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## Appeal Decision

Hearing Held on 9 February 2022

Site visit made on 10 February 2022

**by Peter Mark Sturgess BSc (Hons), MBA, MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 25 February 2022**

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**Appeal Ref: APP/R3650/W/20/3265361**

**Land south of Alfold Garden Centre, Horsham Road, Alfold Crossways, GU6 8JE**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by W E Black Ltd against the decision of Waverley Borough Council.
  - The application Ref WA/2020/0260, dated 10 February 2020, was refused by notice dated 2 October 2020.
  - The development proposed is outline application, with all matters reserved except access, for residential development of the site (circa 80 dwellings) and a workspace hub (circa 100sq m, class B1), with associated access, landscaping, sustainable drainage, and associated infrastructure.
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### Decision

1. The appeal is allowed, and planning permission granted for an outline application with all matters reserved except for access, for the erection of up to 86 dwellings and a workspace hub (Use Class B1) and associated works (amended description) in accordance with the details submitted with planning application REF WA/2020/0260 and subject to the schedule of conditions set out below.

### Procedural Matters

2. I note that the description of development has changed from that shown on the application form to that shown on the notice of decision. I understand that this was as a result of discussions between the Council and the appellant. I understood from discussion at the hearing that both parties are agreed that the description of development given on the Notice of Decision should be used on this decision. I have therefore used this description of development in this decision.
3. The application has been submitted in outline with all matters reserved with the exception of the main access to the site. In this respect I regard the masterplan and other material which demonstrates how the site could be developed as for illustrative purposes only.
4. As I mentioned at the hearing, I have been supplied with appeal decisions that have been issued since the appeal has been submitted. I note that the latest of these was issued on 1 February 2022. I explored at the hearing the reasons for the late submission of this evidence. However, it is clear to me that the decisions are relevant to the appeal before me, and given the dates they were

issued, could not have been supplied with the appeal documentation. I also do not consider that the Council to be prejudiced should I accept these as late evidence as they were involved in defending the decisions. I therefore will take these appeal decisions into account in this decision.

5. Furthermore, I was supplied with additional evidence around housing land supply by both the Council and the appellant. There was some measure of agreement around some of the matters in this additional evidence and I shall return to these matters later in this decision. I also note that the appeal was lodged some time ago and matters such as housing land supply can change over time. As a result, I will have regard to this evidence in this decision.
6. I was supplied with a draft agreement in accordance with section 106 of the Town and Country Planning Act 1990 (s106). I have been supplied with a completed s106 agreement since the close of the hearing. The s106 agreement covers matters related to the delivery of affordable housing, the management of the land, including the provision of Local Area of Play (LAP) and a Locally Equipped Area for Play (LEAP) and other public open space, the provision of sustainable drainage and traffic and transport provision. I shall return to the compliance of this agreement with the relevant provisions of the National Planning Policy Framework (the Framework) and the Community Infrastructure Levy Regulations 2010 (CIL Regs) later in this decision.
7. It was agreed that the provisions of the s106 agreement have addressed the matters set out in reasons for refusal 6 and 7 of the Notice of Decision issued by the Council. However, whilst the s106 agreement sets out the mechanism for delivering a LAP and a LEAP within the proposal the Council is still of the opinion that the site is too small to deliver these facilities together with the housing numbers proposed and other associated works. Therefore, the matters set out in reason for refusal 4 are still matters at issue in this appeal.
8. Reference has been made in the evidence and at the hearing to the Waverley Borough Local Plan (Part 2) (LPP2) and the Alfold Neighbourhood Development Plan (NDP). The LPP2 has yet to be adopted. It has been submitted for examination, however there are still objections to be resolved through this process. The NDP has not yet been published. I therefore can give these plans limited weight in this decision.

### **Main Issues**

9. Therefore, and having regard to the procedural matters set out above I consider main issues in this appeal are:
  - the effect of the proposal on the character and appearance of the area;
  - whether the location of the proposal is suitable for residential development having regard to the Council's spatial strategy;
  - whether the Council can demonstrate a 5-year supply of deliverable housing sites;
  - whether the potential loss of an area of the best and most versatile agricultural land is acceptable;
  - whether the site is large enough to provide for the required play space, the up to 86 dwellings and other associated features;



- whether the development would lead to the unacceptable loss of protected and other trees.

## **Reasons**

### *Character and appearance*

10. The appeal site lies in the vicinity of the village of Alfold Crossways, which, with the village of Alfold itself forms the settlement of Alfold. The settlement displays both nucleated and linear forms. Alfold village itself is centred around a small village green, whereas developments around Alfold Crossways front the principal roads giving a more linear character, albeit with development to the rear in some instances.
11. The built areas are interspersed with small fields surrounded by trees and hedgerows. Within this pattern of development are other features such as, farms, a petrol filling station, a restaurant, and other businesses. Whilst the area appears to have had new developments it still retains a rural character with older buildings displaying features which appear to be typical of the area.
12. The appeal site lies on the Horsham Road approach to the village. This road is similar in character to the other primary routes that converge on the junction at Alfold Crossways. It has frontage development sited sporadically along its route with roadside trees and hedgerows. Immediately before reaching the appeal site, on this approach, are a row of chalet bungalows set back from the road. Once past the appeal site approaching the village from this direction is a petrol filling station/convenience store, the site of a former garden centre (now being developed for housing) and a former golf club/country club.
13. As well as these developments there are other houses, a business, and the Alfold Barn restaurant. Therefore, whilst the character of the area is rural, it is not without significant development, either existing or under construction, busy roads, and businesses, which detracts from any feeling of remoteness or tranquillity in the area.
14. The appeal site is currently comprised of a field which has been in agricultural use. It appears to have distinct boundary features in the form of hedges and trees which separate it from the surrounding land. These features significantly limit views of the site in the wider landscape. It appears that a substantial hedge separating the appeal site from the former garden centre site, made up of evergreen species, has recently been removed as part of the development of this site for housing. However, that will have the effect of making the edge of this development more visible in the local scene.
15. The site itself has a relatively narrow frontage, widening behind the site of the petrol filling station towards the Garden Centre development. The frontage of the site to the Horsham Road is open with very little vegetation between it and the footpath. A feature of the site on this boundary is a large mature oak tree. The current access is next to the petrol filling station. Given the relatively narrow site frontage and the presence of the oak tree, views into the site from the road are limited.
16. The development plan for the area is comprised of the Waverley Borough Local Plan (Part 1) 2018 (LPP1) and the Waverley Borough Local Plan 2002 (LP2002). Both these Plans contain policies which seek to protect the character and appearance of the Borough. Policy RE1 of the LPP1 aims to recognise and

safeguard the intrinsic character and beauty of the countryside and Policy TD1 promotes high quality development. In terms of the LP2002 the negatively worded D1 seeks to prevent development that would harm the visual character and distinctiveness of an area. Following this approach D4 seeks, amongst other things, development that would integrate with its surroundings.

17. The proposed development would see the agricultural field, of which the appeal site is currently comprised, developed with up to 86 houses together with associated infrastructure. Its character would change from open land to that occupied by housing. However apart from the oak along the Horsham Road the site does not appear to contain other landscape features of note. Furthermore, and given the relatively narrow site frontage, the presence of housing beyond the site on the approach to the village, the petrol filling station, and the garden centre development, the proposed housing would not appear out of place in the area. Moreover, once the garden centre development is completed the appeal proposal would have the effect of filling the gap between it and other housing. It would also reflect how development has taken place along the Loxwood Road and how the development is proceeding at the adjacent Garden Centre.
18. Furthermore, whilst the development would make use of agricultural land, the lack of significant landscape features within the site itself, the retention of significant boundary planting, and its relative limited visibility from the Horsham Road, would mean the proposed development recognises the features that contribute to the intrinsic beauty of the countryside in this location. Moreover, to its rear visibility would be limited due to the presence of mature trees and hedges in the area. I therefore find no inconsistency between the development and paragraph 174 of the Framework.
19. I find that the appeal proposal consistent with Policies RE1, TD1 and D1 and D4 set out in the LPP1 and LP2002 respectively, in that it would integrate with the development on either side of it, it recognises the intrinsic beauty of the countryside, and it would have limited visibility from the Horsham Road due to its relatively narrow frontage.
20. In terms of the quality of the overall development, as this is an outline proposal with all matters reserved, apart from access, the details relating to layout, external appearance etc. are capable of being dealt with at the reserved matters stage. I see nothing in the outline submission that would mean that it would be incapable of complying with the development plan policies that relate to the provision of quality development.

#### *Suitability of the location*

#### *Spatial Strategy*

21. The appeal site lies on the edge of Alfold Crossways which is part of the wider settlement of Alfold, as defined in the LPP1. The LPP1 sets out at Policy SP2 a spatial strategy based on a hierarchy, with 4 larger settlements at the top, to which major development is directed, large villages (which are specified in the policy), other villages (again specified in the policy, and including Alfold) and other unspecified villages, where local needs should be met. There is also reference in the Policy to allocated sites, although none appear to be located in Alfold.



22. Policy SP2 is also related to ALH1 which makes provision for 125 houses within Alfold despite there being no allocated sites in the village. The Policy acknowledges that this is a minimum number for the Plan period. On top of this the Policy identifies a windfall allowance for the Borough of 188 houses, some of which could be developed in Alfold. The Policy recognises that the delivery of these houses will be through decisions on planning applications and allocations in the LPP2 and NDPs. I have already outlined that the LPP2 is not yet adopted, and a draft of the Alfold NDP has yet to be issued for consultation. Therefore, I give these documents limited weight in this decision.
23. Policy SP2 also recognises the constrained nature of the Borough, with Green Belt, Area of Outstanding Natural Beauty (AONB) and the locally designated Area of Great Landscape Value (AGLV) cover much of its area. It specifically acknowledges that those villages not within the Surrey Hills AONB or the Green Belt offer more scope for growth. Alfold is not in one of these protected areas and is therefore relatively unconstrained in terms of growth.
24. The reason for refusal also refers to Policy D1 of the LP2002. However, Policy D1 appears to relate more to the protection of the environment than to the spatial strategy per se. I have therefore dealt with this Policy under the matter related to character and appearance of the area set out above.
25. Policy SP2 identifies Alfold as a third-tier settlement where growth will be permitted. Moreover, it recognises that any growth can take place in/and around the settlement. Therefore, whilst the Council have argued that the site is outside the village boundary, there is a clear indication from the wording of SP2 that this is not an absolute constraint on development outside this boundary. Furthermore, whilst AHL1 identifies 125 dwellings as being appropriate for Alfold it also recognises that this is a minimum with no maximum or range for the village being specified.
26. In terms of the delivery of sites ALH1 refers to the grant of planning permission, the allocation in LPP2 and in NDP. I have already identified that the LPP2 and NDP carry limited weight in this decision so that I have to look at the grant of planning permission as the primary way of delivering houses in this settlement. In terms of the spatial strategy, it appears to me that the policies identify Alfold as suitable for the location of development.
27. In the wider context the spatial strategy should be about delivering on the Borough's housing needs taking account of the existing pattern of development, the availability of services, infrastructure, and other constraints as well as any other local factors. Clearly a significant influence in the Borough is the presence of AONB and GB. This is recognised in the Policy SP2 which states that villages outside these areas offer more scope for growth. Consequently, this reinforces my view that Alfold is a suitable location for development in terms of the spatial strategy.

*Suitability of the location*

*Access to and pressure on local services*

28. I recognise from the evidence presented at the hearing that Alfold is under significant development pressure. I was presented with evidence at the hearing that this could result in either potential developments, new developments or planning permissions, which if implemented will result in the construction of

approximately 439 new dwellings in the village, should this proposal be approved. This is significantly above the 125 dwellings identified in ALH1 and more than the limited development it envisages for the village.

29. The Council's main concern appears to be that this will result in a significant distortion to the spatial strategy, resulting in development which will put a significant strain on local services. Moreover, the developments will also encourage an increase in the use of private cars.
30. At the hearing, in terms of the spatial strategy, the Council confirmed that they do not consider that the proposed development, and others that have been permitted recently, will distort the spatial strategy to such an extent that it will attract development away from the larger towns or allocations. Moreover, the appellant stated that the development in Alfold resulting from all the permissions would amount to 3.9% of the minimum number of homes to be developed within the Borough. Therefore, the principal objection in this regard appears to be around the availability of local services and the requirement to use private cars to access a wider range of services than those on offer locally.
31. It appears to me that whilst Alfold is a rural village it is not without local services. These have been defined as a petrol/service station with a convenience store, a public house/restaurant, various churches, a post office and shop, small employment area, bus stops, vets, and sports facilities. However, there are no state schools, no medical centre, no large employer, or supermarket.
32. The bus service has been described as irregular and not running all day and cycling routes to the main centres have been described as dangerous. However, it is clear to me that there is a range of services present in the village which would assist in meeting the day to day needs of the inhabitants for convenience shopping and other services. It is also not unusual in village or rural situations for residents to have to travel in order to access services, employment, education, or medical facilities. This is recognised in the Framework at paragraph 105 where it is stated that opportunities to maximise sustainable transport solutions will vary between urban and rural areas and this should be taken into account in decision making.
33. Moreover, paragraph 79 of the Framework seeks to promote housing where it will enhance or maintain the viability of rural communities. It also recognises that development in one village may support services in a nearby village. This in my view acknowledges that people in rural areas will need to travel in order to access services and that travel might well be by private car. It also accepts the role new development has in supporting existing services across rural areas.
34. I acknowledge that with the appeal proposal Alfold could potentially expand significantly. However, the policies of the development plan which manage development in the '*other villages*' which are identified for growth support its expansion, as well as recognising that villages outside the AONB and the Green Belt offer more scope for growth. Whilst there are no local plan or NDP allocations in Alfold, Policy SP2 and ALH1 do allow for development in or around the village. In this respect the proposal does not represent a lack of planning as the expansion of Alfold is anticipated by these policies.



35. Whilst the quantum of development is significantly more than that envisaged by Policy ALH1, even when the windfall allowance is taken into account, the policy has no upper limit or range. In these circumstances a view has to be taken on the impact the development would have on the purposes the policy is meant to serve. Consequently, I consider that the policy is seeking to allow the expansion of villages outside the constraints imposed by the AONB and Green Belt to help meet the Borough's housing need.
36. Moreover, the development would help support the local services that do exist and, for the reasons set out above, the development would not lead to an unacceptable increase in the use of private cars to access services, given that this is a rural area with limited access to public transport.
37. I therefore find for the reasons given above, that the proposal is consistent with the Policies SP2 and ALH1 of the LPP1.

*5-year supply of deliverable housing sites*

38. The parties have agreed that the period for which the 5-year supply of deliverable sites should be calculated is from 1 April 2021 until 30 March 2026. In that time 4460 dwellings should be delivered which is equivalent to 892 per annum.
39. Evidence was supplied by both parties that the Council could not demonstrate a 5-year supply of deliverable housing sites. However, there was a difference between the level of undersupply calculated by the Council and that calculated by the appellant. This difference arose from how the deliverability of the available sites was assessed by the parties.
40. The Council considers it has a 4.70-year supply of deliverable sites, whilst the appellant considers that it has a 4.01-year supply of deliverable sites. At the hearing a number of sites were considered in terms of their deliverability. I shall now assess the deliverability of the sites in dispute based on the evidence I have been supplied with and the definition of deliverability set out in 'Annex 2: Glossary' of the Framework, together with that in the Planning Practice Guidance (PPG).
41. Dunsfold Park is a large site with outline planning permission where no reserved matters application has been submitted. The Council consider that 250 dwellings could be delivered within the 5-year period. However, the site is currently for sale, and it is likely that any new owner will look for a new planning permission. Any new permission will need to align with a Supplementary Planning Document. However, it is also likely that the existing temporary uses on the site could continue if the housing on the site were to be developed.
42. I do not consider that the site meets the definition of deliverable as set out in the Framework as it is without a reserved matters permission that could be implemented. Whilst I note the Council has been in contact with the potential new owner, no evidence has been provided to show how that new owner intends to develop the site. In the absence of clear evidence that completions will begin within the 5 -years I do not consider that this site should be included within the 5-year supply of deliverable sites.
43. Land opposite Milford Golf Course. This is a site for 160 houses, it has full planning permission, and a major housebuilder is involved in the site. However,

the site is subject to a restricted covenant which would severely limit the amount of development which could take place on the site. The Council informed me that the landowner is seeking to have the covenant removed, although there is no guarantee that this will succeed, and the Council has no knowledge of whether this application has been made. In the absence of certainty around the covenant the site cannot be said to be available now. Therefore, I do not consider that the site meets the definition of being deliverable as set out in the Framework.

44. Coxbridge Farm, this is a site for 150 houses. There are no reserved matters approved and the issue of the outline permission is delayed pending the signing of a s106 agreement. It appears that the signing of this agreement has been put back a number of times, the latest in January 2022. There appears to be no further date set for the signing of this agreement. There is no housebuilder involved. As with the sites above I do not consider that the site is available now as there is no housebuilder involved, the s106 agreement has not been signed, nor are there any approved reserved matters.
45. Centrum Business Park, it was agreed by the parties that the delivery of the 100 houses could not be achieved within the 5-year period.
46. It was also agreed that 3 sites at Meadow Nursery, West and East (19 houses), Land South View Chiddingfold (8 houses) and Land to the rear of Wildwood Close (60 houses) could also be removed from the 5-year supply of deliverable sites.
47. Ockford Water site for 13 houses, which has no planning permission, the Council agreed could be removed from the supply.
48. Barons of Hindhead a site for 38 houses. It was agreed by the Council that it could be removed from the supply.
49. The site at the Old Grove for 18 houses has a current planning application, although this is yet to be determined. Given the time the application has been with the Council, objections have been raised to the proposal from Natural England since the site was previously considered by the Scotland Lane Inspector<sup>1</sup>. The objections from Natural England are significant since they reference possible impacts of the development on Habitat Regulation sites in the area. Therefore, and in view of this objection from Natural England there is sufficient doubt about this sites' delivery within the five-year period for me to discount it from the supply.
50. The site to the rear of 101 High Street, Cranleigh for 35 houses is not yet the subject of a planning application. Whilst I accept that the Council has made progress there is no clear evidence that the site is available now and will be implemented within the 5-year period. I therefore discount it from the supply.
51. I confirmed at the hearing that these were the sites that were in dispute between the parties. As can be seen from my assessment of the sites set out above, I do not regard the sites as being 'deliverable' in terms of the definition set out in the Glossary to the Framework. I therefore find that the Council can demonstrate a 4.01 supply of deliverable sites against the requirement for a 5-year supply of deliverable sites set out in the Framework.

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<sup>1</sup> Appeal Ref: APP/R3650/W/21/3280136



*Loss of best and most versatile agricultural land*

52. The site is comprised of around 3.43 hectares of agricultural land of Grades 1, 2 and 3a with an average Grade of 2. This Grade is described as the best and most versatile agricultural land. The Framework at paragraph 174 seeks to ensure that planning decisions contribute to and enhance the natural environment by amongst other things protecting soils and recognising the benefits of the best and most versatile agricultural land.
53. Policy RD9 of the LP2002 seeks to protect the best and most versatile agricultural land from development, unless it can be demonstrated that there is a strong case for development on a particular site which overrides the need to protect such land. This policy is broadly consistent with the approach of the Framework, set out above.
54. It is clearly the case that the development would lead to the loss of an area of the best and most versatile agricultural land. However, I have set out above that the Council cannot demonstrate a 5-year supply of deliverable housing sites in accordance with the requirements of the Framework. I find that the lack of a 5-year supply of deliverable housing sites amounts to a strong case for the development on this site which would override the need to protect such land. Consequently, it would be consistent with Policy RD9 of the LP2002.

*Whether the site is capable of accommodating a Local Area for Play (LAP) and Local Equipped Area for Play (LEAP)*

55. The proposal is in outline with all matters reserved apart from the main access to the site. Therefore, the layout and landscaping of the site are matters for a future application, should the appeal be allowed, and therefore are not before me at this appeal. However, I have to be satisfied that the proposal is capable of complying with the policies of the development plan, in particular Policy LRC1 of the LPP1. This policy requires compliance with the 'Field In Trust' standards which specify a LAP and a LEAP for a development of this size.
56. The appeal site is around 3.43 hectares in area and whilst not regular in shape it is both wide and long. The site will also have to accommodate landscaping/tree planting as well as drainage facilities. However, the density of the proposal development, whilst not low, is not excessive. Furthermore, the description of development that has been agreed by the parties specifies up to 86 houses so it would be possible within any reserved matters application to lower the number of houses in order to accommodate a LAP and LEAP, together with landscaping and drainage. I am therefore satisfied that the site is capable of accommodating both a LAP and a LEAP together with landscaping and drainage and these requirements can be adequately dealt with at the reserved matters stage.

*Loss of protected and other trees*

57. The proposal would result in the loss of a protected oak tree which is currently located at the front of the site adjacent to the existing field access. It would also result in the loss of trees and vegetation on the other side of the Horsham Road to accommodate a right-hand turning lane.
58. Whilst the tree is a prominent and attractive feature on the roadside an assessment of its health as part of the appeal process has identified that it is in long term decline. The trees and vegetation on the other side of the road are of

variable quality. I consider given the health of the protected tree, the relatively poor quality of the vegetation on the other side of the road which would be lost to development, this would not have a significantly damaging effect on the local environment, provided a sufficiently robust tree and planting scheme were implemented along with the proposed development.

59. It is clear that by commissioning the tree survey the appellant has had regard to the existing trees. Moreover, with the condition survey indicating that the protected tree has a limited life it would appear not to be appropriate to seek its retention.
60. Policy D7 of the LP2002 does not permit development which would result in the loss of important trees. This Policy is negatively worded and is therefore not consistent with the Framework. Furthermore, Policies D4 of the LP2002 and NE2 of the LPP1, whilst also seeking to protect trees refer to whether it is appropriate to protect the trees and require applicants to have regard to protected trees in their proposals. Therefore, D7 is not consistent with both the Framework and the approach of Policies D4 of the LP2002 and NE2 of the LPP1. I therefore regard Policies D4 and NE2 as being most relevant to this matter.
61. In commissioning a survey into the health of the protected tree and assessing the quality of the vegetation on the opposite side of the road the appeal proposal has had regard to the effect of development on the trees and whether it is appropriate to retain them. The survey has identified that the protected tree is in decline and has a limited life span and that the vegetation that would be removed on the opposite side of the road would not include a protected tree. The Council has accepted this.
62. Therefore, I consider that the proposals comply with Policies NE2 and D4 of the LPP1 and LP2002 respectively, which require proposals to have regard to existing features such as trees and where appropriate to maintain existing trees.

### **Other Matters**

63. I note that some comments regarding the appeal proposal relate to traffic and highways safety. I have taken these into account in this decision. It is clear that the proposal will introduce more traffic on to the Horsham Road. However, the provision of a right-hand turning lane on that road and the provision of public transport improvements through the s106 provisions the traffic impacts of the proposal have been adequately dealt with.
64. I understand the concern of some neighbours of the site about overlooking, overshadowing and loss of outlook from their dwellings and gardens. However, these matters are not before me at this appeal and will be dealt by the Council should I be minded to allow the appeal, as part of the reserved matters. The Council will ensure that residents are consulted on any details in line with statutory requirements and their own policies.
65. Some concerns have been expressed about the capacity of the sewage system and the water system to service the proposal. However, I have no objections from statutory bodies, although some of the statutory bodies responsible for these areas have suggested conditions be attached to any grant of planning



permission should I be minded to allow the appeal. I consider that these conditions will address the concerns expressed.

66. I have been supplied with decisions on other appeals in Waverley Borough, some of which have been issued recently. Whilst I have taken account of these decisions, I have to decide this appeal on the particular merits of this case. Therefore, whilst the decisions have some relevance and can be considered as material considerations, they do not mean I have to follow the decisions made by other Inspectors.

### **Planning balance/Overall Consistency with the Development Plan**

67. I have found, as set out above, that the appeal proposal is consistent with the Policies RE1 and TD1 of the LPP1 and Policies D1 and D4 of the LP2002 in terms of its effect on the character and appearance of the area. In terms of the suitability of the location for the development this matter is mainly covered by Policies SP2 and ALH1. I have found that the appeal proposal is also consistent with these Policies.
68. I have found that the development would result in the loss of 3.43 hectares of the best and most versatile agricultural land. Policy RD9, as well as seeking to protect this type of agricultural land, also allows for development where it can be demonstrated that there is a strong case for that development. I have found that the appeal proposal is consistent with Policy RD9 as the lack of a 5-year supply of deliverable housing sites amounts to a strong case for the development.
69. In terms of the capability of the site to provide a LAP and LEAP, together with the 86 houses and other facilities I have found that these matters are capable of being dealt with at the reserved matters stage. Consequently, the appeal proposal is consistent with Policy LRC1 of the LPP1.
70. Finally, and with regard to the loss of a protected oak I have found that the appeal proposal has had regard to the loss of the tree and that it is in declining health. I therefore find that the appeal proposal is consistent with Policies D4 and NE2 of the LP2002 and LPP1 respectively.

### **Planning Obligation**

71. The Framework at paragraph 57 and the Community Infrastructure Levy (CIL) Regulations 2010 at section 122 require that planning obligations must meet all of the following tests: necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development.
72. The planning obligation before me seeks to provide affordable housing within the proposed development, to ensure that the public areas which are not the responsibility of a statutory undertaker are adequately maintained; to provide a LAP and a LEAP, together with other areas of open space, provision for sustainable urban drainage (SUDS) within the site and provision for traffic management measures and public transport. I regard these matters as complying with the requirements of both paragraph 57 of the Framework and s122 of the CIL Regulations in that they are necessary to make the development acceptable in planning terms, directly related to the development and fairly and reasonably related in scale and kind to the development.

## Conditions

73. In deciding which conditions are necessary and comply with the tests for conditions set out in the Framework I have had regard to the lists of conditions provided by the appellant and in the draft Statement of Common Ground. I have also taken into account the additional conditions which were suggested at the hearing. I also note that the conditions suggested by the appellant include a number of pre-commencement conditions. I take this as a written indication from them that they agree to the pre-commencement condition. I have therefore included, where appropriate, these pre-commencement conditions.
74. I have also reworded a number of the conditions for the sake of consistency and ordered them in terms of pre-commencement conditions, prior to occupancy conditions and other conditions. However, where there are linked conditions, I have included those after the principal condition.
75. At the hearing I was requested by the Council to include a number of additional conditions. I have included a construction, hours of operation, condition in order to protect the living conditions of neighbouring occupiers. I have included a condition removing the permitted development rights for any three storey houses to extend by an addition or alteration to its roof, in order to protect the character and appearance of this part of the Horsham Road. I have also included conditions relating to the standard of new tree planting and the protection of existing trees during construction, again to help protect the character of this part of the Horsham Road.
76. However, I do not consider that additional conditions covering materials and landscaping are necessary, as these are addressed by the standard reserved matters conditions, which include appearance and landscaping specifically.
77. In terms of referencing the approved plans as this is an outline application with all matters reserved, apart from access, I have referenced the location and block plans, together with the plans that relate to the layout and construction of the access as set out on the Council's notice of decision. I have not referenced the plans that indicate how this site could be developed as I regard them as being for illustrative purposes only, with these matters being considered as part of the reserved matters submission.
78. Conditions are necessary in the interests of highway safety to control the standard, layout, and construction of the access to the site from the Horsham Road (A281).
79. In order to ensure that the site is adequately connected to the facilities in Alfold Crossways by pedestrians a condition is necessary to ensure that the footway between the site and Alfold Crossways is widened and improved.
80. In order to provide adequate parking facilities on the site, in the interests of highway safety, a condition is necessary to ensure that this is provided at the appropriate time, including the provision of the charging of electric cars.
81. A construction transport management plan is necessary in order to ensure that the living conditions of people in the area are protected during construction.
82. Provision needs to be made to ensure that there is adequate space for the parking of bicycles and there are safe routes provided for cyclists and pedestrians provided within the site in the interests of highway safety.



83. A condition is required in order to provide a travel plan for the site, including provision for home working, so that the occupiers of the site have access to services by means other than the private car, to assist with the accessibility of the development.
84. Conditions are required to ensure that the site is adequately drained so that the site and its surroundings are free from the risk of flooding.
85. Conditions are required to control any emissions from the site during the construction phase to protect the living conditions of nearby residents.
86. Conditions are required to ensure that the development achieves a net gain for biodiversity. In order to protect and enhance the biodiversity interest of the area.
87. A condition is necessary in order to deal with any archaeological remains or contamination that might be found on the site during the construction phase in order to protect and/or record any finds of archaeological interest or to address any contamination that might be present on the site.
88. Conditions are necessary to ensure that the details of the proposed play space are acceptable and that the areas are fit for their intended purpose.
89. Conditions are necessary to ensure that utilities are provided on the site at the appropriate standard in order to minimise water use and to ensure adequate access to broadband.
90. A condition is necessary to control the hours of working on the site in order to protect the living conditions of the neighbouring residents.
91. Conditions are necessary to secure new planting in accordance with the relevant British Standard and in order to ensure that trees are protected during the construction phase. In order to protect the character and appearance of the area.

### **Conclusion**

92. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that proposals for planning permission should be determined in accordance with the development plan unless material considerations indicate otherwise. I have found that the proposed development complies with the requirements of the development plan for the area and therefore the appeal is allowed.

*Peter Mark Sturgess*

INSPECTOR

**APPEARANCES**

**FOR THE LOCAL PLANNING AUTHORITY**

Kate Edwards	Principal Planner
Katherine Dove	Principal Planner - Housing Land Supply
Ian Brewster	Tree Officer
Chris French	Landscape/Planner
Barry Devlin	Solicitor to the Council

**FOR THE APPELLANT**

Graeme Keen QC

He called

James Waterhouse	Iceni Projects, Planning Consultant
Gregg Boyd	Iceni Projects, Housing Land Supply
Silke Gruner	CSA Environmental – Landscape and Visual Impact
Jago Keen	Keen Consultants – Arboricultural Consultant

**INTERESTED PERSON**

Cllr Kevin Deanus	Local resident
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**DOCUMENTS RECEIVED AFTER THE CLOSE OF THE HEARING**

1. A completed S106 agreement.
2. Waverley Borough Council – Five Year Housing Land Supply Statement
3. Statement of Common Ground.



## **CONDITIONS SCHEDULE**

### **Standard Conditions**

- 1) Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
- 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan 19-M011-001 A; Block Plan 19-M011-007; Tree Protection Plan 1404-KC-XX-YTREE-TPPO REV A; Potential access design and junction visibility splays 19-T128 06 REV C; Potential traffic calming measures and gateway features 19-T128 10 REV B.

### **Pre-commencement Conditions (including any linked conditions)**

- 5) Prior to commencement of development the proposed site access and dedicated right turn lane on the A281 Horsham Road shall be constructed and provided with visibility splays in accordance with plan no: 19-T-128-06 C and subject to detailed design requirements and full technical approval and road safety auditing requirements.
- 6) Prior to the commencement of development, a Construction Transport Plan including the following details:
  - a) parking for vehicles of site personnel, operatives, and visitors;
  - b) loading and unloading of materials and plant;
  - c) storage of plant and materials;
  - d) programme of work including traffic management measures;
  - e) provision of boundary hoardings behind any visibility zones;
  - f) HGV and hours of operation;
  - g) vehicle routing;
  - h) measure to prevent the deposit of materials on the highway;
  - i) before and after construction condition surveys of the highway and a commitment to fund the repair of any damage caused;has been submitted to and approved in writing by the Council. The development shall be implemented in full accordance with the approved plan.
- 7) Prior to the commencement of the development details of the design of a surface water drainage scheme shall be submitted to and approved in writing by the Council. The design shall satisfy the SuDs hierarchy and be compliant with the national non-statutory technical standards for SuDs,

the Framework, and the Ministerial Statement on SuDs. The requirement details shall include:

- a) the results of infiltration testing completed in accordance with BRE Digest 362 and confirmation of ground water levels;
  - b) details of additional SuDs elements to be incorporated within the design;
  - c) evidence that the proposed solution will effectively manage the 1 in 30 and 1 in 100 (+40% allowance for climate change) storm events and 10% allowance for urban creep, during all stages of the development. If infiltration is deemed unfeasible, associated discharge rates and storage volumes shall be provided using a maximum discharge rate of 7.5l/s for the 1 in 1 year rainfall event and 21.3l/s for the 1 in 100-year (+CC) rain fall event;
  - d) detailed drainage design drawings and calculations to include a finalised drainage layout detailing the location of drainage elements, pipe diameters, levels and long and cross sections of each element including details of any flow restrictions and maintenance/risk reducing features (silt traps, inspection chambers etc.);
  - e) a plan showing exceedance of flows (i.e., during rainfall greater than design events or during blockages) and how property on and off site will be protected;
  - f) details of drainage management responsibilities and maintenance regimes for the drainage system;
  - g) details of how the drainage system will be protected during construction and how run off (including any pollutants) from the development site will be managed before the system is operational.
- 8) Prior to the first occupation of the development, verification report carried out by a qualified drainage engineer must be submitted to and approved in writing by the Council. This must demonstrate that the drainage system has been constructed as per the agreed scheme (including any minor variations), provide the details of any management company, and state the national grid reference of any key drainage elements (surface water attenuation devices, flow restriction devices and outfalls).
- 9) No properties shall be occupied until confirmation has been provided that either:
- a) all wastewater network upgrades required to accommodate the additional flows from the development have been completed; or
  - b) a housing and infrastructure phasing plan has been agreed with Thames Water to allow the additional properties to be occupied. Where a housing and infrastructure phasing plan is agreed, no occupation shall take place other than in accordance with the agreed housing and infrastructure phasing plan.
- 10) There shall be no occupation beyond the 40<sup>th</sup> dwelling until confirmation has been provided that either: all water network up grades required to accommodate the additional flows to serve the development have been completed; 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 is agreed no occupation of those additional dwellings shall take place other than in accordance with the agreed development and infrastructure phasing plan.

- 11) The development shall be carried out in accordance with the dust of emissions mitigation measures detailed in Section 6.0 of the Air Quality Assessment (TRC ref 375839 0000.0000 dated January 2020). These measures can be part of a broader site Construction and Environmental Management Plan to be submitted to and approved in writing by the Council prior to the commencement of development.
- 12) Prior to the commencement of development, a further Air Quality Assessment shall be undertaken in order to predict operational phase impacts and the effects of local air quality as a result of additional vehicles travelling to and from the proposed development. The assessment shall be submitted to and approved in writing by the Council.
- 13) Prior to the commencement of development, a detailed landscape and ecological management plan (LEMP) shall be submitted to and approved in writing by the Council. The LEMP should be based on the proposed impact avoidance, mitigation and enhancement measures specified in Section 4 avoidance, mitigation, compensation, and enhancement of the Ecology Report and should include adequate details of the following:
  - a) mitigation measures for the loss of Lapwing breeding habitat;
  - b) habitat management and enhancement for reptiles (as set out in the reptiles sections above) – aims and objectives of management;
  - c) appropriate management options to achieve aims and objectives;
  - d) prescriptions for management actions;
  - e) preparation of a work schedule for securing biodiversity enhancements in perpetuity;
  - f) details of the body or organisation responsible for implementation of the LEMP;
  - g) ongoing monitoring and remedial measures;
  - h) details of legal/funding mechanisms
  - i) a sensitive lighting management plan covering both the construction and operational phases. The plan shall comply with the recommendations of the Bat Conservation Trusts' document entitled 'Bats and Lighting in the UK – Bats and the Built Environment Series'.The development shall be implemented wholly in accordance with the approved document.
- 14) A biodiversity net gain assessment, undertaken in line with an appropriate detailed methodology, such as the DEFRA Biodiversity Metric, should be submitted for approval in writing prior to the reserved matters application.
- 15) The applicant is required to undertake a bat activity survey and produce a suitable report detailing the findings to establish which species are present on the development site and characterise how the site is being used by these species. The bat activity survey should be submitted to the Council for approval in writing prior to the reserved matters application.

- 16) The applicant is required to submit a detailed species survey for protected species identified within the above referenced ecological appraisal report. Such document should be submitted to the Council for approval in writing prior to the reserved matters approval.
- 17) Prior to the commencement of development, a scheme of supervision of the arboricultural protection measures shall be submitted to and approved in writing by the Council. The supervision and monitoring shall be undertaken in strict accordance with the approved details. The scheme shall include details of:
  - a) all the tree protection measures that shall be used to protect the trees shown retained on the 'Tree Protection Plan, 1404-KC-XX-YTREE-TPPO REVA;
  - b) pre-commencement meeting between the Council Tree Officer and the personnel responsible for the implementation of the approved development;
  - c) timings frequency and methos of site visiting and an agreed reporting process to the Council.
- 18) No development shall take place until the applicant has secured the implementation of a programme of archaeological works in accordance with a written scheme of investigation shall be submitted to and approved in writing by the Council.
- 19) Prior to the commencement of development, the following shall be submitted to and approved in writing by the Council:
  - a) an investigation and risk assessment in accordance with a written scheme to assess the nature and extent of any contamination on the site. The investigation shall be undertaken by a competent person as defined in the Glossary to the Framework;
  - b) in accordance with the investigation and risk assessment any contaminants shall be removed from the site and the site remediated so that it does not present an unacceptable risk to human health, buildings, or other property. Any remediation scheme prepared to deal with the risks/contaminants identified shall include all works to be undertaken including a timetable of works and site management procedures. The scheme shall ensure that the remediation measure proposed shall not leave the site defined as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use after remediation.
  - c) the remediation measures shall be carried out in accordance with the approved scheme
  - d) the Council shall be given 2-weeks written notice of the commencement of the remediation works.
- 20) Upon completion of the remediation works, a verification report demonstrating that effectiveness of the approved remediation works carried in accordance with condition 17 out shall be completed and shall be submitted to and approved in writing by the Council prior to the first occupation of the development.



- 21) Following commencement of the development, if unexpected contamination is found on the site, the Council shall be informed immediately in writing and all works shall cease on the site. The following shall be submitted to and approved in writing by the Council prior to the recommencement of works:
- a) an investigation and risk assessment, undertaken in the manner set out in condition 17, above;
  - b) where required a remediation scheme in accordance with the requirements set out in condition 17;
  - c) Following the completions of the approved remediation works a verification report should be submitted in writing to the Council in accordance with condition 18.

Pre-occupation Conditions

- 22) Prior to the first occupation of the development speed reduction measures shall be provide in the vicinity of the site access, in accordance with the details shown on plan 19-T128 06 Rev C, subject to detailed design, full technical approval and road safety auditing requirements.
- 23) Prior to the first occupation of the development provide accessibility improvements on Horsham Road, comprising the widening of footway to 2m, between the proposed site access and the Alfold Crossways junction and including drop kerbs tactile paving at the entrance and exit of the petrol station, subject to detailed design, full technical approval, and safety auditing requirements.
- 24) Prior to the first occupation of the development space shall be laid out in accordance with a scheme that shall have been submitted to and approved in writing by the Council for:
- a) Vehicles to be parked and for vehicles to turn so that they can enter the site in a forward gear. Thereafter the parking and turning areas shall be retained and maintained for the parking and manoeuvring of vehicles;
  - b) The provision of electric vehicle (EV) charging points for each of the approved dwellings. The charging points shall be provider with fast charging sockets (current minimum requirements 7kw Mode 3 with Type 2 connector – 230v AC 32 Amp single phase dedicated supply) in accordance with a scheme which shall be submitted to and approved in writing by the Council and thereafter retained and maintained for purpose of charging EVs.
- 25) Prior to the first occupation of the development facilities shall have been provided, in accordance with a scheme that shall have been submitted to and approved in writing by the Council for;
- a) the parking of bicycles within the development at a minimum rate of 2 per dwelling integral to each building or in a robust and secure enclosure.
  - b) provide safe and secure routes for pedestrians and cyclists within the development site.
- The facilities provided in accordance with this scheme shall thereafter be retained and maintained for the parking of cycles and the movement of cycles and pedestrians around the development.

- 26) Prior to the first occupation of the development a travel plan shall be submitted to and approved in writing by the Council in accordance with the sustainable development aims and objectives of the Framework and the Surrey County Council's 'Travel Plans Good Practice Guide' and to include;
- a) a travel plan coordinator to be appointed;
  - b) a residents' travel pack to be provided to each household on first occupation
  - c) personalised travel planning with walking, cycling and car share promotions.
- The travel plan shall be implemented prior to the occupation of the final dwelling on the site.
- 27) Prior to the first occupation of the development, a lighting scheme setting out the location, type, and illumination levels of lighting to be provided on the site shall be submitted to and approved in writing by the Council. The external lighting shall be installed on the site in accordance with the approved details prior to the occupation of the final dwelling.
- 28) Prior to the first occupation of the development, full details of the proposed refuse and recycling stores to serve each dwelling shall be submitted to and approved in writing by the Council. The refuse and recycling stores shall be provided on site prior to the occupation of the first dwelling and retained in accordance with the approved details.
- 29) Prior to the first occupation of the development, a detailed scheme for the proposed LAP and LEAP and open spaces shall be submitted to and approved in writing by the Council. The scheme shall include a timetable for implementation, details of the equipment to be provided, its maintenance and a regime of inspections carried out by a qualified inspector to demonstrate that the equipment is an appropriate quality/standard. The approved scheme shall be implemented in full in accordance with the approved timetable and thereafter retained.
- 30) Prior to the occupation of the development, details shall be submitted to and approved in writing by the Council to confirm that the dwellings have been completed to meet the requirement and a maximum usage of 110 litres of water per day.
- 31) Prior to the first occupation of the dwellings the highest available speed broadband infrastructure shall be installed and made available for use.

Post development conditions

- 32) No operations involving the bulk movement of earthworks materials to or from the development site shall commence unless or until facilities have been provided in accordance with a written scheme to be submitted to and approved in writing by the Council. The approved scheme shall thereafter be retained and used when undertaking these operations.
- 33) There shall be no burning of any waste or other materials on site during the construction phase.
- 34) The construction work on the site shall be carried on within the following hours: 8am to 6pm Monday to Friday; 8am to 1pm on Saturday and no



work on Sundays or Bank Holidays. No work outside these hours is permitted.

- 35) All tree work shall be carried out in accordance with British Standard BS 3998 or any standard which replaces this.
  
- 36) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), any three storey dwellings hereby permitted shall not benefit from the permitted development rights set out under Schedule 2, Part 1 Class B of the above Order – the enlargement of a dwellinghouse consisting of an addition or alteration to its roof.

**END**