

APPELLANT'S STATEMENT OF CASE

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

Appeal in relation to Refusal of Planning Permission for:

“Development of the site for 80no. residential dwellings including 40% affordable housing, associated landscaping, amenity space and car parking (outline application all matters reserved aside from access)”

Prepared by Daniel Watney LLP, on behalf of Croydon and District Education Trust

October 2024

CONTENTS

1	Introduction.....	3
2	Appropriateness for Inquiry Procedure	4
3	The Appeal Site.....	5
4	Planning History	7
	OneSchool Global.....	8
5	The Planning Application and Decision	10
	Pre-Application Discussions.....	10
	Submission of Planning Application.....	10
	Determination	12
6	Contents of the Planning Application.....	14
7	Consultee and Third Party Responses.....	15
8	Accordance with the Development Plan.....	16
9	The Appellant's Case	19
	The Appellant's Case: Reason for Refusal 1.....	19
	The Appellant's Case: Reason for Refusal 2	19
	Appellant's Case – Reason for Refusal 3	26
	Appellant's Case – Reason for Refusal 4.....	27
	Appellant's Case – Reason for Refusal 5.....	27
	Appellant's Case – Reason for Refusal 6	28
	Appellant's Case – Reason for Refusal 7	29
10	Summary of Appellant's Case.....	31
11	Draft Conditions and Planning Obligations.....	33

Appendices

Appendix 1	SCC Highways Pre-Application Response June 2022
Appendix 2	SCC Heritage Pre-Application Response September 2022
Appendix 3	Proposed Site Layout Plan Rev C
Appendix 4	Original SCC Heritage Consultation Response
Appendix 5	TDC Tree Officer Consultation Response
Appendix 6	Revised SCC Heritage Consultation Response
Appendix 7	Original Sport England Consultation Response
Appendix 8	Decision Notice

- Appendix 9 Officers' Report
- Appendix 10 List of Documents and Plans Submitted and for Approval
- Appendix 11 Response to Consultees and Third Parties
- Appendix 12 List of Relevant Policies
- Appendix 13 Existing Hardstanding Site Plan
- Appendix 14 Limpsfield Appeal Decision

1 Introduction

- 1.1 This Statement of Case (SoC) has been prepared by Daniel Watney LLP on behalf of the Croydon and District Education Trust (CADET, herein the appellant) setting out the appellant's case against the decision of Tandridge District Council (the Council) to refuse planning application ref. 2023/878 (the application), for the redevelopment of the Land South of Kenley Aerodrome, Victor Beamish Way, Surrey, CR3 5FX (the Site).
- 1.2 The planning application subject to this appeal was submitted by Daniel Watney LLP on behalf of the appellant, validated by the Council on 11 July 2023 and was allocated the reference number 2023/878 (the appeal scheme).
- 1.3 The application was submitted in outline, with all matters reserved except for access. The description of development as stated on the decision notice is as follows:
- “Development of the site for 80no. residential dwellings including 40% affordable housing, associated landscaping, amenity space and car parking (outline application all matters reserved aside from access)”*
- 1.4 The appeal scheme evolved through the pre-application engagement undertaken by the appellant with the Council and Surrey County Council (SCC) on highways and heritage matters and residents including the Caterham Flood Area Action Group (FLAG). The full details of this engagement is set out in the Planning Statement, prepared by Daniel Watney LLP and the Statement of Community Involvement, prepared by Cratus, which were submitted with the application.
- 1.5 Discussions will be held with the Council on the content of the Statement of Common Ground, and a first draft is submitted with this appeal for the Council and Inspector's review.

2 Appropriateness for Inquiry Procedure

- 2.1 With reference to the Government's 'Planning Appeals: Procedural Guide' first published in 2015 and last updated on 17 September 2024 "criteria for determining the procedure for planning, enforcement, advertisement and discontinuance notice appeals", the appellant considers that an inquiry represents the most appropriate procedure for this appeal in order to properly consider all the relevant evidence. Five days should be set aside for the inquiry (assuming it will be held "in person"). The appellant considers an inquiry to be the most appropriate procedure for the following reasons:
- 2.1.1 The evidence relating to the Green Belt, heritage, transport and other technical matters will need to be tested through formal examination by an advocate. Several of the reasons for refusal (pertaining to heritage assets, trees, ecology and landscaping) contradict statutory and relevant consultee responses received by the Council on those matters, therefore the Council's evidence on these matters needs to be tested through cross examination.
 - 2.1.2 The assessment of the Green Belt case, impact upon heritage assets, transport, sustainability, and other technical matters referred to by the Council in its decision notice are complex and most appropriately tested in cross examination.
 - 2.1.3 The application proposals attracted appreciable local interest, including that of a sitting Member of Parliament. An inquiry procedure would most appropriately allow any interested party to formally represent their interests.
 - 2.1.4 An inquiry will provide the most appropriate forum for expert witnesses to provide evidence and for that evidence to be tested.

3 The Appeal Site

- 3.1 This appeal site is located within the Portley ward of Caterham, a Category 1 Settlement (Policy CSP1 of the Core Strategy 2008). The site lies entirely within the settlement boundary of Caterham which is to the north of the administrative boundary of Tandridge district. The site lies entirely within the administrative boundary of the Council.
- 3.2 The appeal site forms part of the former Royal Air Force Station Kenley (RAF Kenley). It played a significant role during the Battle of Britain as one of the three RAF stations tasked with defending London.
- 3.3 The appeal site measures 4.74 hectares, of which 29.8% is previously developed land (PDL), comprising areas of former buildings, structures and hardstanding.
- 3.4 The appeal site is proximate to the borough boundary of the London Borough of Croydon which is immediately to the north of the appeal site and includes the Kenley airfield.
- 3.5 The appeal site excludes the former NAAFI building and parade ground, which is in the centre of the site and which is owned by OneSchool Global, an independent day school, for pupils aged between 7 and 18. Planning permission and Listed Building Consent for the school was granted in May 2015 (LPA ref. 2015/179 and 2015/244 respectively). OneSchool opened in September 2015 following the acquisition of the site by the Oakhill Education Trust. At present, the existing school accommodates around 140 junior and senior pupils.
- 3.6 The appeal site is located within the Kenley Aerodrome Conservation Area. This was designated in 2006 and partly lies within the London Borough of Croydon.
- 3.7 The north west part of the appeal site contains the Grade II listed Former Dining Room and Institute associated with the former RAF Kenley.
- 3.8 In terms of national designations at RAF Kenley, these comprise, to the north of the site, eleven blast pens, each identified as an Ancient Scheduled Monument circling the airfield (NHLE refs: 1021242-3), whilst the Grade II listed Officers' Mess and Institute are located to the south-east (NHLE refs: 1334947 and 1334946 respectively).
- 3.9 The appeal site forms the setting of the Grade II listed NAAFI building now in use by OneSchool Global. Within the curtilage of the NAAFI is the parade ground which is used as a playground by the school. To the east of the principal school building are four portacabins which are used as teaching facilities.
- 3.10 The appeal site encompasses the area outside of the school campus. This includes land to the north and south which was previously occupied by buildings related to the former use of the appeal site as part of the former Royal Air Force Station, which operated from 1917 until the 1970s. The appeal site remained within the ownership of the MOD until the 1990s, and has not been developed since.
- 3.11 The appeal site contained a number of buildings associated with the aerodrome of which remnants remain.
- 3.12 Land to the north comprises part of the identified developable area as part of withdrawn Local Plan 2019 draft allocation Policy HSGO6, which is grassland with a single, large and very dilapidated 'workshop' which is demonstrably no longer fit for any purpose and is therefore proposed to be

removed. Surrey County Council (SCC), in its capacity as conservation consultee, accepted the principle of its removal and requested that this building is recorded, and this will duly be done in accordance with that request. It is expected that this is the subject of a condition or obligation of any planning permission.

- 3.13 The southern parcel of land, which was included within Policy HSGO6, comprises grass covered hard standing. It was used by OneSchool Global with the permission of the appellant as an overspill informal 'kick-about' area. This land did not form part of the school's planning permission (ref. 2015/179).
- 3.14 Beyond the northern boundary of the appeal site lies the operational Kenley Aerodrome. To the east, south and further west of the south boundaries, the area is predominantly residential, characterised by suburban two and three-storey detached, semi-detached, and terraced housing.
- 3.15 Presently the entirety of the site is located within the Metropolitan Green Belt. The withdrawn draft allocation Policy HSGO6 proposed that the appeal site be removed from the Green Belt. The relevance of this draft allocation is considered throughout this statement.
- 3.16 All trees situated within the appeal site are the subject of a Tree Preservation Order (TPO) by virtue of the Site's location within a Conservation Area.
- 3.17 The appeal site benefits from close proximity to the A22, within walking distance of Whyteleafe and Whyteleafe South railway stations, as well as multiple amenities within the residential area of Caterham. The site has one principal access point to the south via Salmons Lane West.

4 Planning History

- 4.1 The appellant has reviewed the Council's online planning register (www.tandridge.gov.uk). There are many minor applications (e.g. discharge of conditions and TPO applications) which are not relevant to the determination of the appeal. The relevant planning history across the Kenley Campus site is summarised in Table 1 below.

Council Ref.	Description	Decision	Date
2024/53	Removal of 4no. temporary buildings and the extension of the existing building to create a multi-use sports and educational facility to the eastern elevation, together with internal alterations to the main building, sports pitches to the front of the site and amended vehicular access arrangements .	Approved	14/08/2024
2024/72		Approved	14/08/2024
2019/926	Provision of a new relocatable Gospel Hall (D1 use class) for a temporary 5-year basis, to be provided with associated car parking, modified vehicular access and new landscaping.	Refused	04/05/2020
2015/244	Change of use of the former NAAFI building to be used as an independent secondary school. Formation of roof over voids and internal alterations (Listed Building Consent)	Approved	06/05/2015
2015/179	Change of use of former NAAFI building to secondary school (Class D1). Formation of roofs to voids within existing building to centre and north of building. Formation of new access drive and parking.	Approved	06/05/2015
2012/49	Demolition of part of building. erection of extension and conversion of former workshop building at Kenley Aerodrome for use as a new independent secondary school. Formation of parking and hardsurfacing.	Withdrawn	02/07/2012
2009/1296	Change of use to provide day school, incorporating use of parade ground as play area and upgrading of field to use as playing field – application to extend time limit for implementation of permission 2004/903.	Approved	09/12/2009
2004/1665	Internal and External Alterations (to the Former NAAFI Building)	Approved	22/11/2004
2004/903	Change of use to provide day school, incorporating use of parade ground as	Approved	19/10/2004

	play area and upgrading of field to use as playing field.		
2003/474	Improvements to existing site access road and junction, to adoptable standard. Conversion of former workshop building (incorporating infilling of courtyard) to place of worship (class d1) with associated parking & landscaping.	Approved	20/05/2003

Table 1: Planning History

4.2 Table 1 confirms that there has been no relevant development on the appeal site and that the focus of development in the recent past relates to the school's use of the Former NAAFI Building and operations across the surrounding land.

ONESCHOOL GLOBAL

4.3 The 2015 planning permission (LPA ref. 2015/179) was granted for the change of use of the NAAFI building to a school use, together with the creation of access and parking. The approved Site Plan below identifies the extent of the site that was approved for an educational use.



Figure 1: (LPA ref. 2015/179) Approved Site Plan

4.4 The appeal site and the school site were acquired from Cala Homes in c.2013. Prior to that for most of the twentieth century the site was owned by the Ministry of Defence and previously used as part of RAF Kenley. The appeal site has never been publicly accessible. The land remains fenced off, undesignated and is not accessible by members of the public.

4.5 Since the creation of the school following the 2015 planning permission (LPA ref. 2015/179), the southern parcel of land outside of the red line approved by application 2015/179 was used very occasionally for informal play and kick-about by the school with the informal agreement of the appellant. Planning permission was not sought for the change of use. The use ceased in early 2023. The land has never in its history been publicly accessible or accessed or used by any other educational organisation for any use.

4.6 The school has 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 site (within the original redline of the site) ensuring on-site provision of safe sports facilities in perpetuity of the school's use of the site.

5 The Planning Application and Decision

PRE-APPLICATION DISCUSSIONS

TANDRIDGE DISTRICT COUNCIL

- 5.1 By mid-2021, it was apparent that progress with the Local Plan had stalled significantly following the 2019 Examination in Public as the Council was struggling to respond to the Inspector's questions regarding its main housing allocation at Godstone. At this point CADET instructed work to be undertaken to progress a pre-application submission for:

'the development of the site for 88 residential dwellings (36 of which are proposed to be affordable) together with landscaping (outline all matters reserved aside from access)'

- 5.2 Following the submission of a pre-application request to the Council in June 2022, a pre-application meeting was convened with the Council on 15 July 2022.
- 5.3 The Council allocated the request to Mr Stewart, interim planning officer. The verbal advice received was heavily caveated and relied upon receiving a response from the Council's policy team. An undertaking was given that this would be included in a written response from the Council.
- 5.4 The pre-application service requested included an undertaking to provide a written response following a meeting. However, no such response was ever received despite numerous emails chasing Mr Stewart and Mr Thurlow (the then Chief Planning Officer). The last chasing email was sent to the Council on 3 November 2022. No formal written response was ever issued by the Council.

SURREY COUNTY COUNCIL

- 5.5 Contemporaneously, a pre-application request was submitted to SCC as highway authority. SCC issued its pre-application advice on 22 June 2022 (Appendix 1). The advice concluded that the proposals could be supported subject to a mitigation package to minimise reliance upon the private car.
- 5.6 A meeting was also convened with SCC in its capacity as conservation consultee for the Council. Following a site meeting SCC issued its written advice on 2 September 2022 (Appendix 2) advising that the site is capable of accommodating residential development without resulting in substantial harm or less than substantial harm incapable of being mitigated. This could be achieved through alterations to the layout.
- 5.7 Having established the position of SCC on the matters of highways and heritage, and that it was apparent that the Council did not intend to issue any written advice, the decision was taken to progress with an outline planning application with all matters reserved aside from access.
- 5.8 Between November 2022 and July 2023, the proposed scheme was refined and technical reports prepared. In March 2023, two public consultation events were held at OneSchool Global, Kenley.

SUBMISSION OF PLANNING APPLICATION

- 5.9 The outline planning application was submitted on 11 July 2023 with all matters reserved aside from access.
- 5.10 On 7 September 2023, the Council acknowledged receipt of the valid application on 11 July 2023 and

- 5.11 advised that the target determination date was 10 October 2023. The case officer assigned to the application was Mr Scott (Planning Officer).
- 5.12 On 12 October 2023, Mr Scott notified the appellant that he would be leaving the Council on 17 October 2023 and that Mr Lee would be taking the case forward. His emailed stated that they would be:

“doing a sweep of all the comments received so far and will ensure they are available in the public domain so that you can review them – this will be completed by early next week”.

CONSULTATION RESPONSES

PUBLIC CONSULTATION RESPONSES

- 5.13 The Council received 45 consultation responses from members of the public and interested parties, including the adjacent MP for Croydon South, Mr Philp. The objections to the scheme cited usual concerns related to pressure on infrastructure, visual impact and loss of open space. The final position of all consultees who responded to the consultation on the planning application is set out below:

- 5.13.1 Lead Local Flood Authority – No objection
- 5.13.2 Ministry of Defence (MoD) – No objection
- 5.13.3 Environment Agency – No objection
- 5.13.4 Natural England – No objection
- 5.13.5 Highways England – No objection
- 5.13.6 Surrey Police – No objection
- 5.13.7 Sport England – See Section 5
- 5.13.8 SCC Highways – See Section 5
- 5.13.9 SCC Heritage – See Section 5
- 5.13.10 Tree officer – See Section 5
- 5.13.11 Surrey Wildlife Trust – See Section 5

- 5.14 Upon receipt of the technical consultation responses, the appeal scheme was amended and revised plans and documents were submitted. This resulted in an amended layout (Appendix 3), retaining more trees and reducing the unit number from 87 to 80 in the southern part of the site. The amendments also directly addressed the original comments received from SCC’s Senior Historic Buildings Officer on 15 September 2023 (Appendix 4) and the Council’s Principal Tree Officer on 17 October 2023 (Appendix 5). The amended layout also provided clarification for the benefit of the MoD that the proposed heights of the scheme would not breach its safeguarding zone. The amended layout was submitted to the Council on 17 January 2024.
- 5.15 Following the submission of the amended layout, updated consultation responses were received from the MoD, the tree officer and SCC’s conservation officer. The MoD withdrew their objection. SCC’s Senior Historic Buildings Officer in their final response dated 14 February 2024 (Appendix 6) concluded that:

“subject to the reserved matters, I am of the opinion that the scheme overall will result in a benefit to the conservation area”

- 5.16 The Council’s Principal Tree Officer provided their final response on 6 March 2024 (within Appendix

5), the conclusion and recommendation section removed the original response's citing of a conflict with local policy and guidance and set out some remaining concerns for tree planting, referring back to Paragraph 3.7 of the response which "suggests in any detailed application further provision is made for large species tree planting".

- 5.17 In relation to Sport England, on 17 January 2024, the Council placed Sport England's objection (dated September 2023) on its website, which belatedly, was how the appellant became aware of their objection (Appendix 7).
- 5.18 On 12 March 2024, a meeting with the Council was convened. At the meeting with the case officer (Mr Lee) the outstanding objections were confirmed: Sport England, highways and Surrey Wildlife Trust. At the meeting, Mr Lee advised the forthcoming Committee dates and confirmed that he looked forward to a resolution to the three outstanding matters, accepting that officers may need to take a view regarding the highway objection. Following the meeting work continued to address the two principal objections from Sport England and SCC as highway authority. Mr Lee was copied to all correspondence with Sport England and SCC.

DETERMINATION

- 5.19 On 13 May 2024, Mr Lee emailed Daniel Watney LLP to advise that the Council intended to refuse the application using delegated powers.
- 5.20 The Council did not agree a further extension of time to enable a resolution with Sport England and SCC as highways authority and refused the application on the same day, placing the decision notice on the website prior to issue to Daniel Watney LLP.
- 5.21 The Decision Notice dated 13 May 2024 and Officer's Delegated Report (ODR) can be found at Appendix 8 and 9.
- 5.22 Seven reasons for refusal are cited on the Decision Notice as follows:
1. The proposal would result in the loss of a playing field, which would not be replaced as part of the proposal and would therefore conflict with Policy CSP13 of the Tandridge District Core Strategy 2008, Policy DP 18 of the Tandridge Local Plan – Part 2: Detailed Policies 2014, Sport England's Playing Fields Policy and Guidance Document and with Paragraph 103 of the National Planning Policy Framework (December 2023).
 2. The proposed development is considered to be inappropriate development in the Green Belt, given that it would fail to comply with any of the defined exceptions at paragraphs 154 and 155 of the National Planning Policy Framework (December 2023). The cumulative benefits of the scheme which have been presented as Very Special Circumstances (VSCs) are insufficient to outweigh the substantial harm to the Green Belt, by virtue of inappropriateness and due to the harm to openness that would arise, in addition to the significant harm to the character and appearance of the site, area and landscape. Accordingly, the proposed development is considered to be contrary to Policies DP10 and DP13 of the Tandridge Local Plan 2014 Part 2: Detailed Policies and the NPPF (December 2023).
 3. The site is located in an unsustainable location in transport terms, where the only realistic means of transport would be the private car, due to the distance to local amenities, the lack of suitable pedestrian and cycle connections to those amenities, and the limited availability of accessible public transport services. This is contrary to the aims of the NPPF (December 2023), the Surrey Local Transport Plan 4 (2022) Policy CSP1 Tandridge District Core Strategy (2008), and Policy DP1 of the Tandridge Local Plan 2014 Part 2: Detailed Policies.

4. The proposals would result in an unacceptable impact to highway capacity, in particular at the roundabout junction of Salmons Lane West, Buxton Lane and Ninehams Road, contrary the aims of the NPPF (December 2023) , the Surrey Local Transport Plan 4 (2022) the Tandridge Core Strategy 2008 and Policy DP5 of the Tandridge Local Plan – Part 2: Detailed Policies 2014.
5. The proposed development would result in the felling of a significant number of protected trees subject to Tree Preservation Order protection or protected due to their location within the Kenley Aerodrome Conservation Area. The indicative layout details provided would not allow for the retention of existing trees that are important by virtue of their significance within the local landscape and would not appear to allow sufficient space for appropriate replacement planting and as such the proposal would conflict with the requirements of Policy CSP 21 of the Tandridge District Core Strategy 2008, Policy DP7 of the Tandridge Local Plan – Part 2: Detailed Policies 2014 and paragraph 180 of the National Planning Policy Framework (December 2023).
6. Insufficient information has been provided to allow a full assessment of the potential harm of the proposed development on designated and non-designated heritage assets, including the Kenley Aerodrome Conservation Area within which the application site is located and the Grade II listed former Dining Room and Institute building which the application site surrounds. Proposed ‘mitigation’ measures have not been detailed and it has not been demonstrated that the public benefits of the proposal would significantly outweigh the less than substantial harm that would result to the character and appearance of the conservation area, the impact on the character and setting of the listed building and through the loss of the non-designated former workshop buildings as a result of the development. As such, the proposal would conflict with Policy DP20 of the Tandridge Local Plan – Part 2: Detailed Policies 2014 and paragraphs 205, 206, 208 and 209 of the National Planning Policy Framework (December 2023).
7. Insufficient information has been provided to demonstrate that the proposed development would conserve and enhance the natural environment and deliver an appropriate level of biodiversity net gain. As a result, the proposal would conflict with the requirements of Policy CSP17 of the Tandridge District Core Strategy 2008, Policy DP19 of the Tandridge Local Plan – Part 2: Detailed Policies 2014 and the National Planning Policy Framework (December 2023).

6 Contents of the Planning Application

6.1 The full list of planning application drawings and supporting documents is included at Appendix 10.

7 Consultee and Third Party Responses

- 7.1 The consultation responses received from statutory consultees are summarised within Appendix 11 along with consultation responses received from third parties including individual objections, the resident's association, the neighbouring Member of Parliament, Chris Philp.

8 Accordance with the Development Plan

8.1 Section 70(2) of the Town and Country Planning Act 1990 (as amended) states that:

“in dealing with an application for planning permission...the authority shall have regard to the provisions of the development plan, so far as material to the application...and any other material considerations”.

8.2 Section 38(6) of the Planning and Compulsory Purchase Act (2004) states that:

“if regard is to be ad to the Development Plan for the purpose of any determination to be made under the planning Acts, the determination must be made in accordance with the plan unless material considerations indicate otherwise”.

8.3 Paragraph 12 of the NPPF states that:

“the presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision-making. Where a planning application conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed”.

8.4 The Development Plan documents relevant to the site currently comprise the following, with the relevant policies referred to in Appendix 12.

8.4.1 Tandridge District Core Strategy 2008;

8.4.2 Tandridge Local Plan Part 2: Detailed Policies 2014–2029;

8.4.3 Caterham, Chaldon and Whyteleafe Neighbourhood Plan 2021;

8.4.4 Surrey Minerals and Waste Local Plan.

8.5 A material consideration in the determination of the appeal is the draft National Planning Policy Framework (July 2024).

8.6 At the time of submission of the planning application, the appeal site benefited from a draft allocation in the withdrawn Local Plan (withdrawn draft allocation HSG06, Land off Salmons Lane West). The resolution to withdraw “Our Local Plan 2033” was made at a Full Council meeting, held on 18 April 2024.

8.7 The Inspector’s Final Report stated at Paragraph 75 in respect of HSG06 (and HSG12) that he had:

“requested further evidence regarding HSG06: Land off Salmons Lane West, Caterham...in respect of the effect of the proposals on designated heritage assets”

8.8 Further that he had not:

“received the requested information and therefore continue to consider these allocations unjustified”.

8.9 A Heritage Statement (including a Statement of Significance) assessing the significance of heritage assets regarding HSG06 was prepared by Montagu Evans and submitted with the planning application. This was reviewed by Surrey County Council’s conservation officer who agreed with the

assessment of the heritage assets set out in the Statement of Significance and had no objection to the scheme.

- 8.10 The Local Plan Inspector subsequently issued a letter to the Council in March 2022 setting out the documents which needed to be reviewed and updated before the EiP could reconvene. These related to housing land supply. The Inspector did not request any alterations to the Green Belt Assessment documents. In the absence of any material changes in relation to the assessment of the Green Belt, it is considered that the council's evidence base in relation to the Green Belt can still be relied upon and significant weight should be given to these.
- 8.11 Paragraph 11(d) and footnote 8 of the NPPF provides clear guidance that for applications involving the provision of housing, where (a) the local planning authority cannot demonstrate a five year supply (as the adopted Plan is more than five years old) or (b) where the Housing Delivery Test indicates that the delivery of housing was below 75% of the housing requirement over the previous three years, permission should be granted unless (i) the application of policies in the NPPF for areas such as Green Belt provides a clear reason for refusing the scheme, or (ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.
- 8.12 The Tandridge Author Monitoring Report for 2023/24 determined that the Council is unable to demonstrate a five-year housing land supply (5YHLS) and identifies 1.92 of years of total supply (equivalent to a shortfall of 2,341 homes). The proposed revised standard method shows an increase in Tandridge's annual target from 634 to 773.
- 8.13 On 23 December 2023 the most recent results of the 2023/24 Housing Delivery Target (HDT) were published. The Council is identified as having delivered 38% of homes required between 2019/20 – 2021/22, further representing a longstanding underachievement to meet the target, demonstrating the local policies most important for determining the appeal are out-of-date.
- 8.14 Both the Core Strategy and Local Plan Part 2 were adopted prior to the adoption of the latest NPPF and have not been reviewed since their adoption to assess the degree of consistency with the Framework nor have they been assessed to determine if policies need updating (Paragraph 33, NPPF). Reviews at least every five years are a legal requirement for all local plans (Regulation 10A of the Town and Country Planning (Local Planning) (England) Regulations 2012).
- 8.15 Indeed, the Council's Housing Delivery Test Action Plan 2024 states:

"The Council can no longer rely upon the housing provision set out in the adopted Core Strategy (125dpa) due to the age of the document and should therefore use the most up-to-date and relevant guidance, that being the current NPPF."

- 8.16 Paragraph 53 of the Action Plan also states that:

"Given the extent of these constraints it is considered unreasonable for the Council to meet its full housing need as identified using the standard method; the objectively assessed housing need assessment presents an inaccurate view of the realities of housing delivery for Tandridge District Council."

- 8.17 For the reasons above, the appellant considers some of the most relevant policies in the adopted local development plan are out of date. (Paragraph 225, NPPF). The appellant assesses the relevant local policies as part of its case in the next section.

- 8.18 The Housing Delivery Test Action Plan 2024 states that:

"an appropriate spatial strategy and housing requirements for the new plan-period has yet

to be established. Therefore, the Council is not in a position to address the immediate housing need through the plan-making process and are subsequently reliant on the existing Interim Policy Statement for Housing Delivery until such time as a new Local Plan has made sufficient progress for it to be a material consideration in decision-taking.”

- 8.19 Paragraph 49 of the Action Plan 2024 states that the Interim Policy Statement for Housing Delivery is a material consideration in decision-making.
- 8.20 In summary, the appeal site no longer has a draft allocation setting out its suitability and appropriateness for removal from the Green Belt for the redevelopment of the site for residential development. The Interim Policy Statement, and reiterated in the Action Plan 2024, allows for the delivery of site allocations that were proposed in ‘Our Local Plan 2033’ where the examiner did not raise concerns.
- 8.21 Furthermore, as described, additional heritage information was requested for the Inspector to confirm that the allocation was justified. This information has been prepared and submitted as part of the planning application to the satisfaction of SCC as the competent authority regarding heritage assets.
- 8.22 There are significant benefits to the appeal scheme and other material considerations including:
- 8.22.1 The delivery of 80 residential units
 - 8.22.2 The delivery of 40% affordable housing
 - 8.22.3 The development of a brownfield site
 - 8.22.4 The creation of construction jobs in Caterham
 - 8.22.5 Support for local buses and other local services and business
- 8.23 Based on the material considerations and benefits that are summarised in this Statement of Case and will be expanded on in evidence, planning permission should be granted having regard to the presumption in favour of sustainable development and the approach to decision making set out in Paragraph 11 of the NPPF 2023.
- 8.24 In summary, the appeal scheme complies with the development plan when read as a whole and so the appeal should be allowed as material considerations far from indicate otherwise and lend further support for granting permission. Alternatively, if it is concluded that the appeal proposals do not accord with the development plan, the appeal should still be allowed as material considerations in particular the benefits of the appeal proposals would indicate that permission should be granted.

9 The Appellant's Case

- 9.1 The matters expected to be common ground between the appellant and the Council are contained within the draft Statement of Common Ground submitted as part of the appeal.
- 9.2 The appellant's case regarding matters of potential disagreement are set out below in regard to each of the seven reasons for refusal (RfR).

THE APPELLANT'S CASE: REASON FOR REFUSAL 1

- 9.3 Refusal reason 1 asserts that the proposal would result in the loss of a playing field, which would not be replaced as part of the proposal and would therefore conflict with Policy CSP13 of the Tandridge District Core Strategy 2008, Policy DP 18 of the Tandridge Local Plan – Part 2: Detailed Policies 2014, Sport England's Playing Fields Policy and Guidance Document and with Paragraph 103 of the National Planning Policy Framework (December 2023).
- 9.4 The reason for refusal refers to the southern parcel of land to the south of the appeal site.
- 9.5 As set out above, the southern parcel of land was excluded from the redline boundary of application 2015/179 granting planning permission for the NAAFI building and its curtilage to educational use (now OneSchool Global). This is evident from the redline of the school's permission. The land therefore did not ever form part of the educational use of the site, and planning permission has not ever been granted for the use of the southern parcel of land as a playing field or for any recreational uses.
- 9.6 The use of the southern parcel of land used informally by OneSchool Global and without the benefit of planning permission. The use stopped in 2023.
- 9.7 The informal use of the southern parcel of land by the school therefore has not occurred for 10 or more years and was always an unlawful use with reference to Section 191 of the Town and Country Planning Act (as amended) 1990. The southern parcel of land has never been accessible to the public and does not form part of any Playing Field Strategy, nor is it referred to by the Council in any documents auditing recreation and playing field facilities in the district.
- 9.8 The appeal scheme would therefore not result in the loss of any playing pitches. Reason for refusal 1 is manifestly misconceived.

THE APPELLANT'S CASE: REASON FOR REFUSAL 2

- 9.9 Refusal reason 2 asserts that the proposed development is inappropriate development in the Green Belt, given that it would fail to comply with any of the defined exceptions at paragraphs 154 and 155 of the National Planning Policy Framework (December 2023).
- 9.10 Further, reason for refusal 2 states that the cumulative benefits of the scheme which have been presented as Very Special Circumstances (VSC) are insufficient to outweigh the substantial harm to the Green Belt, by virtue of inappropriateness and due to the harm to openness that would arise, in addition to the significant harm to the character and appearance of the site, area and landscape. Accordingly, the proposed development is considered to be contrary to Policies DP10 and DP13 of the Tandridge Local Plan 2014 Part 2: Detailed Policies and the NPPF (December 2023).

INAPPROPRIATE DEVELOPMENT

- 9.11 Reason for refusal 2 asserts that the appeal scheme amounts to inappropriate development by virtue of the fact that it would fail to comply with any of the defined exceptions at paragraphs 154 and 155 of the NPPF.
- 9.12 It is the appellant's position (as set out in the planning submission) that the appeal scheme accords with part (g) of the exceptions listed at Paragraph 154 of the NPPF which states the exception as:
- “Limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would:*
- not have a greater impact on the openness of the Green Belt than the existing development; or*
 - not cause substantial harm to the openness of the Green Belt, where the development would re-use previously developed land and contribute to meeting an identified affordable housing need within the area of the local planning authority”*
- 9.13 It should be noted that Local Policy DP13 does not properly reflect the NPPF on this issue. In particular it states at Part (G) that an exception includes:
- “complete redevelopment of previously developed (brownfield) sites in the Green Belt (outside the Defined Villages), whether redundant or in continuing use (excluding temporary buildings), where the proposal would not have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development”*
- 9.14 Part (G) of Policy DP13 does not account for the second part of Paragraph 154 of the NPPF in relation to the contribution to meeting an identified affordable housing need and not causing substantial harm to the openness of the Green Belt.
- 9.15 The NPPF defines PDL as:
- “Land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure. This excludes: land that is or was last occupied by agricultural or forestry buildings; land that has been developed for minerals extraction or waste disposal by landfill, where provision for restoration has been made through development management procedures; land in built-up areas such as residential gardens, parks, recreation grounds and allotments; and land that was previously developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape.*
- 9.16 The appellant's position is that the appeal site constitutes PDL.
- 9.17 The Council itself has also previously reached this conclusion in its Green Belt Assessment (GBA) which was a key evidence base document for the now withdrawn Local Plan. GBA Part 3 Appendix 1 (2018) of the evidence base recognises that:
- “the site is previously developed land located on the edge of the built-up area of Caterham, a sustainable settlement designated as Tier 2 in the Council's Settlement Hierarchy and identified as a preferred location for development as part of the spatial strategy. Accordingly the Council consider that the site is strategy compliant and would have a significant role to play in achieving sustainable patterns of development across the district.”*

- 9.18 The appeal site forms the setting of a Grade II listed building which is a former NAAFI building in association with the historic use of the entire (and wider) site as RAF Kenley. Within the site is a large derelict workshop which is a permanent structure as well as various fixed surface structure representing human intervention, with existing built form in an area well established as a settlement to the east, west and south.
- 9.19 The site comprises two areas, the former Institute building, listed at Grade II which lies outside of the outline application boundary, and the immediate brownfield land which surrounds it, which forms the application site. Together, both sites originally encompassed the accommodation and facility side of the World War II RAF complex, with several barrack blocks located to the south of the parade ground associated within the Institute. To the north of the Institute, a series of hangars and workshops lead to the aerodrome to the north. The derelict workshop building survives within this area today as well as various remnants of the former military complex, which include hangar footings and hangar door guides, set within concrete.
- 9.20 The previously developed state of the site is evidenced within the accompanying Statement of Significance, Heritage Assessment and the advice received from Surrey County Council. The first two documents contain numerous photographs of the site as a previously developed military facility operational well into the latter part of the twentieth century. Surrey County Council refer to the previous development of the site as a reference point for the proposed development.
- 9.21 In evidence today is the presence of the large and dilapidated workshop which was associated with activity and previous use of the site as covering a range of activities relating to the airfield. Thus, the site is demonstrably PDL, and there is significant evidence of its brownfield nature. Table 2 below sets out the history of the buildings and structures that have been situated on the appeal site and provides details of those that still remain.

Table 2 – Schedule of buildings

Building	Location – As Existing
Guard House	Demolished
Barrack Hut	Demolished
Barrack Hut	Demolished
Store (Overseas Kit)	Demolished
Mortuary	Demolished
Fire Equipment Hut	Demolished
Post Office	Demolished
S.H.Q (Station Headquarters)	Demolished
Boiler House	Demolished
Married Quarters Airmen	Demolished
R.C Chapel & Gas Station	Demolished
Air Shelter	Demolished
Mobilisation Station	Demolished
Main Stores & Workshops	Derelict remains still on-site to the east
Grocery Store	Demolished
Ration Store	Demolished
Dining Room & Institute (NAAFI)	Now occupied by
Parade Ground	OneSchool Global – Outside the site

	boundary but central to the site
Barrack Hut	Demolished
Barrack Block	Formerly south of the former parade ground – now demolished
Barrack Block	
Barrack Block	
Barrack Hut	Demolished
Barrack Hut	Demolished
Barrack Hut	Demolished
WT & RT Building (Wireless & Radio Telephony Building)	Demolished
Electric Substation	Demolished

9.22 Further details of the history these buildings, structures and use can be found in the Heritage Statement submitted with the application, prepared by Montagu Evans LLP. A plan showing the extent of existing buildings and hardstanding on the site is contained at Appendix 13, this does not show previous development on the land but only the visible extent of previous development. This plan demonstrates that 29.8% of the 4.74ha site is previously developed land, comprising areas of former buildings, structures and hardstanding.

9.23 The officer’s delegated report (ODR) states that:

“whilst limited parts of the application could potentially be considered to be previously developed land (the areas of hardstanding and the area where the workshops were located), the majority of the site would clearly not fall within the definition of previously developed land contained within the Annex to the NPPF, and, in any event, the proposed development would have a much greater impact on the openness of the Green Belt.”

9.24 The officer’s own assessment of PDL is set out in Paragraph 7.29 of the ODR, stating that only 1,156sqm of the site area is PDL amounting to less than half of the application site. However, the corresponding map showing the PDL areas clearly demonstrate that this is not constrained to one part of the site. The areas of PDL is spread across the 4.4ha site.

THE REDEVELOPMENT WOULD NOT CAUSE SUBSTANTIAL HARM TO OPENNESS

9.25 The appellant will demonstrate that the harm to openness caused by virtue of the appeal site’s redevelopment would not be substantial.

9.26 We disagree with the application of Paragraph 154 (g). The officer appears to only assess the appeal scheme against the first criteria of part (g) where it is stated:

“in any event, the proposed development would have a much greater impact on the openness of the Green Belt”.

9.27 We see no reference to an assessment of the proposed development against the second exception test of part (g) which requires complete redevelopment of PDL to:

“not cause substantial harm to the openness of the Green Belt, where the development would re-use previously developed land and contribute to meeting an identified affordable housing need within the area of the local planning authority.”

9.28 As highlighted in Paragraph 5.53 of the Planning Statement, Part (G) of Policy DP13 does not account for the second part of Paragraph 154 of the NPPF in relation to the contribution to meeting an

identified affordable housing need and not causing substantial harm to the openness of the Green Belt. This is further evidence of the adopted Local Plan being out-of-date but also of the incomplete application of Green Belt policy test.

- 9.29 As per the first part of part (g) of paragraph of Paragraph 154 and the definition of previously developed land in the NPPF, it is the appellant's case that the appeal site does meet the definition, but the officer has failed to apply the NPPF exceptions test at part (g) correctly. Therefore, the policy test which forms the second part of part (g) applies. Namely, that the proposed development would not cause substantial harm to the openness of the Green Belt and that the appeal scheme would contribute towards meeting an identified affordable housing need within the district.
- 9.30 The appellant will make the case that the appeal scheme meets the first test of the second part of Paragraph 154(g), namely that the proposed development will not cause substantial harm to the openness of the Green Belt.

CONTRIBUTION TO IDENTIFIED AFFORDABLE HOUSING NEED

- 9.31 The appeal scheme will demonstrably make a significant contribution to identified affordable housing in the district.
- 9.32 Adopted Policy CS4 states that the overall target for affordable housing is 50 dwellings per year between 2007 and 2012 and that 34% of dwellings be affordable. As established above, this is now significantly out-of-date and higher national housing targets set for the district means that the Council is significantly falling short of its required affordable housing delivery.
- 9.33 To summarise, the Council's updated Strategic Housing Market Assessment Affordable Housing Needs Assessment (June 2018) states that on average 206 affordable homes become available annually around of which half contain one bedroom. The assessment identified a total net annual affordable housing need of 391 homes per year over the next five years (2018-2023) to clear the backlog of affordable housing need in Tandridge. Once the existing backlog is cleared, it is estimated that a need for 310 affordable homes in Tandridge will be generated annually. It is anticipated that this will particularly generate a need for one-, two- and three-bedroom properties.
- 9.34 However, the latest Authority Monitoring Report¹ indicates that on average, only 51 affordable homes have been completed in 2021/22. Over the April 2018-March 2022 period, on average only 61 affordable homes have been completed each year, significantly below the identified need to clear the existing backlog and future need.
- 9.35 In the case of the appeal for the Land West of Limpsfield Road (PINS ref. APP/M3645/W/22/3309334) (Appendix 14), the Council did not dispute the significance the proposed delivery of 40% affordable housing in boosting the appropriate mix of affordable housing in the District in the next 5 years would make. The Inspector concluded that based on the evidence before them, it demonstrated:

"an ongoing acute and continuing extremely bleak outlook for local affordable housing provision. The capability of the appeal proposal to contribute significantly to addressing the existing and predicted very serious affordable housing shortfall within the next 5 years attracts significant weight in favour of this appeal"

- 9.36 The appeal scheme will deliver 32 of the 80 proposed homes as affordable. The estimated yield of the withdrawn draft site allocation (75 homes) and the requirement for 40% affordable homes, would have only resulted in 30 affordable homes being delivered. However, 80 homes can be

¹ Tandridge District Council Authority Monitoring Report 2023/2024 May 2024

accommodated on that site and deliver an additional 2 affordable homes. This equates to 2 affordable homes in addition to the Council's assessment of the appeal site's capacity identified in the withdrawn Local Plan.

- 9.37 The updated "Addressing the Needs of All Household Types" technical paper (2018) refers at Figure 3.4 to the size of homes required to meeting affordable housing need. The appeal scheme delivers 32 affordable homes with the following unit size breakdown:

Unit type	No of units
2 bed terraced house with 2 parking spaces	9
3 bed terraced house with 2 parking spaces	18
3 bed terraced house with 3 parking spaces	1
3 bed semi-detached house with 2 parking spaces	4

- 9.38 According to the technical paper, the net annual affordable housing need is 456 homes, of which 41% (187) is needed as 2-beds and 23% (107) is needed as 3-beds. The appeal scheme will make a significant contribution to meeting the existing backlog and newly arising future need, at the desired unit size.
- 9.39 In the light of the Council's housing delivery, the appeal scheme passes the second test of the second part of Paragraph 154(g). Overall, it is the appellant's case that the redevelopment would significantly contribute to the district's affordable housing need.
- 9.40 Therefore, it is the appellant's case that the appeal scheme is an exception made by Paragraph 154 part (g).

VERY SPECIAL CIRCUMSTANCES (VSC)

- 9.41 If, contrary to the appellant's position, the Inspector concludes that the appeal scheme would constitute inappropriate development, the appellant will demonstrate that there are very special circumstances (VSC) to justify the grant of permission.
- 9.42 Paragraph 153 of the NPPF states that VSC will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.
- 9.43 The appellant relies upon the case law set out at Paragraph 5.104 of the planning statement to conclude that there is no reason why the numerous factors brought forward in this assessment cannot combine to constitute VSC.
- 9.44 The appellant's case for presenting VSC remains as set out in the Planning Statement, summarised below and which will be expanded upon in evidence:

- 9.44.1 Substantial weight given to the site being previously developed land, in a sustainable location and making as much use as possible of that land in a district

where 94% of the land is Green Belt (the highest of any authority in England) (NPPF Paragraph 123 and 124(c))

- 9.44.2 Substantial weight should be given to the fact that Tandridge is without an up-to-date development plan. The site was formerly proposed for removal from the Green Belt by the Council but the draft Local Plan's withdrawal means this site is currently without this draft allocation. Nonetheless, the local area needs housing and addressing demand in the short term through suitable, deliverable and available sites should be favoured and supported.
- 9.44.3 Substantial weight should be given to the lack of alternative sites, particularly since the withdrawal of the draft Local Plan.
- 9.44.4 Substantial weight should be given to the dire housing shortage and inability for the Council to demonstrate a five year supply, and its failure to have identified sufficient housing sites to meet its Objectively Assess Housing Need.
- 9.44.5 Substantial weight should be given to Paragraph 129 of the NPPF which states that where there is an existing or anticipated shortage of land for meeting identified housing needs, it is especially important that decisions avoid homes being built at low densities and ensure that development makes optimal use of the potential of each site.
- 9.44.6 Substantial weight should be given to the proposed 32 affordable homes (40%) being delivered through the Appeal Scheme, of which all would be family sized, meeting local need.
- 9.44.7 Significant weight should be given to the sustainable location of the development, within walking and cycling distance of a railway station as outlined above, alleviating pressure on the local road network.
- 9.44.8 Great weight should be given to the positive impact the scheme will have on the Kenley Aerodrome Conservation Area and former NAAFI Building.
- 9.44.9 Moderate weight should be given to the increased number of residents in the area will contribute to the local economy.
- 9.44.10 Moderate weight should be given to the improved accessibility through the conservation area.
- 9.44.11 Moderate weight should be given to the provision of new landscaped open spaces for the enjoyment of the local community.
- 9.44.12 Weight should be given to the environmental improvements as a result of the proposed development, from the various SuDS and other environmental enhancements to the provision of new trees and vegetation
- 9.44.13 The provision of housing will make an important contribution to local construction employment

9.45 These VSC will be expanded on in evidence.

9.46 ODR Paragraph 9.3 states that:

"officers have concluded that all of the harms are not clearly outweighed by all of the benefits [and so] 'very special circumstances' do not exist in this case".

9.47 It is the appellant's case that the identified benefits of the appeal scheme are important material considerations and constitute VSC outweighing any harm to the Green Belt and any other harm identified.

9.48 To conclude the appellant's case in respect of this reason for refusal, the redevelopment of this

previously developed site does not cause substantial harm to the openness of the Green Belt and contributes to identified affordable housing need within Tandridge. It should therefore be considered an exception as stated in national policy guidance regarding inappropriate development and should be supported.

- 9.49 The assessment set out in this statement demonstrates that any harm identified would be overcome by the benefits of the appeal scheme considered in isolation and together, particularly the contribution to local housing need and exceeding adopted affordable housing requirements and estimations and therefore complies with Paragraph 11(d) and 154(g) of the NPPF.
- 9.50 Should the Inspector agree with the Council's assessment that the appeal scheme amounts to inappropriate development, the factors and benefits of the appeal scheme are a material consideration and amount to VSC to outweigh any potential harm by virtue of spatial and visual aspect and any other harm, to justify the development.

APPELLANT'S CASE - REASON FOR REFUSAL 3

- 9.51 The Council, reflecting Surrey County Council's highways consultation response to the appeal scheme, considers that the appeal site is not in a sustainable location in transport terms due to the distance to local amenities, the lack of suitable pedestrian and cycle connections to those amenities, and the limited availability of accessible public transport services.
- 9.52 As described in detail in the Statement of Case, the appeal site had a draft allocation for c.75 residential dwellings within the now withdrawn Local Plan. The appeal site is referred to in the Council's infrastructure evidence base document² as being capable of delivering localised highway improvements as mitigation for any impact of the allocation.
- 9.53 Furthermore Appendix 1 of GBA Part 3 recognises that:
- "the site is previously developed land located on the edge of the built-up area of Caterham, a sustainable settlement designated as Tier 2 in the Council's Settlement Hierarchy and identified as a preferred location for development as part of the spatial strategy. Accordingly the Council consider that the site is strategy compliant and would have a significant role to play in achieving sustainable patterns of development across the district."*
- 9.54 The proposed allocation of the appeal site did not attract a single objection from SCC as highway authority. SCC was a significant consultee at the regulation stages of the Local Plan and did not object to the allocation of the appeal site for housing, including identifying the site as inherently unsustainable.
- 9.55 Furthermore, the site was the subject of an Examination in Public by an Inspector in November 2019, SCC did not appear at the Examination in relation to the draft allocation, and the Inspector did not have any questions regarding the sustainability of the site nor the impact of the allocation upon the highway network. In his report dated February 2024, the Inspector did not raise any concerns regarding the location of the allocation or its suitability for residential development in highways terms.
- 9.56 The Council clearly assessed the scheme as playing a 'significant' role in achieving 'sustainable patterns of development' which led the site to its draft site allocation. Pre-application discussions were held with SCC in 2022, once again SCC did not raise sustainability as a material concern.

² Tandridge District Infrastructure Delivery Plan, January 2019

- 9.57 In response to the pre-application consultation response from SCC as highway authority, the scheme was amended to include footway and pedestrian crossing improvements to include a new zebra crossing point provided with dropped kerbs and tactile paving across Salmons Lane West, enabling pedestrian access to the bus stop on the southern edge of Salmons Lane West. It was also proposed to introduce a new informal crossing point provided with dropped kerbs and tactile paving on Whyteleafe Hill, connecting with Salmons Lane, to aid pedestrians routing north towards Whyteleafe Station.
- 9.58 The proposed improvements to the highway network and pedestrian experience within the immediate vicinity of the site accord with the mitigation measures envisaged in the Infrastructure Delivery Plan, 2019.
- 9.59 In summary, there have been no material changes to planning policy or to the circumstances of the appeal site that makes it reasonable to consider it as inherently unsustainable. Furthermore, a package of localised mitigation measures are proposed in accordance with the Infrastructure Delivery Plan and SCC's pre-application advice of June 2022.
- 9.60 Expert evidence will be given at an inquiry by a highway consultant on behalf of the appellant in relation to this reason for refusal.

APPELLANT'S CASE – REASON FOR REFUSAL 4

- 9.61 The Council has upheld SCC's revised position that the development of the appeal site would result in an unacceptable impact to highway capacity, in particular at the roundabout junction of Salmons Lane West, Buxton Lane and Ninehams Road, contrary the aims of the NPPF (December 2023), the Surrey Local Transport Plan 4 (2022) the Tandridge Core Strategy 2008 and Policy DP5 of the Tandridge Local Plan – Part 2: Detailed Policies 2014.
- 9.62 It is the appellant's case that the modelling outputs do not predict queuing to increase materially. Queuing could increase by up to one vehicle, with a negligible increase in driver delay (up to six seconds when applying the robust assessment requested by SCC).
- 9.63 Neither the Council nor SCC have adduced any evidence that could reasonably conclude that the proposed development would result in an unacceptable impact upon highway safety or cause a severe impact upon the highway network, with reference to Paragraph 115 of the NPPF:
- “Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.”*
- 9.64 The assessment evidence does not demonstrate severe impact or an unacceptable impact upon road safety.
- 9.65 It is the appellant's intention that expert evidence will be given at an inquiry regarding highway capacity and safety matters. It is the intention of the appellant to cross-examine the Council's witness regarding these matters in the light of the differing positions taken by SCC as highway authority and the absence of any evidence regarding a detrimental impact upon highway safety or a severe impact upon the highway network.

APPELLANT'S CASE – REASON FOR REFUSAL 5

- 9.66 The appeal scheme proposes the removal of 54 no of trees and 19 tree groups of across the site of which none are Category A and the majority are Category C. It also proposes extensive tree planting

throughout the site, as well as significant retention of existing trees. The appeal scheme was amended during the determination process in response to the Council's tree officer's comments. This resulted in the reduction in unit numbers and the increase in the retention of existing trees.

9.67 The appeal scheme layout was designed to ensure no Category A tree losses. Those lower quality trees which are referred to in this reason for refusal are considered to make little contribution to the local character owing to their poor condition and small size. Most of the significant boundary tree cover is being retained and, the comprehensive replanting scheme will rapidly mitigate those losses in the long term and there will be no impact on the wider setting of the local landscape.

9.68 The Council's tree officer considered that the large number of lower quality tree losses will cumulatively have a negative impact on the character of the conservation area, which is at odds with the advice from the Senior Historic Buildings Officer at Surrey County Council who judged that:

"subject to the reserved matters being acceptable, I consider the scheme to result in an overall benefit to the conservation area" (ODR Paragraph 5.7).

9.69 The appellant does not accept that removal of the lower quality trees will cumulatively have a negative impact on the local landscape. It is the appellant's case that the removal of the trees specified in the tree report are not significant to the importance of the conservation area.

9.70 Indeed, the Tree Officer stated:

"I am reasonably satisfied that sufficient space has been provided for new planting. However, not to a degree that would in any way make up for the huge tree losses, particularly as there is unlikely to be a great deal of space to accommodate larger species trees. I would suggest that in any detailed application further provision is made for large species tree planting, with adequate space to mature both above and below ground."

9.71 It is reasonable to conclude that the tree officer and SCC's conservation officer accepted that a reserved matters application would provide the level of detail necessary to secure the delivery of a high quality and acceptable planting and landscaping scheme, as is expected from a reserved matters application following on from an outline permission.

9.72 Evidence will be provided to demonstrate that the indicative layout details provided enhances the local landscape character and allows for the retention of existing trees of significance within the local landscape. Further that sufficient space for appropriate replacement planting has been made, the details of which would be secured at reserved matters stage.

9.73 The appellant's evidence will demonstrate compliance with Policy CSP 21 of the Tandridge District Core Strategy 2008 which requires new development will be required to conserve and enhance landscape character. Evidence will also demonstrate compliance with Policy DP7, particularly part (12) of the Tandridge Local Plan – Part 2: Detailed Policies 2014 and paragraph 180 of the National Planning Policy Framework (December 2023).

APPELLANT'S CASE – REASON FOR REFUSAL 6

9.74 The Council's sixth reason for refusal asserts that insufficient information has been provided to allow a full assessment of the potential harm of the proposed development on designated and non-designated heritage assets. This includes the Kenley Aerodrome Conservation Area within which the appeal site is located, the Grade II listed former Dining Room and Institute building of which the appeal site forms the setting.

9.75 The Council asserts that proposed 'mitigation' measures have not been detailed and it has not been

demonstrated that the public benefits of the proposal would significantly outweigh the less than substantial harm that would result to the character and appearance of the conservation area, the impact on the character and setting of the listed building and through the loss of the non-designated former workshop buildings as a result of the development. As such, the proposal would conflict with Policy DP20 of the Tandridge Local Plan – Part 2: Detailed Policies 2014 and paragraphs 205, 206, 208 and 209 of the National Planning Policy Framework (December 2023).

- 9.76 It is the appellant's case that sufficient detail has been submitted to enable an informed assessment to be made regarding the potential impact of the proposals. The appellant and SCC's conservation officer consider that the plans and heritage assessment (including a Statement of Significance) demonstrate that development can be accommodated on the appeal site without resulting in unacceptable harm to any heritage asset.
- 9.77 It is not uncommon for planning applications to be made in outline that affect heritage assets. This reason for refusal fails to appreciate the Council's retention of control regarding relevant matters such as layout, landscaping and design.
- 9.78 Notwithstanding the submission of the application in outline, the application included detailed heritage assessments (including a Statement of Significance) and plans enabling a full assessment of potential harm to heritage assets the at outline stage. As was demonstrated by the assessment of the appeal proposals by SCC's conservation officer, who did not object to the application, in the understanding that further details would be supplied in the future reserved matters application.
- 9.79 Indeed, the conservation officer did not identify any harm arising from the proposals to the significance of the listed NAAFI building. The appellant agrees with this assessment.
- 9.80 The Council's sixth reason for refusal underpinned by officer assessment in the ODR contradicts the assessment of SCC as the Council's conservation consultee without justification.
- 9.81 Additionally, the appellant demonstrates that that the proposed mitigation measures and public benefits of the proposals enhance the character and appearance of the conservation area. Details of the proposed mitigation measures are capable of being secured by condition.
- 9.82 The evidence will demonstrate compliance with Policy DP20 of the Tandridge Local Plan – Part 2: Detailed Policies 2014 and paragraphs 205, 206, 208 and 209 of the National Planning Policy Framework (December 2023).

APPELLANT'S CASE – REASON FOR REFUSAL 7

- 9.83 The Council considers that insufficient information has been provided to demonstrate that the proposed development would conserve and enhance the natural environment and deliver an appropriate level of biodiversity net gain. As a result, the proposal would conflict with the requirements of Policy CSP17 of the Tandridge District Core Strategy 2008, Policy DP19 of the Tandridge Local Plan – Part 2: Detailed Policies 2014 and the National Planning Policy Framework (December 2023).
- 9.84 An Ecological Assessment of the appeal site was undertaken based on appropriate baseline surveys. These were undertaken over time ensuring that surveys were conducted during the appropriate seasons. The assessment details the site's ecological conditions. Additional surveys were also undertaken relating to badgers, bats and reptiles.
- 9.85 Surrey Wildlife Trust asserted survey information should have been collected for hazel dormice. However, this is not justified in the light of the Ecological Assessment that found no evidence of the

species on site.

- 9.86 The findings of the Ecological Assessment demonstrate that sufficient mitigation measures are capable of being accommodated on the appeal site to ensure that there will not be any unacceptable ecological impact arising from the proposals.
- 9.87 Contrary to the assertion of reason for refusal 7, the appropriate assessments have been submitted assessing the existing natural environment affected by the proposals. The ecological surveys and assessments have informed the design of the appeal scheme that can deliver improvements to ecological receptors such as protected species and ecologically valuable habitats.
- 9.88 Evidence will be given by the appellant's ecology consultant demonstrating compliance with Policy CSP17 of the Tandridge District Core Strategy 2008, Policy DP19 of the Tandridge Local Plan – Part 2: Detailed Policies 2014 and the National Planning Policy Framework (December 2023).

10 Summary of Appellant's Case

- 10.1 It is the appellant's case that the appeal scheme accords with the development plan and the relevant guidance set out in the NPPF. The proposals also accord with the direction of travel of the draft guidance in the draft NPPF 2024.
- 10.2 The appeal site is within Green Belt and until the 2019 draft Local Plan was withdrawn had a draft allocation that would have removed it from the Green Belt, allocating the site for c.75 homes with 40% affordable housing.
- 10.3 The Council has a continuing pressing housing need, which is materially worsening in the absence of an up-to-date development plan. The Council can only demonstrate 1.92 years of housing land supply on its own evidence.
- 10.4 Owing to the appeal site's military history and almost total coverage by military buildings throughout the twentieth century, the site is by definition previously developed land and as such the exception test of Paragraph 154(g) of the NPPF has been applied and is shown to be met.
- 10.5 Additionally, there are VSC which outweigh any alleged harm and the substantial weight that must be given to the inappropriate development in the Green Belt and any other harm identified.
- 10.6 The proposals are not considered by SCC's conservation officer to harm character and appearance of the conservation area or the special character of the listed building.
- 10.7 Rebutting the Council's putative refusal reasons in summary, and in turn:
- 10.7.1 The site does not contain a playing field and therefore there is no requirement to replace or mitigate against such a loss. The area has never been accessible to the public. The school used the area of the site unlawfully between 2017 and 2020. Therefore there would be no conflict with Policy CSP13 of the Tandridge District Core Strategy 2008, Policy DP 18 of the Tandridge Local Plan - Part 2: Detailed Policies 2014 and has no affiliation with Sport England's Playing Fields Policy and Guidance Document and with Paragraph 103 of the National Planning Policy Framework (December 2023).
 - 10.7.2 The appeal scheme is considered to be an exception under Paragraph 154(g) of the NPPF as has been demonstrated in this Statement and that will be supplied in further evidence. Should the Inspector consider the scheme is inappropriate development in the Green Belt, the Appellant considers the cumulative benefits of the scheme which have been presented as Very Special Circumstances (VSC) are more than sufficient to outweigh any perceived harm to the Green Belt (which the Council considers is by virtue of inappropriateness and due to the harm to openness) and any other harm identified, which the Council considers to be significant harm to the character and appearance of the site, area and landscape. The appellant will provide evidence to demonstrate that the proposed development complies with Policies DP10 and DP13 of the Tandridge Local Plan 2014 Part 2: Detailed Policies and the NPPF (December 2023).
 - 10.7.3 The appeal scheme is located in a sustainable location in transport terms, particularly when also considering the wider context of the district and the lack of alternative available site. The scheme will deliver improvements to pedestrian and cycle connections to nearby amenities and there is availability of accessible public transport services. This is in conformity with the aims of the NPPF (December

2023), the Surrey Local Transport Plan 4 (2022) Policy CSP1 Tandridge District Core Strategy (2008), and Policy DPI of the Tandridge Local Plan 2014 Part 2: Detailed Policies.

10.7.4 The proposals would not result in an unacceptable impact to highway capacity, with particular reference to the roundabout junction of Salmons Lane West, Buxton Lane and Ninehams Road, and is in line with the aims of the NPPF (December 2023), the Surrey Local Transport Plan 4 (2022) the Tandridge Core Strategy 2008 and Policy DP5 of the Tandridge Local Plan – Part 2: Detailed Policies 2014.

10.7.5 The proposed development would result in the felling only of poor quality, Category C trees to allow the high-quality development and associated comprehensive landscaping scheme to be brought forward. No high-quality trees or trees that are important by virtue of their significance within the local landscape would be lost as demonstrated by the layout of the scheme and sufficient space for appropriate replacement planting has been demonstrated. As such the proposal would comply with the requirements of Policy CSP 21 of the Tandridge District Core Strategy 2008, Policy DP7 of the Tandridge Local Plan – Part 2: Detailed Policies 2014 and paragraph 180 of the National Planning Policy Framework (December 2023).

10.7.6 Detailed evidence was submitted with the application relating to the significance of heritage assets and the impact of the proposals on designated and non-designated heritage assets, including the Kenley Aerodrome Conservation Area within which the application site is located and the Grade II listed former Dining Room and Institute building which the application site surrounds. This evidence was accepted by the Surrey County Council Senior Historic Buildings Officer who considered the scheme was acceptable. The Appeal Scheme was submitted in outline and it is considered appropriate that details of the proposed ‘mitigation’ measures are secured by condition. As such, the proposal would comply with Policy DP20 of the Tandridge Local Plan – Part 2: Detailed Policies 2014 and paragraphs 205, 206, 208 and 209 of the National Planning Policy Framework (December 2023).

10.7.7 The information submitted demonstrates that the proposed development would conserve and enhance the natural environment and deliver an appropriate level of biodiversity net gain. As a result, the proposal would comply with the requirements of Policy CSP17 of the Tandridge District Core Strategy 2008, Policy DP19 of the Tandridge Local Plan – Part 2: Detailed Policies 2014 and the National Planning Policy Framework (December 2023).

10.8 Overall, the appeal scheme and its benefits as set out above satisfy the planning balance in that the housing delivery including affordable housing and landscape improvements, among other benefits far outweigh any perceived harm to the Green Belt and any other harm identified.

11 Draft Conditions and Planning Obligations

- 11.1 The appellant will enter discussions with the Council regarding conditions and obligations and will seek to agree a list of conditions through this planning appeal. This will be covered in the final agreed version of the Statement of Common Ground which will be submitted to the Inspector ahead of the Inquiry.
- 11.2 A draft of the proposed Section 106 Agreement will be submitted to the Inspector prior to the opening of the Inquiry.

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