

Appeal Decisions

Hearing held on 23 February 2017

Site visit carried out on the same day

by Mrs J A Vyse DipTP DipPBM MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 29 March 2017

Appeal A: APP/R3650/W/16/3150906

Land at Backward Point, Cranleigh Road, Ewhurst, Cranleigh GU6 7RJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr C Viret of Millwood Designer Homes Limited against the decision of Waverley Borough Council.
 - The application No WA/2015/1902, dated 7 September 2015, was refused by a notice dated 26 February 2016.
 - The development proposed comprises the erection of 13 dwellings with associated highway works.
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Appeal B: APP/R3650/W/16/3150910

Land at Backward Point, Cranleigh Road, Ewhurst, Cranleigh GU6 7RJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr C Viret of Millwood Designer Homes Limited against the decision of Waverley Borough Council.
 - The application No WA/2015/1903, dated 7 September 2015, was refused by a notice dated 24 March 2016.
 - As set out on the planning application form, the development proposed comprises the erection of up to 31 dwellings and associated highways.
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Decisions

Appeal A

1. For the reasons that follow, the appeal is dismissed.

Appeal B

2. For the reasons that follow, the appeal is allowed and planning permission is granted for development of up to 31 dwellings and associated highways on land at Backward Point, Cranleigh Road, Ewhurst, Cranleigh in accordance with the terms of the application, No WA/2015/1903, dated 7 September 2015, subject to the conditions set out in the attached schedule.

Procedural Matters

3. Both appeals relate to outline applications. In relation to Appeal A, matters of access, scale, layout and appearance are for consideration now, with only landscaping reserved for future consideration. In relation to Appeal B, all matters other than access are reserved for future consideration. Whilst sketch layout plans were submitted with Appeal B, these are indicative only.
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4. Two of the reasons for refusal on each scheme relate to the absence of a legal agreement securing the provision of affordable housing and infrastructure contributions. However, both appeals were accompanied by unilateral undertakings. The obligations secured are a material consideration and are dealt with in more detail later on. Suffice it to say here, that the Council was satisfied that they overcame the related reasons for refusal.
5. In relation to Appeal A, one of the reasons for refusal refers to the impact of the scheme on buried heritage assets. However, in the light of a desk-based archaeological assessment submitted in relation the larger Appeal B scheme, the Council did not pursue that reason for refusal either.
6. Although there was some discussion as to the ownership of the hedge along the western side of the existing access track (alongside an existing dwelling, Oakhanger) that is a private matter between the parties. Whilst it may have implications for implementation were the appeals to succeed, I can only consider the planning merits of the respective cases.
7. The development plan for the area includes the saved policies of the Waverley Borough Local Plan 2002. I was also referred to policies in the emerging Local Plan. The emerging Plan was submitted for Examination in December 2016¹ and, whilst an Inspector has been appointed, the Examination has not yet taken place. Recently, however, the Inspector issued his initial questions and comments,² which include queries relating to how the emerging Plan accommodates unmet housing need within the Housing Market Area as a whole, the absence of any very special circumstances relating to the proposed release of land from the Green Belt, and the lack of evidence to demonstrate that a proposed new settlement at Dunsfold Aerodrome meets the requirements of the Authority's Sustainable Transport policy (policy ST1). The Statement of Common Ground suggests that significant weight can be afforded to the emerging Plan. I do not agree. Its policies have not yet been tested at Examination and may be subject to change. On that basis, and given the nature of some of the concerns already raised by the Local Plan Inspector, I consider that whilst the policies may indicate a 'direction of travel', they can attract only limited weight at the current time.
8. My attention was also drawn to two Neighbourhood Plans. Whilst the appeal site lies within the Ewhurst Neighbourhood Plan area, that Plan is at a very early stage with no version issued yet for public consultation. In the absence of even draft policies to assess the scheme against, it carries no weight in my consideration of this appeal. That said, the Draft Vision and Objectives (March 2016) sets out, among other things, that the emerging Plan will make provision for the development of sufficient new housing to meet primarily the locally generated need for additional houses and fulfil the requirements of the development plan. It was confirmed at the Hearing that neither of the proposals would conflict with the housing objectives of the emerging Plan.
9. The Farnham Neighbourhood Plan has been the subject of an Examination and the Inspector's Report had just been made available at the time of the Hearing. Some of the sites in the Council's housing land supply are sites allocated in the Neighbourhood Plan, although the appeal site itself lies outwith the Plan area. Whilst the Inspector's Report suggests some amendments, it was confirmed

¹ Submission post-dates determination of the planning applications the subject of these appeals.

² Listed below as Inquiry Document 2

that the housing allocations therein came through unscathed. Whilst the Plan is not currently part of the development plan, given its advanced stage, the policies attract some weight, although that is tempered to some extent, given that it has not been to referendum yet.

Main Issues

10. These relate to:

- the effect of the developments proposed on the character and appearance of the area;
- the proposed housing mix (Appeal A only);
- vehicular and pedestrian safety (Appeal B only);
- and the Council's housing land supply position.

Reasons

Character and Appearance

11. In countryside beyond the Green Belt and outside identified rural settlements, saved policy C2 of the 2002 Local Plan seeks to protect the countryside for its own sake. Building in the open countryside, away from existing settlements, will be strictly controlled, with the explanatory text to the policy setting out the types of development that may be acceptable in such locations.
12. The appeal site lies outwith, but adjacent to, the settlement boundary for Ewhurst as currently defined by the Local Plan and thus, in the terms of policy C2, is in the countryside. Both appeals relate to proposals for market housing (albeit with an affordable housing element) which is not identified as one of the exceptions to policy C2 in the explanatory text. As confirmed in the officers' reports to the planning committee, the appeal site occupies a reasonably sustainable location in terms of access to facilities and services. Moreover, at the Hearing, the Council confirmed that since the site is located immediately adjacent to the settlement boundary, that there was no conflict with the second part of policy C2 on the basis that the site was not 'away' from the existing settlement. Rather, it was the protection of the countryside in terms of its character and appearance that was at issue. I am mindful, in this regard, that among other things saved policies D1(b) and D4(a)(d)and(e) seek to ensure that new development integrates well with a site and its surroundings and that it protects the visual character and distinctiveness of a locality, particularly in relation to the design and scale of development.
13. The site, which extends to some 1.26 hectares, comprises a grassed paddock area. Its 'backland' location means that the site is not seen from the adjacent road network. Although a public footpath runs along the proposed access from Cranleigh Road, it does not run through that part of the site on which the houses are proposed. Rather it passes behind Backward Point before entering the extensive village recreation ground to the north. Having walked the route, I am satisfied that the dwellings proposed would not impinge unduly on the experience of users of the footpath.
14. Whilst not prominent from other vantage points, the developments proposed would be seen from the adjacent recreation ground. When viewed from there, the appeal site is seen against the backdrop of the existing settlement.

Moreover, the presence of existing residential development along two of the three site boundaries, and the well vegetated boundary along the watercourse on the boundary with the adjacent recreation ground, mean that the site is visually well contained, even in winter. As such, its undeveloped state makes no integral contribution to the character of the village. Indeed, the Inspector who dealt with an appeal in relation to extensions to Backward Point, considered that the property, including the paddock area the subject of the current appeals, was not in a rural area and did not lie outside the settlement of Ewhurst.³

15. In relation to the Appeal A scheme, the submitted details show dwellings of a scale and vernacular design commensurate with the residential character of the village, with the layout providing an appropriate sense of place and character.
16. The Appeal B scheme (where all matters other than access are reserved for future consideration) is at a higher density than the development that adjoins the site. However, efficient use of land is an important aspect of sustainable development and I saw that the village successfully accommodates areas of higher density as well as lower density housing. I am satisfied that the provision of up to 31 dwellings on the site could not be achieved in a way that would also provide a sense of place and character, utilising buildings that would reflect the local vernacular.
17. Implementation of either of the appeal schemes would result in a significant degree of change in terms of the current open character and appearance of the appeal site, when compared to its existing condition. However, any residential development on an open greenfield site would be likely to have a similar impact. I am mindful, in this regard, that the emerging Local Plan indicates some planned growth in Ewhurst, with policy ALH1 allocating some 65 dwellings to the parish.⁴ Moreover, the Council acknowledged at the Hearing that some development of greenfield sites would be required to meet its housing requirement.
18. Although the built edge to the village would be pushed outwards, the housing proposed in both schemes would be well related to the existing development pattern, maintaining the compactness of the built-up area. Both schemes would retain (and utilise) the existing large pond adjacent to the watercourse and would retain and strengthen the vegetated site boundaries that would act as a buffer between the development and the adjacent recreation ground. The loss of the open paddock area would not materially affect the character or quality of the recreation ground or the grounds to Sayers Croft beyond, and I am satisfied that either of the developments would be no more intrusive in the countryside, including in views from the recreation ground, than the existing settlement.
19. Part of the Council's concerns in relation to Appeal B, related to the potential loss of the hedgerow along the proposed access road, although there is no suggestion of any similar harm in relation to Appeal A which, despite relating to fewer dwellings, proposes the same access arrangement.
20. Access to the appeal site would be taken from Cranleigh Road (B2127) via a track that currently serves Backward Point. To the east, the access track runs

³ APP/R3650/A/87/71928/P4 Allowed December 1987

⁴ Including homes permitted and built since April 2013.

alongside Grandsen Close, a short residential cul-de sac that serves a handful of properties. The track and Grandsen Close are separated by a grassed verge of varying width and hedging, with the track being at a slightly lower level. To the other side of the access is another residential property, Oakhanger, its boundary with the access also being defined by hedging. Public footpath No 437 runs along the length of the track.

21. Plan No 14/0908/SK03)⁵ indicates that the hedge along the boundary with Oakhanger would not be affected directly by the proposed access arrangement. However, plan No 3330_DR_003 (tree protection drawing high density option) appears to show removal of the hedgerow alongside Grandsen Close. Measurements taken by the main parties during the site visit indicated that it might be possible to retain the hedge albeit that it may need to be trimmed back in places, although the provision of passing points, as requested by the countryside access officer, may have implications for retention of the hedge in places, depending on their final position. The loss of the hedgerow would affect the amenity of footpath users and would harm the character and appearance of the area. It was agreed, in this regard, that the detailed treatment of this boundary is a matter that could be controlled by conditions were the appeal to succeed. On that basis, the creation of the access as proposed would not, necessarily, result in material harm to the character and appearance of the area.
22. To conclude on this issue, I find that any harm to character and appearance consequential upon either of the developments proposed would be very minor, relating only to the loss of openness of a visually well-contained site that I have found does not have an integral role as part of the defining character or appearance of the settlement. There would, nevertheless, be some conflict with Local Plan policies D1(b) and D4(a)(d) and (e) in this regard. However, I find no material conflict with policy C2, given the Council's stated position that that the site is not 'away' from the existing settlement. In any event, policy C2 is to be considered out-of-date, not only because in seeking to protect the countryside for its own sake, irrespective of the characteristics of the particular area under consideration, it is inconsistent with the Framework, but also in light of my findings below on housing land supply.

Housing Mix (Appeal A only)

23. Policy H4 of the 2002 Local Plan requires that, on schemes of more than three dwellings, at least 50% of the homes will be 2 bedroom or less, that not less than 80% will be 3 bedroom or less, and that no more than 20% exceed 165 square metres gross floor area.
24. Of the thirteen dwellings proposed in the smaller Appeal A scheme, the nine market dwellings would all be of 4 or more bedrooms, equating to some 69%. The other four dwellings would be affordable homes, comprising two x 2 bed and two x 3 bed properties. The proposed provision would clearly conflict with the numerical targets of the development plan policy.
25. However, the targets in the policy are of considerable age, reflecting a housing need that was identified in the late 1990s. Moreover, as identified by a

⁵ Inquiry Document 3

colleague Inspector,⁶ the policy embraces a rigid, prescriptive approach. Such an approach does not chime with the more flexible evidence based approach of the Framework. Paragraph 50 of the Framework sets out that, in order to deliver a wide choice of high quality homes, to widen opportunities for home ownership and to create sustainable, inclusive and mixed communities, local authorities should plan for a mix of housing based on current and future demographic trends, market trends and the needs of different groups in the community. Authorities are also required to identify the size, type, tenure and range of housing required in particular locations, reflecting local demand. Given the age of the policy and its numerical approach, I consider that it is not up to date and that only limited weight should be afforded to it.

26. Policy AHN3 of the emerging Local Plan does not set out a numerical approach to housing mix. Rather, it requires that housing developments should make provision for a range of different types of housing to meet the needs of the community, reflecting the most up-to-date evidence in the Council's Strategic Housing Market Assessment (SHMA). My attention was directed, in this regard, to the West Surrey SHMA - Waverley Sub Area Addendum (November 2015).
27. Neither the emerging policy, the SHMA nor the Addendum have yet been tested as part of the Local Plan process. Neither does, nor will the SHMA and its Addendum comprise policy. However, emerging policy AHN3 does accord with the Framework and it can therefore be afforded some, albeit limited weight at this stage. As noted by my colleague in the Frensham Vale decision, the SHMA (and now the Addendum) provides recent and robust evidence on local housing need. The table below sets out the requirements for the 'rest of the Borough' category, as set out in the SHMA Addendum.⁷ It is clear that the housing mix proposed would not meet the current suggested mix which is based on the identified needs for the area.

	1 bed	2 bed	3 bed	4+ bed
Market	5.9%	29.5%	39.2%	25.4%
Affordable	50.3%	26.9%	21.4%	1.5%

28. I recognise that the table above relates to the need spread across the 'rest of the Borough' as a whole and that, at just 13 dwellings, this is a relatively small development in the scheme of things. As such, there will be limitations on its ability to provide a mix that fully corresponds with the spread suggested by the SHMA Addendum.
29. In support of the appeal, the appellant also maintained that the provision of smaller homes at a higher density would be contrary to the prevailing character of the village. I would agree that a scheme comprising wholly small homes might well be incongruous here. However, having regard to the Appeal B scheme, I have no reason to suppose that a development comprising a greater number of more modestly sized properties that would be better meet the identified housing needs of the local population could not be achieved on the site, in a layout that would still respond appropriately to the character and appearance of the area.

⁶ APP/R3650/W/15/3008821 – outline application for up to 46 dwellings on land at Frensham Vale, Waverley. Appeal dismissed 18 April 2016

⁷ Figures taken from Tables 15 and 18 of the SHMA Addendum (submitted with the Questionnaires)

30. I acknowledge that the table above evidences a need for some larger market homes in the Borough. However, since almost 70% of the homes proposed would comprise 4+ bedrooms, the appeal scheme would not help address the most acute local need, namely the need for smaller homes. Whilst 30% of the homes proposed would be affordable, at a time when there is no policy requirement for such on greenfield sites like this, I am firmly of the view that it would not comprise a sufficiently inclusive and varied development to the extent that it would provide an appropriately mixed community as required by paragraph 50 of the Framework. There would be conflict therefore, with both the emerging policy and national planning policy in this regard.

Vehicular and Pedestrian Safety (Appeal B only)

31. As noted above, access to the appeal site would be taken from Cranleigh Road via a track that currently serves Backward Point. The access would comprise a shared surface arrangement, the first 20 metres being constrained to a width of 4.1 metres. A width of some 4.8 metres is achievable along the remainder which, as confirmed in the Transport Statement, is sufficient for a refuse/delivery vehicle and a car to pass without the need for either vehicle to reverse onto the highway or back into the development site.
32. The visibility splays that would be provided at the junction of the access with the main road would meet the required standards. Forward visibility splays are also shown within the site, at the point where the access would turn into the development site at the northern end of the track. Those splays are based on a 20mph vehicle speed, the speed within the site being moderated due to the nature of the access road and the bend.
33. Whilst oncoming vehicles may, on occasion, be unable to pass within the narrower section, there would be sufficient forward visibility for vehicles approaching along the access towards the main road to wait for a vehicle turning in. Similarly, I have no reason to suppose that a vehicle having to wait to turn into the access road would present a material hazard to other road users, there being good visibility in both directions at this point.
34. Whilst there was some concern that larger vehicles turning in to the site would need to use the full width of the access, that is not unusual on smaller roads such as this. This would apply especially to refuse collection vehicles, for which swept path details have been provided, but these would be likely to call no more than once a week. Drivers would need to exercise proper care, but it is not unreasonable to expect that they would do so. All in all, I consider the overall risk of collisions between vehicles using the access would be low.
35. In terms of potential conflict between vehicular traffic and footpath users, I note that the countryside access officer raised no objection subject, among other things, to a condition requiring the construction of two pedestrian refuges. I am satisfied that such an arrangement could be accommodated and that it provide for the safety of pedestrians, particularly since that, as noted in the Transport Statement, even at peak times only some 15-18 two way trips are anticipated, most of which would be cars.
36. Having regard to the overall length of the access track, the low vehicle speeds already noted, the limited number of traffic movements anticipated at peak times and given the absence of any substantiated evidence to the contrary, I am satisfied that, subject to conditions, the development proposed would not

result in any demonstrable harm to highway safety, including the safety of pedestrians using the public footpath. There would be no conflict therefore, with saved policies D4(h) and M4 which together and among other things seek to protect such interests.

Housing Land Supply

37. At the time the planning applications the subject of these appeals were determined, the Council accepted that it could not demonstrate a five year supply of housing land. However, by the time of the Hearing, that position had changed. The Council's latest evidence on housing land supply is set out in its Five Year Housing Land Supply Document dated 1 January 2017 (2017 HLS). The conclusions in that document are predicated on an average annual housing requirement of 753 dwellings per annum, delivery over the next five years of the accrued undersupply since 2013 and the application of a 5% buffer, giving a total requirement of 3,767 dwellings over the five year period. It sets out a supply of some 4,359 dwellings equating to 5.79 years.⁸

5% or 20% buffer

38. Paragraph 47 of the Framework requires that authorities should identify and update annually a supply of specific deliverable sites sufficient to provide five years housing land supply against their housing requirements with an additional buffer of either 5% or, where there has been a record of persistent under delivery, 20% (moved forward from later in the Plan period) to ensure choice and competition in the market for land. The planning guidance confirms that the approach to identifying a record of persistent under delivery of housing embraces a range of issues, advising that the assessment of a local delivery record is likely to be more robust if a longer term view is taken, since this is likely to take account of the peaks and troughs of the housing market cycle.
39. Looking at delivery over the 14 year period set out in the 2017 HLS document, whilst housing completions for the first seven years exceeded the requirement, the Council has not met the relevant requirement in each year since. I am mindful, in this regard, that the annual requirement was very low up to 2012/2013, in comparison with the annual requirement figure of 519 dwellings per annum (dpa) for 2013/2014 onwards. I am also fully aware of the recession in around 2008-2010. However, undersupply at that time was against a lower requirement figure than is currently the case and, in any event, we are some years on from that now. Moreover, delivery over the whole of the fourteen year period shows a shortfall of more than 900 dwellings.⁹
40. At the Hearing, the Council referred to what it described as step changes in the requirement: for the first four years, the annual requirement, as set out in the South East Plan, was 187 dpa, for the next seven years, the requirement was 250 dpa as set out in the 2002 Local Plan and for the last almost four years, the requirement has been 519 dpa. It was the Council's case that the delivery of housing takes time to 'catch up' with the increased requirements and that there will be a consequent lag in supply. However, that is not wholly borne out by the figures. The 2017 HLS document shows that in the three years following the increase from 187 dpa to 250 dpa, completions exceeded the requirement.

⁸ These figures are all taken from the 2017 HLS document. I understand that the minor anomalies in the figures in the various documents are the result of rounding figures up or down at various stages.

⁹ Kember Loudon Williams Statement dated 20 October 2016 (paragraph 6)

41. The Council drew attention to Table 3 of the 2017 HLS document which indicates a substantial increase in planning permissions granted over recent years. Even so, completions since 2013/2014, following the introduction of the 519 dpa requirement, have not been meeting even the lower South East Plan requirement that was in place earlier in the 14 year period. In essence, there continues to be a significant shortfall in delivery against current requirements.
42. Based on the evidence to this Inquiry I conclude, for the purposes of this appeal, that even when looked at over a fourteen year period, this is an authority where a 20% buffer is warranted. In coming to this view I note, following examination of evidence through the Inquiry process, that other Inspectors have recently concluded that there is at least a borderline case for a 20% buffer being warranted, with the housing figures before me being even more up-to-date than in the most recent of those decisions (Hewitt's Industrial Estate). On the Council's own evidence, the application of a 20% as opposed to 5% buffer would give a five year requirement of some 4,306 dwellings. As a consequence, the supply would fall to around 5.06 five years - a surplus of just 53 dwellings. .

Housing Supply Sites

43. The housing land supply as set out in the 2017 HLS document, is made up of sites with planning permission, allocated sites in the emerging Local Plan and sites identified in the Land Availability Assessment August 2016 (updated December 2016)(LAA).
44. The Hewitt's Industrial Estate Inspector had significant reservations regarding the full deliverability of some of the sites identified in the Council's LAA that are included in the five year supply: they are not currently part of a development plan allocation; they have not been tested at Examination yet as part of the emerging Local Plan and thus may be subject to change; and they do not benefit from an extant planning permission. I share those reservations.
45. For the purpose of determining this appeal, I shall focus on just three of the strategic sites identified in the emerging Local Plan by the appellant, since a failure to deliver/slippage in delivery of just one, could have significant consequences for the Council's five year supply. These allocations are all greenfield sites which, as noted by the Hewitt's Industrial Estate Inspector, are likely to be the subject of objections, casting further doubt on deliverability.
46. *Coxbridge Farm, Farnham* is identified as providing 180 homes over the five year period based on a developer estimate provided some nine months ago. No planning application for the site has yet been submitted. I was advised that an outline application would, in all likelihood be submitted first, which would take some time to determine, together with completion of any relevant planning obligation. The Council did not disagree. Following that, reserved matters would need to be discharged. I recognise that the principle of development on this site might be acceptable to the Council, given its inclusion in the emerging Farnham Neighbourhood Plan. However, it is clear that commencement of development on the site and subsequent delivery of completed housing is some way off yet. In the absence of any substantiated evidence to persuade me otherwise, I consider that whilst some homes may be delivered within the five year period, delivery of all 180 dwellings is not realistic.

47. *Land at Horsham Road, Cranleigh* is identified as providing 101 dwellings over the next five years as part of a larger scheme for the site. Again, though, the developer estimate on which that figure is based was provided some nine months ago now, with no planning application having been submitted. As a consequence, the prospect of securing even outline planning permission is some way off yet. More importantly though, unlike the site above, there is no suggestion that the site is included in an emerging Neighbourhood Plan, never mind one as advanced as that at Farnham. All in all, I am not persuaded that the developer estimate equates to site-specific evidence as to the realistic deliverability of the site within the five year period. As such, it would not, in my view, be appropriate to include this site in the five year supply at the present time. A reduction of 101 dwellings is therefore justified.
48. *Land opposite Milford Golf Course* is identified as providing 180 dwellings, again based on a developer estimate of some nine months ago. However, the site lies within the green belt and there is no planning application for residential development. In addition, there will be a need to relocate the three holes that I understand to be located on the affected part of the course, which could also impact on any start date. There was no substantiated evidence either, to indicate what very special circumstances would be relied on to allow for permission for the dwellings to be granted. I note, in this regard, that the Local Plan Inspector's recently issued initial questions and comments confirm that simply identifying Green Belt sites such as this does not amount to very special circumstances. On balance, I am not persuaded that this site should be included in the supply at the present time - a reduction of 180 dwellings.

Lapse Rate

49. The appellant suggests that the Council should apply a 10% lapse rate to those supply sites with outstanding planning permission, sites identified in the LAA and allocated sites in the emerging Local Plan. However, I find no reference to the need to include a blanket lapse rate to such sites in the advice for calculating supply set out in the Government's Planning Practice Guidance (planning guidance). Whilst expected delivery may sometimes slip, other sites may deliver more housing than was anticipated. Moreover, other unanticipated sites may come forward and contribute to the supply, for instance the recent Hewitt's Industrial Estate decision.
50. I recognise that other Inspectors and indeed the Secretary of State have applied a lapse rate on occasion,¹⁰ as did the Inspector who dealt with the Hewitt's appeal. However, the Secretary of State decision referred to dates from February 2013, with the 'Cotswold' judgment also referred to, dating from November 2013, both of which pre-date the Government's current planning guidance.
51. As set out in footnote 11 to the Framework, the test required is that of clear evidence that a scheme will not be implemented within five years. In my view, a past record of general slippage does not overcome what is, essentially, a presumption that sites with planning permission will come forward. I note, in this regard, that the Council appears to be updating its housing land supply figures more often than once a year (at least lately) so any slippage should, in theory at least, be quickly picked up. On balance, therefore, and notwithstanding the Hewitt's decision, I am not persuaded on the basis of the

¹⁰ Montagu Evans Briefing Note dated January 2017

evidence before me that it is appropriate to apply a standardised lapse rate to all of the housing sites referred to in the Council's five year supply. Rather, each site should be considered having regard to its own particular circumstances. That said, given my findings above that a 20% buffer is required here, and the implications of that for the supply, it would serve no useful purpose insofar as this appeal is concerned to look here at slippage on the individual sites identified.

Conclusion on Housing Land Supply

52. I recognise that the emerging Local Plan is proceeding to Examination on the basis of a 5% buffer and delivery of the identified sites. It will be for the Local Plan Inspector to examine the Council's evidence on the sites in its supply in more detail at the Examination, with the benefit of input from numerous other parties, including developers. He will no doubt also come to a view as to whether it is appropriate to apply a lapse rate. However, for the reasons set out above, and based on the evidence before me, I consider that whilst a generalised lapse rate is not appropriate, this is an Authority where a 20% buffer is warranted. Moreover, I have identified problems in terms of the deliverability of at least some of the strategic sites allocated in the emerging Local Plan to the extent that at least 281 dwellings need to be removed from the identified supply at the present time. As a consequence, and solely for the purposes of this appeal, I am of the view that the Council cannot demonstrate a five year supply of housing land supply.

Other Matters

53. Among other things, Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special regard be given to the desirability of preserving the setting of listed buildings. The setting of a heritage asset embraces all of the surroundings from which it can be experienced. In essence, if the development proposed could be seen from, or in conjunction with any heritage asset, then there would be an impact on the setting of that asset. An assessment is then required as to whether that impact would harm its heritage significance.
54. Sayers Croft is located within extensive vegetated grounds on the far side of the recreation ground, to the west of the appeal site. Now a rural activities centre, it was one of the first national evacuee camps to be occupied in 1940 and was one of 33 camps established at a similar time. Due to the external appearance of the buildings remaining largely similar to their original form, and the numbers in which they survive, Sayers Croft is considered to be the best preserved camp remaining in the country.¹¹ It contains a Grade II listed building in the form of the Combined Kitchen and Dining Hall, the special interest of which is largely historic and architectural, relating to its prefabricated design and special function, with the main dining hall containing two fine examples of war art, which are on the national inventory of War Memorials.
55. Neither of the appeal schemes would have a direct impact on the listed building. In terms of its setting, that seems to me to be confined largely to the extensive grounds to the Centre. Whilst my colleague considered that the

¹¹ The information about Sayers Croft is taken from the list description and from an appeal decision for residential development elsewhere in Ewhurst drawn to my attention (APP/R3650/W/14/3000887).

setting extended to the site the subject of the appeal she was considering, that was on the basis that the main entrance to the Combined Kitchen and Dining Hall faced towards the site, which shared a boundary with the Sayers Croft grounds. Accordingly, there was intervisibility between the site and the listed building and she found that the appeal site in that case did make a contribution to the heritage significance of the listed building.

56. That is not the case with the developments before me. The appeal site is separated from Sayers Croft by playing fields within the recreation ground and there is no suggestion of any designed views from the listed building that might include the site. Indeed, at the time of the site visit, the listed building could not be seen from the playing fields. I am satisfied, therefore, that the appeal site does not contribute to the heritage significance of the listed building and there is no harm in this regard.
57. The owner of Oakhanger was concerned in relation to noise and disturbance from increased use of the adjacent access. Any noise and disturbance from construction would be short-lived and could be dealt with by suitably-worded conditions to control hours of working. Post-construction, whilst use of the access by vehicular traffic would undoubtedly increase in comparison to existing use (the access currently serves a single dwelling) there is no substantiated evidence to demonstrate that those traffic movements would be likely to result in material harm to the living conditions of occupiers.
58. Concerns regarding any damage to property during construction are matters for the relevant landowners to resolve.

Planning Obligations

59. In relation to Appeal A, other than the provision of an element of affordable housing secured, I do not need to consider the provisions of the related obligation any further here, because they are conditional on the appeal succeeding. As set out below, I conclude that Appeal A does not succeed.
60. However, in light of my conclusion below in relation to Appeal B, I do need to consider the provisions of the related undertaking. Planning obligations should only be accepted where they are necessary to make the development acceptable in planning terms; are directly related to the development; are fairly and reasonably related in scale and kind to it; and, since April 2015, must not comprise a pooled contribution where it relates to the provision of infrastructure and five or more contributions have already been collected for that specific purpose.
61. In relation to the Appeal B scheme, the undertaking secures:
- the provision of 9 units of affordable housing;
 - an environmental contribution;
 - a leisure contribution;
 - a refuse and recycling contribution; and,
 - early years and primary contributions.
62. Affordable housing: the 2002 Local Plan is silent in relation to affordable housing provision on sites such as this outside a settlement boundary, although

policy AHN1 of the emerging Local Plan requires a minimum 30% provision on housing sites. The planning obligation secures a 30% affordable housing provision and sets out a tenure mix. As confirmed in the SHMA and its Addendum, affordable housing continues to comprise an important and pressing element of the overall housing need in the area. I am satisfied therefore that the arrangement secured meets the relevant tests. Affordable housing is excluded from the pooling regulations.

63. Environmental contribution: £7000 is secured towards enhancements to the lighting at the recreation ground car park. I recognise that such a scheme may make use of Ewhurst recreation ground more attractive. However, the Council was unable to demonstrate how the amount had been calculated, how it related to harm caused directly by the development proposed, what any lighting scheme might entail and any implications such as potential impact on the living conditions of adjoining residents. I am not persuaded, in this regard, that it has been demonstrated that this contribution is necessary and I cannot, therefore, take it into account.
64. Leisure contribution: £17,437.50 is secured towards play area improvements and £18,987.50 towards playing pitch improvements, both at Ewhurst recreation ground. However, I was advised that the Council is no longer seeking a play area contribution as it has already secured the money for those works. It is not demonstrated, therefore, that that contribution is necessary. I was advised that the playing pitch contribution was calculated on the basis of an old Supplementary Planning Document, which was not before me, and that the improvements were required due to likely increased use of the pitches as a consequence of the development proposed. Whilst no detailed information was before me on this, I have no reason to suppose that the contribution secured does not meet all the relevant tests.
65. Refuse and recycling contribution: £720 is secured towards the provision of blue recycling bins and food waste caddy sets for each property. Provision of the bins will encourage recycling and composting to help deliver sustainable development by driving waste management up the waste hierarchy in accordance with the Waste Management Plan for England. I am satisfied, on the basis of the information that is before me, that the contribution meets all the relevant tests.
66. Early years and primary contributions: Based on housing trajectories, increased early years capacity is required in the catchment of the appeal site. To that end, £20,865 is secured towards adapting new build pre-school accommodation at Ewhurst Church of England Infant School to allow for an additional four pre-school places, working with Rainbow's End Pre-School. The housing trajectories also show that additional primary school capacity is required. Thus, £93,488 is secured towards the provision of new reception classrooms at Cranleigh Church of England School. It is confirmed that no developer contributions have been secured for these infrastructure projects. The basis for the calculations is clearly shown in the material before me and I am satisfied that they meet the relevant tests.

Overall Planning Balance and Conclusions

67. I have found that the Council cannot demonstrate a five year supply of housing land. In these circumstances, policies for the supply of housing cannot be considered as up-to-date, with paragraph 14 of the Framework advising that

permission should be granted unless any adverse impact of so doing would significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework as a whole, or where specific policies in the Framework indicate that development should be restricted.

68. Guidance set out at paragraph 19 of the Framework advises that significant weight should be placed on the need to support economic growth through the planning system. There would be economic benefits associated with the building of new homes, together with additional local spend by future occupiers and the provision of the New Homes Bonus to the Authority.
69. The provision of market dwellings in what the Council accepts is a reasonably sustainable location in terms of access to services and facilities, at a time when I have found that it cannot demonstrate a five year supply of housing land, is also a benefit. An added social benefit is the provision of some 30% of the dwellings as affordable homes, particularly when there is no requirement for such on greenfield sites at the present time.
70. With regard to environmental considerations, the site is of relatively low biodiversity interest. Were the recommendations of the appellant's ecological assessment adhered to (a matter that could be secured by condition) there would be a net gain to biodiversity which would be a benefit of the schemes.
71. All the identified benefits carry positive weight proportionate to the respective scale of the developments proposed.

Appeal A

72. The scheme proposed would result in the loss of 1.26 hectares of currently open land, although any adverse impact in this regard would be limited. However, I have found that the housing mix proposed would not meet identified local housing needs and would not create a sufficiently inclusive and mixed community as required by paragraph 50 of the Framework. I am mindful, in this regard that one of the core planning principles embraced by the Framework is to objectively identify and then meet the housing needs of an area. This is a significant concern that attracts substantial adverse weight.
73. In the final balance, due to the very modest scale of the development proposed, which limits the extent of the benefits that may accrue, the adverse impact of granting permission for a development that would not meet pressing, locally identified housing needs for smaller homes, and which would not create a sufficiently mixed community as required by the Framework, would significantly and demonstrably outweigh the benefits described, even acknowledging the absence of a five year supply of housing land. The proposal fails against policies in the Framework and the development plan as a whole and would not amount to sustainable development. I conclude, therefore, that Appeal A should not succeed.

Appeal B

74. I have found no harm in terms of highway safety, including the safety of pedestrians using the public footpath. However, as with Appeal A, the development proposed would result in the loss of 1.26 hectares of currently open land. That said, any adverse impact in this regard would be localised, given that the site is visually well-contained and does not have an integral role as part of the defining character or appearance of the settlement or its setting.

75. I have set out above the benefits that would accrue from the proposal, which benefits resonate with the economic, social and environmental dimensions of sustainable development. The combination of those benefits accords with the principal thrusts of the Framework of securing economic growth and boosting significantly the supply of housing, and are sound arguments carrying considerable weight in favour of the proposal.
76. In the overall balance, I consider that the limited harm I have identified does not significantly and demonstrably outweigh the benefits when assessed against the Framework and development plan as a whole. As such, the appeal scheme benefits from the presumption in favour of sustainable development as set out in the Framework. Therefore, for the reasons set out above, the evidence in this case leads me to conclude that Appeal B should succeed.

Conditions (Appeal B only)

77. Possible conditions were discussed at the Hearing in the light of the related advice in the Framework and the Government's planning guidance. The conditions and wording used set out in the attached schedule reflect that discussion.
78. A condition was suggested to secure the provision of information relating to the whereabouts of local public transport and walking/cycle routes. However, that is something that would normally form part of a Travel Plan. There was no suggestion in this regard that a Travel Plan is required in connection with the development proposed. I am not persuaded therefore, that the suggested condition meets the test of necessity and I have not imposed it. Other conditions were deleted on the basis that there was replication or, in the case of sustainable drainage, that they could be combined.
79. In addition to the standard conditions relating to the submission of reserved matters (1, 2, 3) it is necessary to identify the plans to which the decision relates, but only insofar as they relate to access, the only reserved matter for consideration at this stage, as this provides certainty. Given the reason for the condition, there is no need to list the location plan. (4)
80. In the interest of vehicular and pedestrian safety, it is necessary to secure provision of the access and associated visibility splays, the provision of pedestrian refuges along the access track, and signage given that it is a shared surface with a public footpath running its length. (5, 6, 7) In the interest of highway safety and visual amenity, details of the surfacing for the access are required. (8) In the interest of visual amenity, it is necessary to ensure that the hedgerow along the access track from Cranleigh Road is retained if at all possible but, if it does have to be removed, details of what would replace it are required. (9) Off-road car parking is required for each dwelling in the interest of highway safety, together with cycle parking/storage in order to encourage sustainable travel. (10)
81. In order to protect the living conditions of existing residents, it is necessary to control the hours during which construction works can take place. (11) For the same reason, but also in the interests of highway safety, protection of the environment, visual amenity and sustainable development, a Construction Management Plan is required for the duration of works. (12)

82. In the interests of biodiversity, the protection of wildlife and visual amenity, conditions are necessary to ensure that the works are carried out in accordance with the recommendations in the appellant's Ecological Appraisal Report and Arboricultural Impact Assessment. (13, 14)
83. Conditions relating to external lighting and finished ground and floor levels are necessary in the interest of visual amenity. (15, 16) In the interest of visual amenity and in order to ensure acceptable living conditions for future occupiers, it is necessary to ensure that the properties are provided with adequate bin storage facilities. (17)
84. In order to avoid pollution and to prevent increased risk from flooding, details of a sustainable surface water drainage scheme are required, together with details for ongoing management which are essential to ensure that the scheme continues to perform as intended. (18)
85. The appellant's desk-based archaeological assessment suggests that as the appeal site is on largely undeveloped land used for agricultural purposes throughout the post-Medieval period, it is possible that archaeological remains of prehistoric and/or later occupation might be present below ground. On that basis, a condition securing a programme of archaeological works in accordance with a written scheme of investigation is warranted. (19)

Jennifer A Vyse
INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Martin Hull	Partner at Kember Loudon Williams
David McMurtary	Gateway TSP
Chris Pitchford	Millwood Designer Homes Limited (Appellant)

FOR THE LOCAL PLANNING AUTHORITY:

Tim Bryson	Area Team Leader with Waverley Borough Council
Matthew Ellis	Principal Planner (Policy) with Waverley Borough Council
Peter Cleveland MRTPI	Development Control Manager with Waverley Borough Council

INTERESTED PERSONS:

Councillor Val Henry	Borough Councillor for Ewhurst
Ian Davis RIBA	Parish Councillor
John Beckwith-Smith	Local resident
Richard Katz	Local resident
John Dyball	Local resident

DOCUMENTS HANDED UP DURING THE HEARING

- 1 Listed building descriptions
- 2 Local Plan Inspector's Initial Questions and Comments
- 3 Proposed access arrangement (Plan No 14/0908/SK03)
- 4 Suggested conditions for Appeal A scheme
- 5 Unilateral Undertaking in relation to the Appeal B scheme

Schedule of Conditions
APP/R3650/W/16/3150910
Land at Backward Point, Cranleigh Road,
Ewhurst, Cranleigh

Reserved Matters

- 1) Details of the appearance, landscaping, layout, and scale (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
- 3) The development hereby permitted shall begin not later than two years from the date of approval of the last of the reserved matters to be approved.

Plans

- 4) Unless required otherwise by the conditions set out below, development shall be carried out in accordance with the following approved plans, but only insofar as they relate to access: 2374-SK-1006-E sketch site layout on aerial photo base, 2374-SK-1006-F sketch site layout on plan base, 14/0908/SK03 proposed access arrangement and 14/0908/SK04 site access with visibility splays.

Access

- 5) The development hereby permitted shall not commence unless and until access onto the B2127 Cranleigh Road has been provided in accordance with the details shown on drawing Nos 14/0908/SK03 and 14/0908/SK04 (both of which are within the Gateway TSP Transport Statement Ref: MF/14-0908 TS 2 v1.0) including provision of the visibility splays shown. Thereafter the visibility splays shall be kept permanently clear of any obstruction exceeding 0.6 metres in height above ground level.
- 6) Prior to commencement of development, details of a scheme for the provision of two pedestrian refuges on the access road, between Cranleigh Road and the development site, shall be submitted to and approved in writing by the local planning authority. The details to be submitted shall include a timetable for implementation. Development shall be carried out in accordance with the approved details.
- 7) Prior to commencement of development, a scheme of signage to alert users of the access road that it is a shared surface that includes a public footpath route shall be submitted to and approved in writing by the local planning authority. The details to be submitted shall include a timetable for implementation. Development shall be carried out in accordance with the approved details.
- 8) Prior to commencement of development details of the surfacing materials for the proposed access road shall be submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 9) Notwithstanding the detail shown on plan No 3330_DR_003 tree protection drawing high density option, no hedgerow along the access road shall be removed other than in accordance with details that shall previously have been submitted to and agreed in writing by the local planning authority. The details to be submitted shall include arrangements for replacement boundary treatment including a timetable for implementation. Development shall be carried out in accordance with the approved details.

Parking

- 10) No dwelling shall be occupied unless and until related provision for off-road car parking plus cycle parking/storage has been provided in accordance with details that shall previously have been submitted to and approved in writing by the local planning authority. Once provided, such facilities shall be retained thereafter for their intended use.

Construction Process

- 11) With the exclusion of HGV movements (which are covered by condition 12) construction works, including works of site clearance and ground preparation, and including deliveries to and from the site, shall not take place other than between 08.00-18.00 hours Monday-Friday, 08.00-13.00 hours on Saturdays and at no time on Sundays or on Bank or Public holidays.
- 12) No development shall commence, including works of site clearance and ground preparation, until a Construction Management Plan has been submitted to and approved in writing by the local planning authority. The approved Construction Management Plan shall thereafter be adhered to throughout the construction period. The Construction Management Plan shall include, but is not limited to, the following matters:
- notwithstanding the provisions of condition 11, the hours during which HGV deliveries to/from the site can take place;
 - site management arrangements, including on-site storage of materials, plant and machinery; temporary offices, contractors compounds and other facilities, including ; on-site parking and turning provision for site operatives, visitors and construction vehicles; and provision for the loading/unloading of plant and materials within the site;
 - wheel washing facilities to ensure that any vehicle, plant or equipment leaving the site does not carry mud or deposit other materials onto the public highway;
 - measures to minimise the emission of dust during the construction period;
 - the siting of any boundary hoarding behind visibility splays;
 - prevention of the burning of any materials on the site during the construction process;
 - details of any security or floodlighting to be employed during the construction process; and,
 - a construction waste management plan that identifies the main waste materials expected to be generated by the development during construction, together with measures for dealing with such materials so as to minimise waste and to maximise re-use, recycling and recovery.

Ecology/Trees

- 13) The development hereby permitted shall be carried out in accordance with the recommendations set out at Section 4 of the Ecological Appraisal Report by Bioscan dated July 2015.
- 14) No site clearance, preparatory work or development shall take place until a tree protection scheme in accordance with the Lloyd Bore Limited Arboricultural Impact Assessment (Ref No 3330_RP_004) dated 27 July 2015 and the details shown on plan Nos 3330_DR_001 tree survey drawing and 3330_DR_003 tree protection drawing high density option, including an appropriate method statement for the protection areas highlighted on those plans and a timetable for

implementation, has been submitted to and approved in writing by the local planning authority. The scheme for the protection of the retained trees shall be carried out as approved.

Lighting

- 15) No lighting for streets, footways or public areas shall be installed other than in accordance with details that have previously been submitted to and approved in writing by the local planning authority.

Levels

- 16) No development shall take place, including works of ground clearance, unless and until details of existing and proposed ground levels on the site and the relationship of the proposed ground levels to the finished floor levels of the dwellings hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall take place only in accordance with the approved details.

Refuse

- 17) No dwelling hereby permitted shall be occupied until associated facilities for the storage of refuse and waste, including recyclables, have been provided in accordance with details that shall previously have been submitted to and approved in the writing by the local planning authority.

Drainage/Flooding

- 18) No development shall take place on any part of the site, including works of site clearance and ground preparation, until details of a sustainable surface water drainage scheme have been submitted to and approved in writing by the local planning authority. The scheme shall be implemented and thereafter managed and maintained in accordance with the approved details and timetable. The scheme to be submitted shall:
- i. provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
 - ii. include a timetable for implementation of the scheme; and
 - iii. provide a management and maintenance plan for the scheme, for the lifetime of the development, which shall include the arrangements for adoption of the scheme by any public authority or statutory undertaker, and any other arrangements to secure the operation of the scheme throughout its lifetime.

Archaeology

- 19) No development shall take place on any part of the site, including works of site clearance and ground preparation, unless and until implementation of a programme of archaeological works has been secured in accordance with a written scheme of investigation which has previously been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

-----END OF SCHEDULE-----