

LAND AT CHICHELE ROAD, OXTED

APPEAL BY CALA HOMES (SOUTH HOME COUNTIES) LTD

PINS REF. APP/M3645/W/24/3345915

**CLOSING STATEMENT
ON BEHALF OF THE RULE 6 PARTIES**

Introduction

1. This inquiry has concerned an application for planning permission for 116 new homes on:
 - (a) A site which is not allocated for development in the adopted local plan.
 - (b) A site which was not proposed for allocation in the emerging plan which was withdrawn earlier this year.
 - (c) A site which lies entirely within the Green Belt.
 - (d) A site which includes an area of Ancient Woodland which falls within the Surrey Hills Area of Outstanding Natural Beauty (“AONB”) (now National Landscape) and which otherwise falls entirely within the setting of the AONB.
 - (e) A site which Natural England (“NE”) is proposing to designate as AONB through its Surrey Hills AONB Boundary Variation Project.
2. These closing submissions summarise the objections of the Oxted and Limpsfield Residents Group and Oxted Parish Council (together, “the Rule 6

Parties”) to the appeal proposals – in particular on landscape and the AONB, Green Belt, Ancient Woodland, highways, and flood risk and drainage – before tying those points together in the context of the applicable decision-making framework.

Landscape and AONB

3. The appeal site is an intact, rural landscape set in the foothills of the North Downs.¹

4. The Council and the Rule 6 Parties agree that the site forms part of a valued landscape within the meaning of §180(a) of the NPPF. Ms Hooper has provided a technical assessment by reference to the factors identified in the Landscape Institute Technical Guidance Note 02/21 (CD9.6): see section 6 of her proof. Drawing on her experience of walking in this area over 25 years, Mrs Wren emphasised:

(a) The *“outstanding beauty”* of this landscape, which is *“important for lots of people”* including ramblers, local families, dog-walkers, school outings and scouts. Mrs Wren described how this can be appreciated *“from the level of the fields themselves”* and how one can then *“walk up [into the AONB] and appreciate the tranquillity”* of the views out over the appeal site.

(b) Mrs Wren explained that *“this isn’t just a green field – this is an extremely rich area for biodiversity”*. She referred to the Ancient Woodland, the hedgerows, the small heath butterflies, fungi and wild herbs in particular.

(c) Mrs Wren explained that the field boundaries have *“historic value”*, as they divide centuries-old Barrow Green and Titsey estates.

¹ Mrs Hooper’s proof (CD12.13), p. 3.

5. It is common ground that the part of the site which contains the Ancient Woodland falls within the AONB and that the rest falls within its setting.² Mrs Wren spoke to, and provided photographs which illustrate, the intervisibility between the appeal site and the AONB: see the Appendix to her rebuttal proof (CD13.6). She explained that there are “*wonderful views of these fields*” from the AONB, including from her viewpoints C and D – that “*if you walk up [to the national trust land] you can take in the whole tranquillity of the area*”, looking out to the appeal site “*which forms part of the sweeping openness in front of you.*” She added that “*in the winter, there is a much more open view*” from the AONB towards the appeal site. She also did not accept that the M25 is “*invasive*” in these views, explaining that it provides “*consistent white noise*” which she uses as part of her practice of meditation.



View of the appeal site from the Oxted Downs: Mrs Wren’s View D.

² SoCG (CD11.13), §5.15.

6. Overall, Mrs Wren concludes that *“the proposed development would significantly degrade the quiet and natural beauty of the AONB, its setting and this valued landscape.”*³
7. Like Ms Hooper and Mr Thurlow, Mrs Wren referred to the work undertaken by NE in this context – NE being the statutory advisor on, and body with power to designate, AONBs. As part of its Surrey Hills AONB Boundary Variation Project, NE *“has undertaken an assessment of the natural beauty of the site”*⁴ and has assessed it as having *“a strongly rural character”*.⁵ In its *“commentary”* on representations submitted by the Appellant, NE explained⁶:

“... Natural England notes that the topography of the land is gently undulating and has visual connections to the wider AONB landscape forming part of a wider sweep of qualifying land... The ancient woodland, which flanks the northern and western boundaries, is split by the existing AONB and makes an important contribution to the character and qualities of the area...”

Given that the AONB boundary extends up to the urban edge to the north and includes similar assarted fields, and that land north of Park Road is also proposed for inclusion, Natural England is of the view that the inclusion of this land, given its similar qualities and characteristics, is justified.”

8. Mrs Wren emphasised that NE’s work is now reaching its final stages. She referred to a public webinar held on 18 September 2024, at which NE explained that it has now reached the final stage of the process prior to making a recommendation to the Secretary of State: see the slide at CD14.17. The project has been underway for a number of years, is supported by technical work undertaken by expert consultants and by more than one consultation exercise:

³ Mrs Wren’s proof (CD13.3), §7.

⁴ CD9.10, p. 9; CD14.16, pdf p. 71.

⁵ CD9.10, p. 10.

⁶ CD9.10, pp. 10-11.

May 1958	The Surrey Hills is designated as an AONB: CD9.8, §1.1.1.
2011	NE's Board commissions a study carried out by consultants Alison Farmer Associates to review the evidence for a boundary review: CD9.8, §3.4.4.
July 2012	The Surrey Hills AONB is one of only two AONBs in England included in NE's Designation Strategy.
January 2013	The AONB Partnership commissions landscape consultants Hankinson Duckett Associates (HAD) to conduct a search for areas that might be considered for re-designation as AONB.
December 2013	The NE Board confirms that it will take forward a project to determine for itself whether the AONB boundary should be varied and, if so, to define a recommended boundary variation to the AONB: CD9.8, §3.4.11.
2021	The NE Board re-confirms its December 2013 decision: CD9.8, §3.4.11.
September 2021	NE commissions a consortium of specialist consultants to undertake a review of the Surrey Hills AONB boundary: CD9.8, §1.2.4.
December 2021 - January 2022	NE undertakes a "period of early engagement with stakeholders", receiving over 2,000 submissions: CD9.8, §2.1.2-2.1.3.
February 2023	NE approves the formal technical assessments which detail areas that meet the statutory criterion for designation as an AONB, whether the designation of this land is desirable for the purpose of conserving and enhancing its natural beauty, and where the proposed boundary should be drawn: CD9.9., §1.1.2 and §2.3.2.
March - June 2023	NE undertakes a formal process of consultation, receiving 1,518 consultation responses: CD9.9, §1.14 and §4.1.1.

July 2024	NE publishes its “Final Report”, confirming that the minor boundary refinements (which include the appeal site) are “robust and appropriate”: CD9.9, §8.2.
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9. NE is currently undertaking a second round of formal consultation (the penultimate stage on the slide provided by Mrs Wren) in relation to land which does not include the appeal site. This consultation relates instead to changes made after the first round of consultation and a new Evaluation Area in East Hampshire.⁷
10. Any order NE makes following the conclusion of that consultation exercise will of course only come into operation if confirmed by the Secretary of State.⁸ The Appellant has emphasised that the Secretary of State may call a public inquiry before deciding whether to confirm the order. He is however under no legal obligation to do so – in other words, a public inquiry is not a required or guaranteed further stage of the statutory process.
11. One of the other key points the Appellant takes against NE’s work is that NE has, the Appellant says, misunderstood its own methodology for identifying minor boundary refinements. Mr Gibbs bases that criticism on a single sentence in the 2023 consultation document (CD9.7, p. 48), which he says lays down three criteria for the identification of minor boundary refinements, including that the current boundary does not “*follow a clear feature on the ground*” – despite accepting:
- (a) The 2023 consultation document is supposed to be read alongside a number of supporting documents, including the 2023 Boundary Report (CD14.16). Indeed, NE made clear that the consultation document “*presents only outline information*” and that “*if... more detailed information about... [the] development*

⁷ See CD9.9, §§8.1.3-8.1.5.

⁸ Countryside and Rights of Way Act 2000, s. 83(3).

of the proposed boundaries” is required, reference should be made to the supporting documents.⁹

- (b) The presence or absence of a clear feature on the ground is presented as a relevant factor, but not a pass/fail criterion, in §3.2.1 and §3.2.5 of the Boundary Report (in the section headed “Rationale for Minor Boundary Refinements”). In the first of those paragraphs, NE expressly states that the “boundary anomalies include small parcels of land between the existing AONB and an urban area, where it may be appropriate to define an alternative boundary line closer to the built edge, and/or where the current AONB boundary does not follow a clear line on the ground” (emphasis added). Mr Gibbs confirmed that he does not allege that NE has failed to properly apply the methodology set out in §3.2.1 and §3.2.5 of the Boundary Report.
- (c) In the 2023 consultation document itself, NE presents the absence of a clear feature on the ground as an alternative scenario (and not a pass/fail criterion) when describing the approach which has been taken: “boundary anomalies... included small parcels of land between an urban area and the existing AONB boundary, or where the existing AONB boundary does not follow a feature on the ground” (emphasis added).¹⁰
- (d) NE did not treat the presence of a clear feature on the ground as determinative when assessing other sites: see e.g. the explanation that NE “has considered minor boundary anomalies on the fringes of Haslemere where the current AONB does not follow clear features on the ground and or where the land between the AONB boundary and the urban edge is part of a wider sweep of qualifying land”¹¹ and its explanation that “Minor boundary variations are made where the existing AONB boundary does not follow a clear feature on the ground or where there is no clear rationale for the boundary” (emphasis added).¹²

⁹ CD9.7, pdf p. 10.

¹⁰ CD9.7, pdf p. 10.

¹¹ CD9.10, pp. 15-16.

¹² CD9.10, p. 20.

12. In any event, the simple fact remains that NE is proposing to include the appeal site within the AONB – having confirmed its original view following a period of formal consultation, in which the Appellant could and did set out its objections to the proposal. As the Council has explained, the appeal scheme conflicts with NE’s proposed modification of the AONB boundary and this is a significant harm in its own right.

Green Belt

13. The appeal site lies entirely within the Green Belt. Mr Thurlow explained that it contributes to four of the five Green Belt purposes: it checks the unrestricted sprawl of Oxted (§143(a) of the NPPF); it prevents the neighbouring towns of Oxted and Limpsfield from further merging into one another (§143(b) of the NPPF); it assists in safeguarding the countryside from encroachment (§143(c) of the NPPF); and it assists in urban regeneration, by encouraging the recycling of derelict and other urban land (§143(e) of the NPPF). Mrs Wren also described the “*sweeping openness*” in which the appeal site is seen, including from public viewpoints.

14. The appeal scheme is agreed to constitute inappropriate development in the Green Belt, which is, by definition, harmful (see §152 of the NPPF). Mr Thurlow explained that it will give rise to harm in terms of loss of openness (which will “*aris[e] spatially, visually and by way of intensified use*” and will be permanent¹³) and in terms of conflict with the above four Green Belt purposes. In line with §153 of the NPPF, Mr Thurlow gives substantial weight to all those harms.

15. In view of the contribution the appeal site makes to the Green Belt purposes, Mrs Wren – like Mr Thurlow – does not consider it to satisfy the definition of “*Grey Belt*” in the draft NPPF.¹⁴ In any event, Mr Slatford made clear in his evidence in chief that “*we [should] not... apply specific wording in the draft NPPF*

¹³ See Mr Thurlow’s proof (CD12.2), §8.6.

¹⁴ CD8.3, p. 74.

to the appeal proposal because that wording could change.” The draft text is not policy – only a draft which has been put out for consultation, without any response (yet) from Government – and, as such, Mr Slatford accepts that it should carry no more than limited weight in the determination of this appeal.¹⁵

Ancient Woodland

16. It is common ground that the appeal site contains an area of Ancient Woodland – an *“irreplaceable habitat”* within the meaning of national policy. Mrs Wren described the Ancient Woodland as both *“highly important”* and *“remarkable”*, making particular reference to the presence of small heath butterfly and common pipistrelle bats (both of which are protected species).¹⁶

17. Mrs Wren has explained why she considers that the mitigation proposed by the Appellant will not prevent harm to the Ancient Woodland. In particular:

(a) The fencing will not prevent access to the Ancient Woodland, not least because there will be nothing to stop people climbing over it. Mrs Wren emphasised that this is what has already happened on the appeal site: the landowner has made numerous complaints about people accessing the site after it was fenced off with hoardings and barbed wire in 2013.¹⁷ She noted that, given the requirement for *“dark corridors”*, the Ancient Woodland will be *“a magnet for anti-social behaviour and drug dealing which is already a considerable problem in this part of Oxted.”*¹⁸

(b) Similarly, Mrs Wren explained that it will be impossible to prevent people from throwing garden and other waste over the fence and into the Ancient Woodland. Again, Mrs Wren emphasised that fly-tipping is something which is already happening in this area – drawing particular attention to

¹⁵ Mr Slatford’s proof (CD11.2), §15.1.

¹⁶ In the roundtable session.

¹⁷ CD14.14, §1.

¹⁸ CD14.14, §4.

the Appellant's own ecology evidence of fly-tipping at Chalk Pit Wood: see CD11.8, §4.2.7.

(c) The fencing will also not provide a total barrier to pesticides used by residents or to noise and light pollution (not just from their homes but also e.g. bonfires and fireworks).

(d) Mrs Wren questions whether the management company will be able to fund these measures (along with all the other matters for which they will be responsible) in perpetuity. She referred to issues on a neighbouring site, *"where the management company charged high fees and then disappeared"*, leaving the woodland to go *"to rack and ruin."*¹⁹

18. Overall, Mrs Wren considers that the harm to the Ancient Woodland will be *"substantial"*.²⁰

Highways

19. Access to the appeal site is proposed via a new junction onto Chichele Road, outside St Mary's Primary School. Mr Giles' evidence is that the proposals give rise to both safety concerns and would have adverse impacts on the local road network.

20. Mr Giles began by highlighting issues with the methodology adopted in the Appellant's highways work, including that:

(a) The geographic scope of the parking survey was limited to the area close to St Mary's School and the junction of Chichele Road/Silkham Road: see Mr Whittingham's figure 3.2. Mr Giles explained that analysis over a wider area including Barrow Green Road and the full length of Chichele Road is required to properly understand parking behaviour during school drop-off

¹⁹ CD14.14, §2.

²⁰ Mrs Wren's proof (CD13.3), §10.

and pick-up. This was underscored on the first morning of the inquiry, when members of the public noted that parents have been parking in the former Skinner's coach yard on Barrow Green Road since 2019 (but that this will soon no longer be possible, as the yard will shortly come back into use). As Mr Giles emphasised, those cars have not been accounted for.

(b) The traffic movement survey was undertaken on a single day (in February 2023), which Mr Giles explained "*is not sufficient*". The results of that survey (that the AM peak is greater than the two PM peaks: see Mr Whittingham's figure 3.3) do not correspond with Mr Giles' experience (having lived approximately 85m from the proposed site access for 47 years). Nor do they correspond with the experience of the headteacher of St Mary's, Mrs Lewis. She explained that the school has "*a rolling start in the morning*" which means that "*the morning peak is less extreme than the afternoon*". She identified the most "*chaotic*" period of time as between 2:45 and 3:45pm.

21. Mr Giles also identified a number of safety concerns, including: the proximity of the proposed site access to the junction of Chichele Road/Silkham Road; that it includes a "*pinch point*" which results in too narrow a carriageway (3.7m) and footway (2m); and that the proposed access will act as a "*magnet*" for parents who "*look to park wherever they can*". He explained that "*the proposed development will introduce even more cars and pedestrians into [an already] congested and chaotic situation*"²¹ and that, as fewer parents will feel safe allowing their children to walk to school, there will be still further cars driving down and trying to park on and around Chichele Road.

22. Mr Giles identified additional adverse effects associated with the removal of the bus stop by the proposed site access. He explained that this is not a duplicate of the Silkham Road stop shown on the timetable at CD10.10: the current scheduled service doesn't stop outside the school, and there are other

²¹ Mr Giles' proof (CD13.5), §11.

users to consider in any event (including coaches used for school trips which have significantly longer waiting times than scheduled bus services, and bus drivers who use the existing stop to take their rest breaks). The removal of the bus stop will, he said, inevitably increase congestion.

23. Residents were previously told that construction traffic would access the appeal site from Bluehouse Lane. The news that construction traffic will use Chichele Road instead has caused real concern. Mrs Lewis explained that this will disrupt the start of the school day (affecting the mental wellbeing of parents and in turn their children, and ultimately the quality of education they receive). Mr Giles also queried the appropriateness of sending construction traffic down Chichele Road, given that it is in effect *"a one-way road with passing spaces."*

24. Taking account of all those matters, Mr Giles concludes that the appeal scheme would have an unacceptable impact on highway safety and give rise to residual cumulative impacts on the road network that would be severe (within the meaning of §115 of the NPPF).²²

Flood risk and drainage

25. Mr Hurman explained that several surface water flood events have been experienced at the Chichele Road/Silkham Road junction in recent years: see the photos in his proof (CD13.4) taken in August of this year. Mrs Lewis and Mr Burns highlighted surface water flooding issues in their representations, too.

26. Mr Hurman's evidence is that the appeal scheme will increase offsite surface water flood risk, in conflict with §173 of the NPPF. He said, in particular, that *"because [the proposed access will introduce] a harder surface... in the right circumstances [there will be] an increase of water."*

²² Mr Giles' proof (CD13.5), §29.

27. Mr Hurman also gave evidence as to the issues with the foul sewerage system which residents are already experiencing – including overflows of foul water at the Chichele Road/Silkham Road junction. Mr Hurman’s concern is that these issues will inevitably be exacerbated by the appeal scheme.²³

28. In the roundtable session, Mr Allen agreed that “*there is clearly a capacity problem*” and said that he “*fully anticipates that [network reinforcement] will need to be done*” (although the Appellant has not yet contacted Southern Water and could not confirm precisely what the network reinforcement works will entail). The Appellant now accepts that a Grampian condition can be imposed in these circumstances. That is consistent with Southern Water’s own Briefing Note (Appendix 1 to Mr Hurman’s proof) and with the Supreme Court decision in *Barratt Homes Ltd v Dwr Cymru Cyfyngedig (Welsh Water)* [2009] UKSC 13 to which the Appellant referred to in opening. At [43] of that judgment, Lord Phillips recognised:

*“... The planning authority can make planning permission conditional upon there being in place adequate sewerage facilities to cater for the requirements of the development without ecological damage. If the developer indicates that he intends to deal with the problem of sewerage by connecting to a public sewer, the planning authority can make planning permission conditional upon the sewerage authority first taking any steps necessary to ensure that the public sewer will be able to cope with the increased load. Such conditions are sometimes referred to as Grampian conditions after the decision of the House of Lords in *Grampian Regional Council v Secretary of State for Scotland* [1983] 1 WLR 1340. Thus the planning authority has the power, which the sewerage undertaker lacks, of preventing a developer from overloading a sewerage system before the undertaker has taken steps to upgrade the system to cope with the additional load.”*

²³ See §§19-21 of his proof (CD13.4).

29. The key point is that, in circumstances where Southern Water cannot refuse to permit the connection, the planning system has an important role to play in ensuring the sewerage system is not overloaded. By imposing a Grampian condition, the planning decision-maker is able to ensure that necessary reinforcement works are carried out *before* additional flows are discharged.

Applying the decision-making framework

30. The parties all agree that §11(d)(i) of the NPPF is engaged. In those circumstances, the NPPF will support the grant of permission unless the application of its policies which protect areas or assets of particular importance provides a clear reason for refusing the development proposed. In other words, as Mr Slatford agreed, if at least one of the footnote 7 policies produces a clear reason for refusal, the presumption in favour of sustainable development will be overcome.

31. Mr Slatford agreed that §186(c) of the NPPF is a policy which relates to an irreplaceable habitat within the meaning of footnote 7 and, as such, that conflict with it is capable of providing a clear reason for refusing permission under §11(d)(i). Mrs Wren's evidence is that the appeal scheme will result in the deterioration of the Ancient Woodland and that §186(c) is breached.

32. There is no dispute that §152/153 and §182 of the NPPF are also capable of constituting a clear reason for refusing permission under §11(d)(i). As the Council explained in opening,²⁴ whether that is the case here turns on whether the very special circumstances test is met. Mr Slatford agreed with Inspector David Spencer's assessment in the Lingfield appeal decision that this imposes an "*extremely high policy bar [for the Appellant] to cross.*"²⁵

33. As Mr Thurlow explained, the appeal scheme would result in a number of substantial harms - in particular, to landscape (including by breach of the

²⁴ CD14.4, §§7-8.

²⁵ CD14.1, §§110 and 116.

requirement to protect and conserve valued landscapes and by harm to the AONB through development in its setting), to NE's proposal to designate the appeal site as part of the AONB, and to Green Belt openness and purposes. The Rule 6 Parties ask that the following additional harms also be weighed in the balance:

(a) The harm to the Ancient Woodland identified by Mrs Wren;

(b) The adverse traffic impacts identified by Mr Giles; and

(c) The increased surface water flood risk identified by Mr Hurman.

34. On the other side of the scales, Mr Thurlow gives substantial weight to the appeal scheme's delivery of market and affordable homes. He recognises that the Council is unable to demonstrate a five-year housing land supply (the agreed position being that supply stands in the order of 1.8-1.9 years²⁶) – but also notes the following:

(a) This district is subject to major policy and infrastructure constraints. 94% of the district falls within the Green Belt. It also contains two AONBs, areas of flood risk, and significant infrastructure capacity constraints (including around the M25 J6). So, whilst the 5YHLS position is calculated using the standard method on this appeal, there is a reasonable expectation that the Council will not be required to meet its OAN in full through its new local plan (and indeed this was accepted by the last examining inspector).²⁷

(b) Mr Thurlow explained that the Council "*put very strenuous efforts into avoiding having to withdraw the [2019 draft plan]*", having "*put forward a range of proposals to the examining inspector including having a shorter plan period*".

²⁶ SoCG (CD11.3), §5.8.

²⁷ See Mr Thurlow's proof (CD12.2), §7.3.

Unfortunately, the inspector's concerns could not be resolved, and the Council had no choice but to withdraw the plan in April 2024.

- (c) The Council is now *"in the process of looking to prepare a new local plan... as quickly as it possibly can"*.²⁸ It adopted a Local Development Scheme in June 2024, which anticipates reg. 18 consultation being undertaken in Q2 2025/26, the publication of a reg. 19 draft in Q1 2026/27, and submission for examination in Q3 2026/27.

- (d) In the meantime, the Council has identified a *"clear delivery pipeline of new housing"* through its Interim Policy Statement on Housing Delivery (*"IPSHD"*).²⁹ The Council has granted planning permission for four large Green Belt sites in accordance with the IPSHD. Mr Thurlow explained that two of those sites (Young Epilepsy St Piers Lane and Godstone Quarry) were not *"Appendix A"* sites which benefited from a draft allocation, but the applications were nonetheless granted because they provided exceptional and significant public benefits (in accordance with Appendix B to the IPSHD).

- (e) The Council has its own programme for delivering substantial numbers of affordable homes.³⁰ It has recently completed 100 new council homes, delivered 11 new homes for affordable rent in Caterham and Warlingham, and completed 2 buybacks of former Right to Buy properties and 13 buybacks using the Government's Local Housing Authority Fund. In the next 6 to 12 months, a further 166 affordable homes will be completed or started.

35. In addition, Mr Taylor accepted that (a) the median affordability ratios set out in his evidence (i.e. comparing Tandridge house prices to Tandridge salaries)

²⁸ As explained by Mr Thurlow in EiC.

²⁹ Mr Thurlow's proof (CD12.2), §7.2 and §10.4.2.

³⁰ See §7.4 and §10.4.3 of Mr Thurlow's proof.

do not take account of the fact that *“Levels of out-commuting [in this district] are high (71.6%), with a flow of around 3,500 commuters to Reigate and Banstead Borough... [and] around 12,500 residents commuting to work in the City and London Boroughs”*³¹ and (b) unlike the affordable homes which the Council is providing directly, there is no guarantee that all the affordable homes delivered through a scheme like this one will go to people on the Council’s housing register.

36. And, whilst the Appellant relies on the fact that Oxted was the highest-scoring settlement in the District Hierarchy Study (CD5.10) as part of its case on very special circumstances:

(a) Mr Slatford agreed that adopted policy CSP1 does not draw any distinction between the Category 1 settlements. In other words, Oxted is not singled out as the top-tier settlement in the adopted spatial strategy.

(b) The list of settlements in the Settlement Hierarchy Study scorecard (Appendix 1 to CD5.10) does not correspond with the list of settlements in policy CSP1. In particular, the score for Caterham is split between two entries (for Caterham Valley and Caterham on the Hill).

(c) The Council considered the *“initial rankings”* in the scorecard alongside other considerations, including population size. On that metric, Oxted came in at fifth place: see CD14.15, table 4. The Council then used that information to draw up a proposed Settlement Hierarchy – in which Oxted was identified as a tier 1 settlement alongside six other settlements. Again, Mr Slatford agreed that Oxted was not singled out as the only top-tier settlement in the district.

(d) Mr Slatford also agreed that it is possible that the Council’s new local plan will create a new settlement, and the fact that Oxted is at the top of the

³¹ CD5.1, §7.7.

“initial rankings” in the Settlement Hierarchy Study does not mean that all or most new development will be accommodated here. Indeed, in the Settlement Hierarchy Study itself, the Council tells us that the Study *“does not make any decisions regarding whether a settlement should accommodate growth”* and that it *“should not be considered in isolation of the wider evidence base”* (CD14.15, p. 10) – which Mr Slatford agreed includes the Green Belt Assessments.

37. Even without taking account of the additional harms identified by the Rule 6 Parties, Mr Thurlow concludes that this scheme’s harms are not clearly outweighed by other considerations and that permission should therefore be refused in accordance with §152-153 NPPF.

38. In striking that balance, reference has been made to two recent appeal decisions relating to other Green Belt sites in this district: Limpsfield Road, Warlingham (CD6.1) and Station Road, Lingfield (CD14.1). In the latter case, Inspector David Spencer refused permission for 99 homes at a time when the Council’s 5YHLS was lower than it is agreed to be for the purposes of this appeal (*“likely... 1.54 years”*³²). In doing so, he identified *“significant differences”*³³ with the successful Warlingham appeal:

(a) The Warlingham scheme delivered public benefits through the reprovision and enhancement of sports facilities. The Lingfield scheme did not propose benefits of that kind. Nor does the scheme at issue on this appeal.

(b) In the Warlingham appeal, there were no *“other harms”* to be weighed in the §§152-153 balance. In contrast, on the Council’s and Rule 6 Parties’ cases on this appeal, there is significant *“other harm”* to landscape. Mr Slatford agreed that there is a material similarity between the landscape harms

³² CD14.1, §84.

³³ CD14.1, §109.

which form part of the Council's case on this appeal and the heritage harm identified by the Inspector in the Lingfield appeal.

(c) The Warlingham site had the benefit of a draft allocation in the emerging plan, in relation to which no specific soundness concerns had been raised by the examining inspector. The appeal site did not, of course, benefit from any draft allocation at all.

(d) The Warlingham site was identified as a "*possible site*" through Appendix A of the IPSHD. The appeal site, like the Lingfield site, is not.

39. To reiterate: even where an authority is unable to demonstrate a 5YHLS, the "*very special circumstances*" test imposes an "*extremely high policy bar [for an appellant] to cross.*" The Rule 6 Parties agree with the Council that the Appellant has failed to overcome that extremely high bar on this appeal.

40. For all those reasons, and those advanced by the Council, the Rule 6 Parties ask that the appeal be dismissed.

Isabella Buono
Landmark Chambers

8 October 2024