The Planning Inspectorate

Appeal Decision

Inquiry opened on 6 June 2017

Site visit made on 9 June 2017

by David Prentis BA BPl MRTPI

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

Decision date: 17 July 2017

Appeal Ref: APP/R3650/W/16/3163124
35 Frensham Vale, Lower Bourne, Farnham GU10 3HS

- 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 Bargate Homes Limited against the decision of Waverley Borough Council.
- The application Ref WA/2016/1534, dated 13 July 2016, was refused by notice dated 31 October 2016.
- The development proposed is an outline application for the erection of up to 46 dwellings together with vehicular access, car and cycle parking and landscaping (all matters reserved except access) following demolition of existing dwelling (revision of WA/2014/1890).

Decision

1. The appeal is dismissed.

Application for costs

2. At the Inquiry an application for costs was made by Bargate Homes Ltd against Waverley Borough Council. This application is the subject of a separate decision.

Preliminary matters

3. The Inquiry sat for 4 days from 6 to 9 June 2017. I carried out an unaccompanied site visit before the Inquiry and there was an accompanied visit on 9 June 2017. The Frensham Vale Action Group (FVAG) appeared at the Inquiry as a Rule 6 Party.

4. The application was in outline with only the means of access to be determined at this stage. All other matters would be reserved for subsequent approval. The application was supported by an illustrative site plan which I have taken into account.

5. The Council's second reason for refusal related to housing mix. The Council and the appellant subsequently agreed that this could be addressed by a condition, thereby resolving this reason for refusal.

6. A draft S106 Agreement (*the Agreement*) was submitted at the Inquiry. This had not yet been signed due to late changes to the document. I therefore allowed a period after the Inquiry for a signed version to be submitted. The

version available for discussion at the Inquiry was in the final agreed form. The Council confirmed that the Agreement would resolve the matters set out in reasons for refusal 3, 4 and 5. The Agreement makes provision for financial contributions to education (early years, primary and secondary), transport, leisure facilities and recycling. Other obligations relate to the delivery of 30% of the units as affordable dwellings, highways works and junction improvements, provision of visitor parking and management and maintenance of open spaces and drainage infrastructure.

7. The Council produced written evidence of compliance with Regulation 122 and (where appropriate) Regulation 123 of the Community Infrastructure Levy Regulations. These matters were not controversial and no party at the Inquiry disputed the need for the various obligations. I am satisfied that they are compliant with the relevant statutory and policy tests and have taken them into account in my decision.

8. A previous appeal relating to similar development on the same appeal site was dismissed in April 2016[1]. I shall refer to that decision and the Inspector who made it as *Appeal A* and *the Appeal A Inspector* respectively. This appeal scheme seeks to address a concern identified by the Appeal A Inspector relating to flood risk. The location and design of the proposed access has been amended so as to avoid the use of land at higher risk of flooding. It should also be noted at the outset that the policy context has changed since Appeal A was determined. At that time neither the emerging Local Plan nor the emerging Neighbourhood Plan was sufficiently advanced to have a bearing on the Inspector's reasoning.

Main issues

9. The main issues are:

- the extent to which the principle of the proposed development accords with or conflicts with the adopted development plan and any emerging plans
- the supply of deliverable housing sites
- the effect of the proposal on the character and appearance of the area
- the nature and extent of any social, economic and/or environmental benefits

Reasons

The extent to which the principle of the proposed development accords with or conflicts with the adopted development plan and any emerging plans

10. The development plan includes the saved policies of the Waverley Borough Local Plan 2002 (LP). The appeal site lies outside but adjacent to the settlement boundary identified in the LP. Policy C2 states that the countryside will be protected for its own sake and that building in the open countryside away from existing settlements will be strictly controlled. The LP goes on to identify types of development which may be acceptable in the countryside but none of these are relevant to the appeal scheme. There was no dispute that the

[1] APP/R3650/W/15/3008821

appeal scheme would conflict with Policy C2. The Council and the appellant disagreed as to whether this would amount to a conflict with the development plan as a whole.

11. The statement of common ground identifies a number of relevant LP policies, covering matters such as environmental factors, design, accessibility, density, infrastructure and transport. Other than Policy C7, which I return to below, the Council accepted that all other relevant policies would be complied with or would be capable of being complied with at reserved matters stage (having regard to the suggested conditions and the Agreement)[2]. However, in commenting on the conflict with Policy C2, the Appeal A Inspector referred to '*the fundamental nature of this policy conflict*'. I share that view. Notwithstanding compliance with a number of more detailed policies, I regard the conflict with a key locational policy as sufficient to put the appeal scheme in conflict with the development plan as a whole.

12. The Council accepts that Policy C2 is out of date because it relates to settlement boundaries which were drawn to accommodate development needs up to 2006. The Council also accepts that the wording of the policy is not entirely consistent with the National Planning Policy Framework (*the Framework*). Moreover, the emerging plans referred to below and the Council's housing land supply are reliant on sites which are outside the settlement boundaries upon which Policy C2 relies. All of these factors lead me to conclude that policy C2 is out of date. I therefore attach only limited weight to the conflict with this policy.

13. At the time of the Inquiry the emerging Waverley Borough Local Plan Part 1 (eLP) had been submitted for examination. Examination hearings were scheduled shortly after the Inquiry. Policy RE1 states that within the countryside, as defined on the proposals map, the intrinsic character and beauty of the countryside will be recognised and safeguarded in accordance with the Framework. The appeal site contains two detached houses which are surrounded by extensive areas of woodland and coniferous plantation. It has a predominantly rural character. This would be transformed into a predominantly suburban character by the erection of up to 46 dwellings with associated residential curtilages and infrastructure. This would not safeguard the intrinsic character of the countryside and would not accord with Policy RE1.

14. The Framework states that weight may be given to policies in emerging plans, subject to the stage of preparation and the extent to which there are unresolved objections. Whilst the plan has progressed to examination stage, there are unresolved objections to it. At this stage of the process I attach moderate weight to the conflict with eLP Policy RE1.

15. The emerging Farnham Neighbourhood Plan (eNP) was submitted to the Council in July 2016. It was then subject to consultation and examination. A referendum was held on 4 May 2017 at which around 90% of those voting were in favour of the plan. The turnout was around 39%. At the time of the Inquiry the Council's decision to accept the report of the Independent Examiner (IE) was subject to a legal challenge which was scheduled to be heard shortly thereafter[3].

[2] Inspector's note - this acceptance included Policies D1 and D4 which are referred to in the reasons for refusal
[3] Inspector's note – although a hearing had taken place the decision of the Court had not been issued at the time of writing

16. The eNP seeks to accommodate strategic housing need as identified in the eLP. The eLP sets out a requirement for 2,330 dwellings at Farnham over the period 2013 to 2032. The plan period for the eNP is one year less (2013 to 2031) so the requirement figure has been reduced pro-rata to 2,214. The eNP identifies sources of housing supply including completions, planning permissions and a contribution from windfall sites. It also makes allocations for 784 dwellings. The total of these sources of supply is 2,201 which is 13 lower than the pro-rata requirement figure.

17. Policy FNP10 of the eNP seeks to protect and enhance the countryside. Outside of the settlement boundary, as defined in the plan, priority is to be given to protecting the countryside from inappropriate development. The appeal site is adjacent to, but outside, the boundary defined in the plan. Development in such locations must comply with each of 5 criteria, so far as those criteria are relevant. The relevant criteria in this case are (a) which states that development must accord with a relevant policy of the plan and (e) which states that development must enhance the landscape value of the countryside. At the Inquiry the appellant accepted that the appeal scheme would not accord with criterion (a). For reasons discussed under the third main issue, I do not think that it would comply with criterion (e) either. Having regard to the scale of the proposed development, I regard this as a significant conflict with the eNP.

18. The Framework states that neighbourhood planning gives communities direct power to develop a shared vision for their neighbourhood and to deliver the sustainable development they need. Planning Practice Guidance states that an emerging neighbourhood plan can be a material consideration. Factors to consider include the stage of preparation the plan has reached and (prior to referendum) the level of local support. In circumstances such as these, where the referendum has taken place, I consider that the high level of local support evidenced by the referendum result is an important consideration. The eNP is not yet part of the development plan. However, having completed examination and been passed by referendum, it is at the most advanced stage of preparation that it could be.

19. The appellant argued that the weight given to the eNP should be reduced because it does not meet the full requirement set out in the eLP. The Framework states that the ambition of the neighbourhood should be aligned with the strategic needs and priorities of the wider local area. Given that there is no up-to-date Local Plan, for present purposes that can only be judged by reference to the eLP. Dealing first with the difference of 13 units between the sources of supply and the pro-rata requirement, in my view that is simply too small to be significant.

20. The difference of one year in the end dates of the plans is a point which was addressed by the IE. He commented that there was a reasonable expectation that the Neighbourhood Plan would be reviewed before the end of the period and that '*in this context a difference of one year between the plans at the end of their respective plan periods does not seem significant*'. The IE went on to recommend a modification to the text which included his conclusion that '*the total supply generally meets the emerging strategic provision for the plan period of 2,214 dwellings*'.

21. I consider that the eNP is aligned with the strategic needs of the wider local area, (as expressed in the eLP), in accordance with the Framework. I understand that the appellant does not agree with the assessment of need set out in the eLP. That is a matter I return to under the second main issue. For the purposes of this appeal I see no reason to reduce the weight to be given to the eNP on the grounds that it does not seek to meet strategic needs.

22. The appellant also argued that the weight given to the eNP should be reduced because it is subject to a legal challenge. It would not be appropriate for me to take any view on the merits of the challenge as that is a matter for the courts. The usual approach of decision makers in these circumstances is that administrative acts are presumed lawful unless and until they are quashed. I see no reason to depart from that approach here and I make no reduction in weight to be given to the eNP because of the legal challenge.

23. In conclusion, the proposal would be in conflict with LP Policy C2 and hence with the adopted development plan as a whole. As Policy C2 is out of date I attach only limited weight to this conflict. The proposal would also be contrary to the eNP. Having regard to the advanced stage the eNP has reached and the high level of local support that there is for it, I consider that very significant weight should be attached to this conflict. In addition, I attach moderate weight to the conflict with eLP policy RE1.

The supply of deliverable housing sites

24. The Council and the appellant agree that the base date for the assessment should be 1 April 2017. There was also agreement on the figures for housing delivery since April 2013, the start date for the eLP. The Council has produced a Housing Land Supply position statement for the 5 year period running from April 2017 (HLS17).

Objectively assessed need

25. In the absence of an up-to-date local plan it is necessary to consider the likely level of objectively assessed need (OAN) for housing in Waverley. The eLP examination is underway. However, it is neither necessary nor appropriate for me to seek to determine the housing requirement that will emerge from that process. The most that can be done in the context of a s78 appeal is to reach a view on probable OAN specifically for the purposes of the matter in hand. For that reason it is not appropriate to take account of any unmet housing need arising in other local planning authority areas. Any such need may or may not ultimately form part of the requirement for Waverley but it would not be part of the OAN. That is a matter for the eLP examination.

26. The Council is promoting a figure of 519 dwellings per annum (dpa) at the eLP examination. That figure is based on the West Surrey Strategic Housing Market Assessment 2015 (SHMA15). The initial assessment of demographic need was 493 dpa. This was arrived at by reference to 2012 based household projections. Economic factors were considered but these did not result in any uplift above demographic need. An adjustment of around 5% was made to take account of affordability issues, resulting in an OAN of 519 dpa for the period 2013 to 2033.

27. The appellant is promoting a figure of 625 dpa, on the basis that an uplift of around 27% is needed to take account of economic trends and affordability

issues. However, new household projections have been published since the SHMA15. The 2014 based projections indicate a lower demographic need for Waverley of 378 dpa. This is a reduction of around 20% which I regard as a significant change. The Council's OAN figure of 519 dpa represents an uplift of around 37% in relation to the latest demographic information. Therefore, even if it were concluded that a greater uplift for economic trends and affordability factors (as compared with SHMA15) is justified, there would be sufficient headroom in the Council's figure to accommodate that. For the purposes of this appeal the evidence before me supports the Council's figure of 519 dpa and I have made my assessment on that basis.

The buffer

28. The Framework states that a buffer of 5% should be added to the requirement to ensure choice and competition in the housing market. Where there has been a record of persistent under delivery the buffer should be increased to 20%. My attention has been drawn to 4 previous appeal decisions in Waverley where Inspectors have found a 20% buffer to be appropriate (albeit two considered it to be a '*borderline case*'). The most recent of these was Weyburn Works, Elstead[4]. I refer to the appeal and the Inspector as the *Weyburn appeal* and the *Weyburn Inspector* respectively.

29. The Weyburn Inspector describes how the requirement has increased over time and how delivery has been affected by the recession of 2008 and a hiatus in the grants of planning permissions resulting from the need to establish a mitigation strategy in relation to Special Protection Areas. Taking account of all these factors, the Inspector noted that there had been under delivery in each of the last 7 assessment years (the years 2009/10 to 2015/16) and that completions had been less than half the requirement for the previous 3 years.

30. For this appeal there is data for one more year (2016/17). Completions in that year were also well below the requirement. This means that there have now been 8 consecutive years in which delivery has fallen short of the requirement. Moreover, looking at the period since April 2013, the cumulative shortfall is now over 1000 units. To my mind the evidence is indicative of a record of persistent under delivery and hence a buffer of 20%.

31. On the other hand, the Inspector who is conducting the examination of the eLP (*the LP Inspector*) has stated that a 20% buffer is not necessary. He has commented that, looking at the whole economic cycle, completions were running ahead of the planned requirement until the recession beginning 2008/9[5]. The Weyburn Inspector and the LP Inspector have therefore reached differing judgements on this matter. It appears that the difference relates to the weight given to delivery in the pre-recession period as part of an overall assessment.

32. Whilst I have taken both assessments into account, I have reached my own view on the evidence before me. This view is, of course, purely for the purposes of my appeal decision. Having regard to the 8 year run of under delivery, in combination with the scale of the cumulative shortfall, I consider that the evidence supports the application of a 20% buffer. That said, I do not think that the issue of the buffer is determinative in this case. To illustrate that

[4] APP/R3650/W/16/3150558
[5] Inspector's matters and issues for examination – 5 April 2017

point I shall comment below on the overall supply position with both a 5% and a 20% buffer.

The supply of housing sites

33. The Council's HLS17 indicates a supply of 4,445 units within the 5 year period running from April 2017. The elements of the supply which were disputed by the appellant were small sites with planning permission, two large sites with planning permission, two large sites with a resolution to grant planning permission, two draft allocation sites and sites identified in the Council's Land Availability Assessment 2016 (LAA16).

34. The appellant argued that the supply from small sites with planning permission should be reduced by a '*flexibility rate*' (or lapse rate) to account for the fact that some of these sites may not be delivered. This is a matter which was considered by the Weyburn Inspector. She drew attention to advice in the Framework to the effect that sites with planning permission should be considered deliverable unless there is clear evidence that they will not be delivered within 5 years[6]. The Weyburn Inspector did not see fit to apply a lapse rate. She found that conclusions about probable completion rates did not constitute the clear evidence required by the Framework that sites with planning permission will not be delivered. I share that view.

35. The appellant contested the projected delivery rate at land south of High Street, Cranleigh. This is a large site with planning permission. I note that the Council's figures are consistent with those provided by the developer and that there are two access points, both of which can be built out at the same time. Notwithstanding a recent decision of the Council to refuse some reserved matters, there is not sufficient evidence before me to indicate that the delivery rate for this site should be adjusted. Sturt Road, Haslemere is another large site with planning permission. Further evidence from the developer was submitted to the Inquiry regarding delivery rates at this site. I accept that evidence which results in a deduction of 90 units from the Council's supply.

36. Little Acres Nursery, Farnham is a site where there is a resolution to grant planning permission. There is no reason to doubt the Council's evidence that a s106 Agreement will be concluded shortly. No adjustment is required.

37. Dunsfold Aerodrome is a draft allocation in the eLP. The Council had resolved to grant planning permission for 1,800 dwellings but the application has since been called in for determination by the Secretary of State[7]. The appellant argues that no reliance should be placed on this site. Clearly there can be no certainty of delivery given that the matter is yet to be considered by the Secretary of State. On the other hand, this is a strategic allocation which is central to the eLP and it can reasonably be assumed that the planning authority will continue to promote it. That said, it seems likely that the call in process will affect the lead-in time. Moreover, there is not yet a developer and the site will have to be marketed. Having regard to the need to obtain pre-commencement approvals and to carry out site preparation works it seems unlikely that delivery would start before 2020/21. The Council's trajectory should therefore

[6] Framework, footnote 11

[7] The Council's resolution is the subject of a legal challenge. However, for the reasons given above in relation to the challenge to the neighbourhood plan, I do not consider that this affects the weight to be attached to the Council's decision.

slip by one year resulting in a reduction of 129 dwellings from the 5 year supply.

38. Land at Horsham Road, Cranleigh is a draft allocation in the eLP. This would be phase two of a site where development of phase one is already underway. There is an emerging policy requirement for phase one to be substantially complete before a start is made on phase two. Even so, having regard to the overall scale of the development, there is still a reasonable prospect of delivery within the 5 year period. No adjustment is needed.

39. Land at Milford Golf Course is also a draft allocation in the eLP. However, as it is within the Green Belt it seems unlikely that it could be released for housing in advance of the eLP process. I do not think that reliance should be placed on this site within the 5 year period. This results in a deduction of 100 dwellings from the Council's supply.

40. The Council's HLS17 relies on a group of sites which are 'green rated' in the LAA16 but which are not allocated in the eLP, nor do they have planning permission. The Council points out that they form a pool of sites which may be allocated in a Local Plan Part 2 or in future neighbourhood plans. The Council does not seek to rely on all of these sites. It is suggested that a proportion of them will come forward. The fact that they have been identified in the LAA16 provides some evidence of deliverability since it can be assumed that the Council has sought to identify deliverable sites as required by the Framework. However, that is only a starting point and it is necessary to go on to consider site specific evidence[8]. It is convenient to deal first with those LAA16 sites within the urban areas and then with those outside.

41. There was site-specific information before the Inquiry regarding the LAA16 sites within the urban areas. In some cases sites had been the subject of planning applications which had been refused and there was no evidence of revised schemes coming forward. I consider that those sites should be discounted. In one case (Central Hindhead), there is evidence that the site is occupied by a car dealership so it does not appear to be available. On the basis of this site specific evidence the 5 year supply should be reduced by 104 dwellings.

42. The evidence before the Inquiry did not identify the specific LAA16 sites relied on by the Council outside the urban areas[9]. That seems to me to be problematic in relation to the requirement of the Framework that a supply of specific deliverable sites should be identified[10]. What is known about the sites is that they are not within settlement boundaries. Moreover, the Council did not dispute the appellant's statement that around half of the sites are in the Green Belt and/or in an Area of Outstanding Natural Beauty. Reliance is placed on the fact that these sites may be allocated in future plans which have not yet begun to emerge. To my mind that is not a sufficient evidential basis for these sites to be relied on at this time. Consequently, 416 sites should be removed from the Council's supply.

43. My overall assessment is that the Council's supply should be reduced by around 839 dwellings, resulting in a figure of 3,606. The Council and the appellant

[8] See *Wainhomes (South West) Holdings Ltd v SSCLG* [2013] EWHC 597 (Admin)
[9] The Council stated that there is a schedule of these sites contained in a report which was not before the Inquiry.
[10] Framework, paragraph 47

agreed that with a base requirement of 519 dpa, allowing for completions, shortfall and a 20% buffer, the 5 year requirement would be 4,348 dwellings. On that basis the available supply would amount to around 4.1 years. Alternatively, if a 5% buffer were applied to the same base requirement, the 5 year requirement would be 3,804 and the available supply would be around 4.7 years. I conclude that, on either basis, the Council is not able to demonstrate the 5 year supply required by the Framework.

The effect of the proposal on the character and appearance of the area

44. The appeal site includes No 35 Frensham Vale and its curtilage together with a shared private drive which serves another house. This second house is encircled by the appeal site although it is excluded from the site boundary. The appeal site has a steeply undulating topography and includes substantial areas of woodland which surround the two houses. Much of this is coniferous plantation, mainly comprised of Scots pine. There are also some extensive clumps of large mature broadleaved trees and there is a steep bank in the south eastern part of the site which is densely covered with broadleaved woodland. The bank slopes up to meet the boundary with the grounds of Edgeborough School.

45. To the north east of the site there is a predominantly residential area which is characterised by detached properties set in generous plots. To the west of the site the character is much more rural. The few properties on the northern side of Frensham Vale have very spacious settings and there are no further houses on the southern side beyond the access to the appeal site. The predominant feature of this area is its abundant tree cover. Frensham Vale is an adopted highway with an informal character. There are limited stretches of footway to the east of the appeal site and there are also broad highway verges here. To the west there are ditches on either side of the road.

46. The appeal site is not subject to any landscape designation. No party at the Inquiry suggested that it should be regarded as a '*valued landscape*' as that term is used in the Framework. It falls within National Character Area 120, *Wealden Greensand*. This is a necessarily high level document and I consider that the *Surrey Landscape Character Assessment: Waverley Borough* (SLCA) is of more direct relevance for this appeal. The SLCA places the site in the *Rowledge to Tilford Wooded Greensand Hills* landscape character area. The key characteristics of this area include undulating hills and large continuous blocks of woodland including coniferous plantations, mixed woodland and common land. The appeal site appears to me to be characteristic of the wider landscape character area.

47. The Council carried out a landscape study (*the AMEC study*) which provides an evaluation of the capacity of the landscape to accommodate change due to development. The appeal site is within segment FN3 which is described as a mixed area including two schools and scattered residences. The landscape sensitivity is assessed as moderate and the landscape value is assessed as medium. The AMEC study concluded that there could be some potential for low density development adjacent to the settlement edge within the woodland as long as the forest character still predominates.

Landscape effects

48. The application was accompanied by a Landscape and Visual Appraisal (LVA) which assessed the site as being of medium sensitivity and medium value. The LVA concluded that the effect on landscape would be beneficial at a regional/county level and neutral at a local level.

49. The illustrative layout shows how the built form might respond to the undulating topography of the site. I consider that it provides a good indication of the sort of impact development on the scale envisaged would have. In particular, it shows that the proposed level of development could be accommodated whilst retaining the clumps of broadleaved woodland and the woodland on the south eastern bank. It also shows that the character of the greater part of the site would be transformed by the introduction of buildings, roads, parking areas and domestic gardens. At around 10 dwellings per hectare the overall density would be low. However, the illustrative layout shows an essentially suburban form of development in which the siting of the houses would follow the curving alignment of the roads.

50. The conclusion of the LVA that there would be a beneficial effect on landscape character was predicated on the suggestion that the scheme would enhance the balance between broadleaved and coniferous tree species. It is fair to say that most of the existing broadleaved trees could be retained. However, the principal blocks of woodland which would be retained are already predominantly broadleaved species. Most of the retained woodland shown adjacent to the south west, north west and north east boundaries is outside the site. The illustrative layout shows very little scope for new planting along these boundaries.

51. In general, the scope for new tree planting appears to be limited to some front gardens and rows of trees along side and rear garden boundaries. No doubt broadleaved species could be included. However, these would need to be species which were compatible in scale with a domestic garden environment. In my view the illustrative plan does not show a scheme which would preserve the forest character of the site, as suggested in the AMEC study. I consider that the LVA significantly overstates the potential beneficial effect of new planting.

52. The appellant accepted that nearly all of the Scots pine trees would be felled and that the number of trees that would be removed would be significantly greater than the number of new trees likely to be planted[11]. It is right to point out that these would be mainly plantation trees. They have been thinned in the past, in accordance with typical forestry practice, and they may well be thinned further in the future. At some point all or some of the trees may be felled. However, the fact that plantation woodland may be subject to cyclical forestry operations does not negate the contribution it can make as a landscape resource.

53. In this case it is important to note that the SLCA identifies coniferous plantations as a characteristic feature of this landscape type and identifies Scots pine as a locally appropriate species. LP Policy C7 seeks to ensure that the extent of tree cover in the Borough is maintained and, in particular, seeks to resist the loss of woodlands in areas which contain features that are characteristic of the landscape. I consider that the appeal scheme would not

[11] Accepted by Mrs Rowland in answer to questions from Mr Williams

maintain tree cover and would result in the erosion of a characteristic feature of the landscape, contrary to Policy C7. My overall assessment is that there would be harm to landscape character. Having regard to the moderate value of the landscape and the fact that it is characteristic of the landscape character type of which it forms a part, I would characterise the degree of harm as moderate.

54. The Appeal A Inspector concluded that there would be an '*overall negative outcome on the local landscape'* although he characterised the degree of landscape harm as limited. To this extent my conclusion differs from his. Whilst the two appeal schemes were very similar, the landscape evidence before the Appeal A Inspector was not the same as the evidence before this Inquiry. In particular, the SLCA was not drawn to the attention of the Appeal A Inspector although it was current at the time[12]. I regard the SLCA as an important part of the landscape baseline because it specifically identifies coniferous plantation, an important landscape feature of the appeal site, as being a characteristic feature of this landscape character type. Moreover, the potential landscape benefits of the appeal scheme were examined in some detail through oral questioning at this Inquiry. In any event, I am bound to reach my own judgement on this matter in the light of all the evidence before me.

Visual effects

55. The site is visually contained by topography and vegetation. Parts of the proposed development would be visible from nearby residential properties, including Nos 31 and 33 Frensham Vale and Longlands House which is adjacent to the north eastern site boundary. However, the detailed relationship between new and existing houses could be considered at reserved matters stage. Existing trees and vegetation between Frensham Vale and the north western site boundary currently provide a significant degree of screening. This is likely to vary with the seasons and I consider that it is likely that there would be some filtered views from Frensham Vale of some of the proposed houses in the northern part of the site. Nevertheless, I agree with the Appeal A Inspector that views along Frensham Vale would remain largely unchanged.

56. In conclusion, I consider that the appeal proposal would result in moderate harm to landscape character. It would not accord with Policy RE3 of the eLP which states that new development must respect the distinctive character of the landscape in which it is located. It would not accord with Policy FNP10(e) of the eNP which states that development should enhance the landscape value of the countryside. It would also conflict with LP Policy C7 in relation to loss of trees. The degree of visual harm would however be limited.

The nature and extent of any social, economic and/or environmental benefits

57. The scheme would result in the delivery of up to 46 dwellings which would contribute to the supply of housing in Waverley. Bearing in mind that the Council is not currently able to demonstrate a 5 year supply of housing as required by the Framework, this would be an important social benefit to which significant weight should be attached. Moreover, the Agreement provides for 30% of the units to be delivered as affordable housing. There is a pressing

[12] Confirmed by Mrs Rowland in answer to questions from Mr Williams

need for affordable housing in the Borough so this is another important social benefit.

58. The Agreement would provide for contributions to education, transport, leisure facilities and recycling which the appellant suggested should be counted as social benefits. However, the Council's compliance statement explains how these contributions have been calculated with a view to ensuring that they are proportionate in relation to the impacts generated by the appeal scheme. They should therefore be regarded as mitigation and will be neutral factors in the overall planning balance. The Agreement would also provide for highways works and junction improvements. In my view these are measures intended to offset the additional pedestrian and vehicular traffic generated by the scheme. They should also be regarded as mitigation.

59. The proposal would bring economic benefits in that it would generate employment during the construction phase. Thereafter, the new residents would add to spending in the local economy. I agree that these should be counted amongst the benefits of the scheme.

60. The appellant also argued that Council tax revenues and New Homes Bonus should be regarded as economic benefits. However, there was no evidence before the Inquiry as to how any such receipts might be deployed in a way which would make the development acceptable in planning terms. Consequently, these are not factors weighing in favour of the appeal.

61. Turning to environmental considerations, I note that some ecological enhancement measures are proposed. The Agreement would also provide for the management and maintenance of open spaces and drainage infrastructure. On the other hand the appeal scheme would have adverse environmental impacts in that it would result in the loss of a significant amount of tree cover. As noted above, the opportunities for new tree planting would be limited. Whilst I am satisfied that the proposed measures are sufficient to mitigate the impacts of the scheme on biodiversity, I do not consider that they would amount to a material enhancement in environmental terms.

Other matters

Access to services and facilities

62. The appeal site is located adjacent to the urban area of Farnham, one of the main settlements in the Borough. There is a bus stop on Farnham Road, which can be reached via Farnham Vale, at about 485m from the site. There are hourly services to Farnham Railway Station. The section of Farnham Vale leading to Farnham Road does not have continuous footways. The Agreement makes provision for marking a pedestrian and cycle priority area along this stretch of Farnham Vale. Whilst some residents are sceptical about the effectiveness of this feature, it has been requested by the highway authority on the basis that it would improve pedestrian safety. The Agreement would also make provision for improvements to the bus stops at Farnham Road.

63. The Council and the appellant agreed that the site is in a reasonably sustainable location in terms of access to essential services and in relation to the urban area of Farnham. To my mind that is a fair characterisation. The accessibility of the site is not a matter which weighs significantly either for or against the appeal.

Safety of the site access

64. FVAG argued that the proposed visibility splays at the site access would not be adequate and that, in any event, the appellant does not control sufficient land to deliver the required splays. Concerns were also raised in relation to the ability for large vehicles, such as refuse vehicles, to turn safely into and out of the site. Access is not a reserved matter and the application plans show 2.4m by 43m visibility splays at the site access. The road is subject to a 30mph speed limit and there is no dispute that these splays would be adequate at this speed. FVAG has carried out speed surveys which, it is argued, indicate that longer splays are needed because measured speeds are above 30mph. However, the Agreement makes provision for a gateway feature to be installed to the west of the site access. This would have the effect of reducing the speed of traffic on Frensham Vale. The access arrangements have been considered by the highway authority which has not raised any objection on highway safety grounds.

65. The appellant's highways consultant submitted evidence which shows that the eastern splay could be provided on land which is either within the appeal site or within the highway boundary. That evidence was not disputed at the Inquiry[13]. The western splay would cross a strip of unregistered land which lies between the highway boundary and the boundary of the land to the south of Frensham Vale. This strip is occupied by a ditch and, at the time of my visit, did not pose any problem in terms of visibility. In the longer term it would be necessary to have sufficient control to manage vegetation that might otherwise grow up in a way which could impact on visibility. The Council and the appellant agreed that this is a matter which could be controlled by a planning condition. I see no reason to take a different view.

66. Vehicle tracking diagrams were submitted with the application. These show the turning movements of a refuse vehicle entering and leaving the site. The use of vehicle tracking models such as these is commonplace in highways planning. Whilst FVAG made some detailed criticisms of the tracking, I have no doubt that the highway authority would have satisfied itself in relation to these diagrams before agreeing that the access would operate in a satisfactory way.

67. I attach significant weight to the technical judgement of the highway authority on this point. It is common ground between the Council and the appellant that there is no objection in terms of the safety of the access or in relation to highway safety generally.

Residential amenity

68. The properties most affected by the proposal would be No 33 Frensham Vale, which is next to the site access, and Longlands House which adjoins the north eastern site boundary. No 33 would in effect become a corner plot with a main road to the front and a residential cul-de-sac to one side. At the Inquiry FVAG accepted that, in general terms, this arrangement is commonplace in this locality and elsewhere[14]. The particular concern here is that the access road is at a higher level than No 33 such that there are views from it over the back garden and the rear elevation of the house. Access is not a reserved matter

[13] Inspector's note – At the Inquiry FVAG's position on this point was not entirely clear. However, in response to my question, Mr Barton confirmed that FVAG did not dispute the evidence provided by the appellant's highways consultant.
[14] Inspector's note – confirmed by Mr Hartley in answer to my questions

and the submitted plan shows that the section of access road alongside the back garden of No 33 would be set in from the boundary. This would leave space for some boundary planting to be introduced at this point, together with any adjustment to the existing site levels which may be necessary. These are matters which could be addressed at reserved matters stage and/or through planning conditions.

69. There is potential for new dwellings to overlook the garden of Longlands House. However, the siting of new dwellings, the position of windows, landscape and boundary treatments are all matters which could be addressed at reserved matters stage and/or through planning conditions. In respect of both properties, I do not consider that there is any reason in principle why a satisfactory relationship could not be achieved.

Flood risk

70. As noted above, the appeal scheme seeks to address a concern identified by the Appeal A Inspector relating to flood risk. The location and design of the proposed access has been amended so as to avoid the use of land at higher risk of flooding. Consequently, it is no longer necessary to apply the sequential test. The County Council, as Lead Local Flood Authority, and the Environment Agency have confirmed that they have no objections to the proposal. It is common ground between the Council and the appellant that there is no objection on this basis and that the implementation of a sustainable drainage system could be secured by a planning condition.

71. FVAG maintained an objection that there would not be a safe access and egress from the development under flood conditions because of flooding along Frensham Vale. Local residents have experience of such flood events in the last few years which was illustrated through photographs and first hand evidence at the Inquiry. In addition, a technical note was submitted which raised concerns about the analysis which had been carried out previously.

72. Planning Practice Guidance (PPG) states that access routes should allow occupants to safely access and leave their houses in design flood conditions. Where possible, safe access routes should be provided above design flood levels. If this is not possible, limited depths of flooding may be acceptable providing access and signage make it safe. This is a matter which was addressed by the Appeal A Inspector. He noted that the appellant had submitted further evidence which had met a concern raised by the Environment Agency on this point. That evidence had demonstrated that there was a route, which would have a very low hazard rating, extending south westward along Frensham Vale to an area outside the 1 in 100 year flood zone.

73. Since that appeal the appellant has commissioned further hydraulic modelling. This confirms that the culverts and ditches are insufficient to convey water during the design flood event and that water will pond on Frensham Vale before flowing along the road at relatively shallow depths and low velocities. The assessed hazard remains low. FVAG questioned the calibration of the modelling by reference to experience of recent flooding at the eastern end of Frensham Vale. However, the area in question does not form part of the access route which was modelled[15]. I note that the submitted report includes a comparison of the model's predictions with the Environment Agency flood maps

[15] Inspector's note – confirmed by Mr Traves in answer to my questions

and that sensitivity tests have been carried out. This gives me further confidence in the output of the latest modelling. Having regard to all of the evidence on flood risk, my overall assessment is that the access route would accord with the guidance set out in PPG.

Effect on biodiversity

74. The appeal site is located within the buffer zone for the Wealden Heaths (Phase 1) Special Protection Area (SPA) and Special Area of Conservation designations. The Council considered that, due to the availability of alternative recreational opportunities in the area, the proposal would not be likely to have a significant effect on the designated areas. I note that Natural England raised no objection in relation to internationally and nationally designated sites. I see no reason to take a different view to that reached by the Council.

75. Although some representations refer to the Thames Basin Heaths SPA the appeal site is not within the zone of influence referred to in policy NRM6 of the South East Plan.

76. The application was supported by an ecological report which assessed the impacts on protected species and biodiversity in general. A population of slow worm was recorded on site and some non-breeding bat roosts were identified. It is possible that the site may provide terrestrial habitat for great crested newt due to the presence of a pond within 100m and badgers may forage over the site. The report identifies mitigation measures including the exclusion of protected species during construction works, provision of bat boxes and bird nesting boxes, removal of invasive species (where possible) and sowing amenity grassland with wildflower lawn mix. All of these measures could be secured by planning conditions. As noted above, I consider that these measures would provide adequate mitigation for the impacts of the scheme. However, I do not consider that there would be a significant overall benefit.

Conclusion on other matters

77. I conclude that none of the matters discussed in this section of my decision carry significant weight either for or against the appeal.

Conclusions

78. The appeal proposal would be in conflict with LP Policy C2. Notwithstanding compliance with a number of more detailed policies of the LP, I regard the conflict with this key locational policy as sufficient to put the appeal scheme in conflict with the development plan as a whole. The proposal would also conflict with LP Policy C7 in relation to loss of trees. It is therefore necessary to consider whether there are other material considerations which indicate that permission ought to be granted notwithstanding the conflict with the development plan. The most important relevant considerations here are whether Policy C2 is up to date, emerging planning policy and the Framework.

79. I do not regard policy C2 as up to date, for the reasons given above. I reach that conclusion regardless of the position on housing land supply and I attach only limited weight to the conflict with this policy.

80. The proposal would conflict with Policy RE1 of the eLP which seeks to safeguard the intrinsic character and beauty of the countryside. It would also conflict with policy RE3 which states that new development must respect the distinctive

character of the landscape in which it is located. Having regard to the stage the plan has reached, I attach moderate weight to the conflict with these policies of the eLP.

81. The proposal would also be contrary to the eNP. It is important to bear in mind that the eNP was not a factor in Appeal A because of the stage it had then reached. The importance of neighbourhood planning is made clear in the Framework. Moreover, in December 2016 there was a written Ministerial statement (WMS)[16] which stated that:

'*I am today making clear that where communities plan for housing in their area in a neighbourhood plan, those plans should not be deemed to be out-of-date unless there is a significant lack of land supply for housing in the wider local authority area*'.

82. The WMS is directed at situations where a neighbourhood plan has been made. That is not currently the case in Farnham so the WMS is not directly applicable. Nevertheless, the general thrust of the WMS appears to me to be pertinent to the question of how much weight should be given to the eNP in the circumstances of this appeal. The eNP makes significant housing allocations. Moreover, it has sought to align housing delivery in Farnham with strategic requirements, at least as far as it was able to at this stage of the eLP process. I have concluded that the Council has a 4.1 year supply of housing sites. In the terms of the WMS, that is not a '*significant lack of land supply for housing'.* The eNP has completed all stages of the process short of actually being made and it clearly has a high level of local support. For all these reasons, I attach very significant weight to the eNP.

83. Turning to the Framework, I have concluded that the Council is not able to demonstrate a 5 year supply of deliverable housing sites. It follows that the second bullet point of the '*decision taking*' section of paragraph 14 is engaged. Permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits.

84. I attach significant weight to the social benefits of housing delivery, including the delivery of affordable housing. I also take account of the related economic benefits. On the other hand, the proposal would conflict with the adopted LP in relation to the loss of tree cover. It would result in moderate harm to landscape character. It would conflict with the eLP and it would also conflict with the eNP.

85. My overall assessment is that the adverse effects of allowing the appeal would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework as a whole. The proposal would not therefore represent sustainable development.

86. Having considered the other material considerations, I find that they do not indicate a decision other than in accordance with the development plan. The appeal should therefore be dismissed.

David Prentis

Inspector

[16] Inspector's note – the WMS is currently subject to a legal challenge. However, for the reasons given above in relation to the challenge to the neighbourhood plan, I do not consider that this affects the weight to be attached to the WMS.

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Robert Williams	of Counsel, instructed by the Solicitor to the Council
He called	
Brian Woods BA MRTPI	Managing Director, WS Planning and Architecture
Matthew Ellis BA(Hons) MSc PGDipUD MRTPI	Principal Planning Officer, Planning Policy Team, Waverley Borough Council

FOR THE APPELLANT:

Sasha White	Queen's Counsel, instructed by Neame Sutton Limited
He called	
Ann Rowland BA BLD CMLI	Director, Landscape Perspectives Limited
David Neame BSc(Hons) MSc MRTPI	Director, Neame Sutton Limited
Andy Traves	Associate Director, Opus International Consultants (UK) Ltd

FOR THE FRENSHAM VALE ACTION GROUP:

Robin Barton

He called	
Nigel Hartley BA BArch BTP RIBA MRTPI	Chestnut Planning
Peter Hornsby	Local resident
David Johnson	Local resident

INTERESTED PERSONS:

Cllr Carole Cockburn	Leader of Farnham Town Council Ward Member, Waverley Borough Council

DOCUMENTS SUBMITTED AT THE INQUIRY

Inquiry documents

ID1 Statement of common ground
ID2 Schedule of suggested conditions
ID3 Draft S106 Agreement
ID4 Statement of common ground – housing land supply
ID5 Waverly BC letter to the Planning Inspectorate of 1 June 2017
ID6 Agreed note on Habitats Regulations

ID7 Note on justification for planning obligations
ID8 Addendum to statement of common ground – housing land supply

The Council's documents
LPA1 Opening submissions
LPA2 Letter re Dunsfold Common of 11 January 2017
LPA3 Email from Ben Crozier of 7 June 2017
LPA4 Developer's return – Land south of High Street, Cranleigh
LPA5 Closing submissions
LPA6 Response to costs application

The appellant's documents
APP1 Appearances
APP2 Costs application
APP3 Opening submissions
APP4 Letter from Marlin Limited of 8 June 2017
APP5 Closing submissions
APP6 Costs application (updated)

Frensham Vale Action Group's documents
FVAG1 Opening submissions
FVAG2 Statement of Peter Hornsby
FVAG3 Statement of David Johnson
FVAG4 Closing submissions