

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

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

LPA Reference: TA/2023/878

**OPENING STATEMENT on behalf of
Tandridge District Council**

Introduction

1. This appeal arises from Tandridge District Council (“**TDC**”)’s decision on 13 May 2024 to refuse planning permission on the application of Croydon and District Education Trust (“**the Appellant**”) made in July 2023.
2. TDC refused the application on seven grounds.
3. The application, as originally lodged, sought outline planning permission for development comprising “Development of the site for 87no. residential dwellings including 40% affordable housing, associated landscaping, amenity space and car parking (outline application all matters reserved aside from access)”. The Appellant and TDC agreed a reduction in the number of total units to 80 following consultation and an amended layout and other plans were provided. Notwithstanding the reservation of all matters apart from access, the application and now appeal are accompanied by a number of plans for determination which have formed the basis on which the scheme has been assessed by TDC. The Appellant and TDC have agreed a draft condition (condition 3) to secure the main plans and documents, and other references to relevant documentation is found in the other draft conditions.
4. Since the decision to refuse and the lodging of the appeal, there have been a number of changes in circumstances and in the information and proposals before TDC. These have been considered and have now resulted in TDC’s agreement that, subject to the imposition of suitable conditions and the completion of a suitable s.106 planning

obligation, planning permission should be granted and the appeal allowed. TDC have entered into an addendum SoCG¹ and a transport SoCG to that effect.

5. These opening submissions summarise the reasons for TDC's revised position.

RfR 5, 6 and 7: Arboriculture, Heritage and Ecology

6. Each of these reasons for refusal alleged either a lack of information or a lack of clarity in the proposals.
7. Further information was then provided, and agreement reached in the Main Statement of Common Ground that each technical issue could be addressed through imposition of a suitable condition. See:
 - (1) For heritage, SoCG para 7.8-7.12² and draft condition 32.³
 - (2) For ecology, the main SoCG at paras 7.40-7.42⁴ and draft conditions 17-22.
 - (3) For arboriculture, the arboricultural statement of common ground which records the additional agreement reached following the CMC at paragraphs 2.10-11.
8. The effect of tree loss on landscape was considered further by Mr Lee, following the clarifications resulting in the arboricultural statement of common ground and at section 10 of his proof he confirmed that TDC no longer sought to pursue the remainder of RfR 5.

RfR2, 3 and 4: Green Belt and highways

9. The Appeal Site is within the Green Belt. In the officer's report, TDC concluded that the proposal represented inappropriate development which would cause limited to moderate harm to openness and limited to moderate conflict with purposes a), (c) and (d) of the Green Belt⁵.
10. In accordance with national policy, TDC's officers gave substantial weight to that harm and, in applying their overall balance, concluded that very special circumstances were not made out to justify the grant of permission.

¹ CD 10.1.2

² CD10.1 pg 17

³ CD 10.3

⁴ CD10.1 pg 20

⁵ CD4.01 see paras 7.15-7.24.

11. The December 2024 version of the NPPF establishes a new route by which development within the Green Belt can demonstrate that it is not inappropriate: under NPPF 155 development which would utilise grey belt land, would not fundamentally undermine the purposes of the remaining Green Belt will not be inappropriate development if it would
 - (1) meet a demonstrable unmet need
 - (2) be in a sustainable location (with particular reference to NPPF 110 and 115)
 - (3) and meet the Golden Rules under NPPF 156-157.
12. At the CMC, and in the subsequent SoCG, TDC confirmed that it accepted that the site was grey belt land, and that provision of housing would help meet a demonstrable unmet need. The key issue was therefore whether the site was sustainable and whether it would meet the Golden Rules. In relation to the Golden Rules, TDC agreed that the Appellant was entitled to increase its offer of affordable housing to 50%, which meant that the focus fell on whether all necessary local infrastructure improvements were made.
13. SCC, and TDC's third reason for refusal, had consistently⁶ made it clear that the site was not considered to be sustainable and had encouraged the Appellant to undertake a thorough assessment of local routes to determine whether any improvements might be possible. The Appellant's application proposals included some measures, but these were considered to be insufficient to make the site sustainable, in particular due to the distance to local amenities local and the lack of suitable pedestrian and cycle connections to them. The Appellant did not themselves seek to identify any further measures in response to the reason for refusal but, following the CMC, SCC has engaged proactively and proposed a set of improvements aimed at creating a 20mph cycle suitable route from the site to the amenities at the southern end of Townend Rd/Buxton Lane. These have now been agreed and are shown detailed on the plan appended to the transport SoCG.
14. As a result of these proposals, which are to be secured via an agreed condition (condition 25), SCC have now agreed that the Appeal Site can be made sustainable and

⁶ See both CD3.1 and Appendix A to Mr Bell's Proof.

also that, subject to those measures being secured, the proposed development will not give rise to unacceptable highways impacts in terms of safety or capacity: see Transport SoCG at para 7.⁷

15. SCC's agreement that the Site can be made sustainable, and that all necessary local infrastructure improvements are now secured, has the result that the Proposal can now be considered to comply with NPPF 155-157 and is not inappropriate development in the Green Belt.
16. Accordingly, each of reasons for refusal 2, 3 and 4 are no longer relied upon.

RfR 1: loss of playing pitch

17. The one remaining area of dispute is whether the southern part of the appeal site attracts protection as a playing field for the purposes of NPPF 104. TDC considers that it does, notwithstanding that the use of the land between 2016 and 2023 may have been without planning permission. However, TDC is satisfied that even if its case on the playing pitch was accepted in full, the resulting breach of NPPF 104 would be insufficient to justify refusal in this case.
18. This is for the following summary reasons:
 - (1) The Council is unable to demonstrate five years of housing land supply with the current monitoring report identifying a supply of 1.92 years.
 - (2) The development plan is therefore to be treated as out of date for development purposes.
 - (3) The Proposed Development is not inappropriate development so no weight is to be given to any harm to the Green Belt, in accordance with footnote 55.
 - (4) NPPF 104 is not a footnote 7 policy, so there is no policy which provides a strong reason for refusal in the language of NPPF para 11 d.
 - (5) Accordingly, the correct balance is the tilted balance in paragraph 11 d) ii) of the NPPF such that permission should be granted unless:

“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,

⁷ CD 10.4.

having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination”

(6) The substantial benefits to be given to affordable and market housing are added to by the significant weight to be given to compliance with the Golden Rules in accordance with paragraph 158 of the NPPF; the other more modest benefits recognised by Mr Lee in his proof of evidence; and the additional sustainable transport benefits now secured insofar as they also benefit other local residents.

(7) Harms resulting from the loss of the playing field may be mitigated to some degree in this case by the uncertain planning history and the lack of public access, but even if they were not, they would be insufficient to “*significantly and demonstrably*” outweigh the benefits of this scheme.

19. Accordingly, while the Council maintains that there will be a loss of a playing field in no longer advances it as a reason for refusal.

Planning balance

20. Accordingly, TDC agrees that planning permission should be granted, subject to the Appellant entering into the Unilateral Undertaking and the imposition of the conditions set out previously and in the additional Highways SoCG.

Matthew Dale-Harris
LANDMARK CHAMBERS

4 March 2025.