significantly there is the provision for a reserved area of land to expand to a three-form entry in the future if required. The obligations determine the procedure by which the works to expand the school would come about following the updated housing mix from reserved matters applications.
445. The minimum 1.9ha site is shown on the Land Use Parameter Plan. The exact location and accesses to the primary school are to be agreed and the specification is to be submitted before the 40<sup>th</sup> dwelling is occupied. This would then either be dealt with through reserved matters or as a separate planning application. There are various triggers based on the occupation of the residential units. Most importantly no more than 650 can be occupied until the primary school has been constructed and transferred to the County Borough Council for a nominal payment. The transfer terms include agreement by the County Council to enter into a community use agreement with the Stewardship Body to secure public use of the school playing fields provided it would not impact on school use.
446. There was considerable discussion about where primary age children would be educated up to this point and whether they would be expected to move back to the school on the site once it had been built. The County Council would have to provide sufficient primary places in other local schools until the primary school is built. It would not be a practical proposition for the primary school to be built until there were sufficient children living on the site to support it. It was explained to the inquiry that there would be a staged opening for year groups, with reception and nursery provision in the first year and full provision in the seventh year. However, year groups could be opened quicker if there were the demand. Whilst there was much debate from objectors about when and how the provision for different year groups would be made, this is not within the control of the Appellant. The legal obligations relate solely to the provision itself, and it is for the local educational authority as statutory provider to decide the organisational details thereafter.
447. The County Council has a duty to accommodate the educational needs of all children in the community. It therefore encourages a variety of early years provision to meet local needs. The primary school would include 104 nursery places, but the pupil ratio calculator estimates a need for a further 18 places. In order for this to be provided, the Deed includes obligations for either a private nursery on-site or a contribution of £228,455 to expand one of the existing facilities nearby. If it is to be on-site it would likely be attached to the primary school but with provision for younger children and all-day childcare for working families.

448. The contribution is worked out from the projected yield of early years children and the Department for Education build cost calculator. By the time 850 dwellings are occupied, the local education authority must be asked whether it requires the on-site provision or the financial contribution. If the on-site option is decided, a scheme detailing its location, specification and delivery is to be submitted for approval by the occupation of 1,000 dwellings. Otherwise, there are provisions for the contribution to be paid. Whilst these provisions do not take effect until quite late on in the build programme, this relates to a small part of the overall early years need and includes the whole allocation not just the appeal development.
449. The Department for Education require four forms of entry for a secondary school to be viable. This is equivalent to 600 places and the whole allocation is estimated to yield around 279 pupils. If the school were to be built on-site it would mean that more than half the pupils would come from outside with the associated travel implications. Whilst a secondary school would provide advantages in terms of accessibility for those living on the site, more widely it would result in more journeys, most likely from a variety of locations and involving car travel. Pupils living on the site would therefore have to travel out for their secondary education and there are four secondary schools within four miles of the site.
450. The contribution of £5,741,230 is based on the pupil yield and the Department for Education calculator relating to the cost of provision. The County Council has set out a range of options. The evidence indicates that present capacity is restricted although future expansion is a possibility, subject to feasibility. A further possibility is the new school planned at the strategic site of Gosden Hill Farm just outside Guildford. Whilst this site would also not have a sufficient pupil yield, it would be more centrally located to serve secondary school needs from other sites, including the appeal site. However, Gosden Hill Farm appears to be a long way behind the appeal site in terms of future delivery. It seems rather unlikely that any new school there would be available to meet the need from the appeal site at least in the short to medium term.
451. Following discussion at the inquiry the obligations relating to the secondary school provision were significantly changed, most importantly in terms of the triggers for provision of the financial obligation. The funding is required at an early stage to allow the local education authority to put in place the necessary provision of secondary school places, especially as seems likely it will involve the expansion of existing facilities. Payment would provide the funding in three equal tranches, triggered by residential occupation. The first would be due very early on in the development of Neighbourhood Area 1 and the other two would be due before development of Neighbourhood 2 and 3 commences. Details of the actual housing mixes of the neighbourhoods would be required so that a balancing payment could be made once the final reserved matters have been approved.

#### HEALTHCARE (SCHEDULE 5)

452. Policy A35 includes a local GP surgery in the supporting infrastructure for the site. The NHS Surrey Heartlands Integrated Care Board (the ICB) is the statutory body responsible for planning and commissioning health care services for this area, including GP services. The ICB took part in the round

table discussion at the inquiry to explain its position regarding provision for the new development. There is no dispute that additional healthcare facilities would need to be provided to meet the needs of the new population. The proposal is for a new healthcare facility on the site of a minimum size of 500m<sup>2</sup>, which would be provided by the developer and leased to the ICB at a peppercorn rent. However, whilst the ICB agrees that mitigation is required, it seeks flexibility to ensure that the provision would align with its Estates Strategy and the need for a sustainable workforce model.

453. The obligations therefore address three alternatives. The first is a new facility as set out above; the second is a financial contribution of £2,149,986 to provide primary healthcare facilities at one or more named healthcare practices near the site; and the third is for a smaller on-site facility and a reduced financial contribution. The ICB explained the new models of care that include a mix of healthcare facilities in addition to GP services. I understand that it is necessary to consider the sustainability of the workforce as well as the patients. On the other hand, an important part of making the location more sustainable is to provide services and facilities for the new community within the site. Whilst this therefore seems to me the preferable outcome, I appreciate that ultimately the decision is a matter for the ICB.
454. If a contribution is chosen, this would be paid on or before the occupation of the 240th residential unit other than 20% which would be paid prior to the commencement of Neighbourhood 3. If the on-site provision is chosen the building would come forward through reserved matters or a separate planning application and would be delivered prior to the occupation of 1,000 residential units. If the smaller facility and contribution is chosen, there are provisions for agreeing the details and the size of the contribution. The trigger for the delivery of the smaller facility is the same as for the larger one. There is no payback clause relating to the healthcare contribution. There are also various obligations that relate to the procedures to be followed if agreement with the ICB cannot be reached.
455. Although the 1,000 residential unit occupation trigger would be quite late on in the development, there need to be sufficient patients to support the healthcare facility if this is to be a viable option. The ICB would have to decide which option it prefers at an early stage of the occupied development. If it is to be a contribution to off-site facilities this would be paid at an early stage to allow additional healthcare facilities to be made available over time to accommodate new residents off-site. The ICB made clear that the early demand from new residents could be met through existing facilities. The size of the financial contribution is provided by a formula used by the ICB through a software programme that takes account of the likely housing mix, floor areas and build costs and the like. There is a reconciliation clause at the end once the final housing mix has been determined. I was told that the software programme would be re-run at this stage and any outstanding payment would be made.
456. Many objectors have pointed out that there are already capacity issues with local GP surgeries and that often people have to wait a long time for an appointment. Unfortunately, this is not just an issue within this area but applies to many parts of the country and involves a much wider conversation. I appreciate that the trigger for the on-site option is quite late in the development, but I have explained the reasons for this. The ICB has a duty to

ensure that the healthcare of the new population is provided and has not objected to the proposed trigger.

## HOUSING (SCHEDULE 6)

### Affordable housing

457. There is a serious shortage of affordable housing in the Borough, and this is getting worse year on year. The evidence indicates that there were nearly 2,000 people on the Borough **Council's waiting list in March 2023, which is** clearly a very significant issue.
458. Provision is made for 40% of the housing to be affordable, which comprises 692 affordable homes. The tenure split would be 70% affordable rent and/ or social rent units, and 30% intermediate tenures. These provisions accord with policy H2 in the LPSS and apply across the site as a whole and within each of the 3 Neighbourhoods. A scheme for each Neighbourhood would provide the above information along with the housing mix and the location of the homes using a tenure-blind approach. The scheme can be revised following monitoring with the Borough **Council's approval** if the latest Strategic Housing Market Assessment (SHMA) indicates that an adjustment to the tenure or mix is necessary to meet local affordable housing needs.
459. Before development is commenced in a reserved matters area, a plan is to be submitted which includes the number, tenure and mix of affordable homes in that area, their location, a build-out and transfer programme and a monitoring mechanism for First Homes. This is to ensure that this type of housing accords with the SHMA with regards to need.
460. There are obligations relating to the construction and delivery of the affordable units, which relate to the occupation of the market units. There are also arrangements for the Registered Provider to enter into a Nominations Agreement with the Borough Council and for the transfer of the affordable units, excluding First Homes. The Owner is required to ensure that the affordable housing units are provided with the relevant services and infrastructure. These triggers and arrangements are reasonable and necessary to ensure that the affordable homes would be expediently provided.
461. First Homes are a type of discounted market housing that were introduced by the Government through a Written Ministerial Statement in 2021. There are a number of obligations relating to this provision of First Homes, which concern the eligibility criteria, the use of the First Home and the circumstances in which it may be let. If the property is subsequently sold there is provision for the discounted price to be paid back to the Borough Council and recycled to provide more affordable housing.
462. Policy H7 in the LPDMP expects 25% of affordable homes to be First Homes, although the supporting text indicates that there is some flexibility if there would be adverse planning outcomes. The *Planning Practice Guidance* indicates that First Homes should be offered at a price equivalent to at least 30% below local market value and outside Greater London the first sale should be no higher than £250,000. The Deed includes provision for a review of the proportion of First Homes if monitoring shows that there would be a sub-optimal tenure split that would not accord with the SHMA. This is not difficult to envisage in this area where house prices are so high. It may be, for

example, that only small flats could be provided at the discounted price. A large proportion of such housing may not accord with identified housing need and the flexibility provided by the Deed is therefore necessary.

463. I share the concern of some objectors that within such a high-priced market area, an affordable rented product where the rent is proportionately lower than market rent, may be out of the reach of many potential tenants. Social rented products are generally a lower cost option. Both options fall with the definition of affordable housing but they are not distinguished in the definition relating to the tenure split in the Deed. Nonetheless, tenure mix is a matter to be approved by the Borough Council at Neighbourhood level and at each reserved matters stage. It seems to me that there would be the opportunity to consider the issue taking account of any updated information from a revised SHMA. This is a matter to which the Borough Council needs to give serious consideration in order to meet the needs of those who are unable to access the private rented housing market.

#### Gypsy and traveller pitches

464. The appeal scheme includes the provision of 8 pitches, which is in accordance with policy A35 of the LPSS. The site is shown on the Land Use Parameter Plan as being within an area of green space to the east of the access road close to its junction with the Wisley Lane Diversion. The pitches would be laid out in accordance with an agreed specification and a management plan is to be approved by the Borough Council. This plan would establish who the Registered or Affordable Provider would be, and how they would allocate the pitches, cap the rents and manage the site. The Registered or Affordable Provider is defined as being a body with experience of managing gypsy and traveller sites<sup>23</sup> or the County Council. They will also be required to enter into a Nomination Agreement with the Borough Council and there is a provision that this would be followed for the lifetime of the development. The site is not to be occupied until the management plan has been agreed and the land has been transferred to the Provider for a minimum of 125 years. No more than 1,000 residential units shall be occupied until the above arrangements are in place.
465. Thereafter there are arrangements for monitoring and reporting to the Borough Council to confirm that the site is being used for its intended purpose and in accordance with the management requirements. The related obligations are required to ensure that the provision would meet the long term needs of the gypsy and traveller community within a high quality and well managed environment.

#### Custom Build housing

466. The Framework supports small sites coming forward for custom-build housing. The 2015 *Self Build and Custom Housebuilding Act* requires councils to keep a Register of those wishing to acquire serviced plots for this purpose. I was told at the inquiry that there are 30 people on the Borough **Council's Part 1** Register. The proposal is for 12 fully serviced plots to be identified as part of a Custom Housebuilding Scheme. This would establish the location and number

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<sup>23</sup> The Wisley Airfield Community Trust (WACT) would be unlikely to have such experience and would be very much a last resort in relation to managing the gypsy and traveller site.

of fully serviced plots to be laid out and marketed initially and the sequence that the remainder would be brought forward.

467. The scheme is to be submitted to and approved by the Borough Council in accordance with several dwelling occupation triggers. The first tranche of serviced plots is to be provided and advertised by the occupation of 300 dwellings. The sequence of provision would continue until all 12 plots have been delivered. There are other obligations relating to occupancy and marketing. The Owner is freed from the requirement to provide plots that cannot be disposed of following marketing, subject to the Borough Council's agreement.
468. This type of housing is encouraged by Government to offer more housing variety and choice. It seems to me that the number of plots being offered is proportionate in terms of the identified need and that the obligations are necessary to provide them.

#### ON-SITE STRATEGIC GREEN INFRASTRUCTURE (SCHEDULE 7)

469. This is defined in the Deed as the Strategic Amenity Open Space and the Sports Pavilion and is shown on the Indicative Strategic Open Space Provision Plan at Annexure Q. It excludes the SANG and its associated buildings and car parks and the sports and amenity areas associated with the primary school.
470. Along with the SANG, these areas would provide the green framework within which the build development would stand. Policy A35 refers to the provision of open space, allotments and playgrounds. The Strategic Development Framework envisages three neighbourhoods separated by generous green spaces and a central green corridor round the spine road. The green infrastructure proposed seems to me to accord with this vision.
471. The on-site strategic green infrastructure is defined in the Deed to include the recreation areas, the green links and natural green spaces, the community growing areas, the Broadwalk, the play spaces and the neighbourhood squares. The delivery of the green infrastructure is to be on the basis of each of the three Neighbourhoods. A scheme is required for each showing the details of the provision and the maintenance arrangements. The green infrastructure is to be provided before 50% of the residential units in the Neighbourhood have been occupied. A further obligation requires that the Owner maintains the green infrastructure until it is transferred to the Stewardship Body. It is to be available for use by those living within and outside the site.

#### LIBRARIES AND POLICING (SCHEDULE 8)

472. There is a financial contribution of £159,160 towards the enhancement and expansion of facilities at Guildford Library. The evidence indicates that the existing capacity would be insufficient to accommodate the demand that the new population would be likely to place on it. I understand that the Appellant wished to provide an on-site facility, but that the County Council would not agree to pay the running charges. This seems to me a pity, because a small library within the Local Centre, for example, could have provided an attractive facility for those living and working on the site to use. The contribution has been worked out by applying a cost multiplier approach as set out in the



Guidance on seeking and securing developer contributions for library and archive provision in England by the Arts Council (September 2023).

473. There is a financial contribution of £339,798 for staffing and equipment cost and other infrastructure relating to policing. There would also be an on-site office space of at least 24m<sup>2</sup> plus dedicated WC facilities within the community building along with associated parking for the use of Surrey Police. This would comply with the Infrastructure Schedule and policy ID1 in the LPSS. An extremely detailed letter was submitted to the inquiry on behalf of the Police and Crime Commissioner for Surrey. This made clear the demands that a new development of this size would make on police resources and that these demands could not all be met by public funding. The contribution would be paid in four tranches with 50% before the commencement of the first residential unit. The final 10% would be paid prior to the occupation of the 1,600<sup>th</sup> residential unit. Whilst this would be quite late in the development there would remain sufficient value in the site to ensure that this final payment would be made.
474. There was a query about the size of the contribution in that the justification in the aforementioned letter appeared to be £10,000 higher than an earlier calculation. However, it is clear that the earlier calculation was incorrect and that there was an internal inconsistency with regards to staffing costs. I am satisfied that the contribution as it stands in the Deed is correct and has been properly justified. The obligation requiring staged payments is reasonable in recognition that policing responsibilities would increase in step with the size of the new population. The on-site facilities would be provided prior to the occupation of 750 residential units by which time 70% of the contribution would also have been paid.

#### SANG, SAMM AND SUDS (SCHEDULE 9)

475. There are a number of planning conditions relating to the design and implementation of a sustainable drainage system for the SANGs and the developed areas of the site. This would be undertaken on a phased basis. The obligations include arrangements for the Borough Council to inspect the SuDS to ensure that they are completed in accordance with the details approved under the conditions and to implement any remedial action so that they would be fit for purpose. The Owner is to maintain and manage the SuDS until such time as this is transferred to the Stewardship Body. SuDS are only effective if they are properly constructed and thereafter properly maintained. The obligations are therefore necessary to ensure that this would be the case.
476. The SAMM contribution is a formula-based payment that is required as part of the mitigation in relation to the SPA. I have explained the purpose of this and the related SAMM Plus Scheme under Issue Three. The obligations require that the SAMM contribution is to be paid prior to the commencement of each Phase. The SAMM Plus Scheme is to be submitted prior to the occupation of the development. The approved scheme is to be implemented thereafter from first occupation and until transfer to the Stewardship Body. These triggers are necessary to ensure that recreational impacts arising from the new population are properly mitigated.
477. I have explained the purpose of and need for the SANG under Issue Three. This element of the appeal scheme has been submitted in detail and the various plans have been set out in Condition 5. There is a raft of planning

conditions that relate to the provision of the SANG, which is proposed to be delivered on a phased basis. The Deed requires submission of the SANG Creation and Management Plan prior to the commencement of development, to be informed by the document in Annexure S. This sets out how the SANG is to be delivered, maintained, monitored and managed. There are a variety of obligations which seek to ensure that the SANG phase is laid out with access as approved and made operational before the relevant residential units that it would mitigate are occupied. The obligations deal with the provisions relating to the initial SANG phase first, which would be the largest, and then the other phases thereafter.

478. There are obligations relating to the future transfer of the freehold interest of the SANG for a nominal payment and subject to restrictions such as maintaining rights of access and compliance with the SANG Creation and Management Plan, amongst other things. The transfer is anticipated to be to the Stewardship Body but there is provision for transfer to an alternative body if the Borough Council agrees.

#### COMMUNITY FACILITIES (SCHEDULE 10)

479. The community building is defined in the Deed as a flexible multi-use facility in the Local Centre. It would include a meeting space, community hall, police office, office for the Stewardship Body and welfare facilities. The obligations require details of its location, specification including parking, uses and equipment, and arrangements for its future management and maintenance. The community building is to be constructed by the occupation of the 750th residential unit. If an on-site healthcare facility is to be provided in the community building that element would not need to be completed until later as explained above. However, the decision as to whether on-site healthcare facilities are to be provided would be known well in advance. In order that the Borough Council is satisfied that the community building is fit for purpose there are inspection provisions, which also require any remedial action to be addressed.
480. Condition 67 requires details of the temporary community provision, which may include a small retail unit and the offices of the Stewardship Body. There is an obligation that this should be provided prior to the occupation of the 50<sup>th</sup> residential unit. It would remain in place until its permanent replacement is available for use. There is also a provision that it needs to be removed thereafter.
481. The Local Centre is defined in the Deed as the area for mixed uses in Neighbourhood 2 as shown on the Land Use Parameter Plan. It includes the market square, adjoining green infrastructure, car parking areas and buildings. The latter would include shops, a café, offices and research and development premises and the relevant floor areas are set out in Condition 64. The obligations relevant to the Local Centre exclude the community building, which has its own requirements.
482. The obligations relating to the Local Centre require a public realm strategy relating to the details and delivery of the outdoor public spaces, including the section of the Sustainable Movement Corridor that runs through it and the main mobility hub. The obligations also require a marketing strategy for the commercial buildings in the Local Centre. This, along with the public realm strategy are to be approved by the occupation of 340 residential units, which

comprises Neighbourhood 1. Thereafter the marketing strategy is to be implemented once the reserved matters have been approved or planning permission granted for the relevant parts of the Local Centre. There is an obligation that the sale or lease of any of the commercial buildings in the Local Centre would be on reasonable commercial terms. This provision is important to ensure that there is an attractive offer available to future occupiers.

483. The commercial buildings are to be completed in accordance with four triggers. The first, which is to include the retail unit is by 750 residential occupations and the last is by 1,500 residential occupations. Whilst the completion of the Local Centre would not be until near the end of the development, I appreciate that the fit-out specifications of the units would depend on the occupier. I was told that uses such as the research and development facilities can take a long time to secure. However, if the marketing proves successful there is also no bar to completing the Local Centre earlier. The public realm is to be maintained by the Owner until such time as it is transferred to the Stewardship Body.
484. The community uses would provide the new population with a range of easily accessible on-site facilities. As I have mentioned under Issue Four this is important to the overall sustainability of the site.

#### EMPLOYMENT AND SKILLS (SCHEDULE 11)

485. The application was supported by an Employment and Skills Strategy. The obligations aim to provide training opportunities, apprenticeships and employment skills to those living in the Borough during the construction phase of the appeal development. This would be brought into effect through an Employment and Skills Plan which would show how such opportunities would be provided, including liaison with local employment and training agencies. The plan is to be submitted for approval 8 weeks before the development commences. There are also provisions for monitoring and compliance.
486. Whilst investment in skills and training is not a specific requirement of development plan policy or local guidance, such initiatives are important to maintaining a thriving local economy.

#### ENERGY CENTRE (SCHEDULE 12)

487. The energy centre is put forward as a low carbon solution to the provision of heating and hot water for the residential properties and other buildings on the site. It would be at the north-western corner of the development within the area occupied by the employment use. Policy D16 in the LPDMP encourages the development of low and zero carbon and decentralised energy, including low carbon heat distribution networks, such as this. Some objectors were sceptical about the cost to households and whether they would sign up to use it. That is clearly a matter that would depend on the detail of the provision and the attractiveness of the offer. However, in order to reduce carbon emissions and combat climate change, site-wide solutions such as this that move away from fossil fuels are to my mind something to be welcomed.
488. The obligations require an Energy Scheme to be submitted for approval prior to, or at the same time as, the first reserved matters application. Once

approved it would be implemented for the lifetime of the development and would therefore be available at a very early stage as it needs to be. The only circumstances whereby the Energy Centre need not be provided is if the Government introduces changes that such technology is no longer desirable as a means of providing low carbon energy.

489. Amongst other things the Energy Scheme would address how the buildings on the whole allocation would be supplied with low carbon heat and hot water. The Energy Scheme would also show that the charging to residential occupiers has had regard to the calculator produced by the Heat Trust, which is a non-profit consumer champion for heat networks. In addition, the procedure for those occupying a house to opt out of the network with an alternative low carbon alternative is set out. This does not apply to commercial buildings or those containing flats. The Energy Scheme can be revised, with the Borough **Council's approval**, to adapt to changing technology over the lifetime of the development. The Owner shall endeavour to connect other parts of the allocated site to the network on commercial terms. Once operational, the Energy Centre shall, when the Owner chooses, transfer the freehold to the Stewardship Body at nil cost.

#### STEWARDSHIP (SCHEDULE 13)

490. The stewardship arrangements through the WACT have been considered in the Other Matters section above. The definitions within the Deed set out the community infrastructure for which the WACT would be responsible. In the main this includes the SANG and everything associated with it; the green spaces and play areas; the Local Centre public realm; unadopted highways and associated facilities; public art; SuDS; the community building; and the sports facilities.
491. No part of the development is to be occupied until the Borough Council has approved the final form of the WACT, its management structure, its Memorandum and Articles of Association and the Stewardship Body/ WACT Scheme. The latter, sets out the objectives and strategies for achieving the Stewardship Body/ WACT Functions and the charges to be levied, which should be affordable for occupiers and users; identify other income streams; and make provision for potential step-in arrangements for the Borough Council in the light of poor performance. The Stewardship Body/ WACT Functions are defined in the Deed and include amongst other things the management and maintenance of the community infrastructure; the management of the bus services; the support of the sustainable transport provisions through the Monitor and Manage Strategy; and the management of delivery of the SAMM Plus Scheme measures.
492. The WACT would not take over these responsibilities until all of the community infrastructure has been completed and there are sufficient funds to fulfil its functions. Until then, the Owner would be responsible for all of these functions and securing adequate funding for them. There are various **obligations relating to the Owner's responsibilities until the takeover date**. There are also obligations pertaining to a failure in performance, which will be dealt with as set out in the Stewardship Body/ WACT Scheme.
493. The WACT would become the owner of the community infrastructure and therefore would be bound by the terms of the approved successor in title once it has taken over stewardship of the site. It would therefore be bound by the

obligations relating to the approved management structure, Memorandum and Articles of Association and the Stewardship Body/ WACT Scheme. It would also be required to submit annual management accounts to the Borough Council.

494. There are additional obligations that the Stewardship Body/ WACT Scheme can be revised by either the Owner or subsequently the WACT if the Borough Council is in agreement.

#### ECOLOGY (SCHEDULE 14)

495. The Skylark Method Statement in Condition 25 sets out how the mitigation is to be provided either on or off the site. The Deed contains the provisions if an off-site option is to be carried out. The obligations require that the Northern SANG cannot be started until land identified as being suitable to provide compensatory skylark plots has been secured. This could be at Blackmoor Farm as identified in Annexure W, or it could be elsewhere as explained under Issue Three. These obligations are reasonable and necessary to ensure that the skylark population is suitably protected if it is decided that mitigation cannot be provided wholly on the appeal site itself.
496. Objectors raised concerns about the suitability of Blackmoor Farm for skylarks. However, the Deed is not specific and makes provision for other off-site alternatives, which would be subject to the Borough **Council's approval**. It was suggested that this should involve an ornithologist. The Borough Council pointed out that Clause 2.2 of Schedule 1 includes a provision that allows the Borough Council to appoint an external consultant, paid for by the Owner, if required for any tasks and functions in monitoring or implementing the Deed.
497. The BNG Strategy in Condition 26 sets out how a minimum 20% BNG is to be delivered across the whole site and the details of how it would be managed and monitored thereafter. Condition 73 requires a BNG Statement at the start of each Phase showing how that phase would contribute to achieving the minimum of 20% BNG in accordance with the Site-Wide BNG Strategy. The Deed requires a monitoring report by a qualified ecologist following a site visit to demonstrate how the BNG requirements in the Site-Wide BNG Strategy have been complied with. It includes various matters to be included, including the presence of target species and recommendations to promote their establishment or growth.
498. The obligations require the Site-Wide BNG Strategy to be complied with on the final residential occupation of the phase. For the next 4 years the phase is to be visited and monitored by the ecologist and any recommendations in the monitoring report carried out. Thereafter there are provisions for monitoring at intervals for a 30-year period, which accord with the reporting required under Condition 26. The obligations in conjunction with the conditions are necessary to ensure that the requirements relating to BNG in policy P7 of the LPDMP are carried out effectively and endure for the long term.

#### IN-VESSEL COMPOSTING FACILITY (SCHEDULE 15)

499. There are extant permissions for this facility on the northern part of the appeal site. The DCO works have encroached on a section of this land, but it is possible that the facility could still be delivered in part. In the circumstances the obligation is reasonable and necessary to ensure that once the current

appeal development is commenced no further development of the composting facility would be permitted.

## CONCLUSIONS

500. For the reasons given above the proposal would comply with policy ID1 in the LPSS. Taking account of all of the information provided to the inquiry, and for the reasons I have given, I am satisfied that the planning obligations in the Section 106 Agreement are necessary to make the development acceptable in planning terms, directly related to the development and are fairly and reasonably related in scale and kind to the appeal development. They meet the statutory requirements of Regulation 122 in the CIL Regulations and the policy requirements of paragraph 57 in the Framework. I am therefore able to take them into account in my decision.

## OVERALL CONCLUSIONS AND PLANNING BALANCE

### THE ENVIRONMENTAL IMPACT ASSESSMENT

501. The proposal is Environmental Impact Assessment development. There were no objections in terms of the legal adequacy or publicity of the ES, which includes an Addendum submitted in March 2023. There were various additions to the environmental information, most notably in terms of highways and transport, air quality and ecology in July 2023. The Planning Inspectorate has concluded that the ES is adequate in the terms of Regulation 18 of the 2017 *Town and County Planning (Environmental Impact Assessment) Regulations*.

502. It is acknowledged that a large amount of further material was submitted in July 2023, and I can appreciate that objectors to the scheme, including the Rule 6 Parties, may have found this difficult to get to grips with and absorb. However, I set out in my Note of the pre-inquiry meeting that I did not consider that there was a need for further public consultation. This was borne out at the inquiry, which sat for considerably longer than expected, and allowed all participants to put forward their views and ask questions as appropriate. I am satisfied that no-one was therefore prejudiced.

503. A number of points were raised by objectors about the adequacy of the EIA and the coverage of environmental issues. I have considered all of these points, and most have been addressed in my reasoning set out in the preceding sections of my decision. On the issue of cumulative assessment, the *Town and County Planning (Environmental Impact Assessment) Regulations* require that the effects of committed developments should be included. I am satisfied that this has been done properly as I have explained in relation to the forecast traffic modelling under Issue One.

504. In the circumstances, I am satisfied that the ES along with its Addenda and the additional environmental information provided for and at the inquiry, has addressed all environmental matters properly in relation to the appeal scheme. It is sufficient to allow me to reach a decision that has been properly informed about the environmental impacts and the proposed mitigation.

505. In reaching my conclusions and making my decision, I have taken full account of the environmental consequences as established in all of the aforementioned information, including the evidence to the inquiry. I have also concluded in my Habitats Regulations Assessment that in this case the scheme would have no



significant effect on the integrity of the European site, having regard to its conservation objectives.

## THE BENEFITS OF THE SCHEME

*For the avoidance of doubt, in ascribing weight to the benefits in this section, I have used the following scale: limited, moderate, substantial.*

506. On a general point, I do not agree with the proposition that a benefit should be ascribed lower weight just because it is policy compliant. It is difficult to understand why it should be downgraded just because it is delivering an objective that the development plan considers to be important and in the public interest. That approach would not allow the exercise of judgement by the decision-maker that some policy-compliant benefits are more important than others on account of the circumstances of the case.

### Housing

507. The appeal development would deliver up to 1,730 dwellings and up to 100 units for elderly people. Whilst this is expressed as a maximum figure there is no evidence that suggests a lower number is intended to be provided. There was a suggestion by one of the Rule 6 Parties<sup>24</sup> and other objectors that lower weight should be attributed to the housing provision because of an error in the population projection for students which overestimated housing projections in the Local Plan. I do not agree. The LPSS is a statutory document and in any event the housing requirement is not expressed as a maximum figure, using the term "**at least**". Whilst the Borough Council will no doubt be reviewing the LPSS in due course, not least because it is now 5 years old, I am not aware that there is any progress to date. The appeal site is the largest strategic allocation in the Borough and would make an important contribution to the medium to long term housing supply.

508. The provision of custom build housing is also a benefit. This is a housing type encouraged by the Government and as I understand it there is a waiting list for serviced plots. The provision of 12 such plots would meet a need in the Borough. There is also a need for gypsy and traveller pitches, which is recognised by policy A35. The 8 pitches to be provided would therefore be a benefit.

509. The benefit derived from the housing provision from the appeal development would be a matter of substantial weight.

### Affordable housing

510. I consider the affordable housing provision separately because it is a serious problem within high-priced housing markets such as the one that exists within this Borough. 40% of the housing would be affordable housing in accordance with a mix in accordance with policy H2 in the LPSS. This would amount to about 692 dwellings and would include a proportion of First Homes in accordance with policy H7 in the LPDMP. I have already considered the significant need for affordable housing and that the shortfall in provision is getting worse year on year.

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<sup>24</sup> Mr Smith on behalf of East Horley and West Horsley Parish Council.

511. I share the concern of objectors about the lack of a specific commitment in the Section 106 Agreement to the social rented product, which would be more accessible to those on low incomes. However, the tenure mix would have to be approved for each Neighbourhood by the Borough Council. There would therefore be the opportunity to ensure that a proportion of this type of rented housing is provided. In such circumstances I do not agree that there should be any reduction in the substantial weight that I attribute to this matter.

#### Economic benefits

512. The Economic Benefits Statement anticipates that there would be some 247 direct construction jobs over the build-out period. This would cover a range of skills and no doubt include a local workforce. In addition, there would be indirect employment arising from the vast number of goods and services that support a large-scale project of this kind. The Economic Benefits Statement estimates this to be in the region of 239 indirect positions of various kinds.

513. On-site employment would include the Class B2/ B8 uses, office uses, shops, café, community uses and primary school. There could also be the health facility if this were to be fully or partially on site. The Economic Benefits Statement estimates 417 jobs, or 403 without the health facilities. This though is an estimate, bearing in mind the outline nature of the appeal scheme.

514. Whilst they cannot be precisely quantified, I consider that the economic benefits of the appeal development can be attributed moderate weight.

#### Other benefits

515. The appeal scheme would result in a BNG that would exceed both the requirements set out in the Framework and the requirements in policy P7 in the LPDMP. It is appreciated that for rivers and streams a lower value would be achieved but I have explained under Issue Three why I do not consider that this would reduce the overall value that can be attributed to this matter.

516. The sports facilities would be available for use by local sports clubs. From what I heard at the inquiry this would fulfil a local need.

517. The appeal scheme would provide various off-site cycle routes that would also include speed reduction measures and thus provide benefits in terms of the safety of all road users. In addition, there would be traffic management measures along Old Lane. Whilst these interventions are intended to provide mitigation in terms of accessibility for site occupiers, there would also be a benefit to the existing population.

518. The new bus services are primarily intended to serve the new occupiers and improve the sustainability of the site. However, they would also be available to those living locally to the site should they wish to use them. A new half hourly service is also proposed from the site via Ripley to Guildford. This would clearly benefit those living along the route. I note that the previous Inspector only attributed limited weight to the sustainable transport proposals, but the cycle routes now being proposed would be more extensive and more detail has been provided.

519. The proposals for providing sustainable energy would exceed the policy requirement. There would also be the energy centre itself, which would provide heating and hot water to residents in a sustainable manner.

520. The proposed development would partially involve the use of previously developed land. The Framework points to the benefit of using such land and the opportunity to remediate it. It is understood that the existing hardstanding would be processed on the site and used as a resource in the development.

521. In the circumstances, I afford each of these benefits moderate weight.

The SANG

522. **The SANG would exceed Natural England's requirements. It would also be** available for use by those not living on the development who could also enjoy the café and dog training facilities. There would therefore be some additionality in that respect. However, the main purpose would be to avoid a net increase in recreational visits to the SPA. As I have said under Issue Three it is unrealistic to think that no new residents would visit the SPA. However, that would be balanced by visitors from outside the development who would find the SANG convenient and attractive in preference to the SPA. In such circumstances I consider that this is a neutral factor in the planning balance in this case.

Conclusions

523. Drawing all of the above matters together it seems to me that the appeal proposal would offer a wide range of public benefits. Whilst individually the weight that I have given them varies, when taken together I consider that the package of benefits can be given very substantial weight on the positive side of the planning balance.

THE HERITAGE BALANCE

524. For the reasons I have given in my Other Matters section, there would be harm to the significance of a number of heritage assets by virtue of the appeal development being within their setting. These include the Chatley Semaphore Tower and RHS Wisley Registered Park and Garden, which are both Grade II\*. There are also a number of Grade II listed buildings, including Yarne, Upton Farmhouse, Bridge End House, Appstree Farmhouse and Derwent Cottage and Ockham Conservation Area. In each case the harm would be less than substantial in nature and in my judgement at the low end of the spectrum.

525. In applying paragraph 208 of the Framework, I am mindful that the balance is not even, and that great weight and importance must be given to the conservation of the heritage assets in accordance with paragraph 205. Heritage harm is a function of the importance of the asset and the magnitude of the harm, and I have had particular regard to the fact that some of the heritage assets are of more than special interest when undertaking the balancing exercise. However, there would be a package of public benefits to which I have attributed very substantial weight. In my judgement it would clearly outweigh the harm that would arise to the significance of the heritage assets either individually or together in this case.

## CONCLUSION ON THE DEVELOPMENT PLAN

### The LPSS

526. The relevant strategic policies in the LPSS are policy S1 and policy S2. Policy S1 sets out the presumption in favour of sustainable development. As there is no suggestion that the relevant policies to this appeal are out-of-date, the relevant provision is the second, which states that planning applications that accord with the policies in the plan and adopted NDP will be approved without delay unless material considerations indicate otherwise. Of course, there are always policies that pull in different directions. An example is policy E5, which includes a requirement to protect agricultural land. This could not be complied with if the allocation under policy A35 is to be delivered. So, it seems to me that a sensible interpretation of this strategic policy needs to be adopted. Policy S2 relates to the spatial strategy and is reliant on policy A35 to be achieved.

527. For all of the reasons that I have already given, the appeal development would be in accordance with policies H1 and H2 relating to housing and affordable housing; policy P1 relating to the setting of the AONB; policy P5 concerning the SPA; policy D1 relating to place shaping as far as is possible with an outline scheme. Even though I have found some shortcomings with the proposed cycle route to Cobham, that does not mean to say that the proposals have not maximised the available opportunities; policy P2 relating to climate change and sustainable design and policy D3 concerning the historic environment; policy ID1 relating to infrastructure and delivery; policy ID3 relating to sustainable development; and policy ID4 concerning blue and green infrastructure.

### Policy A35

528. Policy A35 seems to me to be a key policy in this case because it relates to the development of this particular site. Whilst the appeal proposal is for the majority of the allocation, there is no provision in policy A35 that prevents it being brought forward in parts. The appeal scheme proposes 1,730 dwellings and the other 270 dwellings would come forward on the remainder of the allocated site that is to be developed by other housebuilders. The appeal scheme makes specific provision for the areas of land to be linked and integrated with each other. The policy contains a large number of provisions and there was considerable debate about most of them at the inquiry.

### *Transport Strategy (Criteria 1-6)*

529. These have been considered under Issues One and Four. In terms of criterion 3, the off-site highway works would mainly be delivered by National Highways through the DCO scheme. There would also be speed reduction measures on local roads in association with the appeal development. Criterion 6 relates to the provision of an off-site cycle network to key destinations. One of these is Effingham Station. This would not be provided for the reasons I have given under Issue Four.

530. For the reasons given, I am satisfied that the mitigation to address impacts on Ripley High Street would not require the Burnt Common Slips and that it would be met under other infrastructure provided through the provisions of criterion 7.

*Other infrastructure (Criteria 7-15)*

531. There was considerable debate about whether the alternative interventions referred to in criterion 7 could relate to transport infrastructure. In my opinion they could, and the key point is that the infrastructure in question is included in **the Infrastructure Schedule in the Borough Council's Infrastructure Delivery Plan**. This includes transport projects, amongst other things and the Burnt Common Slips are included under SRN7 and SRN8.
532. The aeronautical navigation beacon has already been decommissioned. The scheme would include the supporting infrastructure mentioned in criterion 9. With regards to the GP surgery, I have considered this in the section of my decision dealing with the Section 106 Agreement. If a surgery is not to be provided on-site a financial contribution would be made. Either way the decision is for the Integrated Care Board and not the Appellant. Criterion 10 would be complied with, and the associated school playing fields would be dual use.
533. The effect on the SNCI, green corridors and linkages and SANG have been addressed under Issue Three and criteria 11-13 would be complied with. Capacity at Ripley Wastewater Treatment Works has been dealt with in my Other Matters section and criterion 15 is complied with.

*Traveller pitches*

534. Criteria 16-22 relate to this provision. The timing would not comply with criterion 22 in that the pitches would not be provided until the occupation of 1,000 residential units. On the other hand, the provision of 8 pitches is required for the whole allocation but would be provided solely by the appeal development. Overall, I consider that this part of policy A35 would be complied with.

*Other issues*

535. There would be no conflict with criterion 23 relating to flood risk. Criteria 24 to 26 relate more to the reserved matters stages of the appeal scheme. However, insofar as the issues of design and architecture can be addressed at this stage, I consider that criteria 24-26 would be complied with for the reasons I have given in my Other Matters section.

*Conclusions on policy A35*

536. The appeal proposal would not fully comply with criteria 6, 9 and 22. However, there would be mitigating circumstances in each case. With regards to the Burnt Common Slips, even if I am wrong about the scope of criterion 7, there would still be alternative mitigation provided that would make these infrastructure interventions unnecessary and unjustified. This was clearly shown by the evidence to the inquiry. It is partly due to the DCO works, which resulted in a change of circumstances following the adoption of the LPSS.
537. In my judgement, and on any reasonable consideration, policy A35 would be complied when considered as a whole.

The LPDMP

538. For all of the reasons that I have already given, the appeal development would be in accordance with policy H7 relating to First Homes; policy P6

relating to the protection of important habitats and species; policy P7 concerning biodiversity in new developments; Policy D4 relating to high quality design and local distinctiveness, insofar as compliance is possible in an outline scheme; policy D5 relating to residential amenity; policies D14-D17 concerning sustainable development, climate change adaptation, carbon emissions from buildings and renewable and low carbon energy generation; and policies D18-D20 and D22 relating to heritage assets.

539. There would be conflict with policy ID9. This relates to achieving a comprehensive cycle network. For the reasons I have given under Issue Four it would not always be possible to design cycle routes within the roads surrounding the site that would fully comply with the guidance in LTN 1/20.

#### The LNP

540. For all of the reasons that I have already given, the appeal development would be in accordance with policy LNPH1 concerning the suitability of development sites; policy LNPEN2 concerning biodiversity and natural habitats; policy LNPEN4 relating to light pollution; policy LNPEN5 concerning air quality and traffic; policy LNPI1 relating to infrastructure; and policy LNPI3 concerning cycling and walking.

541. There would be conflict with policy LNPH2 relating to housing for all. This particularly targets the Lovelace community and requires a higher number of one-bedroom units than identified in the SHMA. As the proposed development would be SHMA-compliant in terms of housing mix it would not be in accordance with this policy. However, this is a strategic allocation in the LPSS and as such is intended to meet the housing needs of the Borough overall.

542. LNPH3 concerns housing design and density. Whilst objectors have referred to the existing building heights within the area being mainly two-storeys, the policy does not specifically preclude higher built form but rather that it should be respectful. In any event, the higher buildings would be in the central part of the site around the Local Centre. This would be a matter to consider further at reserved matters stage.

543. Policy LNPEN1 includes a provision that important local views across the Lovelace landscape should be respected. One of these is looking north-east from within the southern part of the allocated land outside of the appeal site. However, this view would have been designated in the knowledge of the strategic allocation and there is no reason why the development should not successfully integrate with its surroundings as set out in my Other Matters section. Detailed consideration of this policy provision would be a matter to be addressed at reserved matters stage.

544. Policy LNPI2 concerns public transport and sustainability. It includes a provision that the allocated site is encouraged to include a regular bus service to Woking station. The policy seeks this particularly at rush hour and to be provided and secured in perpetuity as part of the bus network required by policy A35 in the LPSS. The Public Transport Strategy puts forward the option to supplement the Guildford to Woking hourly service and extend it into the site. This seems to me to meet the objective of the policy, but such provision would be dependent on the agreement of the County Council that this would be the best option for funding.



545. Policy LNPI6 relates to healthcare and education. The appeal development would provide a primary school and a financial contribution for secondary education at the behest of the Local Education Authority. Healthcare facilities could be provided on site, or a contribution made for off-site provision. This is a matter to be determined by the Integrated Care Board. The proposal would include sustainable travel options, but the location of the facilities would not be a matter over which the Appellant would have control.

#### South-East Plan

546. Saved policy NRM6 relating to the Thames Basin Heaths SPA would be complied with.

#### Conclusions on compliance of the appeal proposal with the development plan

547. The most important policies in this case seem to me to be policies S1 and S2 and A35 in the LPSS. The appeal proposal would be in compliance with those policies.

548. However, there are many other relevant policies, which I have addressed. The appeal proposal would comply with the vast majority. There would be conflict with policy E5 in the LPSS as there would be loss of agricultural land, although I have explained that this would inevitably be breached in view of the policy A35 allocation. There would be conflict with policy ID9 in the LPDMP because there could not be full compliance with LTN 1/20. There would be conflict with policy LNPH2 in the LNP because the proposed SHMA-compliant housing mix would have less one-bedroom units than the policy requires. However, this directly conflicts with policy H1 in the LPSS, which refers to compliance with the latest Strategic Housing Market Assessment. Although the LNP was adopted more recently, the LPSS is the higher-level Borough-wide plan and I consider it should have precedence in respect of this specific matter.

549. Drawing all of the above points together, I consider that the appeal development would be in accordance with the development plan when taken as a whole. Section 38(6) of the *Planning and Compulsory Purchase Act 2004* indicates that planning applications should be determined in accordance with the development plan unless material considerations determine otherwise.

#### OVERALL PLANNING BALANCE AND CONCLUSION

550. The Framework is a material consideration of considerable weight. In this case the presumption in favour of sustainable development is engaged. In accordance with paragraph 11c), development proposals that accord with an up-to-date development plan should be approved without delay. As I have concluded above, the proposed development would accord with the up-to-date development plan when taken as a whole.

551. In terms of other material considerations, I have attributed very substantial weight to the benefits in this case.

552. There would be less than substantial harm to designated heritage assets and this is a matter of great weight and importance.

553. There would also be conflict with the development plan policies that I have identified above. For the reasons given above I give these conflicts limited

weight. Whilst I have concluded that policy A35 would be complied with overall, there would be conflict with criteria 6, 9 and 22. In each case these conflicts have limited weight for the reasons given. Even if criteria 7 were to be included, the lack of justification for the Burnt Common Slips would mean that the conflict would also have limited weight.

554. Undertaking the overall planning balance, whilst recognising that it is not an even one in respect of the heritage assets, I am satisfied that the benefits greatly outweigh the harms in this case. In such circumstances, there are no material considerations that would indicate that the appeal proposal should be determined otherwise than in accordance with the development plan.

555. I have considered all other matters raised but I have found nothing to change my conclusion that this appeal should succeed, and that planning permission should be granted.

*Christina Downes*

INSPECTOR

## ANNEX ONE: APPEARANCES

### FOR THE LOCAL PLANNING AUTHORITY:

Mr Simon Bird Mr Jonathan Welch	<b>King's Counsel</b> Council, both instructed by the Solicitor to Guildford Borough Council
<i>They called:</i>	
Mr R Cooper BA(Hons) MSc	Principal Transport Development Planner at Surrey County Council
Mrs H Yates BA(Hons) MSc MRTPI	Principal Planning Officer at Guildford Borough Council
*Mr P Luder BA(Hons) MUP MRTPI	Consultant Specialist Development Management at Guildford Borough Council
**Mr J Wilmshurst-Smith FCMI	Head of Estates at NHS Surrey Heartlands Integrated Care Board
**Mr M Green MRTPI CIHT CILT	Transport Planning Manager at Surrey County Council
**Mr M Singleton	Service Manager of Education Place Planning & Commissioning at Surrey County Council
**Ms C Upton-Brown	Joint Executive Head of Planning Development at Guildford and Waverley Borough Councils
**Ms N El-Shatoury	Principal Planning and Highways Solicitor at Surrey County Council

\* participated in the Conditions and S106 Round Table Sessions

\*\*participated in the S106 Round Table sessions

### FOR THE APPELLANT:

Mr James Maurici Mr Matthew Dale-Harris	<b>King's Counsel</b> Counsel, both instructed by Savills
<i>They called:</i>	
Mr A Williams BA(Hons) DipLA DipUD CMLI	Director at Define
Mr M Davies BA(Hons) DipLA CMLI	Managing Director at Davies Landscape Architects
Mr C McKay BSc(Hons) CEng MICE CMILT	Technical Director at WSP Transport
Dr B Tuckett-Jones BSc(Hons) PhD MIAQM	Director and Head of Profession at WSP
Dr R Brookbank BSc(Hons) PhD MCIEEM	Technical Director at Ecological Planning Research Ltd
Mr C Collins BSc MSc MRTPI	Director at Savills (UK) Ltd
*Ms K Munro BSc MSc MRTPI	Associate Director at Savills (UK) Ltd
**Mr M Murray BSc(Hons) MRICS	Director at Causeway Land Advisors
**Mr J Pillow BSc(Hons) MA MRTPI	Strategic Land Project Director at Taylor Wimpey
*Mr A Pazourou BSc(Hons) DIS	Senior Project Manager at Taylor Wimpey

*Mr L Davis MCIAT ICIOB	Technical Director of Strategic Land at Taylor Wimpey
***Mr A Morgan	Partner (Planning) at DAC Beachcroft LLP

\*participated in the Conditions Round Table Sessions  
\*\*participated in the Conditions and S106 Round Table Sessions  
\*\*\*participated in the S106 Round Table sessions

FOR WISLEY ACTION GROUP, OCKHAM PARISH COUNCIL AND RHS WISLEY:

Mr Richard Harwood OBE Mr Jake Thorold	<b>King's Counsel</b> Counsel, both instructed by the Planning and Design Group
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*They called:*

Mr J Russell BEng(Hons) CMILT MCIHT	Director of Motion Limited
Dr B Marner BSc(Hons) PhD MEnvSc MIAQM CSci	Director of Air Quality Modelling at Air Quality Consultants Ltd
Mr A Baker BSc FCIEEM Mr R Hall BA(Hons) DipUP MAUD MRTPI	Managing Director of Baker Consultants Ltd Managing Director of Planning and Design Group (UK) Ltd

FOR EAST HORSLEY PARISH COUNCIL AND WEST HORSLEY PARISH COUNCIL:

Mr C Smith MRTPI	Managing Director of Colin Smith Planning Ltd, conducted the case on behalf of East Horsley Parish Council and West Horsley Parish Council
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SPEAKERS FOR RIPLEY PARISH COUNCIL AND SEND PARISH COUNCIL:

Cllr J Osborn	Chair of Send Parish Council
Cllr D Hurdle	Send Parish Councillor
Cllr P Oven	Guildford Borough Councillor for Send and Lovelace Ward
Cllr R Ayears	Chair of Ripley Parish Council
Cllr P McLaughlin	Ripley Parish Councillor
Mr M Hurdle	Local resident
Ms C Bremford	Local resident

SPEAKERS FOR VILLAGES AGAINST WISLEY NEW TOWN (VAWNT):

Mrs F Porter	Local resident
Mr C Campbell	Local resident
Ms S Moran	Local resident
Mr J Platt	Local resident
Ms N Holland	Local resident
Cllr P Kennedy	Mole Valley District Councillor
Cllr D Lewis	Surrey County Councillor
Ms D Whiting	Local resident
Mr D Mills	Local resident
Dr R Adams	Mole Valley District Councillor
Ms C Attard	Local resident

Mr C Cross	Local resident
Mr S Compson	Local resident
Ms E Fish	Nurse Practitioner at the Horsley Medical Practice
Mr B P Austin	Local resident
Mr B Paton	Local resident
Mrs S Prentice	Local resident
Ms H Cowell	Local resident
Mr B Shatwell	Chair of West Surrey Badger Group
Mr L Dawson	Local resident
Sir Gerald Acher	Chair of Cobham Heritage Trust and Chair of Chatterbus

#### FOR HALLAM LAND MANAGEMENT LTD

Mr Paul Tucker	<b>King's Counsel</b>
Ms Constanze Bell	Counsel, both instructed by Hallam Land Management Ltd

\*Mr Tucker made an opening statement but called no evidence. Representatives attended the inquiry as observers but did not take part in the round table sessions. A closing statement was made in writing.

#### FOR TRUSTEES OF THE J R HARRIS DISCRETIONARY SETTLEMENT

Mr M Fraser	Counsel, instructed by CBRE
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\* Mr Fraser made an opening statement but called no evidence. Representatives attended the inquiry as observers but did not take part in the round table sessions.

#### INTERESTED PERSONS:

Mr J Burns	Local resident
Mr C Brown	Local resident
Ms G Scarrott-Jones	Local resident
Eller R Stephens	Elmbridge Borough Councillor
Eller S Burley	Elmbridge Borough Councillor
Mr N Lanv	Local resident
Mr G Howse	Local resident
Mr B Lawrence	Local resident
Mr I Symes	Chair of Effingham Parish Council
Mr E Harkness	Local resident
Ms S Erhardt	Local resident
Mr J Waterfield	Land and Planning Manager at Vivid
Ms C Bridges	Local resident
Mr D Fox	Director of Guildford Hockey Club
Mr D Jones	Local resident
Mr S Briant	Local resident
Mr R Neish	Local resident
Mr R Fish	Local resident
Mr N Hourham	Local resident
Ms K Paulson	Local resident
Mr C Long	Local resident
Mr T Orpwood	Local resident
Mr H Eve	Local resident
Ms I Porter	Local resident

Ms D Ford	Local resident
Mr J Dobinson	Local resident
Ms M Pargeter	Local resident
Ms J Lofthouse	Local resident
Ms F Cheese	Local resident
Mr R Nagarty	Local resident
Cllr C Young	Guildford Borough Councillor
Mr A Cochran	Local resident
Mr D Reeve	Local resident
Mr M Aish	Local resident
Mr D Clare	Guildford Bike User Group
Mr B K Chesterton	Surrey Area Ramblers
Ms L Punter	Surrey Chambers of Commerce
Ms I Jamieson	Local resident
Mr A Wise	Local resident
Ms I Tarrant	Local resident
Ms H Jefferies	Local resident
Mr M Waite	Surrey Wildlife Trust



## ANNEX TWO: DOCUMENTS

### DOCUMENTS SUBMITTED TO THE INQUIRY

- 1 Map Showing Locations of the funded Highways Safety and Resilience Schemes (Annex L to S106 Agreement)
- 2 Cycle Routes Plan (from CD2.35 Cycle Strategy)
- 3 Letter from Ms S Campbell, County Councillor for Vale of Glamorgan Council read to the inquiry by Ms Scarrott-Jones
- 4 Email from Mrs Yates to the Appellant on the remaining outstanding matters between the Council and Appellant at the start of the Inquiry
- 5 Representation by Mr Baker for RHS Wisley on ecology and HRA assessment for the M25 junction 10/ A3 Wisley interchange improvement DCO application (November 2019)
- 6 Observations by Dr Marner for WAG relating to the clarification note by Dr Tuckett-Jones (CD ID1.19F) on the verification groupings used in the air quality modelling (06/10/2023)
- 7 Images of verification groupings used in CD ID1.19F produced by Dr Marner (06/10/2023)
- 8 Birds Directive 2009/147/EC
- 9 Bat Data Summary Table, submitted by Mr Baker
- 10 Map of Ockham & Wisley Commons showing the results of Nitrogen deposition modelling (NOx & NH3) from using revised Heathland Critical Load (from Addendum Information for Habitats Regulations Assessment, CD 2.68)
- 11 Map of Ockham & Wisley Commons showing the distance into the SPA Where future 2030/2038 Nitrogen Deposition will exceed the 2019 baseline (from Addendum Information for Habitats Regulations Assessment, CD 2.68)
- 12 Appeal decision for Land at Bird in Eye Farm, Uckfield (APP/C1435/W/22/3307820)
- 13 Letter from the Department for Transport to Highways England Letter relating to replacement land in relation to the DCO application (20/01/2021)
- 14 Measures to be taken by Highways England in respect of Requirement 7 of the DCO concerning replacement land (May 2022)
- 15 Location of Replacement Land Parcels (Figure 1.1 of the Highways England Document 14)
- 16 Article from Landscape and Urban Planning Journal regarding cat predation (2022)
- 17 Written representation by Mr J Thompson, Conservation Officer of the RSPB objecting to the appeal development (16/10/23)
- 18 **Mr Smith's evidence**-in-chief on behalf of East and West Horsley Parish Councils, delivered orally on 17/10/23
- 19 Mr Symes' **written statement** on behalf of Effingham Parish Council delivered orally to the inquiry on 18/10/23
- 20 **Mr Waterfield's** written statement on behalf of Vivid delivered orally to the inquiry on 18/10/23
- 21 Ms Lofthouse's **written statement delivered orally to the inquiry** on 18/10/2023
- 22 Ockham Parish – a community's voice in pictures
- 23 Cllr Young's **written statement delivered** orally to the inquiry on

- 18/10/2023
- 24 Photographs by Mr Long of PROW 99 proposed as part of the cycle route to Horsley Station (18/10/2023)
- 25 Mr Orpwood's **written statement** delivered orally to the inquiry on 18/10/2023
- 26 Ms Pargeter's **written** statement delivered orally to the inquiry on 18/10/2023 plus attachments concerning foul drainage
- 27 Mr Cochran's written statement delivered orally to the inquiry on 18/10/2023
- 28 **Mr Eve's written statement delivered orally to the inquiry on 18/10/2023**
- 29 **Mr Fox's** written statement delivered orally to the inquiry on behalf of Guildford Hockey Club on 18/10/2023
- 30 **Mr Howse's written statement delivered orally to the inquiry on 18/10/2023**
- 31 Ms Lofthouse's written statement delivered orally to the inquiry on 18/10/2023
- 32 Mr Neish's **written statement written statement delivered orally to the inquiry on 18/10/2023**
- 33 Mr Clare's **written statement on behalf of the Guildford Bike User Group (G-Bug)** delivered orally to the inquiry on 31/11/2023
- 34 **Mr Chesterton's written statement on behalf of the Surrey Ramblers** delivered orally on 31/10/2023
- 35 **Ms Punter's** written statement on behalf of Surrey Chambers of Commerce delivered orally to the inquiry on 31/10/2023
- 36 Ms S Thiele's **written statement** delivered orally to the inquiry by Ms Jamieson on 31/10/2023
- 37 Ms R Lester's written statement and attachment delivered orally to the inquiry by Ms Jamieson on 31/10/2023
- 38 Mr Wise's written statement delivered orally to the inquiry on 31/10/2023
- 39 Mr D Roberts' **written** statement delivered orally to the inquiry by Cllr Young on 31/10/2023
- 40 Mr P Roffey's **written statement delivered orally** to the inquiry by Cllr Young on 31/10/2023
- 41 Ms H Jefferies' **written statement delivered orally** to the inquiry on 31/10/2023
- 42 Mr D Gillmore's written statement delivered orally to the inquiry by Ms H Jefferies on 31/10/1023
- 43 Ms S Ollet's written statement delivered orally to the inquiry by Ms H Jefferies on 31/10/1023
- 44 Ripley Parish Council & Send Parish Council witness statement on cumulative development delivered orally to the inquiry by Cllr Hurdle
- 45 Ripley Parish Council & Send Parish Council witness statement on schools capacity delivered orally to the inquiry by Ms Bremford
- 46 Ripley Parish Council & Send Parish Council witness statement on traffic delivered orally to the inquiry by Cllr Ayears
- 47 Ripley Parish Council & Send Parish Council witness statement on wastewater delivered orally to the inquiry by Cllr Ayears
- 48 Ripley Parish Council & Send Parish Council witness statement on sustainability delivered orally to the inquiry by Cllr Osborn
- 49 Ripley Parish Council & Send Parish Council witness statement on

- traffic and infrastructure delivered orally to the inquiry by Mr Hurdle
- 50 Ripley Parish Council & Send Parish Council witness statement on wastewater delivered orally to the inquiry by Cllr McLaughlin
- 51 Aerial view of the site and its surroundings from Google Maps, submitted by Mr Campbell
- 52 Amended Building Heights Parameter Plan
- 53 Amended Access and Movement Parameter Plan
- 54 Amended A35 Building Heights Parameter Plan Version
- 55 Amended A35 Access and Movement Parameter Plan
- 56 Southern SANG Boardwalk Informative Plan
- 57 Position Statement between Taylor Wimpey and Harris (represented by CBRE) - 27/10/2023
- 58 Supplementary Proof of Evidence of Mr Jones on behalf of Hallam (October 2023)
- 59 Masterplan and Audit presentation by Mr Williams in his evidence in chief
- 60 Landscape and Visual presentation by Mr Davies in his evidence in chief
- 61 RHS Wisley planning permission to vary the car parking layout (13/09/2019)
- 62 Note by Planning and Design Group on the planning permission 16/P/01080 for new development at RHS Wisley (2/11/2023)
- 63 Second Technical Note by Mayer Brown on behalf of VAWNT in **response to Mr McKay's rebuttal** (03/11/2023)
- 64 Access Flow Plots relating to the two accesses to the site submitted by Mr McKay - 07/11/2023 - Colin McKay
- 65 Photographs submitted by Ms C Stone showing flooding close to the Antler Homes development in West Horsley
- 66 Written representation and photographs submitted by Ms S Lofthouse about parking at Effingham Junction Station (07/11/2023)
- 67 Written representation objecting to the scheme from the Bexley Family (07/11/2023)
- 68 Written representation from Ms S Lofthouse with photographs about parking at Effingham Junction station (07/11/2023)
- 69 Written representation from Ms J Lofthouse with photographs of the Ockham War Memorial on Remembrance Sunday 2023
- 70 Article from the BBC website relating to Surrey County Council vowing action to improve safety for cyclists (19/10/2023)
- 71 Information about the Mole Valley Connect on Demand Bus Service (27/05/2023)
- 72 Letter from Rt Hon Michael Gove to all local authorities setting out the **Government's Long Term Plan for Housing** (08/09/2023)
- 73 Government advice on badgers when making planning decisions, published 14/01/2022
- 74 Competencies for Species Survey: Badger. Chartered Institute of Ecology and Environmental Management (April 2013)
- 75 Section 278 of the Highways Act 1980 and notes from the Highways Encyclopaedia 2023
- 76 Planning & Development Highway Works - Mini Section 278 Agreement Guidance Pack. Surrey County Council (February 2022)

- 77 Healthy Streets for Surrey: Healthy Streets for Surrey Design Code by Surrey County Council (15/06/2023)
- 78 Healthy Streets for Surrey: 7 Street Trees
- 79 Healthy Streets for Surrey: 7.1 Why trees are important
- 80 Healthy Streets for Surrey: 7.13 Grass verges, shrubs and ground cover planting
- 81 Healthy Streets for Surrey: 9.1 Streetlights - 15/06/2023
- 82 Healthy Streets for Surrey: 11.4 Creating a Cycle Network
- 83 **Mr McKay's** Technical Note in response to questions by WAG on the LINSIG modelling of the Ockham Park roundabout (15/11/2023)
- 84 **Mr Russell's** response to **Mr McKay's** Technical Note (Document 83) (20/11/2023)
- 85 **Mr Campbell's note about street lighting in Old Lane (17/11/2023** - Mr. Campbell
- 86 Mr McLaughlin written representations regarding the highway modelling and the Burnt Common slips (21/11/2023)
- 87 The Placemaking Infrastructure Design Code Version 2 by GSA and Taylor Wimpey(November 2023)
- 88 **GSA's summary of changes to** the Placemaking Infrastructure Design Code in the Version 2 document (16/11/2023)
- 89 **The Council's urban design comments on the Placemaking** Infrastructure Design Code Version 2 (21/11/2023)
- 90 **Mr Baker's supplementary written evidence on Barbastelle bats in response to Dr Brookbank's evidence (22/11/2023)**
- 91 **Appellant's** list of Barbastelle bat dates
- 92 **Mr McKay's Technical Note** Technical Note in response to Mr Russell's response (Document 84) (22/11/2023)
- 93 **Mr McKay's** response to Mr McLaughlin's representations about the Burnt Common slips (Document 86) (23/11/2023)
- 94 English Nature Research Reports Number 682: Visitor Access Patterns on the Thames Basin Heaths (2005)
- 95 Pictures of Ockham Toad Patrol, Boldermere Lake and surrounds – submitted by Mr Campbell
- 96 Letter from CBRE on behalf of Harris providing clarification of **Natural England's objection to its** outline planning application for development at Bridge End Farm (24/11/2023)
- 97 Written representation objecting to the scheme by Mrs Z Franklin ( 22/11/2023)
- 98 **Mr McLaughlin's further representations on traffic and flooding** issues (24/11/2023)
- 99 List of draft conditions agreed by the Council, Appellant and Surrey County Council (27/11/2023)
- 100 **Surrey County Council's** CIL compliance information on the nursery, primary and secondary education obligations (29/11/2023)
- 101 Surrey and Sussex Police response correction and additional information to justify the contribution sought through the Section 106 Agreement (3/10/2023 and 12/10/2023)
- 102 Note by Mr M Waite, Surrey Wildlife Trust of a meeting held in 2014 with Natural England and the Council about the SANG requirements for a potential development of the site
- 103 Suggested additional condition by the Council for a Landscape

- and Ecology Management Plan relating to the full element of the scheme
- 104 Mrs Yates' response to **the Appellant's suggested duration of the** condition relating to skylark mitigation
- 105 Land Use Parameter with Sites of Nature Conservation Importance overlay
- 106 **Appellant's Note on the** access options to the site for construction (1/12/2023)
- 107 Written representation and photographs from Mr P Kunkler about parking at Effingham Junction Station (04/12/2023)
- 108 Written representation from Mr A Wise, Cobham Conservation & Heritage Trust about flooding and the Burnt Common slips (1/12/23)
- 109 Further written representation by Ms R Lester regarding the Horsley Medical Centre
- 110 Written representation from Mr and Mrs Wills about proposed use of Lollesworth Lane as a cycle route, including a copy of the Title Deed (8/12/2023)
- 111 Note from DAC Beachcroft LLP setting out the proposed conditions referenced in the draft Section 106 Agreement (1/12/2023)
- 112 Plan showing the three proposed Neighbourhood Areas
- 113 **Appellant's Note on planning conditions following** the round table session (08/12/2023)
- 114 **Appellant's Plan showing proposed cycle routes within the site**
- 115 **Council's updated** CIL Compliance Note (08.12.2023)
- 116 **Council's** Monitoring Fees Update (15/12/2023)
- 117 Updated Statement of Common Ground by the Council and Appellants on housing land supply (13/12/23)
- 118 Guildford Borough Council Five Year Housing Land Supply (1 April 2023)
- 119 **Surrey County Council's** CIL Compliance Statement on highway contributions
- 120 Written representation by Ripley Parish Council & Send Parish Council on the Burnt Common slips (18/12/2023)
- 121 Update to previous written statement made by Mr B P Austin on behalf of VAWNT (15/12/2023)
- 122 Written representation and photograph from Ms G Fleming (18/12/2023)
- 123 Appendix 13.5 to the Environmental Statement with a Noise Measurement Report for an **extension to the Council's Ash Bridge** gypsy and traveller site
- 124 **Council's** CIL compliance schedule on monitoring fee contributions (19/12/2023)
- 125 Strategic Highway Assessment Report for the Guildford Borough Proposed Submission **Local Plan "June 2016"**, paragraph 4.7.13, submitted by Cllr Osborn and referred to in the evidence of the Ripley Parish Council and Send Parish Council
- 126 Mr McKay's **proof of evidence**, section 8, on behalf of Wisley Properties Investment Limited to the previous inquiry in 2017 submitted by Cllr Osborn and referred to in the evidence of the Ripley Parish Council and Send Parish Council.
- 127 Draft Section 106 Agreement submitted to the inquiry on

- 20/12/2023
- 128 **Surrey County Council's CIL compliance schedule on monitoring** fee contributions (20/12/2023)
  - 129 **Surrey County Council's justification for a** Travel Plan Monitoring Fee (20/12/2023)
  - 130 Costs application made by Mr Harwood on behalf of WAG, Ockham Parish Council and RHS Wisley against the Appellant
  - 131 Response made by Mr Maurici on behalf of the Appellant
  - 132 Reply to the response made by Mr Harwood
  - 133 Costs application made by Mr Maurici on behalf of the Appellant against WAG, Ockham Parish Council and RHS Wisley
  - 134 Response made by Mr Harwood on behalf of WAG, Ockham Parish Council and RHS Wisley
  - 135 Reply to the response made by Mr Maurici

DOCUMENTS RECEIVED FOLLOWING THE CLOSE OF THE INQUIRY

- 136 **Appellant's response to the** revised National Planning Policy Framework (04/01/2023)
- 137 WAG Response to the revised National Planning Policy Framework
- 138 Site visit route suggestions from the Appellant, Council and VAWNT
- 139 Final response to the revised National Planning Policy Framework by the Appellant (15/1/24)
- 140 Executed Section 106 Agreement dated 19 January 2024

Note: This list follows the numbering in CD ID5 of the core documents as far as has been possible. There are various versions of the draft Section 106 Agreement but only the final draft and executed version have been recorded on the above list.



## ANNEX THREE: SCHEDULE OF PLANNING CONDITIONS

The planning conditions have been divided into two sections relating to the full and the outline elements of the proposed development. For the avoidance of doubt Conditions 1-38 only relate to the SANG areas that comprise the part of the proposal where full details have been submitted. Conditions 39 relate to the remainder of the scheme, which is in outline. This means that some conditions are duplicated as they apply to both elements of the scheme.

### PLANNING CONDITIONS RELATING SOLELY TO THE FULL ELEMENT OF THE DEVELOPMENT SCHEME

1. The development identified with the black hatching on the Component Plan (Ref: 1350-2-188 Rev L) shall begin not later than 3 years from the date of this decision.
2. No development shall take place, apart from site clearance and demolition, until a SANG and Access Phasing Plan has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved SANG and Access Phasing Plan.
3. No development shall take place on a particular phase until the following details for that phase have been submitted to and approved in writing by the Local Planning Authority:
  - a) A programme for the construction of the site accesses.
  - b) The infrastructure, including circular walks, benches and signage that is to be provided prior to first use of each phase.

The development shall be carried out in accordance with the approved details relating to access and infrastructure.

4. No part of the SANG shall be first brought into use, apart from existing public rights of way, until the first dwelling is occupied following reserved matters approval.
5. The development shall be carried out in accordance with the following plans:
  - Site Location Plan (1350-2-130, L)
  - Land Use Parameter Plan Version 2 (1350-2-252, R)
  - Access and Movement Parameter Plan Version 2 (1350-2-255 Q)
  - Green and Blue Infrastructure Parameter Plan Version 2 (1350-2-253, N)
  - Design Framework Parameter Plan (1350-2-256, F)
  - Component Plan (1350-2-188, L)
  - Realigned Highway and Site Access Junction (70071233-SK-005, G)
  - Old Lane Access (70071233-SK-003 D)
  - Ockham Lane NMU access (70071233-SK-008, B)
  - Tree Constraints Plan (1494-KC-XX-YTREE-TCP01, A) (within Appendix 4 of the Tree Survey and Arboricultural Assessment dated August 2022)

- SANG General Arrangement Plan V2 (1996-DLA-DR-L-02, P10)
  - SANG Landform Plan (1996-DLA-HA-SANG-DR-L-05, P03)
  - SANG Circular Walks and PRow Plan (1996-DLA-HA-SANG-DR-L-07, P07)
  - SANG Gabion Wall Detail (1996-DLA-HA-SANGDET-DR-L-09, P02)
  - SANG Self Binding Gravel Pathway Detail (1996-DLA-HA-SANGDET-DR-L-11, P02)
  - SANG Car Park 1 of 2 (1996-DLA-HA-SANGDET-DR-L-21.1, P02)
  - SANG Car Park 2 of 2 (1996-DLA-HA-SANGDET-DR-L-21.2, P02)
  - SANG Planting Plan, 1 of 10, (2147-DLA-DR-L-01.1, P12)
  - SANG Planting Plan , 2 of 10, (2147-DLA-DR-L-01.2, P12)
  - SANG Planting Plan , 3 of 10, (2147-DLA-DR-L-01.3, P12)
  - SANG Planting Plan , 4 of 10, (2147-DLA-DR-L-01.4, P12)
  - SANG Planting Plan , 5 of 10, (2147-DLA-DR-L-01.5, P12)
  - SANG Planting Plan , 6 of 10, (2147-DLA-DR-L-01.6, P12)
  - SANG Planting Plan , 7 of 10, (2147-DLA-DR-L-01.7, P12)
  - SANG Planting Plan , 8 of 10, (2147-DLA-DR-L-01.8, P12)
  - SANG Planting Plan , 9 of 10, (2147-DLA-DR-L-01.9, P12)
  - SANG Planting Plan , 10 of 10, (2147-DLA-DR-L-01.10, P12)
  - Additional Phase 1 works south-east corner, (2147-DLA-DR-L-01.10, P12)
  - Additional Phase 1 works western entrance (2147-DLA-DR-L-01.2, P12)
  - SANG Street Furniture and Signage (1996-DLA-HA-SANG-DR- L-08. P04)
  - Southern SANG Boardwalk Informative Plan (2192-DLA-DR-L-01, P01)
6. No development shall take place on a particular phase until a Written Scheme of Investigation relating to a programme of archaeological work for that phase has been submitted to and approved in writing by the Local Planning Authority.
7. Following approval of the Written Scheme of Investigation in Condition 6, no development shall take place on that phase until any field work identified as required to be carried out in the Written Scheme of Investigation for that phase has been completed in accordance with the approved Written Scheme of Investigation.
8. No development shall take place on a particular phase until a Construction Transport and Environment Management Plan (CTEMP) for that phase has been submitted to and approved in writing by the Local Planning Authority. The CTEMP shall provide for:
- a) Details of the hours of construction and deliveries to the site.
  - b) The construction traffic routes to the site, identified on a plan.
  - c) A programme of works, including measures for traffic management.
  - d) Areas within the site for the parking and turning of construction vehicles and the vehicles of site operatives and visitors.
  - e) Areas on the site for the loading, unloading and storage of plant and materials.
  - f) Evidence of membership of the *Considerate Constructors Scheme* for the lifetime of the construction period.

- g) Processes for keeping local residents informed of works being carried out and dealing with complaints, including the contact details of personnel responsible for construction works.
- h) Information about the Project Ecologist and/ or the Ecological Clerk of Works responsible for particular activities associated with the CTEMP.
- i) Details of any boundary hoarding behind any junction visibility zones.
- j) A plan showing the habitat areas to be protected during construction works.
- k) Details of the measures to be used during construction in order to minimise the environmental impact of the works, including potential disturbance to protected species.
- l) Measures to protect surrounding properties from construction noise and vibration, including in the selection of plant and machinery and the use of buffers, in accordance with the standards in *BS 5288: Code of practice for noise and vibration control on construction and open sites*.
- m) Measures to prevent pollution to water resources.
- n) Measures for controlling dust and maintaining air quality on the site, including details of street sweeping, street cleansing and wheel washing facilities.
- o) Measures to prevent the deposit of materials on the public highway.
- p) Details of the location, height, type, direction and intensity of any site lighting, whether required for safe working or security.
- q) Surveys of the condition of surrounding public roads both before the start of construction and after its completion and a commitment to fund any repairs to rectify damage found to have been caused by construction traffic associated with the site.
- r) Details of any temporary diversions of public rights of way across the site made necessary by construction work.
- s) Details of how the riverbank and riparian zone of the Stratford Brook will be restored and enhanced following construction.

The construction of each phase shall be carried out in accordance with the approved CTEMP for that phase.

- 9. Notwithstanding the reference to the temporary accommodation access on Drawing No: 70071233-SK-008, B (Ockham Lane NMU access) there shall be no access for construction vehicles from Ockham Lane or Old Lane.
- 10. No development shall take place on a particular phase until a Site Waste Management Plan (SWMP) for that phase has been submitted to and approved in writing by the Local Planning Authority. The SWMP shall demonstrate that:
  - a) Any waste generated by construction, demolition and excavation will be limited to the minimum quantity necessary.
  - a) Opportunities for the re-use and recycling of construction, demolition and excavation waste will be maximised.
  - b) Sufficient on-site facilities to manage the storage, re-use and recycling of waste arising during the operation of the development of an appropriate

type and scale will be provided and retained for the lifetime of the development.

Development of the phase shall be carried out in accordance with the approved SWMP for that phase.

11. No development shall take place on a particular phase until a Soil Management Plan (SMP) for that phase has been submitted to and approved in writing by the Local Planning Authority. The SMP shall be completed by an appropriately experienced soil specialist and shall:
  - a) Carry out a detailed soil resource survey on the site to determine the location, extent and quality of in-situ soil resources prior to construction.
  - b) Determine the types (units) of soil according to their resilience to damage, such as compaction, during soil handling prior to construction.
  - c) Produce maps showing the location and extent of soil resources in the separate units identified in b) prior to construction.
  - d) Demonstrate how to make the best use of the soils on the site.
  
12. No development shall take place on a particular phase until an Earthwork Strategy for that phase has been submitted to and approved in writing by the Local Planning Authority. The Earthwork Strategy shall be in accordance with the approved SANG Landform Plan. It shall include:
  - a) details of earth movements, the layout and profile of any land to be raised or lowered.
  - b) Spot heights of the proposed land levels.
  - c) The cut and fill strategy, which shall ensure that no excavation material is transported off the site.
  - d) Any alternative strategy detailing how any required material will be transported to the site.

Development of the phase shall be carried out in accordance with the approved Earthwork Strategy for that phase.

13. No development shall take place on a particular phase until a Ground Water Protection Strategy for that phase has been submitted to and approved in writing by the Local Planning Authority.
  
14. No development shall take place on a particular phase until a scheme for the management of any borehole to be installed on that phase for the investigation of soils, groundwater or for geotechnical purposes has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of how redundant boreholes on the phase are to be decommissioned and how the boreholes that are to be retained for monitoring purposes post-development on the phase will be secured, protected and inspected.

The scheme for the installation, management, decommissioning or retention of the boreholes shall be carried out as approved before the occupation or use of that phase.

15. No development shall take place on a particular phase until a risk assessment and site investigation strategy for that phase, including addressing the presence of any Per- and polyfluoroalkyl substances (PFAS), has been submitted to and approved in writing by the Local Planning Authority. The strategy shall include the following components:
- a) A preliminary risk assessment that has identified:
    - All previous uses.
    - Potential contaminants associated with the previous uses.
    - A conceptual model of the site indicating sources, pathways and receptors.
    - Potentially unacceptable risks arising from contamination at the site to cover all areas, including those not yet investigated as well as PFAS contamination.
  - b) A site investigation scheme based on the preliminary risk assessment to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off-site.

The preliminary risk assessment and site investigation for that phase shall be carried out as approved.

16. No development shall take place on a particular phase until a Remediation Strategy that addresses any remediation required as a result of the preliminary risk assessment and site investigation approved under Condition 15 has been submitted to and approved in writing by the Local Planning Authority. The Remediation Strategy shall include:
- a) Remediation objectives and criteria, timetable of works and site management procedures.
  - b) Full details of the remediation measures and how they will be undertaken.
  - c) How the remediation works will be judged to be complete and arrangements for contingency actions.
  - d) A long-term monitoring and maintenance plan and a timetable for its implementation.

The Remediation Strategy for that phase shall be carried out as approved and shall ensure that the site will not qualify as contaminated land under Part 2A of the *Environmental Protection Act 1990* in terms of the intended use of the land after remediation.

17. A particular phase shall not be brought into use until a Verification Report for that phase that demonstrates the completion and effectiveness of the

works within the Remediation Strategy approved under Condition 16 has been submitted to and approved in writing by the Local Planning Authority.

The Verification Report shall include results of sampling and monitoring to demonstrate that the remediation objectives and criteria have been met. Details of any post remediation sampling and analysis to show that the site has reached the required clean-up criteria shall be included in the closure report together with the necessary documentation detailing what waste material has been removed from the site.

The Verification Report for that phase shall be carried out as approved.

18. If during development of any phase contamination not previously identified is found to be present, then no further development in the relevant phase shall be carried out until a Remediation Strategy and Verification Report in accordance with Conditions 16 and 17 have been submitted to and approved in writing by the Local Planning Authority and carried out as approved. The provisions of Condition 15 will also apply in these circumstances.
19. No development shall take place on a particular phase until an Arboricultural Method Statement (AMS) and Tree Protection Plan (TPP) for that phase has been submitted to and approved in writing by the Local Planning Authority. The AMS and TPP shall include:
  - a) details of any foundations, hard surfacing, services and drainage works within the root protection zones of any retained trees, woodlands and hedgerows and the measures taken to protect those zones.
  - b) An ecological survey to cover any affected features if trees and hedgerows are to be removed to facilitate the boardwalks in the southern SANG.

No development shall commence on that phase until the trees, woodlands and hedges as specified in the approved TPP have been protected by fencing in accordance with BS 5837: 2012 *Trees in relation to design, demolition and construction*. The development shall be carried out in accordance with the approved AMS and TPP for that phase.

20. The use of the phase containing the Veteran Oak (T37) shall not commence until a Veteran Tree Management Plan (VTMP) for the tree has been submitted to and approved in writing by the Local Planning Authority and has been carried out as approved. The VTMP shall be prepared by a suitably qualified Arboriculturist and shall include the following elements:
  - a) A statement of the overall design vision for the Veteran Oak, including its nature conservation value and the manner in which it will be protected.
  - b) Type and frequency of the management operations to achieve and sustain the canopy, understorey and ground cover.
  - c) The frequency of safety inspections.



- d) Confirmation that any tree pruning work will be undertaken by a suitably qualified and insured tree contractor to comply with BS 3998: 2010 *Tree Work*.
- e) Measures to ensure that any works to the Veteran Tree avoid harm to Protected Species or habitats and nesting birds.
- f) Measures to inspect for pests, vermin and disease and proposed remedial action to be taken.
- g) Confirmation of cyclical management plan assessments and revisions to **evaluate the plan's success and identification of any proposed actions.**

The development within the phase containing the Veteran Oak shall be carried out in accordance with the approved VTMP.

21. No development shall take place on a particular phase, apart from site clearance and demolition, until a Lighting Strategy for that phase has been submitted to and approved in writing by the Local Planning Authority. The lighting details shall include:

- a) The hours of operation.
- b) The appearance, height, type and position of the lighting and the angle of glare.
- c) The intensity of illumination and predicted horizontal and vertical isolux lighting contours.
- d) An assessment of the impact on residential properties on and off the site.
- e) An assessment of the impact on ecological features sensitive to lighting.

The use of the phase shall not be commenced until the external lighting has been installed in accordance with the approved details and shall be retained thereafter in accordance with the approved specifications.

22. No development shall take place on a particular phase (apart from site clearance and demolition), until details of all boundary treatments for that phase, including plans and cross sections showing the material and colour finish of any walls, fences, balustrades, railings or any other means of enclosure within the SANG area, shall be submitted to and approved in writing by the Local Planning Authority.

The approved boundary treatments shall be carried out prior to the first use of the development or phased as agreed in writing by the Local Planning Authority. The boundary treatments shall be retained in accordance with the approved specifications.

23. No development shall take place on a particular phase (apart from site clearance and demolition), until landscaping details for that phase have been submitted to and approved in writing by the Local Planning Authority. These shall be in general accordance with the approved SANG General Arrangement Plan and shall include:

- a) Full details of hard landscaping, including a specification of the proposed materials for the routes and the width of those routes.
- b) Details of existing and proposed service runs superimposed on the approved SANG General Arrangement Plan.
- c) The methodology to be employed in the planting of the new trees and tree groups, including tree pit details and tree soil volumes.

Development of the phase shall be carried out in accordance with the approved landscaping details for that phase.

24. No development shall take place on a particular phase that includes the Southern SANG, apart from site clearance and demolition, until a Landscape and Ecology Management Plan (LEMP) for that phase has been submitted to and approved in writing by the Local Planning Authority. The LEMP shall include:

- a) Details of how the wet woodland habitats will be enhanced.
- b) Details of ongoing maintenance regimes.
- c) Details of the proposed planting scheme, which shall be native species of United Kingdom provenance only.
- d) Details of the treatment of site boundaries and/ or buffers around water bodies.
- e) Details of new habitats created.
- f) Details of management responsibilities, including the body responsible for ongoing management and details of how this is to be funded for the lifetime of the development
- g) Arrangements for the removal or long-term control and management of *Impatiens glandulifera* (Himalayan Balsam).
- h) A timetable for implementation.

The LEMP shall be carried out on the phase in accordance with the approved details and timetable.

25. No development shall take place, including site clearance and demolition, until a Skylark Method Statement in respect of the provision of land to **accommodate the site's skylark population either on-site or off-site** (or both) has been submitted to and approved in writing by the Local Planning Authority. The Skylark Method Statement shall include:

- a) The purpose and objectives of the proposed works.
- b) The detailed designs and/ or working methods necessary to achieve the purpose and objectives.
- c) A demonstration of how the proposed works will comply with the mitigation hierarchy.
- d) The extent and location of the proposed works shown on appropriately scaled maps and / or plans.
- e) A timetable for implementation, demonstrating how the works will be aligned with the proposed phasing and construction.
- f) The arrangements for the aftercare and long-term maintenance of the plots, including any remedial action if required.

- g) A monitoring strategy that will include an annual report for the first 10 years following the establishment of the plots followed by a report every 5 years for the lifetime of the development.

The mitigation shall be provided in accordance with the approved Skylark Method Statement; carried out in the first planting season following its approval; and retained in that manner thereafter for the lifetime of the development.

- 26. No development shall take place, apart from site clearance and demolition, until a Site-Wide Biodiversity Net Gain (BNG) Strategy has been submitted to and approved in writing by the Local Planning Authority. The Site-Wide BNG Strategy shall include:
  - a) A description and evaluation of the features to be managed.
  - b) The ecological trends and constraints on-site that may influence management.
  - c) Aims, objectives and targets for management, including links with local and national species and habitat action plans.
  - d) Detail of habitat creation, including habitats and species within the Biodiversity Opportunity Area.
  - e) Details of how a minimum net gain of 20% will be delivered across the development as a whole and including any habitat banking arrangements necessary to secure achievement of the overall target having regard to the phased nature of the development.
  - f) Description of the management operations necessary to achieve the aims and objectives and prescriptions for management actions.
  - g) Preparation of a works schedule, including an annual works schedule.
  - h) Details of the monitoring required to measure the effectiveness of management and the timetable for each element of the monitoring programme.
  - i) Details of the persons responsible for the implementation and monitoring.
  - j) How management will be adapted to account for necessary changes to work schedules to achieve required targets.
  - k) Reporting on Years 1, 2, 5, 10, 20 and 30 with biodiversity reconciliation calculations at each stage.

The development shall be carried out in accordance with the approved Site-Wide BNG Strategy.

- 27. No development shall take place on a particular phase until a pre-works badger survey has been carried out for that phase. This shall be undertaken by a suitably qualified ecologist, no more than 3 months prior to the commencement of works and the clearance of vegetation to establish the use of that part of the site by badgers. If required, a license shall be obtained from Natural England and any mitigation shall be carried out in accordance with the terms of the license. A copy of the license shall be submitted to the Local Planning Authority prior to commencement of development on the phase to which the license relates.

28. The development shall be carried out in accordance with the Flood Risk Assessment V2 (October 2022) and the Flood Risk Assessment Addendum (10 July 2023), both by GTA Civils & Transport Ltd.
29. The boardwalk and footbridges in the Southern SANG as shown on the approved Southern SANG Boardwalk Informative Plan shall be carried out before the Southern SANG is open for use. They shall thereafter be retained for their intended purpose for the lifetime of the development.
30. The use of a particular phase within the Southern SANG shall not commence until a Management and Maintenance Scheme (MMS) for the boardwalks and footbridges within that phase has been submitted to and approved in writing by the Local Planning Authority. The MMS shall set out how and when the boardwalks and footbridges will be kept in good repair and by whom in order to:
  - a) Fulfil their function in protecting the wet woodland from the impacts of trampling.
  - b) Be kept free of debris such that they do not impede flood water.

The development of the phase shall be carried out in accordance with the approved MMS.

31. No development shall take place on a particular phase, including site clearance and demolition, until details of the design of a surface water drainage scheme, including any relevant strategic SuDS for that phase, has been submitted to and approved in writing by the Local Planning Authority. The design shall follow the principles in the submitted drainage strategy, including the SuDS Design Code V2 (28/10/22) by GTA Civils & Transport. It shall also satisfy the SuDS Hierarchy and be compliant with the national *Non-Statutory Technical Standards for SuDS, National Planning Policy Framework* and the *Ministerial Statement on SuDS* (2014). The details shall include:
  - a) Evidence that the scheme will effectively manage the 1:30 (plus 35% allowance for climate change) and the 1:100 (plus 45% allowance for climate change, storm events and 10% allowance for urban creep, during all stages of the development.
  - b) Final off-site discharge rates shall reflect those stated in Table:  
Proposed SuDS Strategy – SANG Catchment Summary V2-25.10.2022, based on a final off-site greenfield discharge rate of 4.4 l/s/ha.  
Associated discharge rates and storage volumes from each phase shall be provided using a maximum discharge rate of 4.4 l/s/ha applied to at least one third of the phase or according to the principles set out in the *SuDS Design Code V2* using additional on-plot SuDS storage measures as stated in paragraph 5.5 of the Flood Risk Assessment V2 (October 2022) by GTA Civils & Transport Ltd.
  - c) Detailed drainage design drawings and calculations that include a finalised drainage layout showing:
    - the location of the drainage elements

- pipe diameters
  - levels and long and cross sections of each element
  - details of any flow restrictions
  - maintenance or risk reducing features (eg silt traps and inspection chambers)
  - SuDS components within the phase.
- d) A plan showing exceedance flows and how property on and off-site will be protected from increased flood risk.
- e) Details of management responsibilities and maintenance regimes for the drainage system during the lifetime of the development.
- f) Details of how the drainage system will be protected during construction and how runoff, including any pollutants, from the development site within the phase will be managed before the drainage system is operational.

The surface water drainage scheme for the phase shall be carried out in accordance with the approved details.

32. The use of a particular phase shall not commence until a Verification Report carried out by a suitably qualified drainage engineer has been submitted to and approved in writing by the Local Planning Authority. The Verification Report shall demonstrate that:
- a) The surface water drainage scheme for that phase has been constructed as approved under Condition 31
  - b) Provide the details of the management company and confirmation that it has full management and maintenance responsibilities in accordance with Condition 31.
  - c) State the national grid references of any key drainage elements and confirm any defects that have been rectified.
33. No drainage systems for the infiltration of surface water to the ground shall take place on any phase without the prior approval in writing of the Local Planning Authority. Any such proposal shall be supported by an assessment of the risks to controlled waters. The development of the phase shall be carried out in accordance with the approved details.
34. The use of a particular phase shall not commence until full details of the **design of the children's play spaces, including the layout, surfacing, fencing and equipment**; the timescale for delivery; and a management and maintenance scheme for that phase, has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and timescale.
35. No part of the SANG shall be open for public use unless the two SANG car parks have been laid out in accordance with the approved plans. The SANG car parks shall thereafter be retained for their designated uses.
36. No part of the SANG shall be open for public use until a scheme for the provision of electric vehicle charging points within the two SANG car parks

has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include a strategy for the ongoing management and maintenance of the electric parking facilities and shall be **in accordance with Surrey County Council's *Vehicle, Cycle and Electric Vehicle Parking Guidance for New Development* (2023)**.

The electric vehicle charging points shall be installed as approved before the first use of the SANG and shall thereafter be managed and maintained in accordance with the approved scheme.

37. No part of the SANG shall be open for public use until secure covered cycle storage, including charging points for e-bikes, has been provided in accordance with a scheme to be first submitted to and approved in writing by the Local Planning Authority. The approved cycle provision shall thereafter be retained for its intended purpose.
38. No development shall take place on a particular phase, apart from site clearance and demolition, until a Public Rights of Way Strategy has been submitted to and approved in writing by the Local Planning Authority. The strategy shall detail any proposed alterations or improvements to the public rights of way within that phase and future management and maintenance arrangements. The development shall be carried out in accordance with the approved Strategy before use of that phase commences and managed and maintained in accordance with it thereafter.

#### PLANNING CONDITIONS RELATING SOLELY TO THE OUTLINE ELEMENT OF THE DEVELOPMENT SCHEME

39. Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") in a particular phase, as identified on the Master Phasing Plan under condition 4, shall be submitted to and approved in writing by the Local Planning Authority before any development in that phase begins and the development shall be carried out as approved.
40. Application for approval of the first reserved matters for the development, as identified by the brown hatching on the Component Plan (Ref: 1350-2-188 Rev L), shall be made to the Local Planning Authority not later than three years from the date of this decision. Application for approval of all remaining reserved matters shall be made within ten years from the date of this decision.
41. The development hereby permitted shall begin no later than two years from the date of approval of the first of the reserved matters to be approved, and development of any subsequent phase shall begin no later than two years from the date of approval of the final reserved matters for that phase.
42. Prior to the submission of the first reserved matters application for the first phase, a Master Phasing Plan for the whole site (including the SANGs) shall be submitted to and approved in writing by the Local Planning Authority.



43. An updated Master Phasing Plan for the whole site (including the SANGS) shall be submitted to and approved in writing by the Local Planning Authority before development is commenced on each subsequent phase.

Each Master Phasing Plan shall include:

- a) A programme for the construction of the site accesses.
- b) The boundary of each phase and how this relates to the SANG phases.
- c) **The phasing of the different uses, including the elderly persons' accommodation.**
- d) The phasing and timescales of delivery of the open space and infrastructure, including roads, pedestrian and cycle routes shown on the Access and Movement Parameter Plan.
- e) The general location and phasing of key infrastructure relating to the entire development, as far as is possible, including surface water drainage, green infrastructure and open space, structural landscaping, community facilities and access for pedestrians, cyclists, buses and vehicles to demonstrate the relationships of the infrastructure elements to the phase for which reserved matters approval is being sought.
- f) **The open space, SuDS and children's play space to be provided in advance or within any individual phase as relevant to the reserved matters application boundary.**
- g) A plan showing the phase and its relationship to other phases including the layouts of any phases that have been developed or have reserved matters approval or any detailed planning permission.

The development of each phase shall be carried out in accordance with the most recently approved Master Phasing Plan.

44. The development shall be carried out in accordance with the following plans:

- Site Location Plan (1350-2-130, L)
- Land Use Parameter Plan Version 2 (1350-2-252, R)
- Access and Movement Parameter Plan Version 2 (1350-2-255 Q)
- Green and Blue Infrastructure Parameter Plan Version 2 (1350-2-253, N)
- Design Framework Parameter Plan (1350-2-256, F)
- Component Plan (1350-2-188, L)
- Realigned Highway and Site Access Junction (70071233-SK-005, G)
- Old Lane Access (70071233-SK-003 D)
- Ockham Lane NMU access (70071233-SK-008, B)
- Tree Constraints Plan (1494-KC-XX-YTREE-TCP01, A) (within Appendix 4 of the Tree Survey and Arboricultural Assessment dated August 2022)

45. The development shall be carried out in accordance with the following documents:

- Design Principles Document Version 2 (22/03/2023)

- Placemaking Infrastructure Design Code Version 2 (November 2023)
46. No development shall take place on a particular phase until a Written Scheme of Investigation relating to a programme of archaeological work for that phase has been submitted to and approved in writing by the Local Planning Authority.
47. Following approval of the Written Scheme of Investigation in Condition 46, no development shall take place on that phase until any field work identified as required to be carried out in the Written Scheme of Investigation for that phase has been completed in accordance with the approved Written Scheme of Investigation.
48. No development shall take place on a particular phase until a Construction Transport and Environment Management Plan (CTEMP) for that phase has been submitted to and approved in writing by the Local Planning Authority. The CTEMP shall provide for:
- a) Details of the hours of construction and deliveries to the site.
  - b) The construction traffic routes to the site, identified on a plan.
  - c) A programme of works, including measures for traffic management.
  - d) Areas within the site for the parking and turning of construction vehicles and the vehicles of site operatives and visitors.
  - e) Areas on the site for the loading, unloading and storage of plant and materials.
  - f) Evidence of membership of the *Considerate Constructors Scheme* for the lifetime of the construction period.
  - g) Processes for keeping local residents informed of works being carried out and dealing with complaints, including the contact details of personnel responsible for construction works.
  - h) Information about the Project Ecologist and/ or the Ecological Clerk of Works responsible for particular activities associated with the CTEMP.
  - i) Details of any boundary hoarding behind any junction visibility zones.
  - j) A plan showing the habitat areas to be protected during construction works.
  - k) Details of the measures to be used during construction in order to minimise the environmental impact of the works, including potential disturbance to protected species.
  - l) Measures to protect surrounding properties from construction noise and vibration, including in the selection of plant and machinery and the use of buffers, in accordance with the standards in *BS 5288: Code of practice for noise and vibration control on construction and open sites*.
  - m) Measures to prevent pollution to water resources.
  - n) Measures for controlling dust and maintaining air quality on the site, including details of street sweeping, street cleansing and wheel washing facilities.
  - o) Measures to prevent the deposit of materials on the public highway.
  - p) Details of the location, height, type, direction and intensity of any site lighting, whether required for safe working or security.

- q) Surveys of the condition of surrounding public roads both before the start of construction and after its completion and a commitment to fund any repairs to rectify damage found to have been caused by construction traffic associated with the site.
- r) Details of any temporary diversions of public rights of way across the site made necessary by construction work.
- s) Details of how the riverbank and riparian zone of the Stratford Brook will be restored and enhanced following construction.

The construction of each phase shall be carried out in accordance with the approved CTEMP for that phase.

49. No development shall take place on a particular phase until a Site Waste Management Plan (SWMP) for that phase has been submitted to and approved in writing by the Local Planning Authority. The SWMP shall demonstrate that:

- a) Any waste generated by construction, demolition and excavation will be limited to the minimum quantity necessary.
- b) Opportunities for the re-use and recycling of construction, demolition and excavation waste will be maximised.
- c) Sufficient on-site facilities to manage the storage, re-use and recycling of waste arising during the operation of the development of an appropriate type and scale will be provided and retained for the lifetime of the development.

Development of the phase shall be carried out in accordance with the approved SWMP for that phase.

50. No development shall take place on a particular phase until a Soil Management Plan (SMP) for that phase has been submitted to and approved in writing by the Local Planning Authority. The SMP shall be completed by an appropriately experienced soil specialist and shall:

- a) Carry out a detailed soil resource survey on the site to determine the location, extent and quality of in-situ soil resources prior to construction.
- b) Determine the types (units) of soil according to their resilience to damage, such as compaction, during soil handling prior to construction.
- c) Produce maps showing the location and extent of soil resources in the separate units identified in b) prior to construction.
- d) Demonstrate how to make the best use of the soils on the site.

51. No development shall take place on a particular phase until an Earthwork Strategy for that phase has been submitted to and approved in writing by the Local Planning Authority. The Earthwork Strategy shall be in accordance with the approved SANG Landform Plan. It shall include:

- a) details of earth movements, the layout and profile of any land to be raised or lowered.
- b) Spot heights of the proposed land levels.
- c) The cut and fill strategy, which shall ensure that no excavation material is transported off the site.
- d) Any alternative strategy detailing how any required material will be transported to the site.

Development of the phase shall be carried out in accordance with the approved Earthwork Strategy for that phase.

52. No development shall take place on a particular phase until a Ground Water Protection Strategy for that phase has been submitted to and approved in writing by the Local Planning Authority.
53. No development shall take place on a particular phase until a scheme for the management of any borehole to be installed on that phase for the investigation of soils, groundwater or for geotechnical purposes has been submitted to and approved in writing by the Local Planning Authority.

The scheme shall include details of how redundant boreholes on the phase are to be decommissioned and how the boreholes that are to be retained for monitoring purposes post-development on the phase will be secured, protected and inspected.

The scheme for the installation, management, decommissioning or retention of the boreholes shall be carried out as approved before the occupation or use of that phase.

54. No development shall take place on a particular phase until a risk assessment and site investigation strategy for that phase, including addressing the presence of any Per- and polyfluoroalkyl substances (PFAS), has been submitted to and approved in writing by the Local Planning Authority. The strategy shall include the following components:

- a) A preliminary risk assessment that has identified:
  - All previous uses.
  - Potential contaminants associated with the previous uses.
  - A conceptual model of the site indicating sources, pathways and receptors.
  - Potentially unacceptable risks arising from contamination at the site to cover all areas, including those not yet investigated as well as PFAS contamination.
- b) A site investigation scheme based on the preliminary risk assessment to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off-site.

The preliminary risk assessment and site investigation for that phase shall be carried out as approved.

55. No development shall take place on a particular phase until a Remediation Strategy that addresses any remediation required as a result of the preliminary risk assessment and site investigation approved under Condition 56 has been submitted to and approved in writing by the Local Planning Authority. The Remediation Strategy shall include:

- a) Remediation objectives and criteria, timetable of works and site management procedures.
- b) Full details of the remediation measures and how they will be undertaken.
- c) How the remediation works will be judged to be complete and arrangements for contingency actions.
- d) A long-term monitoring and maintenance plan and a timetable for its implementation.

The Remediation Strategy for that phase shall be carried out as approved and shall ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in terms of the intended use of the land after remediation.

56. A particular phase shall not be brought into use until a Verification Report for that phase that demonstrates the completion and effectiveness of the works within the Remediation Strategy approved under Condition 55 has been submitted to and approved in writing by the Local Planning Authority.

The Verification Report shall include results of sampling and monitoring to demonstrate that the remediation objectives and criteria have been met. Details of any post remediation sampling and analysis to show that the site has reached the required clean-up criteria shall be included in the closure report together with the necessary documentation detailing what waste material has been removed from the site.

The Verification Report for that phase shall be carried out as approved.

57. If during development of any phase contamination not previously identified is found to be present, then no further development in the relevant phase shall be carried out until a Remediation Strategy and Verification Report in accordance with Conditions 55 and 56 have been submitted to and approved in writing by the Local Planning Authority and carried out as approved. The provisions of Condition 54 will also apply in these circumstances.

58. No development shall take place on a particular phase until an Arboricultural Method Statement (AMS) and Tree Protection Plan (TPP) for that phase has been submitted to and approved in writing by the Local Planning Authority. The AMS and TPP shall include:

- a) details of any foundations, hard surfacing, services and drainage works within the root protection zones of any retained trees, woodlands and hedgerows and the measures taken to protect those zones.
- b) An ecological survey to cover any affected features if trees and hedgerows are to be removed to facilitate the boardwalks in the southern SANG.

No development shall commence on that phase until the trees, woodlands and hedges as specified in the approved TPP have been protected by fencing in accordance with BS 5837: 2012 *Trees in relation to design, demolition and construction*. The development shall be carried out in accordance with the approved AMS and TPP for that phase.

59. A Site Wide Design Code shall be submitted to and approved in writing by the Local Planning Authority prior to the submission of the first reserved matters application containing residential development. The Site Wide Design Code shall be in accordance with the Design Principles Document.

Development shall be carried out in accordance with the approved Site Wide Design Code.

60. Prior to the submission of the first reserved matters application for any part of each Neighbourhood, a Neighbourhood Design Code for the relevant Neighbourhood (the details of which are set out in the Design Principles Document) for that phase shall be submitted to and approved in writing by the Local Planning Authority. The Neighbourhood Design Code shall demonstrate:

- a) That the objectives of the Design and Access Statement will be met.
- b) That principles in the most up-to-date Secured by Design Homes Guide will be incorporated.

Development shall be carried out in accordance with the approved Neighbourhood Design Codes.

61. Prior to the submission of the reserved matters application(s), which includes the Energy Centre, pumping station, employment buildings and SANG buildings, an amended Placemaking Infrastructure Design Code shall be submitted to and approved in writing by the Local Planning Authority. In addition to the content of the approved document, the amended Placemaking Infrastructure Design Code shall include the following in respect of the Energy Centre, pumping station, employment buildings and SANG buildings:

- a) Additional detail covering sustainable design of internal and external spaces.
- b) Additional detail covering access to prioritise active and sustainable modes of transport.



Development shall be carried out in accordance with the approved Placemaking Infrastructure Design Code as amended.

- 62. Prior to or alongside the submission of the first reserved matters application, a Cultural Strategy detailing public art and how it will be integrated into the development and the strategy and approach to public realm across the site, shall be submitted to and approved in writing by the Local Planning Authority.
- 63. The Cultural Strategy shall include details of the commissioning budget and the timescales for the implementation of the measures described in it. It shall also include measures for its application to the phases of the development. Consideration should be given in the Cultural Strategy to the re-use of the decommissioned NATS beacon as an important record of the **site's history**.

The public realm and public art measures implemented by phase shall be in accordance with the approved Cultural Strategy.

- 64. The development shall be carried out in accordance with the following mix of uses as indicated on the Land Use Parameter Plan. The floorspaces for each use shall be in broad accordance with the following provisions:

Use	Approximate floorspace
Retail	600-1,100m <sup>2</sup> with a minimum of 280m <sup>2</sup> to be an anchor convenience retail unit
Commercial	2,500m <sup>2</sup> of B2/ B8 1,800-2,500m <sup>2</sup> offices/ innovation centre
Sport and leisure	500-1,000m <sup>2</sup> sports pavilion, changing and associated facilities
SANG buildings	150-300m <sup>2</sup> café, education and WCs
Mixed/ community uses	500m <sup>2</sup> community/ village hall and community rooms 500m <sup>2</sup> health facility 500m <sup>2</sup> private day nursery 50-100m <sup>2</sup> Community Trust offices 24m <sup>2</sup> police touch-down space
Mixed/ services class E flexible uses	Up to 550m <sup>2</sup>

- 65. Notwithstanding the Land Use Parameter Plan, no use within Class B2 of the Town and Country Planning (Use Classes) Order 1987 (as amended) or any Order revoking or re-enacting or amending that Order with or without modification, shall be provided in the Local Centre.
- 66. Notwithstanding the Town and Country Planning (General Permitted Development) Order 2015 (as amended) and the Town and Country Planning (Use Classes) Order 1987 (as amended) or any Orders revoking or re-enacting or amending those Orders with or without modification, the retail floorspace in Condition 64 shall only be used for retail uses, including

a convenience store of at least 280m<sup>2</sup> and for no other purpose in Class E of the Town and Country Planning (Use Classes) Order 1987 (as amended).

67. Prior to the occupation of the first dwelling, a plan shall be submitted to and approved in writing by the Local Planning Authority showing the size, location and a timetable for provision of the temporary retail/ community provision within Neighbourhood 1 (defined on the plan at Annexure D of the Section 106 Agreement) and identified indicatively on the Land Use Parameter Plan.

The temporary facility shall be provided in accordance with the approved plan and timetable and shall be removed when the permanent facilities in the Local Centre are established.

68. No development shall take place on a particular phase (apart from site clearance and demolition) until a comprehensive scheme for protecting the proposed dwellings from noise, including from internal noise transmission from commercial premises in the same building, has been submitted to and approved in writing by the Local Planning Authority. This shall meet the criteria of 55dB L<sub>Aeq</sub>16 hour (day-time) in private amenity areas, 35dB L<sub>Aeq</sub>16 hour (day-time) in living rooms and bedrooms, and 30dB L<sub>Aeq</sub> 8 hour (night-time) and 45dB L<sub>Amax</sub> (night-time) in bedrooms. Where mitigation is proposed to meet these criteria, full details of the mitigation measures shall be provided in the submitted scheme. The development shall thereafter be undertaken in accordance with the approved scheme.
69. Prior to commencement of the older persons accommodation, a comprehensive scheme for protecting the proposed accommodation from noise shall be submitted to and approved in writing by the Local Planning Authority. This shall meet the criteria of 55dB L<sub>Aeq</sub> 16 hour (day-time) in external communal amenity areas, 35dB L<sub>Aeq</sub> 16 hour (day-time) in living spaces and bedrooms, and 30dB L<sub>Aeq</sub> 8 hour (night-time) and 45dB L<sub>Amax</sub> (night-time) in bedrooms. Where mitigation is proposed to meet these criteria, full details of the mitigation measures shall be provided in the submitted scheme. The development shall thereafter be undertaken in accordance with the approved scheme.
70. Any building plant or externally located equipment shall be acoustically insulated in accordance with a scheme to be submitted to and approved in writing by the Local Planning Authority prior to the commencement of its use. The scheme shall ensure that the rated noise level at the boundary of the nearest extant or proposed noise sensitive property will not increase above the existing background noise level in accordance with the *BS4142: 2014 Guidance on sound insulation and noise reduction for buildings* methodology. Any mitigation measures proposed to attain this level shall be clearly identified. The development shall thereafter be undertaken in accordance with the approved scheme.

The scheme shall be implemented as approved prior to the commencement of use of the plant or equipment and shall be retained and maintained in **accordance with the manufacturer's instructions for the duration of the use.**

71. Prior to the submission of the reserved matters application that includes the Gypsy and Traveller site, full details of a noise mitigation scheme, inclusive of a noise bund and any acoustic fencing, shall be submitted to and approved in writing by the Local Planning Authority. The noise mitigation scheme shall include a timetable for delivery. Development shall be carried out in accordance with the approved noise mitigation scheme and timetable.
72. No development shall take place on a particular phase, apart from site clearance and demolition, until a Lighting Strategy for that phase has been submitted to and approved in writing by the Local Planning Authority. The lighting details shall include:
- a) The hours of operation.
  - b) The appearance, height, type and position of the lighting and the angle of glare.
  - c) The intensity of illumination and predicted horizontal and vertical isolux lighting contours.
  - d) An assessment of the impact on residential properties on and off the site.
  - e) An assessment of the impact on ecological features sensitive to lighting.

The use of the phase shall not be commenced until the external lighting has been installed in accordance with the approved details and shall be retained thereafter in accordance with the approved specifications.

73. Prior to or at the same time as the reserved matters application(s) for a particular phase, a BNG Statement, which includes a metric calculation, shall be submitted to and approved in writing by the Local Planning Authority. This shall demonstrate how the phase will contribute to achieving a minimum of 20% BNG in accordance with the approved Site-Wide BNG Strategy approved under Condition 26. Development shall be carried out in accordance with the approved BNG Statement.
74. No development shall take place on a particular phase, including site clearance and demolition, until a pre-works badger survey has been carried out for that phase. This shall be undertaken by a suitably qualified ecologist, no more than 3 months prior to the commencement of works and the clearance of vegetation to establish the use of that part of the site by badgers. If required, a license shall be obtained from Natural England and any mitigation shall be carried out in accordance with the terms of the license. A copy of the license shall be submitted to the Local Planning Authority prior to commencement of development on the phase to which the license relates.

75. Prior to or at the same time as the reserved matters application(s) for a particular phase, an Ecological Mitigation and Enhancement Plan shall be submitted to and approved in writing by the Local Planning Authority. The Ecological Mitigation and Enhancement Plan shall be in accordance with the submitted Ecological Mitigation and Enhancement Strategy (EPR 10 August 2022) in respect of the safeguarding protected species.

The development of the phase shall be carried out in accordance with the approved Ecological Mitigation and Enhancement Plan.

76. No development shall take place on a particular phase, including site clearance and demolition, until details of the design of a surface water drainage scheme, including any relevant strategic SuDS for that phase, has been submitted to and approved in writing by the Local Planning Authority. The design shall follow the principles in the submitted drainage strategy, including the *SuDS Design Code V2 (28/10/22)* by GTA Civils & Transport. It shall also satisfy the SuDS Hierarchy and be compliant with the national *Non-Statutory Technical Standards for SuDS, National Planning Policy Framework* and the *Ministerial Statement on SuDS (2014)*. The details shall include:

- a) Evidence that the scheme will effectively manage the 1:30 (plus 35% allowance for climate change) and the 1:100 (plus 45% allowance for climate change, storm events and 10% allowance for urban creep, during all stages of the development.
- b) Final off-site discharge rates shall reflect those stated in *Table: Proposed SuDS Strategy – SANG Catchment Summary V2-25.10.2022*, based on a final off-site greenfield discharge rate of 4.4 l/s/ha. Associated discharge rates and storage volumes from each phase shall be provided using a maximum discharge rate of 4.4 l/s/ha applied to at least one third of the phase or according to the principles set out in the *SuDS Design Code V2* using additional on-plot SuDS storage measures as stated in paragraph 5.5 of the *Flood Risk Assessment V2 (October 2022)* by GTA Civils & Transport Ltd.
- c) Detailed drainage design drawings and calculations that include a finalised drainage layout showing:
  - the location of the drainage elements
  - pipe diameters
  - levels and long and cross sections of each element
  - details of any flow restrictions
  - maintenance or risk reducing features (eg silt traps and inspection chambers)
  - SuDS components within the phase.
- d) A plan showing exceedance flows and how property on and off-site will be protected from increased flood risk.
- e) Details of management responsibilities and maintenance regimes for the drainage system during the lifetime of the development.
- f) Details of how the drainage system will be protected during construction and how runoff, including any pollutants, from the development site

within the phase will be managed before the drainage system is operational.

The surface water drainage scheme for the phase shall be carried out in accordance with the approved details.

77. The use of a particular phase shall not commence until a Verification Report carried out by a suitably qualified drainage engineer has been submitted to and approved in writing by the Local Planning Authority. The Verification Report shall demonstrate that:
- a) The surface water drainage scheme for that phase has been constructed as approved under Condition 76.
  - b) Provide the details of the management company and confirmation that it has full management and maintenance responsibilities in accordance with Condition 76.
  - c) State the national grid references of any key drainage elements and confirm any defects that have been rectified.
78. No drainage systems for the infiltration of surface water to the ground shall take place on any phase without the prior approval in writing of the Local Planning Authority. Any such proposal shall be supported by an assessment of the risks to controlled waters. The development of the phase shall be carried out in accordance with the approved details.
79. Prior to or at the same time as the reserved matters application(s) for a particular phase, an Open Spaces Plan shall be submitted to and approved in writing by the Local Planning Authority. This shall include details of the provision of the open spaces, sports facilities, play spaces, growing areas and allotments. The development of the phase shall be carried out in accordance with the approved details in the Open Spaces Plan.
80. No development, apart from site clearance and demolition, shall take place on the phase containing the playing fields, until the following details have been submitted to and approved in writing by the Local Planning Authority:
- a) A detailed assessment of the ground conditions of the land proposed for the playing fields, including drainage and topography, to identify constraints that could affect the quality of the provision.
  - b) Based on the results of the assessment under a), a detailed scheme to ensure that the playing fields will be to an acceptable quality, including appropriate drainage where necessary.
  - c) A timetable for the provision of the playing fields.

The playing fields shall be provided in accordance with the approved details and timetable.

81. The playing fields and playing pitches shall be used for outdoor sport and for no other purpose, including without limitation any other purpose in Class F2 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended) (or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification).
82. The playing fields and playing pitches shall be constructed and laid out in accordance with the standards and methodologies set out in the relevant Sport England Design Guidance.
83. Prior to the first use of the playing fields, a Management and Maintenance Scheme for the sports provision, including the pavilion, shall be submitted to and approved in writing by the Local Planning Authority. This shall include the management responsibilities, a maintenance schedule and a mechanism for review. The development shall be carried out in accordance with the approved Management and Maintenance Scheme.
84. Prior to the first use of the primary school, a Community Use Scheme **applicable to the school's sports facilities and changing room facilities shall** be submitted to and approved in writing by the Local Planning Authority. The scheme shall include:
  - a) Details of the pricing policy.
  - b) Details of the hours of use.
  - c) Details of access by non-educational establishment users and non-members.
  - d) Details of the management responsibilities.
  - e) A mechanism for review.
  - f) A programme for implementation.

The approved Community Use Scheme shall be implemented upon the first use of the primary school and shall be complied with for the duration of its use.

85. Prior to or at the same time as the reserved matters application(s) for a particular phase, a Sustainable Design and Energy Statement shall be submitted to and approved in writing by the Local Planning Authority. This shall detail how the proposed buildings will meet the policy requirements for sustainable design and construction and energy production.

The development of the phase shall be carried out in accordance with the approved details in the Sustainable Design and Energy Statement.

86. Prior to or at the same time as the reserved matters application(s) for a particular phase, an Embodied Carbon Statement shall be submitted to and approved in writing by the Local Planning Authority. This shall detail how the proposed development will seek to reduce embodied carbon. The



development of the phase shall be carried out in accordance with the approved details in the approved Embodied Carbon Statement.

87. The dwellings shall be designed to ensure that the consumption of wholesome water by the occupiers shall not exceed 110 litres per person per day. The fixtures, fittings and appliances shall thereafter be retained to comply with this requirement. Before a particular phase containing a residential element is occupied, details of how this will be achieved shall be submitted to and approved in writing by the Local Planning Authority.

The development of the phase shall be carried out in accordance with the approved details.

88. Prior to or at the same time as the first reserved matters application that includes residential development, a Cycle Route Environmental Mitigation Strategy shall be submitted to and approved in writing by the Local Planning Authority. This shall include:

- a) Details of the following matters for the Ripley Off-Site Cycle Route:
- A topographic survey of the area proposed for the cycle path and the land adjacent.
  - A tree survey and Arboricultural Impact Assessment.
  - Ecological surveys for bats, hazel dormouse and nesting birds.
  - A heritage impact and mitigation strategy.
- b) Details of the lighting proposals for all of the Off-Site Cycle Routes (including Ripley).

The Off-Site Cycle Routes shall be mitigated in accordance with the Cycle Route Mitigation Strategy and shall be implemented prior to occupation of the 50<sup>th</sup> residential unit.

89. No development shall commence on any phase, apart from site clearance and demolition, until the detailed design of the Sustainable Movement Corridor (the proposed spine road shown on the Access and Movement Parameter Plan), together with a programme for its construction, have been submitted to and approved in writing by the Local Planning Authority. The Sustainable Movement Corridor shall be constructed in full, providing the connection between the Wisley Lane Diversion and Old Lane in accordance with the approved details and programme prior the first occupation of the 350<sup>th</sup> dwelling.
90. Prior to or at the same time as the reserved matters application(s) for a particular phase, details of the visibility splays (including pedestrian inter-visibility splays) for all for all internal roads, footpaths, footways and on-site cycle routes, shall be submitted to and approved in writing by the Local Planning Authority. The visibility splays shall be provided in accordance with the approved details and shall be kept free of all obstructions between 0.6m and 2.0m above ground level. The development of the phase shall be carried out in accordance with the approved details.

91. No development shall take place on a particular phase, apart from site clearance and demolition, until details of the location, design specification and maintenance of the bus stops and a programme for their phased delivery has been submitted to and approved in writing by the Local Planning Authority

The development shall be carried out in accordance with the approved details and delivery programme.

92. Prior to or at the same time as the reserved matters application(s) for a particular phase, a Parking Strategy, including a scheme for the monitoring of parking demand, shall be submitted to and approved in writing by the Local Planning Authority.

No building shall be occupied, or activity brought into use, within the relevant phase until the parking provision relating to that building or activity has been laid out in accordance with the approved Parking Strategy.

93. Prior to or at the same time as the reserved matters application(s) for a particular phase, details of the provision of covered, secure cycle parking and provision of charging facilities for E-bikes, shall be submitted to and approved in writing by the Local Planning Authority. The details shall be in accordance with the standards in Surrey County Council's *Vehicle Cycle and Electric Vehicle Parking Guidance for New Development* (2023) and shall apply to all residential units, non-residential buildings and public open spaces.

No residential unit, non-residential building or public open space shall be first occupied or brought into use until the relevant facilities associated with it have been provided in accordance with the approved details. The cycle parking and E-bike charging facilities shall be retained thereafter for their intended purpose.

94. Prior to or at the same time as the reserved matters application(s) for a particular phase, a scheme detailing the existing Public Rights of Way and proposed pedestrian and cycle routes linking all external accesses within and across the site shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include the proposed surfacing materials for the new and existing routes and their intersections and crossing points and a timetable for provision.

The development shall be carried out in accordance with the approved scheme and timetable. The routes shall be retained thereafter for their intended purpose for the duration of the development.

95. No development shall be carried out, apart from site clearance and demolition, until a site-wide Electric Vehicle Charging Point Provision and Infrastructure Strategy (EVCPPIS) has been submitted to and approved in writing by the Local Planning Authority. This shall be in accordance with the

**principles in Surrey County Council's *Vehicle Cycle and Electric Vehicle Parking Guidance for New Development* (2023).** The EVCPPIS shall include consideration of both active and passive electric vehicle charge point provision and the infrastructure required to ensure that the electricity supply is sufficient to meet the future demands of the entire development and that any power balancing technology is in place if required.

The approved EVCPPIS shall provide the basis for further details of the arrangements to be made in respect of each phase of the development, which shall be submitted as part of the relevant reserved matters applications.

96. Prior to the first occupation of any phase including non-residential uses, a Delivery and Servicing Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the Delivery and Servicing Management Plan, which shall remain in operation for the duration of the uses to which it applies.
97. Prior to the first occupation of any phase a Travel Plan for that phase to include a programme for ongoing monitoring, shall be submitted to and approved in writing by the Local Planning Authority. The Travel Plan shall be in general accordance with the site-wide Framework Travel Plan (August 2022). Development shall be carried out in accordance with the approved Travel Plan for the phase.
98. Prior to or at the same time as the reserved matters application(s) for a particular phase, a Travel Plan Information Pack that demonstrates compliance with the site-wide Framework Travel Plan and the Travel Plan for that phase, shall be submitted to and approved in writing by the Local Planning Authority. The Travel Plan Information Pack shall include the following:
  - a) Details of the proposed bus services, location of rail stations and local bus stops within and outside the site.
  - b) Details of the on-site Car Club scheme.
  - c) Details of the on-site E-bike hire scheme.
  - d) Details of the proposed new cycle routes outside the site.
  - e) Maps showing local walking and cycling routes and isochrone maps showing accessibility to public transport, schools and local community facilities.
  - f) Information to promote the take-up of sustainable travel opportunities.

The Travel Plan Information Pack for each phase shall be implemented in accordance with the approved details and shall be made available to the occupiers of each dwelling and the occupiers of each use on the phase, other than the school, and retained thereafter.

99. Prior to the first occupation of any phase an updated Monitor and Manage Strategy, in general accordance with the Monitor and Manage Strategy (17 July 2023) in Annexure V of the Section 106 Agreement, shall be submitted to and approved in writing by the Local Planning Authority. The approved Monitor and Manage Strategy shall be carried out for the phase in accordance with the provisions of Schedule 13 of the Section 106 Agreement.
100. Prior to the first occupation of any part of the development, the works at the M25 Junction 10, the A3 Ockham Interchange and the A3/ Old Lane associated with the M25 Junction 10/A3 Interchange Development Consent Order scheme shall be completed and open to traffic.
101. Notwithstanding the reference to the temporary accommodation access on Drawing No: 70071233-SK-008, B (Ockham Lane NMU access) there shall be no access for construction vehicles from Ockham Lane or Old Lane and it shall be permanently closed to vehicular traffic other than non-motorised vehicles and emergency vehicles before the development commences.
102. There shall be no occupation of more than 600 dwellings and a 420 pupil primary school until confirmation has been provided to the Local Planning Authority that:
- a) Either: All foul water network upgrades required to accommodate the additional flows from the development have been completed.
  - b) Or: A Development and Infrastructure Phasing Plan has been agreed with Thames Water to allow additional development to be occupied.

Where a Development and Infrastructure Phasing Plan has been agreed under b), no occupation of that additional development shall take place other than in accordance with the agreed Development and Infrastructure Phasing Plan.

103. Prior to the submission of the first reserved matters application for the first phase, an updated site-wide Utilities Strategy shall be submitted to and approved in writing by the Local Planning Authority.
104. Prior to or at the same time as the reserved matters application(s) for a particular phase, a detailed Utilities Strategy, in general accordance with the updated site-wide Utilities Strategy approved under condition 103, shall be submitted to and approved in writing by the Local Planning Authority. It shall outline the required utilities infrastructure and guide the location of the electricity facilities for the phase. It shall also provide details for the installation of a High Speed wholly Fibre to the Premises (FTTP) broadband connection to each dwelling and building unless there is evidence that this is not practicable and that suitable alternative provisions can be made.

Development shall be carried out in accordance with the approved detailed Utilities Strategy and the relevant connections shall be carried out before the dwelling or building is first occupied.

105. Each of the three Neighbourhoods, once completed shall provide a mix of market housing that is in the following ranges:

- One bedroom: 5-15%
- Two bedrooms: 25-30%
- Three bedrooms: 35-45%
- Four bedrooms: 20-25%

The final dwelling mix for the whole site shall adhere to the above ranges.

106. Dwellings within each of the three Neighbourhoods shall:

- a) Meet the National Minimum Space Standards.
- b) Comprise a minimum of 10% of Building Regulations M4(2) Acceptable and Adaptable Dwellings.
- c) Comprise a minimum of 5% of Building Regulations M4(3) Wheelchair User Dwellings.

*End of Conditions 1-106*



## Costs Decision

Inquiry Held on 26-28 September 2023; 10-13, 17-20, 31 October 2023; 1-3, 7-10, 21-24, 27-30 November 2023; 1, 11, 18-20 December 2023

Site visits made on 22 September 2023, 16 January, 31 March and 3 April 2024

by Christina Downes DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 24<sup>th</sup> May 2024

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Costs application in relation to Appeal Ref: APP/Y3615/W/23/3320175  
Land at the Former Wisley Airfield, Hatch Lane, Ockham, Surrey

- The application is made under the Town and Country Planning Act 1990, sections 78, 320 and Schedule 6, and the Local Government Act 1972, section 250(5).
- The application is made by Wisley Action Group, Ockham Parish Council and RHS Wisley for a full or partial award of costs against Taylor Wimpey UK Limited.
- The inquiry was in connection with an appeal against the failure of the Council to issue a notice of their decision within the prescribed period on an application for planning permission.
- The development proposed includes a full application comprising:
  - i) a realigned section of the proposed Wisley Lane Diversion, to include a roundabout with a stub road as the primary access to serve the new settlement from Ockham Interchange;
  - ii) a road junction access into the proposed employment area from the proposed Wisley Lane Diversion;
  - iii) a new road junction as a secondary access to serve the new settlement from Old Lane;
  - iv) SANG and associated infrastructure, including SANG car parks;
  - v) Restricted access from Ockham Lane
- The development proposed includes an outline planning application (with all matters reserved) for the phased development of part of a residential-led new settlement comprising:

up to 1,730 dwellings (Class C3 use), 8 gypsy and travellers pitches, up to 100 units of housing for older people (Class C2 use) ), a mixed-use commercial local centre with public square, community hub and employment area alongside other commercial mixed-use neighbourhood centres located throughout and an employment area, (Classes E, F2(b), B2/B8, and sui-generis uses subject to specific planning permissions), a secondary school, a primary school, (Class F1(a)), up to 2 nurseries, (Class E (f)), also incorporating green infrastructure (including parks, neighbourhood greens and sports pitches (Class F2(c) and associated pavilion (Classes E(b) and (d), F2(b)), SANG other infrastructure, (Class E(b))), part of Wisley Lane Diversion between Ockham Interchange roundabout and realigned section of Wisley Lane Diversion, a vehicular / cycle / pedestrian sustainable transport corridor (linking the proposed Wisley Lane Diversion roundabout to Old Lane) and associated infrastructure and earthworks at land at the former Wisley Airfield (with construction access from Ockham Interchange and Elm Corner).

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### Decision

1. The application for an award of costs is allowed in the terms set out below.



The submissions for Wisley Action Group, Ockham Parish Council and RHS Wisley

2. **The Applicant's case was submitted in writing and the main points are set out below.**

*Ground One: The application relating to a premature and incomplete appeal*

3. The Respondent had submitted a premature and incomplete appeal. On 16 March 2023, 53 new or amended documents were submitted, including amendments to the Environmental Statement. These required re-consultation with the public and statutory consultees. The appeal form was dated 11 April 2023 and there was therefore no time for the Borough Council to determine the application itself.
4. **The Planning Inspectorate's *Planning Appeals Procedural Guide*** indicates that an appellant should be confident that the full case could be made and that the appeal should be complete when submitted. The Statement of Case should contain all of the arguments to be advanced along with the supporting documents and evidence. The *Town and Country Planning (Development Management Procedure) (England) Order 2015* states that any documents that are intended to be referred to or put into evidence are required with the full Statement of Case. They cannot therefore be left to the proofs of evidence as suggested by the Respondent. The Statement of Case was submitted in April 2023. The *Planning Appeals Procedural Guide* indicates that a final draft of the Planning Obligation should be submitted no later than 10 working days before the inquiry in order to allow the Inspector and all parties to prepare properly.
5. The *Planning Practice Guidance* indicates that the right to appeal should be exercised in a reasonable manner. It is not reasonable to lodge an appeal on the grounds of non-determination before the Borough Council had a chance to determine the application. The Borough Council could have granted planning permission with conditions imposed on matters such as skylark mitigation and the cycle routes. This would have meant that an appeal would not have been needed at all. Whilst this was not the outcome sought by the Applicant it would have avoided the costs of the appeal, which would vastly exceeded the costs of any judicial review.
6. Alternatively, planning permission may have been refused. However, if an appeal did then take place, all of the information would have been available and there would have been clarity about the issues to be addressed provided by the reason for refusal.
7. Even after the consultation had been undertaken on the March 2023 material this was not in a form that was fit to support an appeal. There was a great deal of further evidence submitted in July 2023. This included a complete replacement for the air quality modelling, which was not about the APIS change to the critical load; a revised cycling strategy; a transport position statement, the WACT Framework; information for the Habitats Regulations Assessment, road safety audits; and a Flood Risk Assessment Addendum. TRICS data was handed to some but not all Rule 6 Parties, and corrections to the air quality reports were submitted in late August. The exchange of proofs was two working days later so this allowed insufficient time to analyse the information before the proof deadline. No complete or even final draft of the Section 106 Agreement was submitted 10 days before the inquiry. The respondent cannot

blame the Borough Council for the lack of critical details in the early drafts or failing to produce the document on time.

8. It is appreciated that material is often updated during the appeal process, new issues have to be addressed and errors have to be corrected. However, here the situation was exceptional and unreasonable. **The Council's putative reasons** for refusal were being addressed during the appeal process through the presentation of new material. Agreement with the Borough Council and Highway Authorities were being sought throughout the appeal process rather than before it has begun. Much of the Respondents case, including what was being proposed in the planning obligations, was only revealed during the course of the inquiry. There were repeated changes **in the Respondent's** evidence and much time had to be spent in identifying errors, for example in the air quality and highway evidence. This all extended the length of the inquiry and increased the time spent by all parties engaged on it.
9. On the basis that the appeal could have been avoided, a full award of costs is being sought. On the basis that an appeal would have been made but with all **the correct information, half of the Applicant's costs are being sought.**

*Ground Two: The application relating to the LINSIG modelling of the Ockham Interchange*

10. The LINSIG modelling of the Ockham Interchange was incorrect in the Transport Assessment and in the evidence of the **Respondent's** transport witness. The model showed additional lanes of traffic, which proved material to the operation of the roundabout. When corrected it was shown to operate close to or over capacity. This error was known by February 2023 because it had been revealed by National Highways. However, it was not spotted by the Respondent until well into the inquiry. The decision not to correct the application material that was before the inquiry either in March or in July 2023 was deliberate on behalf of the Respondent. It was said to have been because the amended LINSIGs were still being audited on behalf of National Highways. However, there is no explanation as to why the error was not corrected when proofs were submitted, and evidence was given.
11. The failure to ensure that the proof of evidence and oral evidence accorded with the correct position was unreasonable. It was clearly an error, but the highway witness continued to deny this, and this was also unreasonable. There was wasted expense preparing the highway evidence on the basis of the original incorrect information and identifying and addressing the error, including recalling the transport witnesses. This ground informs the first ground but also provides the grounds for an alternative partial award if costs are not awarded on the first ground.

The response by Taylor Wimpey UK Limited

12. The response was submitted in writing and the main points are set out below.

*Ground One: The application relating to a premature and incomplete appeal*

13. The Respondent was entitled to exercise its statutory right of appeal. Extensions of time had been agreed with the Council for the Planning Performance Agreements (PPA) because updated material was necessary following engagement with statutory consultees. The determination date of the third PPA was 21 March 2023. In view of the updated material on 16 March

- 2023 the Respondent offered to extend the determination date until 28 April, to allow consultation and a Report to be written. However, the Borough Council indicated that the earliest Committee date would be Autumn 2023. This was within the context of 2-3 years of pre-application discussions, a largely outline application and an allocated site. Most of the 16 March material responded to points made by consultees and most had been seen informally by officers beforehand. There was more than enough information for permission to be granted, subject to the Section 106 Agreement.
14. Confidence in the Borough Council had been eroded for various reasons. At times there was a seeming lack of resources and commitment to this major strategic site. In April 2023 the Secretary of State notified the Borough Council that on the basis of recent determination data he was minded to impose special measures. The Respondent had had a bad experience with the way that the Borough Council dealt with the Stub Road applications. These were twice refused permission against Officer recommendation, which meant that the access to the site could not be provided in conjunction with the DCO works by National Highways. **Within this context the Defendant's decision to appeal was perfectly reasonable.**
  15. The decision to appeal did not cause the Applicant to incur unnecessary expense. It was not obliged to participate in the appeal process and for the Applicant to say that the matter should have been resolved at the local level is wholly inconsistent with its case that the appeal should be dismissed. A local level decision is not the outcome that the Applicant was seeking and its comment that the costs of judicial review would be much less than the costs of the appeal suggests that it would have challenged a grant of planning permission anyway. If this had succeeded the matter would have come back to the Borough Council and an appeal may have been the outcome in any event.
  16. The July 2023 material was intended to address matters raised after the appeal had been lodged. These included a Dropbox link to all the consultation responses since August 2022, which had included some representations that the Respondent had not seen before; the putative reasons for refusal and the detailed **Planning Officer's Report**; and the Statements of Case of the Borough Council and Rule 6 Parties. Most of the material addressed updated responses from the statutory consultees and the putative reasons for refusal. The revised air quality modelling was necessary because of the revisions to critical loads by APIS and sought to address points raised by statutory consultees and the Applicant.
  17. The July 2023 material was submitted in advance of the Case Management Conference and 6 weeks before the proofs of evidence were due. The Respondent would have been entitled to address all of these matters in its proofs of evidence, but its earlier provision was in order to be of assistance to all parties. At the start of the previous inquiry the Applicant had sought an adjournment because the Respondent had included information in its proofs of evidence that the Applicant thought should have been provided earlier.
  18. A meeting was arranged on 29 August 2023 to help the Rule 6 Parties with the information they were looking for in the Transport Assessments and Transport Position Statements. The Respondent provided a Technical Note thereafter, which set out the TRICS data being relied on. This was not even addressed in **the Applicant's evidence**-in-chief. The air quality figures were corrected as

there were some errors. They were only presentational and did not affect the **Respondent's air quality evidence**. This is neither unreasonable or unusual.

19. This is a large and complex development. The Heads of Terms to the Section 106 Agreement, which were included with the planning application, made clear what was being proposed. The **Planning Officer's Report to Committee in July 2023 outlined the Borough Council's Heads of Terms, which were very similar** to those of the Respondent. The Section 106 Agreement is a complex document accompanied by a suite of documents that relate to the stewardship arrangements by the WACT. Drafts were available for all parties up to 1 December 2023. There was plenty of time to consider the document in advance of the round table session of the inquiry.
20. The draft Section 106 Agreement was provided on 19 September 2023 as required by the Inspector's **Pre-Inquiry Meeting Note**. It is acknowledged that this was not a complete draft. However, as explained to the Planning Inspectorate, the delay was caused by the failure of the Borough Council to engage through their appointed solicitor until July 2023. This is notwithstanding the Respondent providing several fee undertakings to cover **the Borough Council's legal costs**.

*Ground Two: The application relating to the LINSIG modelling of the Ockham Interchange*

21. The LINSIG issue arose because the Applicant without any prior notice made the point in cross-examination that the layout for the Ockham roundabout did not fully reflect the approved layout for the DCO works. After the matter had been flagged by National Highways in November 2022, a further model run was carried out based on the corrected layout. Both of the statutory Highway Authorities and the Borough Council were satisfied that it did not result in unacceptable impacts on the network, including the Ockham Interchange. The reason for not updating the Transport Assessment were explained in the evidence. It is not credible to think that the Respondent would have hidden this information and there is no evidence that this happened. The matter was immaterial.

Reasons

22. The *Planning Practice Guidance* advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.

*Ground One: The application relating to a premature and incomplete appeal*

23. There is a statutory right of appeal if a local planning authority does not determine a planning application within the prescribed time period. In the case of major Environmental Impact Assessment Development this is 16 weeks, although an extension can be agreed between the council and the applicant. In this case there were several PPAs and the third one agreed to an extension of time until 5 April 2023. On 16 March the Respondent submitted further information addressing matters raised by the Borough Council and consultees. This was subject to consultation by the Borough Council for a 30-day period. The appeal against non-determination was made on 11 April, although prior to this the Appellant did offer to extend the determination date until 28 April. It is clear to me though that the Borough Council would not have had time to

- consider the consultation responses and prepare its Report within the sort of timescale that the Respondent had in mind.
24. However, the decision to appeal needs to be considered in context. This was a planning application for a site that was allocated in the development plan for a similar scale and type of development that was being applied for. It had been submitted in August 2022 and from all accounts there had been a considerable amount of pre-application discussions. It seems as if the March 2023 material did not come out of the blue but had been discussed with officers beforehand. However, even after the consultation period had ended there could be no expectation of a speedy determination, and the Respondent was given a target Committee date many months ahead. So not only was the Respondent entitled to lodge the appeal but, in the circumstances, it is fair to conclude that the decision was neither premature nor unreasonable.
25. There is no denying that a lot of additional material was submitted during the course of the appeal, most particularly in July 2023. However, this was well after the submission of the **Respondent's** Statement of Case in April 2023. The latter included a full list of the documents on which it was intending to rely at the inquiry. There was therefore no offence in terms of the requirements of the *Town and Country Planning (Development Management Procedure) (England) Order 2015*. In April 2023 the Appellant did not know the cases of the Rule 6 Parties, which were not submitted until July. Considering the timeline, it is not unreasonable that additional documents would need to be relied on in order to address the points made by those other parties.
26. It is of course not ideal for large amounts of additional material to be submitted during the appeal process and this is discouraged in both the *Planning Practice Guidance* and the *Planning Appeals Procedural Guide*. However, these are not statutory rules, and the guidance cannot cover all circumstances. In my experience over many years of inquiry-holding further information is often submitted during the appeal period, especially in larger and more complex cases that involve many participants and consultees. In the case of a non-determination appeal it is even more likely that everything will not have been resolved at application stage. **In this case the Council's putative reasons for refusal** were not even known until a Special Meeting of the Planning Committee had been held on 10 July. In addition, there were outstanding objections from statutory consultees including the Environment Agency, Natural England and Surrey County Council as local highway authority. Continuation of discussions during the appeal period to try and resolve or narrow the areas of dispute in advance of the inquiry is a normal part of the process. It is not the same thing as evolving the scheme, but rather its objective is to save inquiry time.
27. The additional material submitted in July 2023 was discussed at the Pre-Inquiry Meeting and I commented that it was difficult to keep up with the new material and where it could be found. I asked the Respondent to prepare a list of all of the documents it would be relying on at the inquiry and a link to where they could be found. A timetable was given, and this was complied with. All main parties were allowed to add to the core documents, which were managed by the **Respondent's team**. One Rule 6 Party wanted access to the data input for the traffic modelling and I asked for the Respondent to engage with the Objector in that respect. As I understand it this was subsequently done, and the Applicant attended this meeting as well.



28. The main point seems to me to be one of fairness and whether the objecting parties had sufficient time to consider the July 2023 material and address it in their evidence. The proofs of evidence were due on 4 September, and it seemed to me that those with professional representation should have had sufficient time to do so. However, I was well aware that there were two Rule 6 Parties who were not professionally represented<sup>1</sup> and for them the inquiry was particularly accommodating in respect of when their evidence was submitted.
29. Even though Heads of Terms had been submitted with the planning application, the Section 106 Agreement did not progress quickly. The final draft was not submitted before the inquiry as it should have been to accord with the *Planning Appeals Procedural Guide*. It was to be a bilateral agreement and the Respondent has blamed the Borough Council for the slow progress. As the Borough Council is not party to this costs application this has not been rebutted, but I suspect that part of the problem related to resources. However, whatever the reason, I consider that the objecting parties, including the Applicant, were inconvenienced because the document contains the provisions by which many aspects of the proposed development would be delivered and managed in perpetuity.
30. The delay of the Section 106 Agreement was very unsatisfactory, albeit that this cannot be laid solely at the door of the Respondent. Nevertheless, various drafts were provided during the course of the inquiry and the information was available sufficiently in advance of the relevant round table sessions. These spanned two days towards the end of the inquiry on 11 and 18 December. There was a very full discussion of all of the obligations, and I do not consider that anyone was ultimately disadvantaged. Furthermore, I do not believe that the discussion was more protracted than it might otherwise have been given the amount of content that had to be discussed. Even if there was unreasonable behaviour in this respect, wasted expense was not therefore incurred.
31. For all of the above reasons given above, I have concluded that the decision of the Respondent to appeal when it did was not unreasonable, and that the Applicant was not subject to unnecessary expense. The two scenarios that were given **to determine whether the Applicant's full costs or** half of its costs were justified seem to me rather strange. This is because I have no way of knowing how the Borough Council would have determined the planning application had the Respondent allowed the decision-making process to take its course. Furthermore, the basis for its contention that half of its expenses should be paid if I concluded that an appeal would have been made following a refusal of planning permission is difficult to understand. In any event, these are thankfully not scenarios with which I need to engage.

*Ground Two: The application relating to the LINSIG modelling of the Ockham Interchange*

32. The Applicant considers that this ground informs the first ground, but I do not agree. This is because the LINSIG error was raised by the Applicant during the course of the inquiry. It had nothing to do with the timing of the appeal or the further information submitted in March or July 2023, other than that it was not addressed in either. There is no dispute that the Respondent knew about the

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<sup>1</sup> Villages Against Wisley New Town and Ripley and Send Parish Councils.



error, which had been flagged up by National Highways in November 2022. Furthermore, an amended model run had been carried out based on the correct layout.

33. It seems to me very unfortunate that the matter arose as it did. I consider the implications in my decision. However, whatever the outcome it remains the case that the situation was known to the Respondent but was not reflected in the Transport Assessment or the oral or written evidence of the highway witness up until the point that it was raised by the Applicant in cross-examination. It is not a question of whether it would ultimately result in an adverse effect in terms of highway safety or whether it was acceptable to the statutory authorities. It rather goes to the issue of fairness and transparency and giving people the opportunity to consider, question and comment. So, in **my opinion the Respondent's behaviour was unreasonable.**
34. Whilst the Respondent wished for the matter to be dealt with through written evidence, I agreed with the Applicant that it should be addressed through oral evidence. The Applicant was therefore put to unnecessary expense. This included identifying the error in the first place, preparing written notes and extra evidence, recalling its highway witness and preparing and delivering cross-examination. This all took an extra inquiry day, which was dedicated to considering this matter.

#### *Conclusions*

35. In respect of Ground One, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the *Planning Practice Guidance*, has not been demonstrated.
36. In respect of Ground Two, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the *Planning Practice Guidance*, has been demonstrated and that a partial award of costs is justified.

#### Costs Order

37. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Taylor Wimpey UK Limited shall pay to the Wisley Action Group, Ockham Parish Council and RHS Wisley, the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred in dealing with the issue of the LINSIG modelling of the Ockham Interchange; such costs to be assessed in the Senior Courts Costs Office if not agreed.
38. The Applicant is now invited to submit to Taylor Wimpey UK Limited, to whose agents a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

*Christina Downes*

INSPECTOR



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## Costs Decision

Inquiry Held on 26-28 September 2023; 10-13, 17-20, 31 October 2023; 1-3, 7-10, 21-24, 27-30 November 2023; 1, 11, 18-20 December 2023

Site visits made on 22 September 2023, 16 January, 31 March and 3 April 2024

by Christina Downes DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 24<sup>th</sup> May 2024

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Costs application in relation to Appeal Ref: APP/Y3615/W/23/3320175  
Land at Former Wisley Airfield, Hatch Lane, Ockham, Surrey

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- The application is made under the Town and Country Planning Act 1990, sections 78, 320 and Schedule 6, and the Local Government Act 1972, section 250(5).
- The application is made by Taylor Wimpey UK Limited for a partial award of costs against Wisley Action Group, Ockham Parish Council and RHS Wisley
- The inquiry was in connection with an appeal against the failure of the Council to issue a notice of their decision within the prescribed period on an application for planning permission.
- The development proposed includes a full application comprising:
  - i) a realigned section of the proposed Wisley Lane Diversion, to include a roundabout with a stub road as the primary access to serve the new settlement from Ockham Interchange;
  - ii) a road junction access into the proposed employment area from the proposed Wisley Lane Diversion;
  - iii) a new road junction as a secondary access to serve the new settlement from Old Lane;
  - iv) SANG and associated infrastructure, including SANG car parks;
  - v) Restricted access from Ockham Lane
- The development proposed includes an outline planning application (with all matters reserved) for the phased development of part of a residential-led new settlement comprising:
  - up to 1,730 dwellings (Class C3 use), 8 gypsy and travellers pitches, up to 100 units of housing for older people (Class C2 use) , a mixed-use commercial local centre with public square, community hub and employment area alongside other commercial mixed-use neighbourhood centres located throughout and an employment area, (Classes E, F2(b), B2/B8, and sui-generis uses subject to specific planning permissions), a secondary school, a primary school, (Class F1(a)), up to 2 nurseries, (Class E (f)), also incorporating green infrastructure (including parks, neighbourhood greens and sports pitches (Class F2(c) and associated pavilion (Classes E(b) and (d), F2(b)), SANG other infrastructure, (Class E(b)), part of Wisley Lane Diversion between Ockham Interchange roundabout and realigned section of Wisley Lane Diversion, a vehicular / cycle / pedestrian sustainable transport corridor (linking the proposed Wisley Lane Diversion roundabout to Old Lane) and associated infrastructure and earthworks at land at the former Wisley Airfield (with construction access from Ockham Interchange and Elm Corner).

### Decision

1. The application for an award of costs is allowed in the terms set out below.

The submissions for Taylor Wimpey UK Limited

2. **The Applicant's case was submitted in writing and the main points are set out below.**
3. It was always the **Applicant's position that a number of aspects of the Respondent's case** were pursued in an unreasonable way. However, it was prepared to forgo its own costs application if the Respondent did the same. Far from being threatening it was an offer to save time and cost in dealing with the costs issue at the inquiry. It was not an acceptance by the Applicant of the weakness of its costs **case or a "tit for tat" application.**

*The ecology evidence*

4. The ecology evidence pursued arguments that had previously been made and rejected by four Inspectors, the High Court and two Secretaries of State. The **Respondent's ecology expert acknowledged that he was doing so and seemed unaware** that this was an example of unreasonable behaviour. The same arguments in respect of the SANG were made at the previous appeal. The **Respondent's ecology witness's** views on the exceedance of critical loads had been labelled by the High Court as "extreme". He said he was adopting a different approach at this inquiry but that it did not accord with his professional view. That was not consistent with his professional duties as an expert witness and much time was wasted at the inquiry dealing with this shortcoming.
5. The Respondent argued that there had been a change in circumstances in terms of the role of ammonia and the sensitivity of habitats to nitrogen deposition. However, ammonia was not a new issue and had been recognised by the DCO Examining Authority and Secretary of State. Critical loads were **revised in July 2023 well after the Respondent's ecology** witness had set out his views on the application. In any event, these changes did not go to the heart of his air quality arguments as they related to the SPA, which had been run at the previous appeal, the Local Plan examination and the DCO examination.
6. The evidence regarding inadequacy of ecological surveys on a number of species was withdrawn at the last minute. The criticisms of the surveys relating to bats, birds, newts and invertebrates were without merit. This is demonstrated by the fact that the survey points were not even pursued by the **Respondent in questioning the Applicant's ecology expert witness, apart from in respect of bats.** The **Respondent's** ecology witness sought to disparage Natural England's expertise, which was wholly unjustified. **Great weight should have been given to its views.**
7. It is not accepted that the habitats issues are very different from the previous appeal or that the need for an Appropriate Assessment was a material change. There is legally no rigid separation between the screening stage and the full appropriate assessment stage. The **Respondent's** ecology witness made clear that he did not agree with the approach of Lord Carnwath in the *Champion* case in the Supreme Court. This was in respect of the requirement for the use of best scientific knowledge in Habitats Regulations Assessment and the finding that whilst a high standard of investigation is required it is ultimately an issue that rests with the judgement of the competent authority. The *Planning Practice Guidance* indicates that acting contrary to well-established case law is unreasonable behaviour and the **unlawful approach of the Respondent's witness** infected his evidence generally.

*Failings in the evidence*

8. Various points were raised by the Respondent earlier in the appeal process. These concerned a number of points, about AADT traffic flow data, alleged discrepancies between the Environmental Statement and Transport Assessment, how sensitive receptors on highway links had been dealt with and matters relating to trip generation. All of these points had been addressed through Technical Notes. However, this was completely ignored in the **Respondent's subsequent oral and written transport evidence.**
9. In addition, the Respondent's transport and air quality witnesses made no **attempt to contact the Applicant's experts, despite criticising the way that the transport and air quality modelling work had been carried out.** None of the points raised were pursued in **cross-examination of the Applicant's witnesses and the Respondent's witnesses were forced to concede the points in cross-examination.**
10. Several points were raised at a late stage, and this necessitated the expert highway witnesses having to be recalled in relation to the LINSIG issue at the Ockham Interchange. The points related to the Transport Assessment, which had been submitted in August 2022. The concerns had not been flagged up before the inquiry, despite a large number of representations on the application by the Respondent. They were not even **mentioned in the Respondent's Statement of Case, Proofs of Evidence, Rebuttal Proofs or oral evidence to the inquiry.** These matters should and could have been raised earlier. They went nowhere as was reiterated by the Borough Council in its closing submissions. They wasted a day of inquiry time as well as time producing additional Technical Notes.
11. Landscape impacts and detailed design points were raised in cross-examination by the Respondent despite no evidence having been produced on these matters by its witnesses. There were also points raised about breaches of policy, despite its witnesses having conceded these points in cross-examination.

*Development principle*

12. The policy evidence was not properly thought through and **the Respondent's** planning witness accepted that points were made that related to the principle of the development. It was further acknowledged that these points had failed at the examination of the LPSS.

*RHS Wisley and the cycle routes*

13. RHS Wisley had failed to deliver on the cycle route that were a condition of its planning permission for redevelopment at its site. It had said that it was not **seeking to frustrate delivery of the Applicant's cycle routes and yet it** challenged the sustainability of this allocated site whilst breaching the delivery of sustainable modes that were agreed as a condition of its own planning permission.

*Replying to the Respondent's costs application*

14. **The Respondent's costs application at the previous appeal was strongly rejected.** There was no merit in its costs application to this appeal either.

15. Either costs should be awarded separately to each of the instances of unreasonable behaviour cited above; or a proportion of the Applicants full costs should be given relating to the time wasted on all of them, and 15% of the **Applicant's total costs is suggested.**

The response by Wisley Action Group, Ockham Parish Council and RHS Wisley

16. The response was submitted in writing and the main points are set out below.
17. The Applicant had applied a threatening tactic that a costs application would be made to shut down evidence and questions. Now the Applicant says that no costs application was intended. An attempt was made to dissuade the Respondent from making its costs application and this was an unsuccessful attempt at intimidation. The costs application that has emerged from the **Applicant is purely on a "tit for tat" basis.**

*The ecology evidence*

18. As the Applicant acknowledged, the habitats issue was very different from the previous appeal. Appropriate Assessment had not been required because air quality and recreation impacts were not considered to have likely significant effects. That is not the case in this appeal. The evidence was also very different now in terms of ammonia, nitrogen deposition, critical loads and the test of no net increase in recreational use. Although the DCO examination did consider ammonia it was on the basis of out-of-date science.
19. The criticism of the surveys was justified and there were legitimate concerns which came to light. The use of zero crossing on the detectors to reduce the records of Barbastelle bats is one such example.
20. The *Champion* case was not referred to in the ecology evidence of the Respondent and was not relevant to the issues in the appeal. In any event there was no offence in disagreeing with the Supreme Court, which itself disagreed with the High Court.

*Failings in the evidence*

21. This comes down to a complaint by the Applicant that other experts did not agree with its own experts. The contemptuous language used by its consultants, for example in its July Technical Note was hardly persuasive.
22. At the pre-inquiry meeting, the Inspector asked that data input to the traffic modelling be provided by the Applicant. This was provided to the Respondent and another Rule 6 Party on the evening of 30 August, which was two working days before proofs of evidence were due. It allowed insufficient time for analysis before the deadline.
23. **The Respondent reviewed the Applicant's evidence as it was submitted.** It also **attended several meetings with the Applicant's experts in May, and August 2023.** It was unclear what more could have been done but it was notable that **the Applicant's team failed to provide requested evidence to the opposing Rule 6 Parties.** It takes two to communicate and the rude nature of any of the **Applicant's responses did not help.**
24. **The Applicant's transport expert witness was cross-**examined about errors in his own evidence. The errors were totally unexpected and only identified

shortly before he was cross-examined. The error in the LINSIG model had not **been spotted by the Applicant's highway expert until National Highways pointed it out**. Even then he spent time arguing that the modelling was correct. The capacity problems at what was supposed to be the main junction serving the development had not been revealed.

25. There is no issue with cross-examining an expert witness when there was no expert evidence being called in that discipline. The matter of the primary access in policy A35 was a matter of law and that it would be the access used the most is there for obviously good reasons.

*Development principle*

26. The policy evidence was clearly put by **the Respondent's planning witness**. There was little at issue at the start of the cross-examination and not much difference at the end.

*Replying to the Respondent's costs application*

27. **The Respondent's costs application was not unreasonable** given that consultation on the submitted information was underway when the appeal was made. It was not unreasonable to present to the inquiry what had been acknowledged as incorrect highways modelling.

Reasons

28. The *Planning Practice Guidance* advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
29. This costs application relates to the behaviour of the Respondent and not the Applicant. Whether or not the latter behaved in an intimidating manner or engaged in threatening behaviour is therefore not of relevance in this respect.

*The ecology evidence*

30. **There were a number of aspects about the Respondent's ecology case that** rehearsed the same arguments as those that had been put forward and had been rejected by previous decision-makers. It is the case that the previous Inspector and Secretary of State had ruled out likely significant effects on the SPA. This took account of the mitigation measures provided by the SANG in terms of recreational impacts, which now cannot be considered at scoping stage on account of the European Court ruling in *People over Wind and Peter Sweetman v Coillte*. The agreed position in this appeal was that an Appropriate Assessment would be required on account of the aforementioned judgement. However, that does not alter the fact that the previous appeal Inspector and the Secretary of State were satisfied that with the same mitigation proposals, comprising the same quantum, quality and location of SANG, the same SAMM contribution and SAMM Plus scheme, and the same management proposal as envisaged in the WACT, there would not be a likely significant effect on the SPA.
31. The Respondent referred to the **"no net increase in recreational use test"** as a change of circumstance. However, this seems to me to be an obvious requirement if a likely significant effect is to be avoided. There is no evidence that a different test was applied previously.



32. On the question of the effect of air quality on the SPA, **the Respondent's** ecology evidence did not primarily rely on changes such as those relating to the consideration of ammonia or the lowering of critical loads. Rather, they rehearsed the same arguments that had been made and rejected before, most recently by the DCO Examining Authority and the Secretary of State. I have addressed these points in detail in my decision. In brief they assert the importance of the woodland belts in terms of providing an invertebrate resource to the SPA birds; the potential for the future restoration of shelter belt woodland to heathland; the importance of the DCO Compensation land in supporting the SPA birds by providing an insect resource; the inevitable consequence that where critical loads were exceeded damage was being caused and that further nitrogen deposition from development would necessarily fail an Appropriate Assessment. Although this was said not to be the case that was being made, it was **the professional view of the Respondent's** expert witness and came across in his evidence.
33. **I have considerable concerns about the issues raised by the Respondent's** ecology expert about the inadequacy of the surveys. For the reasons given in my decision he did not seem to me to adopt a proportionate approach or to recognise the considerable amount of survey effort that had already been expended over the years at this site. Some of the concerns were withdrawn at a late stage, for example in relation to the surveys on white-clawed crayfish, otter and Hazel dormouse. With regards to the survey inadequacy in relation to birds, Great Crested Newts, invertebrates and badgers, there was little substance when it came to considering that the purpose of further surveys would serve in respect of understanding the ecological value of the site. In fact, the only substantive points that had some merit concerned the bat surveys. This was the only survey **matter on which the Applicant's ecology expert** witness was cross-examined at the inquiry.
34. In all the above respects, the ecology case of the Respondent was unreasonable.

*Failings in the evidence*

35. The point here was that certain matters were repeated **in the Respondent's** highway evidence that had already been raised and answered by the **Applicant's** highway team. Three specific examples were given. With regards to AADT traffic flow the **Applicant's** Technical Note (July 2023) did not, in my opinion, give a very helpful response to the matter raised. It did offer to provide a briefing, but it was not phrased in a manner that particularly encouraged this. In any event the Respondent wanted to interrogate the transport model itself. Raising the matter again in the proof of evidence was not unreasonable in the circumstances.
36. The alleged discrepancies between the Environmental Statement and Transport Assessment related to the absolute flows in the morning and evening peak periods. The **Applicant's Technical Note gave an explanation as to why there** were differences, and these included a different number of accesses and different purpose between the two documents. Raising the point again in the proof of evidence without considering or even acknowledging the explanation that had been given was not a reasonable approach to take.
37. The point about the sensitive receptors is that there was no explanation in the Environmental Statement as to which receptors along the chosen links were

- considered to be sensitive. This was not properly answered in the Technical Note and seems to me to have been a reasonable matter **for the Respondent's** highway witness to continue to address in his evidence. Whether or not the **Applicant's highway witness was cross-**examined on the point does not make the position **of the Respondent's witness unreasonable.**
38. There was a Technical Note relating to the trip rate generation produced in March 2023, **but this was not seen by the Respondent's highway witness until** after the meeting with the **Applicant's highway** team on 29 August. This allowed a very short time before proofs of evidence were due on 4 September. I have a note that the trip rates were addressed in the **Respondent's highway** evidence-in-chief. I do not consider there was unreasonable behaviour in respect of this matter.
39. It is clear that **the Respondent's highway, air quality and ecology witnesses** did not generally seek to discuss or clarify **matters with the Appellant's team.** Whilst this may have been helpful in some cases there was no obligation for them to do so and in my experience such a collaborative approach is not commonplace. Perhaps it should be encouraged to happen more often, but I do not consider that it can be identified as unreasonable behaviour in this case.
40. The Ockham Interchange and LINSIG issue was extremely unfortunate. There is no dispute that it was raised late in the day and the Borough Council refer to it as **the "rabbit out of the hat" issue,** which it certainly was. However, to my mind this is not a matter about the outcome, as I have indicated in my costs decision on the application made by the Respondent. It is a matter of process and transparency.
41. The LINSIG diagrams and evidence provided to the inquiry by the Applicant were incorrect and had already been revised following a review by National Highways. The statutory authorities and Borough Council were content. However, the inquiry did not know that the evidence was based on a misrepresentation. That it only came to light late in the day was far from ideal. But the point is that it should have been in the **Applicant's highway** evidence well before the inquiry so that everyone had the correct information from which to work. Although the Applicant wished for the matter to be dealt with in writing, the Respondent wanted the highway witnesses to be recalled, with which I agreed. **The Respondent's behaviour was not unreasonable.**
42. The Respondent did **cross-examine the Applicant's witnesses on landscape and design.** This is relatively unusual given that it provided no evidence of its own on these matters. Nevertheless, I was not pointed to any section of the *Town and Country Planning (Inquiries Procedure) Rules (England)* that prohibits such questioning and it does not seem to me to be a costs matter.

#### *Development principle*

43. The **Respondent's planning witness accepted** that the site was allocated. He nevertheless produced evidence that questioned the principle of the development in terms of its size and its shape and sustainability. This was not a matter that was accepted by the Local Plan Inspector when the allocation of the site was found to be sound. In cross-examination by the Applicant, he accepted that the Respondent party continued to object to the principle of the development. To the extent that this admission affected his planning evidence and policy consideration it was an unreasonable approach to take.

44. However, I am not convinced that this unreasonable behaviour resulted in a great deal of unnecessary expense. This is because the policy issues had to be addressed in any event. Despite my warnings that the principle of development was not an issue, it was raised by many local objectors and some other Rule 6 Parties and therefore had to be dealt with by the **Applicant's planning witness**. In the circumstances the unnecessary expense derived solely from the cross-examination and its preparation of those particular aspects whilst the **Respondent's** planning witness was giving evidence.

*RHS Wisley and the cycle routes*

45. Whether or not RHS Wisley, who are part of the Respondent Rule 6 Party in this case, have behaved unreasonably in relation to their own planning issue is not really relevant. I am not convinced from the evidence that it was attempting to frustrate the proposed off-site cycle route to Byfleet. The evidence suggests that an alternative cycle route is being discussed with the Borough Council along the eastern side of the RHS Wisley site. I have dealt with this in my decision, but I find no convincing evidence that the cycle route when it has been constructed would not be available for use whatever the legal position is purported to be. There is no unreasonable behaviour in relation to this matter.

*Responding to the Respondent's costs application*

46. A costs application made on this basis is unusual but not novel. As referred to by the Applicant, I have dealt with such a costs application before in this Borough. As I said in that decision, such an application must go beyond the mere failure of the application to succeed otherwise an applicant would be at risk of costs against them whenever its costs application was unsuccessful.
47. **The Respondent's costs application was made on two grounds.** As I allowed costs on the second ground there was no unreasonableness there. Ground One was related to the alleged premature nature of the appeal given that additional material had been submitted shortly beforehand. I decided that given the context, the decision to appeal was a reasonable one, setting aside that there was a statutory right to do so. There were further documents submitted during the appeal process and again I did not find this unreasonable. The rather strange point made about the application related to whether there was justification for all the costs, or half the costs based on what the Council might have done had it been in a position to determine the application. This did not really matter because an award on this ground was not made anyway. Overall, I consider that **Ground One of the Respondent's costs** application was arguable and was not unreasonably made.

*Conclusions*

48. This is a costs application with a number of grounds, and I have found that there has been unreasonable behaviour in the following respects:
- In the ecology evidence insofar as it related to matters that had already been addressed by previous decision makers; and in raising issues about the surveys, other than in relation to bats.
  - In the highway evidence insofar as it related to the difference between the TA and ES in respect of peak traffic flows.

- In the planning evidence insofar as it persisted in raising issues about the principle of the development, but the costs limited to the cross-examination of this point and its preparation.

#### Costs Order

49. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Wisley Action Group, Ockham Parish Council, and RHS Wisley shall pay to Taylor Wimpey UK Limited the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred in dealing with the issues of the ecology evidence, transport evidence and planning evidence as outlined in paragraph 48 above, such costs to be assessed in the Senior Courts Costs Office if not agreed.
50. The Applicant is now invited to submit to Wisley Action Group, Ockham Parish Council, and RHS Wisley, to whose agents a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

*Christina Downes*

INSPECTOR