

**Land South of Kenley Aerodrome, Victor Beamish Avenue,
Caterham, Surrey, CR3 5FX**

Appeal Reference: APP/M3645/W/24/3354498

CLOSING SUBMISSIONS ON BEHALF OF THE APPELLANT

The Opportunity

1. This appeal represents a pivotal opportunity to deliver a development that directly addresses the acute challenges facing Tandridge. Against a backdrop of one of the worst housing shortfalls in the country—with a housing land supply of, at best, 1.92 years — and an outdated development plan that no longer reflects the needs of the community or aligns with national policy, this scheme is a sustainable, well-considered and urgently needed proposal.
2. Before getting into the detail, amid all the figures and policy debates, it is easy to forget what is really at stake. This case is not just about numbers on a housing register or years in a land supply calculation. It is about real people with real needs right now. Those in need in our society— older people, parents and children —are being failed by a planning system that should be providing them with the most basic foundation of a stable life: a safe, warm and secure home.
3. Their voices have not been heard in this inquiry, but their struggle is undeniable. They are people who want to live and work in this community, contribute to its schools, hospitals and businesses, or grow older near their communities, yet they are being locked out of the housing market because the supply simply is not there. They are not statistics to be debated; they are families waiting in uncertainty, forced to make impossible choices or pushed out altogether. It is the planning system’s duty to serve them, and it is clear that in Tandridge, that system is failing, regardless of who is to blame.
4. This scheme offers significant and wide-ranging public benefits: it delivers 80 dwellings, including 40 affordable homes, responding to the critical need for affordable housing in Tandridge. Alongside these housing benefits, the scheme will secure heritage benefits, enhanced green spaces and biodiversity improvements, all while making efficient use of Grey Belt land and PDL within the Green Belt.
5. Rightly, the Council no longer seeks to resist this scheme. Instead, it positively invites

you to grant planning permission. The evidence presented to this inquiry demonstrates that the scheme offers benefits that clearly outweigh any limited harm. The planning system is designed to deliver solutions to the challenges of today, not remain tethered to the constraints of decades-old policies. This is precisely the type of scheme that national policy seeks to support: sustainable, impactful and responsive to real and pressing needs.

6. In this closing, I will demonstrate why the scheme meets three independent routes to approval under the NPPF, why the public benefits are significant and why any residual harm is far outweighed. This is a development that meets the needs of the present without compromising the Green Belt or the future. Permission should be granted.
7. Starting first with the technical issues which have been resolved to the satisfaction of the Council and statutory consultees.

Heritage

8. As explained in Opening, SCC's Senior Historic Buildings Officer advised that the scheme would result in heritage benefits and it is common ground that an agreed planning condition to secure those benefits so as to overcome Reason for Refusal 6 in its entirety.¹ The condition will secure:
 - (1) improved connectivity through the Site and between the listed former NAAFI and the aerodrome, including reinstatement of historic paths;
 - (2) the proposed arrangement of buildings along Victor Beamish Avenue; and
 - (3) the commemorative structure or feature to enhance the interpretation of the Site and wider aerodrome.
9. Section 4 of the Heritage Statement² assessed the significance of the designated and non-designated heritage assets that have the potential to be affected by the proposals consistently with NPPF §207. Section 5 of the Heritage Statement assessed the effect of the scheme on the significance of the three relevant heritage assets (the Conservation Area, the former NAAFI building (Grade II listed), and the former workshops (non-designated)).³ The Addendum Heritage Statement assessed the effect of the revised scheme on those heritage assets.⁴

¹ CD 10.01.01 §7.12.

² CD 1.30.

³ CD 1.30.

⁴ CD 1.31.

10. Ms Markham's evidence⁵ explains that the design of the scheme responds sensitively to the heritage context. In particular:
- (1) the masterplan is rectilinear in form which responds to the 'regimented' layout of the 1930s redesign of the aerodrome;
 - (2) the proposed location of buildings has also been informed by the historic footprints of buildings, most of which have now been demolished;
 - (3) a central north-south axis would connect the former NAAFI with the airfield;
 - (4) the proposed buildings are 2-3 storeys, which is equivalent or lower in scale than the previous barracks on the south of the Site; and
 - (5) a new commemorative feature to the north of the Site would be secured under planning condition to reinforce interpretation of the historic interest of the aerodrome.
11. In terms of the effect of the scheme on the significance of the relevant heritage assets, Ms Markham explains that:
- (1) **Conservation Area:** the scheme would result in an enhancement to the character and appearance of the Conservation Area, particularly when considering the heritage benefits to be secured by planning condition (as described above).⁶ In response to the Parish Council's concerns, Ms Markham explained that the Conservation Area Statement anticipated development of the Site, that the scheme reestablishes visual connections with the aerodrome and introduces new movement routes thereby improving permeability. Mr Kirkpatrick also explained this with reference to his §4.3.15 and the accompanying photographs. This enhancement carries great weight in the planning balance due to the statutory duty in s.72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 and the policy in NPPF §212;
 - (2) **NAAFI:** SCC did not identify any harm to the Grade II listed building. The special interest of the former NAAFI Building is primarily in its architectural design and historic fabric. The proposals will have no direct effect on the listed building, so will have no effect on these aspects of its significance.⁷ The setting relationship with the former parade ground, now the school playground, to the south of the

⁵ CD 8.10 §1.24ff.

⁶ Markham §1.51.

⁷ Markham §1.69.

listed building, contributes most to the appreciation of its significance. The former parade ground is outside the red line boundary and will be entirely preserved.⁸ The Site currently makes a limited contribution to the significance of the former NAAFI Building, and to the extent that it does it is related to the visual link with the airfield to the north, the historic site access via Victor Beamish Avenue and mature trees within the Site. These positive elements of the setting of the listed building would be retained and reinforced in the proposed development.⁹ Overall the proposals would enhance the appreciation of the significance of the listed building due to: (a) the proposed layout of the new buildings, which create a formal relationship with the listed building reinforcing its presence within the Site; (b) the reinstatement of the visual and physical connection between the listed building and airfield which would enhance the appreciation of the significance of the listed building as a former RAF building constructed as part of the aerodrome; and (c) the increased public access to the streets and footpaths around the school.¹⁰

- (3) **Former Workshop:** the northern part of the Site includes a single, large and very dilapidated ‘workshop’ which is demonstrably no longer fit for purpose. Its demolition is accepted by Surrey County Council in its capacity as conservation consultee, subject to a condition requiring that the building is recorded.¹¹

Ecology

12. As explained in Opening, it is common ground that all matters relating to ecology and biodiversity are acceptable, subject to the imposition of agreed planning conditions.¹²
13. The Site primarily comprises areas of species-poor semi-improved grassland, recolonising vegetation, two areas of woodland and a large number of scattered trees.¹³ There are no statutory designated sites of nature conservation value within or immediately adjacent to the Site. The nearest statutory designated site is the South London Downs National Nature Reserve (the “**NNR**”) which is located approximately 0.14km west of the Site. The closest non-statutory designated sites are Coulsdon Court Wood and Betts Mead Borough Importance Grade I which is located approximately 0.14km west of the Site (and which overlaps with the NNR), plus the Kenley Aerodrome Borough Importance Grade II located approximately 0.14km northwest of

⁸ Markham §1.70.

⁹ Markham §1.71.

¹⁰ Markham §1.72.

¹¹ Markham §§1.74-1.78.

¹² MSoCG CD 10.01.01 §§7.40-7.42.

¹³ Hallett §5.1.

the Site.¹⁴

14. The application was supported by a comprehensive suite of ecological surveys over a two year period (including surveys for bats, badgers and reptiles),¹⁵ and an Ecological Assessment.¹⁶ Natural England was consulted on the application and did not raise any objections in its 2 October 2023 response.
15. In terms of protected species, Mr Hallett explains that:¹⁷
 - (1) four trees were identified as bearing features with the potential to support roosting bats. They will be retained.¹⁸ None of the buildings on Site have suitable roosting features for bats;
 - (2) the Site has been repeatedly surveyed for badgers, but no signs of badger activity have been identified;
 - (3) the Red Listed and Priority Species Linnet (*Linaria cannabina*) was recorded within the Site, along with a range of common bird species. Protective measures during construction and the retention of areas of woodland and scrub will conserve opportunities for birds. Additionally, the creation of nest boxes and new botanically rich foraging habitat will enhance the Site's value for birds; and
 - (4) no evidence of the presence of reptiles was recorded.
16. As Mr Hallett's evidence explains, the concerns raised by Surrey Wildlife Trust ("**SWT**") that underpinned reason for refusal 7 have been overcome.¹⁹ In particular:
 - (1) dormice survey: the Site does not contain suitable habitat for Hazel Dormice and to give additional confidence about the absence of that species a nut search exercise was undertaken in January 2025 to look for the characteristic teeth-marks indicative of Dormice feeding. Due to the lack of suitable vegetation, only a small number of nuts/acorns etc were found and none showed evidence of Dormouse feeding. SWT and the Council are satisfied that Dormice are not present on the Site and will not therefore be adversely affected by the scheme;
 - (2) retained grassland: the scheme includes the creation of approximately 0.6ha of species-rich grassland which can be created and managed primarily for biodiversity

¹⁴ Hallett §§5.5-5.9.

¹⁵ See the summary at Hallett Table 1.

¹⁶ CD 1.23.

¹⁷ Hallett §§5.25-5.32.

¹⁸ Hallett §7.9.

¹⁹ See Hallet Sections 7-9 and also MSoCG CD 10.01.01 §7.41.

benefits. SWT and the Council are satisfied that an appropriate species mix can be chosen to increase the floristic diversity of the Site and this can include a variety of exemplar species such as pyramidal orchids such that the presence of these on Site can be maintained. These areas of grassland will be subject to a management regime which will ensure that they are maintained and improved over time;

- (3) updated reptile survey plan: the reptile surveys were undertaken in optimal conditions, in an optimal survey month (May) and the methodology followed best practice guidance using 70 0.5m x 0.5m roofing felt tins placed within suitable habitat. In response to SWT's request for additional information, the Appellant provided a plan showing the location of this tins.²⁰ SWT and the Council are now satisfied with the reptile surveys; and
- (4) recreational pressure on designated nature sites: large areas of Coulsdon Court Wood and Betts Mead and the publicly accessible area of Kenley Aerodrome are managed both in their own right and as a constituent part of the NNR. These are areas where recreational activity is promoted and there is ongoing management to monitor public access and conserve biodiversity. SWT and the Council are satisfied that increased recreation will not adversely impact those designated sites in light of the management measures already in place and the minor (0.3%) increase in usage attributable to the scheme.

17. Mr Hallett's evidence also explains the agreed planning conditions relating to ecological matters. In summary, the conditions secure:²¹

- (1) a Construction Environmental Management Plan agreed prior to commencement in order to ensure that potential construction-related impacts are assessed, and appropriate mitigation and monitoring is delivered;
- (2) a Landscape and Ecological Management Plan to ensure delivery of the proposed ecological enhancements;
- (3) a condition requiring an updated walkover to survey for signs of badger activity;
- (4) a condition requiring an updated ground level tree roost assessment; and
- (5) a condition requiring on a precautionary basis that a reptile mitigation and habitat enhancement strategy be submitted.

²⁰ Hallett Appendix 4.

²¹ Hallett §§6.9-6.14.

18. Overall, the scheme has sought to retain areas of high habitat value where possible and offset losses through the creation of new areas of ecologically valuable vegetation. In particular, the scheme retains and enhances the majority of the woodland as well as creating areas of species-rich grassland. Accordingly, the proposal complies with the NPPF and Core Strategy Policy CSPI7 which seeks the “*maintenance, enhancement, restoration and, if possible, expansion of biodiversity*”.

Trees and landscape character

19. The Council’s Principal Tree Officer provided his final consultation response on 6 March 2024.²² In light of the amended layout which retained more trees, he no longer cited any policy conflict and instead merely suggested that at the reserved matters stage “*in any detailed application further provision is made for larger species tree planting*”. Despite this Reason for Refusal 5 cited issues concerning the felling and replacement of trees and the effect on trees in the Conservation Area.
20. There are currently 341 trees within the Site. All the category A (high quality) trees would be retained, as well as the trees along Victor Beamish Avenue, the woodland trees to the east and the category A trees in the central part of the Site. 10 x category B trees of moderate quality would be removed. 114 x category C trees, which are of poor quality, would be removed. 6 x category U trees are in such poor condition that they have been assessed as needing removal for management reasons irrespective of any development proposals. Therefore the majority of trees that would be removed are poor quality.
21. All the trees that were planted as part of the 1930s works to the aerodrome, which contribute most to the historic character of the Site would be retained, including those planted around the boundary of the parade ground (outside the red line boundary) and those planted along the eastern side of Victor Beamish Avenue.
22. The majority of the trees that are to be removed are category C trees, and are of poor quality, so contribute least to the Conservation Area. These include self-sown trees in the north of the Site associated with the derelict workshop and cleared buildings.
23. As Ms Markham explains, the Council requested some supplementary analysis of the effect of the tree proposals on the Kenley Aerodrome Conservation Area which was provided on 20 January 2025.²³ The Appellant produced a Supplementary Tree Plan to

²² CD 4.01 §7.127.

²³ Markham §1.8.

show the location of a minimum of 225 replacement trees.²⁴ This indicates that additional trees could be planted in the following locations to reinforce the historic character of the Conservation Area:

- (1) on the west side of Victor Beamish Avenue;
 - (2) as a further row of trees to the south of the parade ground;
 - (3) to the north-east of the former NAAFI, to reinforce the avenue either side of the footpath to the east; and
 - (4) to continue the avenue framing the footpath to the north-east of the Site.
24. The existing and proposed tree framework provides for tree-lined streets and for well-treed greenspaces, as required by NPPF §136 and Local Plan Part 2, Policy DP7(12) & (13).
25. Overall there would be a net gain of trees in the Site. Mr Kirkpatrick's analysis is that the canopy of the trees that would be removed equates to 9,747.03m².²⁵ Once the newly planted trees are fully established, in 30 years time, their total canopy would equate to 9,880.02m², which exceeds the existing canopy area. Once the new trees are established, the general contribution of trees to the character and appearance of the Conservation Area would be enhanced.
26. As recorded in the Arboriculture Statement of Common Ground,²⁶ this clarification resolved the Council's concerns with respect to the felling and replacement of trees and there are no arboriculture matters in dispute. In particular, the Council considers the loss of 124 (principally category C trees) to be acceptable.²⁷
27. Accordingly, after signing the MSoCG and before exchange of proofs of evidence, the only remaining point of disagreement with the Council related to the effect of the tree proposals on the Conservation Area in the *temporary* period until the new trees reach maturity.²⁸ That issue too is now resolved.
28. Mr Lee's proof of evidence said that the Council no longer sought to pursue reason for refusal 5.²⁹ That is demonstrably correct as the Appellant's evidence shows. Ms Markham's evidence considers the historic changes to trees on the Site, the contribution

²⁴ CD 1.38 & CD 1.39.

²⁵ Kirkpatrick §5.2.7 and Appendix B.

²⁶ CD 10.02.

²⁷ CD 10.01.01 MSoCG §§7.36-7.39.

²⁸ Markham §1.53.

²⁹ §§10.1-10.2.

of trees to the Conservation Area and the effect of the scheme on the contribution of trees to the Conservation Area. With input from the Appellant's landscape witness (Mr Kirkpatrick), who advised on the height and width of the canopy of the replacement trees as they establish, OSP Architecture produced visualisations to indicate the appearance of the replacement trees at 5, 10 and 15 years.³⁰ In light of that assessment, Ms Markham explains that:

- (1) the visualisations illustrate that even after 5 years the new trees would contribute positively to the character and appearance of the Conservation Area, and this effect would increase over time;³¹
- (2) indeed, the trees visible in the historic photograph of the parade ground in Figure 1.2 of her proof were relatively immature, but nevertheless contributed positively to the character of the airfield during WWII;³²
- (3) in the same period that the trees are planted, the Site would be redeveloped with well-designed housing and public realm, which would deliver the majority of the benefits set out above. The temporary period while the new trees reach maturity would not therefore harm the Conservation Area;³³ and
- (4) in any event, any (very low) short term effects are necessary to realise the permanent heritage benefits resulting from the development and so it would be irrational to object on the basis of temporary alleged harm that would deliver a permanent benefit to the Conservation Area.³⁴

29. In terms of effects on the character and appearance of the Site and wider area, Mr Kirkpatrick explains that in perceptual terms, the Site would acquire a more suburban, developed and enclosed character, replacing its current predominantly open greenfield/partial brownfield appearance. The verdant character of the Site would, however, be conserved.³⁵ In particular, he also explains that:

- (1) 1.64 ha of high quality greenspaces would be provided, covering approximately 35% of the Appeal Site (including publicly accessible greenspaces and incidental greenspaces). 0.88ha of this provision would be publicly accessible greenspace, serving as a valuable recreational resources for both new residents and people

³⁰ Markham Appendix 2.0 and see also the explanation at Kirkpatrick §5.3.12.

³¹ Markham §1.62.

³² Ibid.

³³ Markham §1.64.

³⁴ Markham §§1.53 & 1.65-1.67.

³⁵ Kirkpatrick §4.6.2.

visiting the site from the surrounding areas. The greenspaces would incorporate measures to help achieve nature recovery and would be well managed in accordance with a landscape management plan. Connectivity in the local landscape would also be enhanced through provision of new recreational footpaths;³⁶

- (2) the northern part of the scheme provides a sensitive design response to the historic aerodrome, emphasising historic visual linkages and restoring a physical link in terms of a new footpath connection;³⁷
- (3) the southern part of the scheme also provides a sensitive design response to the generally “*unremarkable*”³⁸ landscape south of the school. The proposed layout provides for the retention of broad belts of peripheral greenspace, retains and enhances the historic tree line along Victor Beamish Avenue and creates a characterful arrangement of housing that reflects the regimented, military character of the wartime buildings that were present prior to demolition. Existing vegetation would be substantially retained and the verdant character of the site would be conserved;³⁹
- (4) in accordance with paragraph 5.4 of the Guidelines for Landscape and Visual Impact Assessment,⁴⁰ the aesthetic and perceptual aspects of a landscape must also be factored in to any consideration of landscape character. The Site contains a wide array of features that detract from the visual amenity of the site and the quality of the local landscape. The removal of the derelict workshop, dilapidated roads, unsightly areas of hard standing, piles of rubble, trees in poor condition and tall security fencing along both sides of Kenley Avenue would enhance the quality and appearance of the Site landscape and make it more welcoming for visitors. It may be expected that high quality buildings would be delivered through any Reserved Matters application. The character of Victor Beamish Avenue would be enhanced through retention of its roadside trees and removal of roadside security fencing. Other internal roads would be lined by attractive tree/shrub vegetation with area of amenity grassland.⁴¹

30. When judged in its proper context, the landscape impact of this site is well-contained and localised on a non-designated landscape where there is no adverse impact on any

³⁶ Kirkpatrick §4.6.3.

³⁷ Kirkpatrick §4.6.5.

³⁸ The term used in to describe this area in the Tandridge Landscape Capacity and Sensitivity Study: see Kirkpatrick §3.4.2.

³⁹ Kirkpatrick §4.6.5.

⁴⁰ CD 6.47.

⁴¹ Kirkpatrick §4.6.6.

heritage assets (indeed, there will be heritage benefits). In landscape terms, where any development on the Site will necessarily have some impact, it does not get much better than this. The Council is right to accept that development on this Site causes no significant landscape harm that could justify refusal.

Highways and sustainable transport

31. As explained in Opening, the Site was regarded as being sustainably located by SCC and the Council during the withdrawn Local Plan process and in their pre-application advice. The examining Inspector also raised no sustainability concerns. Against that background, SCC in its capacity as highway authority now agrees that the scheme would provide appropriate cycle and pedestrian infrastructure linking the site to key local amenities and that it would provide a material benefit to the safe operation of the Buxton Lane / Salmons Lane West / Ninehams Road mini-roundabout junction. As such both reasons for refusal 3 and 4 have been overcome in their entirety.
32. In terms of the accessibility of the Site, Mr Bell's evidence:
 - (1) contains a table showing the facilities located within a reasonable walking distance of the Site;⁴²
 - (2) shows that four schools are located within 1km of the Site;⁴³
 - (3) contains a cycle isochrone showing the destinations accessible by cycle;⁴⁴
 - (4) explains the local bus services that run from the stop on Salmons Lane West adjacent to the junction with Victor Beamish Avenue.⁴⁵ There is a regular service seven days per week. Buses run to the short distance to Whyteleafe, Upper Warlingham and Caterham stations and at a frequency that would allow for combined bus and train commutes to work;
 - (5) explains that Whyteleafe Station is only 1.8km from the Site. It can be accessed via an 8 minute cycle (or by a 2 minute bus journey) and it provides half hourly trains to central London seven days per week;⁴⁶ and
 - (6) in order to further demonstrate the level of accessibility of the Site, it identifies and describes six key routes to local amenities.⁴⁷ This shows that a variety of

⁴² Bell Table 5.2.

⁴³ Bell Figure 5.1.

⁴⁴ Bell Appendix C

⁴⁵ Bell §§4.9-4.15.

⁴⁶ Bell §§4.13 & 4.16.

⁴⁷ Bell §§5.26-5.43 and Figure 5.2.

amenities can be safely accessed on foot or via cycle, including two railway stations.

33. Mr Bell's assessment of the accessibility of the Site by walking and cycling accords with the guidance given in The Chartered Institute of Highways and Transportation's 'Planning for Walking' (April 2015) and the Department for Transport's 'Manual for Streets' (March 2007).⁴⁸ His evidence shows that a significant number of amenities, including food, leisure, schools and medical facilities are located within a 20 minute walk (i.e. 1 mile or 1.6km) which is an acceptable distance for residents to walk having regard to the above guidance.⁴⁹
34. Mr Bell's evidence also deals with junction capacity and he explains that:
 - (1) the predicted worsening of Ratio of Flow to Capacity (RFC) of 0.01 on one arm of the Buxton Lane/Salmons Lane West/Ninehams Road mini-roundabout junction is immaterial. There would be no negative impact because queuing would increase by only one vehicle with a negligible (six second) increase in driver delay.⁵⁰ This assessment is based on a future year scenario five years post submission and so it is robust in accounting for future traffic flows on the network; and
 - (2) even using census data, instead of the TRICS based assessment used in the Transport Assessment, would not change the RFC on the Ninehams Road arm of the junction.⁵¹
35. Mr Bell's evidence explains that the improvements initially proposed by the Appellant accorded with the mitigation measures envisaged in the Council's Infrastructure Delivery Plan (2019) and SCC's pre-application advice of June 2022.⁵² Following the refusal of planning permission, despite pressing SCC and the Council to specify what additional infrastructure they considered necessary,⁵³ it is only very recently that they have particularised the further mitigation measures they required. The Appellant is willing to provide the further mitigation and can do so now it knows what the authorities have in mind.
36. The Transport SoCG explains the further mitigation, the policy basis for requiring it, how it will be secured and why it is necessary to make the development acceptable in

⁴⁸ Bell §§5.4-5.5.

⁴⁹ Bell §5.9 and Table 5.2.

⁵⁰ Bell §§7.1-7.4.

⁵¹ Bell §§7.6-7.19.

⁵² Bell Section 6.

⁵³ See e.g. §10 of the post-CMC note.

planning terms.⁵⁴ In summary, the measures consist of:⁵⁵

- (1) a zebra crossing on Salmons Lane, in the vicinity of Victor Beamish Avenue;
 - (2) bus stop improvements on Salmons Lane to include real time passenger information, double height kerbing and, where feasible, shelters and places to sit;
 - (3) a zebra crossing on Whyteleafe Hill, in the vicinity of Salmons Lane;
 - (4) a zebra crossing on Whyteleafe Hill, in the vicinity of Salmons Lane West
 - (5) road safety and pedestrian infrastructure improvements at the Buxton Lane / Salmons Lane West / Ninehams Road roundabout junction, providing dropped kerbs with tactile paving as shown in plan reference 2106055-07 Rev A (three raised tables on Buxton Lane positioned carefully to provide a crossing point (with tactile paving) at appropriate locations);
 - (6) traffic calming measures on Salmons Lane West, and on the B2030 from the roundabout junction with Salmons Lane West and Ninehams Rd, to the roundabout junction with the B2031) as shown in plan reference 2106055-07 Rev A (consisting of an extension of the speed reduction scheme to Salmons Lane West, including providing a further pair of speed cushions); and
 - (7) speed limit reductions and associated signage, including provision of all costs associated with delivering the Traffic Regulation Orders associated with item 6 above.
37. In particular, these measures would improve the suitability of the routes to the Site for cycling and serve to reduce the generation of motor vehicle movements through the Buxton Lane/Salmons Lane West/Ninehams Road mini-roundabout junction and thereby reducing the development's impact on highway capacity in this location.
38. Accordingly, the scheme is located somewhere which is, or can be made, sustainable through limiting the need to travel and offering a genuine choice of transport modes in accordance with NPPF §110. In terms of the accessibility of the Site to local amenities and public transport, future residents are not reliant upon car travel and, in accordance with NPPF §115(a), sustainable transport modes are prioritised. Safe and suitable access to the Site will be achieved for all users in accordance with NPPF §115(b) and the design of streets etc will comply with the relevant guidance in accordance with NPPF §115(c).

⁵⁴ CD 10.04.

⁵⁵ CD 10.04 §§2 and 11.

39. In compliance with NPPF §115(d), there would be no significant impacts on the transport network in terms of capacity and congestion or highway safety. In fact, the mitigation measures would provide a material benefit to the safe operation of the Buxton Lane / Salmons Lane West / Ninehams Road mini-roundabout junction. Consequently, in terms of NPPF §116, there is no reason not to approve the scheme on highway grounds because the residual cumulative impact of the scheme on the operation of the highway network would not be severe.
40. For the same reasons, the scheme complies with Core Strategy Policy CSPI, Local Plan Part 2 Policies DPI and DP5.⁵⁶

Playing pitch

41. The Council accepts that this issue does not need to be determined because on any view even if the scheme were to result in the loss of a playing pitch contrary to NPPF §104, this would not justify the refusal of planning permission.⁵⁷
42. In any event, the evidence clearly shows that the objection based on loss of a playing pitch is misconceived in law, fact and policy.
43. By way of background, the redline boundary of the Site excludes the former NAAFI building and parade ground (the “**School Site**”), which is located centrally and surrounded by the Site. The School Site is owned by OneSchool Global (“**OneSchool**”), run by the Oakhill Education Trust as an independent day school for pupils aged between 7 and 18. OneSchool Global was established by members of the Plymouth Brethren Christian Church for students and families of the Church Community. The current school roll is c.140 junior and senior pupils. As Mr Stanley explains in his affidavit, the Appellant and Oakhill Education Trust are both registered charities with the same aims and purposes.⁵⁸ In 2004, the pupils that were educated by the Appellant joined those of Oakhill Education Trust. As such the Appellant and the Oakhill Education Trust which runs OneSchool Global are closely connected entities: they are similarly worded trusts with the same aims and purposes; they originally administered different areas, but were combined in September 2004 for economy’s sake.
44. OneSchool Global opened at the School Site in 2015. OneSchool Global operates the School Site pursuant to planning permission and listed building consent granted in May

⁵⁶ Bell §§3.11-3.14 and Table 3.1.

⁵⁷ Addendum SoCG CD 10.01.02 §9.

⁵⁸ CD 8.04 Appendix 1, §6.

2015: LPA ref. 2015/179 and 2015/244 respectively (the “**2015 Permissions**”).⁵⁹

45. The southern part of the Site includes an area of grass that has previously been used occasionally by OneSchool Global for five-side football and rounders (the “**Southern Land**”). The factual position is that:
- (1) the Southern Land did not form part of the 2015 Permissions;
 - (2) the Southern Land has never been publicly accessible; and
 - (3) as the Headmaster of OneSchool Global explains, OneSchool Global used the Southern Land with the Appellant’s permission “*on a temporary basis between 2016 and 2023 for five aside football games and occasional Rounders for students of the school. It was used infrequently, and eventually found to be a health and safety risk because of uneven ground*”.⁶⁰
46. First, as explained by Ms Yarker,⁶¹ the alleged ‘playing pitch’ does not have a lawful use as a playing pitch, so there can be no loss of a playing pitch in planning term.
47. The Council’s case depended on showing that one or other of the planning permissions granted in 2004 and 2009 had been lawfully implemented. Those planning permissions, which covered the Southern Land were for “*change of use to provide day school, incorporating use of parade ground as play area and upgrading of field to use as playing field*.”⁶² In his written evidence, Mr Lee assumed that operational development was carried out “*to implement one or other of those permissions*” (although orally he accepted this was a “grey area”).⁶³ However:
- (1) he adduces no evidence any particular operational development having occurred. He merely speculates based on aerial photographs that top-soil had been spread;
 - (2) in fact, Mr Stanley confirms in his affidavit that the 2004 and 2009 planning permissions were not implemented;⁶⁴
 - (3) the covering letter to the application for the 2009 renewal referred to a telephone conversation with a planning officer and stated “*we are advised that [the 2004 planning permission] has not been implemented to date. However, the applicants wish to*

⁵⁹ CD 8.05.

⁶⁰ CD 8.04 Appendix I, exhibit KS4.

⁶¹ Yarker §§5.1-5.20.

⁶² CD 9.03 and CD 9.04.

⁶³ Lee 9.7.

⁶⁴ CD 8.04 Appendix I.

*extend the date for implementation”;*⁶⁵

- (4) the contemporaneous assessment of the Council when, in 2009, it renewed the 2004 planning permission was plainly that the 2004 planning permission had not been implemented. It described the proposal as an application “*to extend the time permission for implementing the 2004 permission for the change of use to provide a day school, incorporating use of parade ground as play area and upgrading of field to use as playing field*” and it concluded that officers had no objection “*to the extension of time*”;⁶⁶
 - (5) to the extent that the aerial photographs show any works, this is most likely the unauthorised deposit of chalk etc referred to at p.3 of the 2009 delegated report which the Council evidently did not regard as having implemented the 2004 planning permission.⁶⁷
48. Consequently, Ms Yarker is correct to conclude that OneSchool Global’s use of the Southern Land between 2016 and 2023 occurred without planning permission and did not become lawful through the passage of time. As a matter of planning law, the Southern Land does not have a lawful use as a playing pitch and that is a complete answer to Sport England’s objection (which does not engage with the lawful use of the Southern Land and wrongly proceeds on the incorrect premise that there is a lawful existing playing pitch).
 49. Secondly, even if there were a loss of a playing pitch there would be no, or at least no significant, conflict with policy.
 50. The ‘playing pitch’ has never been publicly accessible and has only ever been used by a private school which now has its own new on-site state of the art sports facilities. OneSchool Global recently obtained planning permission and Listed Building Consent (LPA ref 2024/53 and 2024/72) for the creation of a multi-use sports and educational facility and sports pitches to the front of the School Site (the “**Pitches Permissions**”).⁶⁸ The facilities provided under the Pitches Permissions will ensure on-site provision of safe sports facilities in perpetuity for OneSchool Global’s educational purposes. The Headmaster’s letter (17 January 2025) says:⁶⁹

In 2024 we received planning and listed building permission for purpose built sports facilities within the grounds of the school. These are state of the art facilities which will

⁶⁵ CD 8.19.

⁶⁶ CD 8.18 (delegated report for the 2009 application).

⁶⁷ Ibid.

⁶⁸ CD 8.06 & CD 8.07.

⁶⁹ CD 8.04 Appendix I, exhibit KS4.

enable the school to deliver all its physical education curriculum within the grounds of the school.

The school has no existing or future requirement for the use of land to the south of its boundary for outdoor activities for students of the school. The facilities required to deliver the physical education part of the curriculum are not provided entirely within the school's grounds.

51. The 'playing pitch' is therefore surplus to the school's requirements (NPPF §104(a)) and it has already been replaced by better provision (NPPF §104(b)). In substance the terms of NPPF §104 are satisfied because the private school no longer requires use of the Southern Land because it has its own superior replacement facilities.
52. The 2024 Pitches Permissions post-date Sport England's 25 September 2023 consultation response which means that Sport England's assessment is out of date.
53. There is no 'loss' to either OneSchool Global or to the public who have never had access to the Southern Land and who would not have access in the future given the lack of any feasible mechanism to compel public use of this private land. Indeed, even if planning permission existed for use of the Southern Land as playing fields, under the 2004 and/or 2009 planning permissions this would be use in connection with the educational use of the land as a day school. It would be a material change of use requiring fresh planning permission to use the Southern Land for public sports and recreation. Indeed, Mr Lee agreed that appreciable public use of the Southern Land would require new planning permission.
54. Furthermore, any harm from the 'loss' would be non-existent, or at least negligible, because:
 - (1) the Southern Land is of poor quality. As Sport England acknowledge, the 'playing pitch' does not conform with the recommended Football Association size guidelines and only a 7 x 7 pitch can be accommodated.⁷⁰ The area is also sub-standard and the Headmaster explains that the school ceased its use due to "*a health and safety risk because of the uneven ground*";⁷¹
 - (2) the Southern Land does not form part of any playing pitch strategy and the Council does not treat it as part of the existing supply. As Ms Yarker explains,⁷² the Council's Playing Pitch Strategy⁷³ only identifies minor shortfalls in sports pitch provision in the District and it considers that shortfalls can be met through better

⁷⁰ Lee Appendix PL1 (25 September 2023).

⁷¹ CD 8.04 Appendix 1, exhibit KS4.

⁷² Yarker §§5.18-5.19.

⁷³ CD 6.03.

use of existing provision. It is agreed the Site does not form part of the Council's sports pitch strategy and that the school's provision has not become part of the Council's recognised supply;⁷⁴ and

(3) as explained above, the Site has never been publicly accessible and there is nothing that would require public access to be granted in the future. OneSchool Global does not need or want the Southern Land and the public will not lose anything because they have never had and never would have access to the Southern Land.

55. Thirdly, even if (contrary to the Appellant's case) there were a loss of a playing pitch, in the circumstances outlined above, the 'loss' would not come close to significantly and demonstrably outweighing the benefits of the scheme. Consequently, as the Council agrees, 'loss of a playing pitch' would not in any event justify the refusal of planning permission.⁷⁵

56. Turning now to the Green Belt issues.

Green Belt

57. The impact of the scheme on Green Belt openness and purposes has been comprehensively assessed both by the Council in its Green Belt Assessment (2018) ("**GBA**")⁷⁶ and by Mr Kirkpatrick in the Landscape and Visual Impact Appraisal ("**LVIA**")⁷⁷ and his evidence. Mr Kirkpatrick is a landscape architect with considerable experience and he prepared the LVIA in accordance with the Guidelines for Landscape and Visual Impact Assessment.⁷⁸ His assessment follows a robust and transparent methodology and it reaches clearly justified and explained conclusions. By contrast, the Council has not commissioned any expert appraisal of the effect of the scheme on Green Belt openness. It has not challenged the methodology of the LVIA. Instead, over a relatively few brief paragraphs of the delegated report,⁷⁹ the Council asserted greater levels of harm than Mr Kirkpatrick's detailed appraisal had identified. The Council has not adduced any expert landscape evidence as part of this appeal. Rather, Mr Lee's planning proof simply cross-refers to, and adopts, the short discussion about openness and purposes in the delegated report.⁸⁰ For the reasons given below, Mr Kirkpatrick's thorough assessment in both the LVIA and his evidence ought to be preferred over the

⁷⁴ CD 10.01.01 §7.15.

⁷⁵ CD 10.01.02 §7.

⁷⁶ CD 6.32.

⁷⁷ CD 1.17.

⁷⁸ CD 6.47.

⁷⁹ CD 4.01 §§7.10-7.14, 7.15-7.23.

⁸⁰ Lee §8.13.

superficial and inexpert discussion in the delegated report.

58. In terms of the existing character of the Site:⁸¹

- (1) the Site does not form part of a landscape that is designated at either local or national level to protect its scenic value;
- (2) the Site has a long-standing developed, brownfield character that arises from (i) Victor Beamish Avenue and other roads across the site; (ii) mounds of rubble and large areas of hard-standing in the northern part of the Appeal Site; (iii) areas of hard-standing and/or roads in the southern part of the Appeal Site (on both sides of Victor Beamish Avenue); (iv) the electricity sub-station adjacent to the southern site boundary; and (v) security fencing along both sides of Victor Beamish Avenue and along the boundary with the airfield and its access road;⁸² and
- (3) the northern part of the Appeal Site has an air of dereliction and relatively low levels of visual amenity resulting from mounds of rubble, unmanaged vegetation, weeds, areas of broken hardstanding and the dilapidated workshop building. The widespread use of security fencing detracts from visual amenity. Mature on-site trees and off-site woodland provide the Site with a verdant character.⁸³

59. Mr Kirkpatrick's evidence explains the location of the Site within the Green Belt.⁸⁴ In terms of the effect of the scheme on Green Belt openness, as the Planning Practice Guidance explains,⁸⁵ it is important to appreciate that openness has both a spatial dimension (i.e. whether land is devoid of buildings) and a visual dimension (i.e. how readily this openness can be perceived). In that regard it is notably the currently the Green Belt in the vicinity of the Site already includes the NAAFI building, housing along the eastern boundary of the Site and Aerodrome buildings on the northern and north-eastern sides of the Site. Additionally, the Site includes large numbers of mature trees and is partially adjoined to the east and northeast by established woodlands which contribute to a sense of enclosure.⁸⁶

60. It is an inevitable consequence of developing the Site that there would be a loss of spatial openness. This would also have been the position under draft allocation HSG06. But, as Mr Kirkpatrick explains, volume of built development has been well considered with the

⁸¹ See further Section 2 of the LVIA at CD 1.17.

⁸² Kirkpatrick §3.3.1 and Plates 1-4.

⁸³ Kirkpatrick §3.3.4.

⁸⁴ Kirkpatrick Plate 5 at p.8.

⁸⁵ Paragraph 001, Ref ID:64-001-20190722 ("*openness is capable of having both spatial and visual aspects -in other words, the visual impact of the proposal may be relevant, as could its volume*").

⁸⁶ Kirkpatrick §§4.2.3 and 4.2.6.

majority of the proposed dwellinghouses being 2 storeys in height with the 3 storey buildings restricted to the northern-central part of the Site where they would serve to define the central pedestrian axis and vista between the aerodrome and the NAAFI building.⁸⁷

61. As regards visual openness, the existing situation is that:⁸⁸

- (1) the Site has a high degree of visual enclosure in terms of external views;
- (2) the Site already includes existing built form and hardstanding;
- (3) the Site is already subject to the urbanising influence of existing built form both within and adjacent to the Site, yet the urbanising elements are seen by relatively few receptors within or in very close proximity to the Site; and
- (4) existing views obtained by people travelling along Victor Beamish Avenue are either filtered or partially truncated by roadside trees (summer months) and security fencing.

62. As shown in Mr Kirkpatrick's Plate 9, the extent of harm to visual openness outside the Site is highly limited in extent, as. It would be restricted to: (i) short sections of Salmons Lane West (to the south) and Salmons Lane (to the southeast) alongside the site boundary; (ii) the southern part of Salmons Lane Green; (iii) a short section of Whyteleafe Road on the eastern side of the green; (iv) a small number of houses adjacent to these sections of road; (v) housing directly alongside the western site boundary (oblique or direct views, heavily filtered in places); (vi) short sections of Collard Close where there are gaps in the line of western site boundary housing; and (vii) the section of aerodrome perimeter road alongside or approaching the northern site boundary.⁸⁹

63. Mr Kirkpatrick's thorough analysis demonstrates in particular that:

- (1) views towards the Site from roads, residential properties and publicly accessible greenspace to the south, southeast and east would be substantially enclosed in both winter and summer months by peripheral vegetation within the Site;⁹⁰
- (2) in views from the west, some filtered views of the proposed housing would be available from the upper rear windows of housing that abuts, or lies close to, the

⁸⁷ Kirkpatrick §4.3.9.

⁸⁸ Kirkpatrick §4.3.11.

⁸⁹ Kirkpatrick §4.3.18.

⁹⁰ Kirkpatrick §4.3.12 and photographs 6 to 11B.

western boundary of the Site, plus some glimpsed views would be available from short sections of Halton Road and Hillhurst Gardens. But the new built form would replace existing views of the derelict workshop and hardstanding etc and it would be set amongst a strong framework of greenspaces with retained/supplementary trees;⁹¹

- (3) from the edge of the aerodrome to the north of the Site, a greater amount of built form would be present in the view, but it would be partially enclosed by aerodrome buildings and fencing, and would be filtered or partially enclosed by proposed tree/shrub planting along the Site's northern boundary.⁹² A tree-lined viewing corridor would be provided towards the NAAFI building, thereby conserving a sense of visual depth through the northern part of the Site. The scheme would result in only a negligible reduction in the openness of Green Belt views from within the aerodrome and would not affect any of the long distance views that are available from the aerodrome; and
- (4) the scheme would conserve a sense of visual openness as people move along Victor Beamish Avenue due to: (i) the removal of the roadside security fencing; (ii) the set-back of some of the buildings on the eastern side of Victor Beamish Avenue; (iii) the retention of the off-site playground at the school; the retention of the long vista along the avenue; (iv) provision of pockets of publicly accessible greenspace on the western side of the avenue;⁹³ and (v) glimpsed views of woodland in the eastern part of the Site would be available between the proposed housing units.

Three Independent routes to approval

64. The scheme offers three clear routes to approval under national planning policy: (1) compliance with the criteria for Grey Belt development under NPPF §155; (2) compliance with NPPF §154(g) as the redevelopment of PDL in the Green Belt; and (3) the existence of very special circumstances (“**VSC**”) under NPPF §153. Each route provides a sound and independent basis for granting planning permission.

Route 1: Grey Belt development under NPPF §155

65. NPPF §155 introduces the concept of Grey Belt and establishes four criteria (a-d) for development to be considered not inappropriate. The scheme satisfies these

⁹¹ Kirkpatrick §4.3.14 and photographs 4 & 5.

⁹² Kirkpatrick §4.3.15.

⁹³ See the Design and Access Statement at CD I.15 Section 6.7.

requirements:

- (1) Criterion (a): Utilising Grey Belt Land – the parties agree that the site qualifies as Grey Belt land in every respect;⁹⁴
- (2) Criterion (b): Unmet Need – there is a demonstrable unmet need housing and affordable housing, as detailed in Ms Yarker’s evidence and agreed by Mr Lee;⁹⁵
- (3) Criterion (c): Sustainable Location – the site is in a sustainable location, as agreed by SCC and the Council (see above); and
- (4) Criterion (d): Compliance with the Golden Rules – these are agreed to be met for the reasons explained further below.

66. As to Criterion (a), the focus of the definition of Grey Belt is not merely on whether the Site makes *any* contribution to purposes (a), (b) and/or (d), but whether there is a “strong” contribution to them. The evidence on the contribution of the Site to Green Belt purposes is:

- (1) Purpose (a): ‘to check the unrestricted sprawl of large build up areas’ – the Council agrees that the Site only makes a “limited” contribution towards purpose (a) which reflects the conclusions of the GBA.⁹⁶ The Site is well contained and it is likely to be perceived more as infill than sprawl;⁹⁷
- (2) Purpose (b): ‘to prevent neighbouring towns merging into one another’ – the GBA considered that the size and location of the Site mean that it makes a limited contribution towards preventing the settlements of Caterham and Whyteleafe from merging.⁹⁸ Mr Kirkpatrick concurs and considers that the reduction in the gap between Caterham and Whyteleafe would be hard to perceive due to the enclosure of views and that a strong sense of separation between settlements would remain;⁹⁹
- (3) Purpose (c): ‘to assist in safeguarding the countryside from encroachment’ – the GBA considered that the Site makes only a limited contribution to purpose (c).¹⁰⁰ The Site exhibits only limited characteristics of open countryside due to the centrally located NAAFI building, the surrounding urbanising features and the

⁹⁴ MCoCG CD 10.01.01 §9.1.2.

⁹⁵ Lee §8.1.

⁹⁶ Yarker §5.40.

⁹⁷ Kirkpatrick §4.4.2.

⁹⁸ Yarker §5.44.

⁹⁹ Kirkpatrick §4.4.3.

¹⁰⁰ Yarker §5.48.

woodland to the east which provides a strong degree of containment separating the Site from the wider countryside;¹⁰¹

(4) Purpose (d): 'to preserve the setting and special character of historic towns' –the Site is not within or in close proximity to a historic town, but it is within a Conservation Area and close to heritage assets. The Site only makes a moderate contribution to serving purpose (d) and the scheme would enhance the setting of the designated heritage assets and contribute positively to the Conservation Area.¹⁰²

67. Turning back now to criterion (d) (compliance with the Golden Rules), it is agreed in the Addendum SoCG that the scheme complies with the Golden Rules and that compliance should attract significant weight in favour of granting permission (NPPF §158).¹⁰³ The Golden Rules are satisfied for the following reasons.
68. Affordable Housing (Golden Rules Criterion a): the first element of the Golden Rules requires the delivery of affordable housing that reflects either updated local development plan policies in line with NPPF §§67-68 or, in their absence, the default requirements set out at NPPF §157 i.e. 15% above the highest existing affordable housing requirement which would otherwise apply to the development subject to a cap of 50%.
69. In this case, Policy CS4 requires 34% affordable housing. Consequently, NPPF §157 requires 15% on top i.e. 49% affordable housing. Following publication of the new NPPF the Appellant increased its affordable housing offer to 50% and it meets criterion (a) of the Golden Rules. Notably, the Appellant is providing affordable housing at the same level as the overall cap in NPPF §157 i.e. it is the absolute maximum that national policy considers reasonable for any development under the Grey Belt route to provide.
70. Infrastructure: (Golden Rules criterion b): as set out above, the scheme will make the necessary improvements identified to local infrastructure identified by SCC and the Council.
71. Green Spaces (Golden Rules criterion c): the third element of the Golden Rules requires the provision of new or improved green spaces “*accessible to the public*” (Part 1) and for new residents to have access to good quality green spaces within a short walk of their homes (Part 2). This criterion is expressly designed to ensure that developments in the Green Belt contribute meaningfully to local landscapes, public access and the quality of

¹⁰¹ Kirkpatrick §§4.4.4-4.4.5.

¹⁰² Yarker §§5.52-5.54 and Kirkpatrick §§4.4.6-4.4.7.

¹⁰³ CD 10.01.02 §6(iii) and (vi).

life of residents, all of which are central to the scheme.

72. It is agreed that the scheme fully complies with both parts of NPPF §156(c), delivering new, high quality greenspaces that are on the doorstep for new residents and readily accessible to the wider public.¹⁰⁴ In particular:

- (1) as noted at §7.151 of the delegated report,¹⁰⁵ the open space provision in the scheme meets policy requirements. 1.64 ha of greenspaces would be provided, covering approximately 35% of the Site. The publicly accessible greenspace would occupy 0.88ha of this 4.74ha Site;¹⁰⁶
- (2) as shown on the Landscape General Arrangement Plans,¹⁰⁷ multiple opportunities would be created for residents and visitors to stroll through well-treed greenspaces. These start at the southern site boundary where a new footpath meanders eastwards through a greenspace that leads to the southern square and the edge of the school grounds. From here the recreational footpath passes alongside the school fencing and into an extensive linear greenspace along the eastern site boundary. This greenspace would comprise woodland with glades, which would accommodate children's play areas and seating. This meandering footpath would continue northwards to the northern site boundary where a new access would be provided to connect with the Kenley Airfield Heritage Trail around the aerodrome and on to the recreational resources of Kenley Common. The opportunity to stroll north-south through a series of linked greenspaces to access the aerodrome would be preferable to the alternative north-south route that involves walking along an off-site road adjacent to the northern section of the western site boundary.¹⁰⁸
- (3) the scheme would accord with the principles in the Surrey Design Guide that are applicable to space in the public realm;¹⁰⁹
- (4) the framework of greenspaces would provide a positive contribution to the character and setting of the new built form in accordance with NPPF §159. The well-treed internal greenspaces have been located and designed to harmoniously reflect building layouts (the linear avenue, courtyard, northern 'quadrangle' arrangements etc). They would also reflect the enclosure and scale of the buildings.

¹⁰⁴ Kirkpatrick §4.3.25.

¹⁰⁵ CD 4.01.

¹⁰⁶ Kirkpatrick §4.3.30.

¹⁰⁷ CD 1.13 and CD 1.14.

¹⁰⁸ Kirkpatrick §4.3.25.

¹⁰⁹ Kirkpatrick §§4.3.26-4.3.27.

Retained trees within the peripheral greenspaces would continue to provide their strong contribution to the verdant setting of the new built form and this contribution to character would be enhanced by additional tree planting;¹¹⁰

- (5) the proposed planting strategy would have a strong ecological component with species selected for wildlife value. The scheme would also provide for bird boxes, bat boxes, an invertebrate hotel, a beetle logger and a pollinator garden.¹¹¹

73. On this basis, the scheme complies with the Golden Rules.

74. Returning to NPPF §155, as compliance with criteria (a)-(d) is achieved, the scheme comprises an exception to inappropriate development through the Grey Belt route. No further assessment of Green Belt impacts is required: see NPPF footnote 55. As the new Planning Practice Guidance on Grey Belt explains:¹¹²

How should harm to the Green Belt including harm to its openness be considered if a development is not inappropriate development?

Footnote 55 to the NPPF sets out that if development is considered to be not inappropriate development on previously developed land or grey belt, then this is excluded from the policy requirement to give substantial weight to any harm to the Green Belt, including to its openness.

This is consistent with rulings from the courts on these matters that, where development (of any kind, now including development on grey belt or previously developed land) is not considered to be inappropriate in the Green Belt, it follows that the test of impacts to openness or to Green Belt purposes are addressed and that therefore a proposal does not have to be justified by “very special circumstances”. (*my emphasis*)

Route 2: compliance with NPPF §154(g) as the redevelopment of PDL

75. The Council’s own GBA (a key evidence base document for the withdrawn Local Plan) concluded that the Site is PDL: Part 3 of Appendix 1 of the GBA (2018) concluded that “*the site is previously developed land*”. Mr Kirkpatrick’s assessment concurs.¹¹³ He notes that the contrary conclusion in the delegated report overlooked a number of features, including Victor Beamish Avenue and its adjacent footpath, other roads across the northern part of the Site, and the electricity sub-station adjacent to the southern boundary.¹¹⁴ That is not wholly surprising given that the delegated report was written by a planning officer who has not entered the private appeal site (unlike SCC’s Senior Historic Buildings Officer and the Council’s tree officer who both requested access which was facilitated).

¹¹⁰ Kirkpatrick §4.3.28.

¹¹¹ Kirkpatrick §4.3.29.

¹¹² Paragraph 014 Reference ID 64-014-20250225.

¹¹³ Kirkpatrick §§ 4.3.2-4.3.7.

¹¹⁴ Kirkpatrick §4.3.3.

76. As Mr Kirkpatrick explains and illustrates in his Plates 1-4, the hardstanding and building footprints (covering 1.31ha and spread across the Site) have not blended into the landscape, but are readily noticeable -as you will observe when you visit the Site.¹¹⁵
77. NPPF §154(g) allows redevelopment of PDL in the Green Belt provided it does not cause substantial harm to the openness of the Green Belt. The focus of NPPF §154g is not merely whether the development would cause *any* harm to openness, but whether it would cause “*substantial*” harm to openness.
78. As set out above, the evidence of Mr Kirkpatrick demonstrates that the scheme would not cause substantial harm to openness and so would not fall foul of NPPF §154(g).¹¹⁶ In summary, although there would be a notable increase in built form, the scheme would deliver 1.64ha of publicly accessible and incidental greenspace (covering 35% of the Site) and the Site has a high degree of visual enclosure meaning that it is highly localised in terms of appreciation of openness.
79. Compliance with NPPF §154(g) also renders the development not inappropriate under Green Belt policy. No further assessment of Green Belt impacts is required: see NPPF footnote 55.

Route 3: NPPF §153 VSC

80. If the scheme were found to be inappropriate development under either NPPF §154(g) or §155, the next question would be whether VSC exist to justify approval under NPPF §153. NPPF §153 requires that harm to the Green Belt and any other harm must be clearly outweighed by the benefits of the scheme.
81. The extent of harm to the Green Belt and landscape character is dealt with in the LVIA and Mr Kirkpatrick’s evidence, as summarised above.
82. The public benefits are dealt with further below. As Ms Yarker’s evidence explains, when weighed against the assessed Green Belt harm and other harms, these benefits clearly outweigh any harm, satisfying the test for VSC.¹¹⁷

Issues raised by third parties

83. The Council agrees that the scheme is acceptable in terms of car and cycle parking, noise and disturbance, air quality, daylight and sunlight, energy and sustainability, play space and open space, amenity of neighbours and future residents, quality of

¹¹⁵ Kirkpatrick §4.3.4.

¹¹⁶ Kirkpatrick §4.5.6.

¹¹⁷ Yarker §§5.81-5.87.

accommodation and compliance with minimum space standards, fire safety, and archaeology.¹¹⁸ Ms Yarker also explains, with reference to an independent assessment of the availability of statutory education places within the catchment of the Site, that there are ample primary and secondary school places to accommodate the child yield of the development.¹¹⁹

84. In Evidence in Chief, Mr Bell explained that the Transport Assessment had been undertaken in accordance with the methodology agreed with SCC during pre-application discussions and covering an agreed study area. The Transport Assessment shows no material impact, let alone a severe impact that would be necessary to refuse on highway grounds.
85. In terms of access along Victor Beamish Avenue, Mr Lehane and Mr Bell agreed this was not a problem and certainly not one caused by the scheme. The road is over 5m wide and therefore wide enough for large vehicles to pass a parked car. The Council could impose waiting restrictions if necessary. Furthermore, the Construction Management Plan will provide a robust control over construction traffic.
86. Ms Yarker explained that no statutory consultee has requested any contributions in relation to healthcare and that draft allocation HSG06 had not specified any such contribution or provision was required.

Development Plan accordance

87. Consistent with s.38(6) of the Planning and Compulsory Purchase Act 2004, the starting point is the development plan – albeit in the case of Tandridge’s significantly out-of-date development plan, if the NPPF points in favour of approval, then it should prevail (as a s.38(6) “*other material consideration*”) and the scheme should be allowed even if there is non-accordance with the development plan.
88. Whether or not the Inspector finds compliance with the development plan as a whole is not determinative, given the limited conflicts identified by the Council and the fact that the most important policies are out of date. This means the tilted balance is engaged.

Other Material Considerations

National policy

¹¹⁸ CD 10.01.01 §§7.24-7.35

¹¹⁹ Yarker §§7.1-7.4.

89. The NPPF prioritises the effective use of previously developed land, especially where that land is in the Green Belt, to address housing needs. NPPF §154(g) and §155 provide specific exceptions to inappropriate development, both of which are met by the scheme. The NPPF also directs decision-makers to take account of the severe housing shortfall and the critical need for affordable housing.
90. As already explained, if the NPPF points in favour of approval, then it should prevail (as a s.38(6) “*other material consideration*”) and the scheme should be allowed even if there is non-accordance with the ageing development plan (the most important policies of which are deemed out of date under NPPF §11(d)).

Benefits of the scheme

91. The public benefits of the scheme are profound and wide-ranging, addressing local and national planning objectives. In particular:
- (1) Housing Delivery: the Council’s 5YHLS position was set out in Opening and it is not repeated. The provision of new housing (80 units) in an area with such an acute and persistent housing supply shortfall carries substantial weight;
 - (2) Affordable Housing: as explained in Opening, there is a particular need for affordable housing across the District. Substantial weight should be attached to the delivery of 50% affordable housing (40 units);
 - (3) Compliance with the Golden Rules: under NPPF §158, this attracts significant weight;
 - (4) Heritage benefits: as explained above, the scheme will deliver heritage benefits which Ms Yarker concludes should be given moderate weight in the planning balance;¹²⁰
 - (5) Conservation benefits: Ms Yarker also concludes that moderate weight should be given to the ecological and biodiversity benefits summarised above and described in Mr Hallett’s evidence;¹²¹
 - (6) Economic Benefits: the scheme will result in the creation of construction jobs in Caterham and expenditure by new residents will support local services and businesses.

¹²⁰ Yarker §5.72.

¹²¹ Yarker §5.73.

Planning balance

92. The Appeal scheme is a sustainable, well-considered proposal that directly addresses the acute and affordable housing needs in this plan area. Ms Yarker's evidence explains three routes to planning permission. The Appellant's case is that regardless of which scenario prevails, the evidence before this inquiry demonstrates that planning permission should be granted. Each route leads to the same outcome: the benefits of the scheme far outweigh any limited harm, whether assessed under the tilted balance in Route 1 and 2 or through the VSC test in Route 3.

Route 1: Compliance with NPPF §155 and the Golden Rules

93. In this scenario the scheme qualifies as appropriate development under §155 (Grey Belt). The parties agree that:

- (1) the first sentence in NPPF §153 does not apply by virtue of footnote 55;¹²²
- (2) neither does the second sentence which is concerned only with inappropriate development, which this is not;
- (3) in these circumstances, Green Belt protection policies under NPPF §153 are not engaged; and
- (4) in light of the Council's lack of a 5YHLS, all considerations fall to be assessed under NPPF §11(d)(ii), having particular (but not exclusive) regard to the "key policies" on the subjects listed at the end of that section and as set out in footnote 9.¹²³

94. The tilted balance provides that planning permission should be granted unless the adverse impacts of the development significantly and demonstrably outweigh the benefits. Here, the benefits of the scheme, including housing delivery, affordable housing provision, Golden Rules compliance, heritage benefits, biodiversity enhancements and economic activity, are profound and wide-ranging. The Council rightly agrees that any adverse impacts do not significantly and demonstrably outweigh these benefits.¹²⁴

95. The evidence shows that the impacts on landscape character are limited and contained. Even if additionally, the scheme would result in the loss of a playing pitch (contrary to the Appellant's case), these harms fall far short of meeting the high threshold required to tip the tilted balance against granting permission - a threshold pushed even higher in the context of a housing scheme in a local planning authority with a <2-year housing

¹²² Addendum SoCG CD 10.01.02 §6(iv).

¹²³ Addendum SoCG CD 10.01.02 §6(v).

¹²⁴ Addendum SoCG CD 10.01.02 §7.

land supply.

Route 2: Compliance with NPPF §154g (redevelopment of PDL)

96. In this scenario the scheme qualifies as appropriate development under NPPF §154(g) (redevelopment of PDL). As with Route 1, the parties agree the matters set out at para §89 above.
97. If the scheme qualifies as appropriate development under NPPF §154(g), there is no policy “*protecting*” the Green Belt which applies because NPPF §153 is not applicable (due to the terms of the second sentence and footnote 55). Accordingly, the tilted balance is not disengaged under NPPF §11(d)(i) i.e. there is no protective policy which provides a reason, let alone a “*strong reason*”, for refusing the development proposed.
98. It follows that in this scenario the tilted balance under NPPF §11(d)(ii) also applies. The conclusion would be the same as Route 1: planning permission should be granted.

Route 3: Inappropriate development requiring VSC

99. In the event that the scheme does not qualify under NPPF §154(g) or §155, it would constitute inappropriate development in the Green Belt and require justification through VSC under NPPF §153. The test here is whether the public benefits of the scheme clearly outweigh the harm to the Green Belt and any other harm. The Appellant’s evidence demonstrates that in this scenario there would be:
 - (1) harm through inappropriateness, harm to Green Belt openness and limited conflict with Green Belt purposes, which the NPPF provides must be given substantial weight; and
 - (2) no other significant harm, including to landscape character.
100. The Council must confront the reality that significant remedial action is essential to address its severe housing land supply shortfall. This shortfall cannot be resolved by relying solely on PDL, Grey Belt, or settlements within the district, as these sources lack the capacity required to meet the scale of housing need. With Tandridge almost entirely washed over by Green Belt, new unallocated greenfield development in the Green Belt will inevitably be necessary—both before and after the adoption of a new local plan. To turn around this housing crisis, the Council must accept that some permissions will need to be granted on the basis of VSC.
101. Under Route 3, the benefits of the scheme decisively satisfy the VSC test. That is unsurprising given that the GBA found that there were exceptional circumstances

justifying the removal of the Site from the Green Belt and its allocation for housing.

Conclusion on planning balance

102. In all three scenarios, the scheme meets the relevant tests for granting planning permission. Under Route 1, it is appropriate development with overwhelming benefits. Under Route 2, it is also appropriate development and the tilted balance firmly favours approval. Under Scenario 3, the profound public benefits of the scheme clearly outweigh the limited harm to the Green Belt and any other harm.

Conclusion

103. This appeal asks a simple but urgent question: should this district's housing and affordable housing needs continue to go unmet due to reliance on an outdated plan and policies, or should sustainable and positively impactful development, such as the scheme, be brought forward to address this critical shortfall? The scheme stands as a model of how development in the Green Belt can deliver substantial public benefits—housing, substantial affordable housing, heritage benefits, economic uplift and biodiversity enhancements—while respecting the principles of national policy. It is precisely the kind of proactive, sustainable solution that is needed in this area, where the planning system is not delivering.

104. This is a scheme that addresses pressing and unmet needs in a way that is practical, measured and aligned with national objectives. It makes efficient use of PDL, ensures that the benefits of compliance with the Golden Rules are fully realised and balances environmental stewardship with the social and economic priorities of the area. In the face of a housing crisis and a failing plan-led system, we respectfully submit that this is a decision that cannot wait for future uncertainty—it is one that must be made now. I invite you to allow this appeal and grant permission for a scheme that will deliver meaningful and lasting change.

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4 March 2025