

**LAND SOUTH OF BARROW GREEN ROAD  
OXTED**

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**OPENING STATEMENT ON BEHALF OF THE LOCAL PLANNING AUTHORITY  
TANDRIDGE DISTRICT COUNCIL**

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**Introduction**

1. This inquiry has been convened to determine the appeal of Croudace Homes Ltd (“**the Appellant**”) against the refusal by Tandridge District Council (“**the Council**”) of the Appellant’s application for planning permission<sup>1</sup> for the following development at Land South of Barrow Green Road, Oxted (“**the Site**”):

“Outline application for a residential development of up to 190 dwellings (including affordable homes) (Use Class C3), an extra care facility<sup>2</sup> with up to up [sic] 80 beds (Use Class C2), together with the formation of vehicular access, landscaping, parking, open space, green and blue infrastructure, and all other associated development works. All matters reserved except access” (“**the Scheme**”).

2. The decision notice dated 15 August 2025<sup>3</sup> identified nine reasons for refusal (“**RfR**”), all of which remain unresolved and which can be summarised as follows:
  - 2.1. RfR1: the Scheme would be inappropriate development in the Green Belt and ‘very special circumstances’ do not exist to indicate that it should be approved;
  - 2.2. RfR2: the Scheme would adversely impact upon the character and distinctiveness of the landscape and countryside of both the Site and the wider area; and would significantly detract from the overall character and appearance of the area and (thereby) the setting of the Surrey Hills National Landscape (“**the NL**”), in which the Site sits;
  - 2.3. RfR3: the Scheme would prejudice the outcome of the proposal to include the Site in the NL;

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<sup>1</sup> TA/2025/245.

<sup>2</sup> The Appellant has since confirmed that it is proposing a care home rather than an extra care facility.

<sup>3</sup> CD3.3.

2.4. RfR4: it has not been demonstrated that the Scheme would not result in the loss or deterioration of an irreplaceable habitat, namely ancient woodland within The Bogs pSNCI<sup>4</sup> (“**The Bogs**”);

2.5. RfR5: it has not been demonstrated that the Scheme would not result in adverse impacts on biodiversity;

2.6. RfR6: the Scheme would cause less than substantial harm to the significance of (i) the Grade I listed St Mary’s Church (“**the Church**”) and (ii) the Grade II listed Court Farm House; and that harm would not be outweighed by the benefits of the Scheme;

2.7. RfR7: the Scheme would result in the loss of a significant area of best and most versatile agricultural land (“**BMV land**”);

2.8. RfR8: the Scheme would have a major adverse effect for users of public bridleway 97 (“**the Bridleway**”); and

2.9. RfR9: given the harm that would arise to the Green Belt, the setting of the NL, open countryside, the Bridleway and potentially biodiversity, the Scheme is unsustainable in the context of para. 8c of the *National Planning Policy Framework* (“**NPPF**”) and Policy DP1 of the Tandridge Local Plan Part 2: Detailed Policies (2014) (“**LPP2**”).

3. For the reasons summarised in this statement, all of the RfR remain well founded. The remainder of this statement deals in summary form first with the RfR, then with the approach to be taken to the determination of the appeal, before addressing the disposal of the appeal in conclusion.

#### **RfR1: Inappropriate development in the Green Belt**

4. It is common ground between the Council and the Appellant that unless the Site is “grey belt” land, the Scheme would be inappropriate development in the Green Belt for the purpose of para. 153 of the NPPF and “very special circumstances” (“**VSC**”) would need to be shown.

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<sup>4</sup> Potential site of nature conservation interest.

5. The Site is not grey belt land. As Mr Thurlow explains in his proof of evidence, it strongly contributes to purpose (a) of para. 143 of the NPPF<sup>5</sup> (“**Para. 143**”). Additionally, the application of the “non-Green Belt” policies that relate to the areas / assets in footnote 7 to the NPPF provide a strong reason for refusing or restricting development. The relevant (non-Green Belt) footnote 7 policies are those relating to (i) National Landscapes; (ii) irreplaceable habitats; and (iii) designated heritage assets.
6. Since the Site is not grey belt, the Scheme is inappropriate development and is, by definition, harmful to the Green Belt. In addition to the “definitional” harm that the Scheme would cause to the Green Belt by reason of inappropriateness, the Scheme would conflict with Green Belt purposes (a), (c), (d) and (e); and would cause harm to the openness of the Green Belt (through both visual and spatial harm). Para. 153 of the NPPF expressly requires substantial weight to be given to that Green Belt harm (including to the harm to Green Belt openness).
7. In addition to the Green Belt harm that would result from the Scheme, the Scheme would cause a range of other harms, as summarised below. When all of the harms that would result from the Scheme are taken into account, those harms are not “clearly outweighed” by other considerations (including the benefits of the Scheme). It follows that the necessary VSC do not exist. The VSC test is a stricter and more demanding test than the test of “exceptional circumstances” that applies where it is proposed to change the Green Belt boundary through the local plan process: ***R (o.a.o. Luton BC) v Central Bedfordshire Council*** [2015] 2 P&CR 19 at [54] and [56] per Sales LJ (Tomlinson and Longmore LJJ agreeing).

#### **RfR2: Landscape and visual**

8. The Site occupies a highly sensitive location, being located within the setting of the NL. In the Council’s submission – and contrary to the Appellant’s position - the Site is plainly located within a “valued landscape” (for the purpose of applying para. 187a of the NPPF).
9. As Mr Dudley explains in his proof of evidence, having regard to the published context the Site and its setting are strongly representative of the published character of the Greensand Valley Landscape Type and the Merstham to Clacket Lane Greensand Valley Character Area. All but two of the key positive attributes of the landscape (that are not precluded by geography) are represented in the Site and its setting.

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<sup>5</sup> The Site also strongly contributes to purpose (c) of Para. 143 and additionally contributes to purposes (d) and (e), although none of those is a requirement of the NPPF definition of grey belt.

10. The Appellant's LVIA underestimates both the sensitivity of certain receptors and the magnitude of effect that the Scheme would have upon them. As Mr Dudley explains, the Scheme would result in permanent significant adverse effects upon the Site, the NL and areas of LCA GV4 outwith the NL. The Council particularly disagrees with the Appellant's assessment of effects on the NL as "negligible".

#### **RfR3: Prejudice to the outcome of the proposal to include the Site in the NL**

11. As Mr Dudley explains in his proof of evidence, the Surrey Hills National Landscape Boundary Variation Project involves a rigorous, twelve-step process that has been underway since 2021. Ten of the twelve steps have now been completed. The entirety of the Site is proposed (by Natural England: "NE") for inclusion in the NL.

12. The position therefore is that NE – the Government's statutory adviser for the natural environment in England – considers that the Site ought to be included in the NL. That remains NE's view having considered the responses to two formal statutory and public consultations<sup>6</sup>. It follows that in NE's view, the Site deserves to – and should - be given the policy protection that is afforded (at both the national and the local levels) to National Landscapes. At the national level, the NPPF affords "the highest status of protection" to National Landscapes (para. 189), requiring planning permission to be refused for major development (such as the Scheme) in National Landscapes, save where there are exceptional circumstances and it can be demonstrated that the development is in the public interest (para. 190).

13. Great weight should be given to NE's views<sup>7</sup>. The Council considers that to allow this appeal would be to deprive the Site of the opportunity to gain the enhanced policy protection that has been – and continues to be – identified as merited by NE, the Government's statutory adviser. In the Council's view that consideration weighs heavily against the Scheme.

#### **RfR4: The Bogs**

14. The Bogs pSNCI includes ancient woodland, deciduous woodland and wet woodland habitat. The ancient woodland is an "irreplaceable habitat" for the purposes of the NPPF. There is no current evidence of ancient woodland within the Site. The deciduous woodland and the wet

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<sup>6</sup> The first in March – June 2023 and the second in September – December 2024.

<sup>7</sup> See e.g. *R (Mynydd y Gwynt Ltd) v SSBEIS* [2018] PTSR 1274 at [8(8)]; *R (o.a.o. Wyatt) v Fareham BC* [2023] PTSR 1952 at [9(4)]

woodland are both Habitats of Principal Importance (“**HPI**”) and both are present within the Site.

15. As Dr Rodda explains in his proof of evidence and in his rebuttal, the Appellant’s assessment of the potential impact of the Scheme on The Bogs is based on uncalibrated flood model simulations and is inappropriate. It does not represent a full and proper assessment of the baseline hydrology of The Bogs based on observations, measurements, monitoring and the development of a conceptual model.
16. The Appellant has only attempted to prove that flows from the stream during flood conditions will not be significantly altered. It has not considered the full range of hydrological processes affecting The Bogs, such as the regular overland flow from the Site, groundwater flows and the movement of surface water through The Bogs other than in the stream channel. By way of example, Dr Rodda identifies that overland flow from the southern part of the Site is commonly observed providing a diffuse source of water into The Bogs. His concern is that this type of flow may no longer occur once the Site is developed, since all of the surface water runoff from the developed Site will be conveyed into temporary detention basins and then discharged into the existing stream through point sources (two pipes). The Appellant’s apparent suggestion that such overland flow is not a common phenomenon is contradicted by observational evidence.
17. In the absence of appropriate, adequate assessment of the Scheme’s potential impact on The Bogs, it is not possible to conclude that the Scheme would not result in the loss or deterioration of the off-site ancient woodland (an irreplaceable habitat) and/or of the on-site HPIs (deciduous woodland and wet woodland).

#### **RfR5: Biodiversity**

18. As Mr Hutchinson explains in his proof of evidence (section 5.2), he is now satisfied as regards the Scheme’s potential impact on (i) skylark and (ii) invertebrates, other than in The Bogs pSNCI. It remains the Council’s position that if the Scheme were to change the hydrology of The Bogs and that change were to impact negatively upon the habitats present, there would likely also be an impact upon invertebrates and birds within The Bogs. The Council therefore remains of the view that – as a result of the insufficient hydrology analysis – it is not possible to conclude that the Scheme will not have an adverse impact on biodiversity, i.e. upon the habitats, invertebrates and birds within The Bogs.

19. The Council accepts that loss of native hedgerow could be addressed through a planning condition (section 5.3 of Mr Hutchinson's proof of evidence).
20. As to biodiversity net gain ("BNG"), since the Scheme's hydrological impacts on The Bogs are not agreed, there are implications for the BNG calculations, including the potential for loss of wet woodland, change to drier woodland and impacts on ancient woodland.

#### **RfR6: Heritage**

21. It is common ground between the Council and the Appellant that the Scheme would cause a low level of less than substantial harm to the Church. Being Grade I listed, the Church is protected under national policy as a designated heritage asset of the highest significance (para. 213b of the NPPF). Great weight must be given (in the overall planning balance) to the harm that would be caused to the significance of the Church, notwithstanding that such harm is "only" low level. In line with s. 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, para. 212 of the NPPF states that great weight should be given to the conservation of designated heritage assets. The paragraph goes on to explain that "the more important the asset, the greater the weight should be".
22. The Council's position, founded upon the evidence of Mr Froneman, is that the Scheme would also cause less than substantial harm to the significance of Court Farm House. Mr Froneman assesses the level of that harm as "very low". The Appellant accepts that the Site falls within the setting of Court Farm House but contends that the Site nevertheless makes no contribution to the significance of that listed building. This is not accepted. The Council notes that Historic England ("HE") identifies that the Scheme would cause a low level of less than substantial harm to the significance of Court Farm House. HE is the Government's statutory adviser for the historic environment and its views should be afforded great weight (as for NE, above). The NPPF requires great weight to be afforded to the harm to the significance of Court Farm House in the overall planning balance, too, notwithstanding that such harm is (in the Council's view) very low level.
23. As Mr Thurlow explains in his proof of evidence, in the Council's view the public benefits of the Scheme would not outweigh the harm that it would cause to the significance of the two designated heritage assets, giving the requisite "considerable importance and weight" to the latter. Para. 215 of the NPPF therefore indicates that planning permission should be refused.

#### **RfR7: BMV Land**

24. The Scheme would result in the loss of 9.7ha of Grade 3a BMV land. The Council considers that loss to be significant both in economic terms and in sustaining the health and wellbeing of the countryside and supporting biodiversity. In the Council's view the loss of BMV land attracts moderate weight against the Scheme in the overall planning balance.

#### **RfR8: The Bridleway**

25. Mr Dudley considers the Scheme's impact on the Bridleway as follows:

*"the views from the Site towards the hills are of such value that they were cited by Natural England as one of the main reasons for the Site's inclusion within the extended National Landscape. The proposed construction of buildings up to 2.5 storeys along the public bridleway corridor means that these views will be almost entirely lost upon completion and entirely lost by Year 15, and their context fundamentally altered. This is demonstrated by the Appellant's Accurate Visualisations VP01 and VP02".*

26. The change in the character of the Bridleway and the loss of the countryside experience and dramatic views of the NL that it provides are referred to in many of the public representations, including that from the NL's Management Board.

27. In the Council's view, the major adverse effect that the Scheme would have for users of the Bridleway would not be limited to the loss of views of the NL that is identified in the Appellant's LVIA. There would also be a loss of experience of open countryside and the health and well-being benefit provided by the Bridleway would be significantly diminished. The Council considers that significant weight should be given to these matters in the overall planning balance.

#### **RfR9: Unsustainable development**

28. As Mr Thurlow explains, the Council accepts that the Site is sustainably located and affords moderate weight to that consideration – in favour of the Scheme – in the overall planning balance. However, having regard to sustainability in the broader sense that is outlined at para. 8 of the NPPF, the level of harm that would result from the Scheme means that in the Council's view – and due regard also being had to the Scheme's various benefits – the Scheme is unsustainable in that broader sense, overall.

### **The approach to be taken to the determination of the appeal**

29. Section 38(6) of the Planning and Compulsory Purchase Act 2004 ("the 2004 Act") requires applications for planning permission to be determined in accordance with the statutory development plan unless material considerations indicate otherwise.
30. As is explained in the Council's evidence, the Scheme does not accord with the development plan. It conflicts with it. In those circumstances, section 38(6) of the 2004 Act requires planning permission to be refused unless material considerations indicate otherwise. They do not.

### **Material considerations: the NPPF**

31. The NPPF is an important material consideration. It indicates that planning permission should be refused.
32. Whilst the Council acknowledges the benefits that the Scheme would secure<sup>8</sup>, as explained above it does not consider that those benefits outweigh the great weight that must be given to the less than substantial harm that the Scheme would cause to the significance of the Church – a designated heritage asset of the highest importance – and of Court Farm House. Thus, para. 215 of the NPPF indicates that planning permission should be refused.
33. Furthermore, in addition to that heritage harm the Scheme would result in:
  - 33.1. Green Belt harm (definitional harm; conflict with purposes (a), (c), (d) and (e); harm to Green Belt openness);
  - 33.2. Landscape and visual harm, including to a valued landscape and to the NL through development within its setting;
  - 33.3. Prejudice to the outcome of the NL Boundary Variation Project;
  - 33.4. Potential harm to ancient woodland within The Bogs (an irreplaceable habitat under national policy), to wet woodland and deciduous woodland within The Bogs (both HPIs) and to invertebrates and birds within The Bogs;
  - 33.5. Loss of BMV land; and
  - 33.6. Adverse effects for users of the Bridleway.

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<sup>8</sup> P. 36 of Mr Thurlow's proof of evidence.

34. Against the above, the harm that would result from the Scheme is plainly not clearly outweighed by its benefits. Very special circumstances do not therefore exist so as to justify granting planning permission for the Scheme notwithstanding that it is inappropriate development within the Green Belt (para. 153 of the NPPF).

35. Turning finally to para. 11 of the NPPF, in the absence of a five-year housing land supply the policies that are most important for determining the application are deemed to be out-of-date<sup>9</sup>. However, the “tilted balance” in para. 11d(ii) of the NPPF is not engaged. Rather, para. 11d(i) is engaged: the application of NPPF policies that protect areas or assets of particular importance does provide a strong reason for refusing the Scheme. The relevant footnote 7 policies are those relating to (i) Green Belt; (ii) National Landscapes; (iii) irreplaceable habitats; and (iv) designated heritage assets.

#### **Overall conclusions**

36. Overall, therefore, the Scheme does not accord with the development plan and material considerations do not indicate that planning permission should nevertheless be granted. The planning benefits of the Scheme are insufficient to outweigh the adverse effects that the Council has identified in its evidence; nor do they succeed in outweighing the conflict with the development plan. The Scheme should not be granted planning permission and the Inspector is respectfully requested to dismiss this appeal.

HEATHER SARGENT

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<sup>9</sup> Footnote 8 to the NPPF.